A RESOLUTION BY CITY UTILITIES COMMITTEE **01- R -1229**

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH CSX TRANSPORTATION, INC. FOR THE CONSTRUCTION, USE AND MAINTENANCE BY THE CITY OF A PIPELINE FOR THE TRANSMISSION OF POTABLE WATER UNDER AND ACROSS THE TRACKS OWNED OR CONTROLLED BY THE RAILROAD; AND FOR OTHER PURPOSES.

BACKGROUND

WHEREAS, the City of Atlanta ("City") proposes to construct, use and maintain a pipeline for the transmission of potable water under or across the tracks and property owned or controlled by CSX Transportation, Inc. ("Railway"), at or near Ben Hill, Fulton County, Georgia, located at Valuation Station 569+50, Milepost ANB-852.60, Atlanta Terminal Subdivision; and

WHEREAS, Railway has indicated its willingness to allow the City to construct, use and maintain this pipeline pursuant the terms and conditions of the Agreement (or an agreement containing substantially the same terms and conditions)("Agreement") attached to this legislation as Exhibit 1; and

WHEREAS, the City has reviewed the Agreement and believes it to be in its best interests and is willing to enter into this transaction based upon the terms and conditions contained within the Agreement (or an agreement containing substantially the same terms and conditions);

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor be, and is hereby, authorized to enter into the Agreement (or an agreement containing substantially the same terms and conditions) with CSX Transportation, Inc.

IT IS FURTHER RESOLVED, that the City Attorney is directed to finalize with Railway, or its representatives, the Agreement, for execution by the Mayor, to be approved by the City Attorney as to form.

IT IS FURTHER RESOLVED, that all fees required to be paid under the Agreement will be paid out of Account No. 2J21 523001 Q27501.

IT IS FURTHER RESOLVED, that the Agreement will not become binding upon the City and the City will incur no liability under it until the Mayor has executed it, it has been attested to by the Municipal Clerk, and delivered to Railway.

EXHIBIT 1

PIPELINE CROSSING AGREEMENT

THIS AGREEMENT, Made as of September 26, 2000, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and CITY OF ATLANTA, a municipal corporation, political subdivision or state agency, under the laws of the State of Georgia, whose mailing address is 55 Trinty Avenue S.W., Atlanta, Georgia 30335, hereinafter called "Licensee," WITNESSETH:

WHEREAS, Licensee desires to construct, use and maintain a pipeline, solely for the transmission of potable water, hereinafter called "Pipeline," under or across the track(s) and property owned or controlled by Licensor at or near Ben Hill, County of Fulton, State of Georgia, located at Valuation Station 569+50, Milepost ANB-852.60, Atlanta Terminal Subdivision, hereinafter called the "Crossing," as shown on print of Licensee's Drawing KL039515, dated August 28, 2000, attached hereto and made a part hereof; other details and data pertaining to said Pipeline being as indicated on Licensee's Application Form, dated August 28, 2000, also attached hereto and made a part hereof;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

1. LICENSE:

1.1 Subject to Article 17, Licensor, insofar as it has the legal right, power and authority to do so, and its present title permits, and subject to:

(A) Licensor's present and future right to occupy, possess and use its property within the area of the Crossing for any and all purposes;

(B) All encumbrances, conditions, covenants, easements, and limitations applicable to Licensor's title to or rights in the subject property; and

(C) Compliance by Licensee with the terms and conditions herein contained;

does hereby license and permit Licensee to construct, maintain, repair, renew, operate, use, alter or change said Pipeline at the Crossing above for the term herein stated, and to remove same upon termination.

1.2 The term Pipeline, as used herein, shall include only the pipes, ducts, casing, vents, manholes, connectors, fixtures, appliances and ancillary facilities devoted exclusively to the transmission usage above within the Crossing, and as shown on attached Application Form.

1.3 No additional Pipeline or other facilities shall be placed, allowed or maintained by Licensee in, upon or along the Crossing except upon separate prior written consent of Licensor.

2. ENCROACHMENT INVENTORY FEE:

2.1 In lieu of annual payments and in consideration of Licensor's waiver of future fee increases, Licensee shall pay Licensor a one-time nonrefundable Encroachment Inventory Fee of THREE HUNDRED AND 00/100 U.S. DOLLARS ($300.00) upon execution of this Agreement. Licensee agrees that the License Fee applies only to the original Licensee under this Agreement. In the event of a successor (by merger, consolidation, reorganization and/or assignment) or if the original Licensee changes its name, then Licensee shall be subject to payment of Licensor's current administrative and document preparation fees for the cost incurred by Licensor in preparing and maintaining this Agreement on a current basis.

2.2 However, Licensee assumes sole responsibility for, and shall pay directly (or reimburse Licensor), any additional annual taxes and/or periodic assessments levied against Licensor or Licensor's property solely on account of said Pipeline or Crossing.

2.3 Effective Date of this Agreement shall be the date first written above. License shall be revocable only in the event of Licensee's default, as herein provided, but shall also terminate upon (a) Licensee's cessation of use of the Pipeline or Occupancy for the purpose(s) above, (b) removal of the Pipeline, and/or (c) subsequent mutual consent.

2.4 In further consideration for the license or right hereby granted, Licensee hereby agrees that Licensor shall not be charged or assessed, directly or indirectly, with any part of the cost of the installation of said Pipeline and appurtenances, and/or maintenance thereof, or for any public works project of which said Pipeline is a part.

3. CONSTRUCTION, MAINTENANCE AND REPAIRS:

3.1 Licensee shall construct, maintain, relocate, repair, renew, alter, and/or remove said Pipeline, in a prudent, workmanlike manner, using quality materials and complying with: any applicable standard(s) or regulation(s) of Licensor (A.R.E.M.A. Specifications) and Licensee's particular industry, and/or any governmental or regulatory body having jurisdiction over the Crossing or Pipeline.

3.2 Location and construction of Pipeline shall be made strictly in accordance with design(s) and specifications furnished to and approved by Licensor, and of material(s) and size(s) appropriate for the purpose(s) above recited.

3.3 All Licensee's work and exercise of rights hereunder shall be undertaken at time(s) satisfactory to Licensor and so as to eliminate or minimize any impact on or interference with the safe use and operation of Licensor's track(s).

3.4 In the installation, maintenance, repair and/or removal of said Pipeline, Licensee shall not use explosives of any type or perform or cause any blasting without the separate express written consent of Licensor. As a condition to such consent, a representa.ive will be assigned by Licensor to monitor blasting, and Licensee shall reimburse Licensor for the entire cost and/or expense of furnishing said monitor.

3.5 Any repairs or maintenance to Pipeline, whether resulting from acts of Licensee, or natural or weather events, which are necessary to protect or facilitate Licensor's use of its property, shall be made by Licensee promptly, but in no event later than thirty (30) days after Licensee has notice as to the need for such repairs or maintenance.

3.6 Licensor, in order to protect or safeguard its property, rail operations, equipment and/or employees from damage or injury, may request immediate repair or renewal of the Pipeline, and if the same is not performed, may make or contract to make such repairs or renewals, at the sole risk, cost and expense of Licensee.

3.7 Neither the failure of Licensor to object to any work done, material used, or method of construction or maintenance of said Crossing, nor any approval given or supervision exercised by Licensor, shall be construed as an admission of liability or responsibility by Licensor, or as a waiver by Licensor of any of the obligations, liability and/or responsibility of Licensee under this Agreement.

3.8 Licensee hereby agrees to reimburse Licensor any loss, cost or expense (including losses resulting from train delays and/or inability to meet train schedules) arising from any failure of Licensee to make or from improper or incomplete repairs or maintenance of Pipeline.

4. PERMITS, LICENSES:

4.1 Before any work hereunder is performed, or before use of the Crossing for the contracted purpose, Licensee, at its sole cost and expense, shall obtain all necessary permit(s) (including but not limited to zoning, building, construction, health, safety or environmental matters), letter(s) or certificate(s) of approval. Licensee expressly agrees and warrants that it shall conform and limit its activities to the terms of such permit(s), approval(s) and authorization(s), and shall comply with all applicable ordinances, rules, regulations, requirements and laws of any governmental authority (state, federal or local) having jurisdiction over Licensee's activities, including the location, contact, excavation and protection regulations of the Occupational Safety and Health Act (OSHA) (20 CFR 1926.651(b), et al.), and State "One Call" - "Call Before You Dig" requirements.

4.2 Licensee assumes sole responsibility for failure to obtain such permit(s) or approval(s), for any violations thereof, or for costs or expenses of compliance or remedy.

5. MARKING AND SUPPORT:

5.1 With respect to any subsurface installation upon Licensor's property, Licensee, at its sole cost and expense, shall:

(A) Support track(s) and roadbed of Licensor, in a manner satisfactory to Licensor;

(B) Backfill with satisfactory material and thoroughly tamp all trenches to prevent settling of surface of land and roadbed of Licensor; and

(C) Either remove any surplus earth or material from Licensor's property or cause said surplus earth or material to be placed and distributed at location(s) and in such manner as Licensor may approve.

5.2 After construction of Pipeline, Licensee shall:

(A) Restore said track(s), roadbed and other disturbed property of Licensor; and

(B) Erect, maintain and periodically verify the accuracy of aboveground markers, in a form approved by Licensor, indicating the location, depth and ownership of Pipeline or related facilities.

5.3 Licensee shall remain responsible for any settlement of the track(s) or roadbed for a period of one (1) year subsequent to completion of installation.

6. TRACK CHANGES:

6.1 In the event that Licensor's rail operations and/or track maintenance result in changes in grade or alignment of, additions to, or relocation of Licensor's track(s) or other facilities, or in the event future use by Licensor of right-of-way and property necessitate any change of location, height or depth of Pipeline or Crossing, Licensee, at its sole cost and expense and within thirty (30) days after notice in writing from Licensor, shall make changes in Pipeline or Crossing to accommodate Licensor's track(s) or operations.

6.2 If Licensee fails to do so, Licensor may make or contract to make such changes at Licensee's cost.

7. PIPE CHANGES:

7.1 Licensee shall periodically monitor and verify the depth or height of Pipeline and Crossing in relation to Licensor's tracks and facilities, and shall relocate Pipeline or change Crossing, at Licensee's expense, should such relocation or change be necessary to comply with the minimum clearance requirements of this Agreement or of any public authority.

7.2 If Licensee undertakes to revise, renew, relocate or change all or any part of Pipeline (including any change in circumference, diameter or radius of pipe or carrier pipe, change in operating pressure, or change in materials transmitted in and through said pipe), or is required by any public agency or court order to do so, plans therefor shall be submitted to Licensor for approval before any such change is made. After approval the terms and conditions of this Agreement shall apply thereto.

8. INTERFERENCE WITH RAIL FACILITIES:

8.1 Although the Pipeline/Crossing herein permitted may not presently interfere with Licensor's railroad operations or facilities, in the event that the operation, existence or maintenance of said Pipeline, in the sole judgment of Licensor, causes: (a) interference (physical, magnetic or otherwise) with Licensor's communication, signal or other wires, powerlines, train control system, or facilities; or (b) interference in any manner with the operation, maintenance or use by Licensor of its right-of-way, track(s), structures, pole line(s), devices, other property, or any appurtenances thereto; then and in either event, Licensee, upon receipt of written notice from Licensor of any such interference, and at Licensee's sole risk, cost and expense, shall promptly take such remedial action or make such changes in its Pipeline or its insulation or carrier pipe, as may be required in the reasonable judgment of Licensor to eliminate all such interference. Upon Licensee's failure to remedy or change, Licensor may do so or contract to do so, at Licensee's sole cost.

8.2 Without assuming any duty hereunder to inspect Licensee's Pipeline, Licensor hereby reserves the right to inspect same and to require Licensee to undertake necessary repairs, maintenance or adjustments to Pipeline, which Licensee hereby agrees to make promptly, at Licensee's sole cost and expense.

9. RISK, LIABILITY, INDEMNITY:

With respect to the relative risk and liabilities of the parties, it is hereby agreed that:

9.1 Licensee hereby assumes, and, to the fullest extent permitted by State law (Constitutional or Statutory, as amended), shall defend, indemnify, and hold Licensor harmless from and against any and all liability, loss, claim, suit, damage, charge or expense which Licensor may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person whomsoever (including officers, agents, employees or invitees of Licensor), and for damage to or loss of or destruction of any property whatsoever, arising out of, resulting from, or in any way connected with the construction, presence, existence, repair, maintenance, replacement, operations, use or removal of Pipeline or any structure in connection therewith, or restoration of premises of Licensor to good order or condition after removal, EXCEPT when caused solely by the willful misconduct or gross negligence of Licensor. HOWEVER, during any period of actual construction, repair, maintenance, replacement or removal of pipeline, wherein agents, equipment or personnel of Licensee are on the railroad right-of-way, Licensee's liability hereunder shall be absolute, irrespective of any joint, sole or contributory fault or negligence of Licensor.

9.2 Use of Licensor's right-of-way involves certain risks of loss or damage as a result of Licensor's rail operations. Notwithstanding Section 9.1, Licensee expressly assumes all risk of loss and damage to Licensee's Property or Pipeline in, on, over or under the Occupancy, including loss of or any interference with use thereof, regardless of cause, including electrical field creation, fire or derailment arising out of Licensor's rail operations. For this Section, the term "Licensee's Property" shall include pipe contents as well as property of third parties situated or placed upon Licensor's right-of-way by Licensee or by such third parties at request of or for benefit of Licensee.

9.3 To the extent permitted by State law, as above, Licensee assumes all responsibility for, and agrees to defend, indemnify and hold Licensor harmless from: (a) all claims, costs and expenses, including reasonable attorneys' fees, as a consequence of any sudden or nonsudden pollution of air, water, land and/or ground water on or off the Crossing area, arising from or in connection with the use of this Crossing or resulting from leaking, bursting, spilling, or any escape of the material transmitted in or through said Pipeline; (b) any claim or liability arising under federal or state law dealing with either such sudden or nonsudden pollution of air, water, land and/or ground water arising therefrom or the remedy thereof; and (c) any subsidence or failure of lateral or subjacent support of Licensor's tracks arising from such Pipeline leakage, etc.

9.4 Obligations of Licensee hereunder to defend, indemnify and hold Licensor harmless shall also extend to companies and other legal entities that control or are controlled by or subsidiaries of or are affiliated with Licensor, and their respective officers, agents and employees.

9.5 If a claim is made or action is brought against either party, for which the other party may be responsible hereunder in whole or in part, such other party shall be notified and permitted to participate in the handling or defense of such claim or action.

10. INSURANCE:

10.1 Prior to commencement of surveys, construction or occupation of Crossing pursuant to this Agreement, Licensee shall procure, and shall maintain during the continuance of this Agreement, at Licensee's sole cost and expense, a policy of Commercial General Liability Insurance (CGL), naming Licensor as additional insured and covering liability assumed by Licensee under this Agreement. A coverage limit of not less than THREE MILLION AND 00/100 U.S. DOLLARS ($3,000,000.00) Combined Single Limit per occurrence for bodily injury liability and property damage liability is currently recommended as a prudent limit to protect Licensee's assumed obligations. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to RAILROAD prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to Speed Code J907 at the address listed above.

10.2 If said CGL policy does not automatically cover Licensee's contractual liability during periods of survey, construction, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

10.3 Notwithstanding the provisions of Sections 10.1 and 10.2, Licensee, pursuant to State Statute(s), may self-insure or self-assume, in any amount(s), any contracted liability arising under this Agreement, under a funded program of self-insurance, which fund will respond to liability of Licensee imposed by and in accordance with the procedures established by law.

10.4 Securing such insurance shall not limit Licensee's liability under this Agreement, but shall be additional security therefor.

10.5 Specifically to cover construction and/or demolition activities within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Licensee shall pay to Licensor the sum of TWO HUNDRED FIFTY AND 00/100 U.S. DOLLARS ($250.00), to cover the cost of adding this Crossing to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction.

11. GRADE CROSSINGS; FLAGGING:

11.1 Nothing herein contained shall be construed to permit Licensee, or any contractor of Licensee, to move any vehicles or equipment over track(s) of Licensor, except at public road crossing(s), without separate prior written approval of Licensor (CSXT Form 7422).

11.2 If Licensor deems it advisable, during the progress of any construction, maintenance, repair, renewal, alteration, change or removal of said Pipeline, to place watchmen, flagmen, inspectors or supervisors at the Crossing for protection of operations of Licensor or others on Licensor's right-of-way, and to keep persons, equipment and materials away from Licensor's track(s), Licensor shall have the right to do so at the expense of Licensee, but Licensor shall not be liable for failure to do so.

11.3 Subject to Licensor's consent and to Licensor's Railroad Operating Rules and existing labor agreements, Licensee may provide such flagmen, watchmen, inspectors or supervisors, during all times of construction, repair, maintenance, replacement or removal, at Licensee's sole risk and expense; and in such event, Licensor shall not be liable for the failure or neglect of such watchmen, flagmen, inspectors or supervisors.

12. LICENSOR'S COSTS:

12.1 Any additional or alternative costs or expenses incurred by Licensor to accommodate Licensee's continued use of Licensor's property as a result of Track Changes or Pipe Changes shall also be paid by Licensee.

12.2 Licensor's expense for wages ("force account" work) and materials for any work performed at the expense of Licensee pursuant hereto shall be paid by Licensee within thirty (30) days after receipt of Licensor's bill therefor, subject to Licensee's budgetary rules.

12.3 Such expense shall include, but not be limited to, cost of railroad labor and supervision under "force account" rules, plus current applicable overhead percentages, the actual cost of materials, and insurance, freight and handling charges on all materials used. Equipment rentals shall be in accordance with Licensor's applicable fixed rate(s).

12.4 All undisputed bills or portions of bills not paid within said thirty (30) days shall thereafter accrue interest at twelve percent (12%) per annum, unless limited by local law, and then at the highest rate so permitted. Unless Licensee shall have furnished detailed objections to such bills within said thirty (30) days, bills shall be presumed undisputed.

13. DEFAULT, BREACH, WAIVER:

13.1 The proper and complete performance of each covenant of this Agreement shall be deemed of the essence thereof, and in the event Licensee fails or refuses to fully and completely perform any of said covenants or remedy any breach within thirty (30) days after receiving written notice from Licensor to do so (or within forty-eight (48) hours in the event of notice of a railroad emergency), Licensor shall have the option of immediately revoking this Agreement and the privileges and powers hereby conferred, regardless of encroachment inventory fee(s) having been paid in advance for any annual or other period. Upon such revocation, Licensee shall make removal in accordance with Article 14.

13.2 No waiver by Licensor of its rights as to any breach of covenant or condition herein contained shall be construed as a permanent waiver of such covenant or condition, or any subsequent breach thereof, unless such covenant or condition is permanently waived in writing by Licensor.

14. TERMINATION, REMOVAL:

14.1 All rights which Licensee may have hereunder shall cease upon the date of: (a) revocation, (b) termination, (c) subsequent agreement, or (d) Licensee's removal of Pipeline from the Crossing. However, neither revocation nor termination of this Agreement shall affect any claims and liabilities which may have arisen or accrued hereunder, and which at the time of termination or revocation have not been satisfied; neither party, however, waiving any third party defenses or actions.

14.2 Within thirty (30) days after revocation or termination, Licensee, at its sole risk and expense, shall (a) remove Pipeline from the right-of-way of Licensor, unless the parties hereto agree otherwise, (b) restore property of Licensor in a manner satisfactory to Licensor, and (c) reimburse Licensor any loss, cost or expense of Licensor resulting from such removal.

15. NOTICE:

15.1 Licensee shall give Licensor's Chief Regional Engineer (Southern Region, 6735 Southpoint Drive, South, Jacksonville, FL 32216) at least five (5) days written notice before doing any work on Licensor's right-of-way, except that in cases of emergency shorter notice may be given to said Chief Regional Engineer.

15.2 All other notices and communications concerning this Agreement shall be addressed to Licensee at the address above, and to Licensor at the address shown on Page 1, c/o CSXT Contract Administration, J180; or at such other address as either party may designate in writing to the other.

15.3 Unless otherwise expressly stated herein, all such notices shall be in writing and sent via Certified or Registered Mail, Return Receipt Requested, or by courier, and shall be considered effective upon: (a) actual receipt, or (b) date of refusal of such delivery.

16. ASSIGNMENT:

16.1 The rights herein conferred are the privileges of Licensee only, and Licensee shall obtain Licensor's prior written consent to any assignment of Licensee's interest herein; said consent shall not be unreasonably withheld.

16.2 Subject to Sections 2.2 and 16.1, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

16.3 Licensee shall give Licensor written notice of any legal succession (by merger, consolidation, reorganization, etc.) or other change of legal existence or status of Licensee, with a copy of all documents attesting to such change or legal succession, within thirty (30) days thereof.

16.4 Licensor expressly reserves the right to assign this Agreement, in whole or in part, to any grantee or vendee of Licensor's underlying property interests in the Crossing, upon written notice thereof to Licensee.

16.5 In the event of any unauthorized sale, transfer, assignment, sublicense or encumbrance of this Agreement, or any of the rights and privileges hereunder, Licensor, at its option, may revoke this Agreement by giving Licensee or any such assignee written notice of such revocation; and Licensee shall reimburse Licensor for any loss, cost or expense Licensor may incur as a result of Licensee's failure to obtain said consent.

16.6 In the event of sale or other conveyance by Licensor of its Right-of-Way, across, under or over, which the Crossing(s) is constructed, Licensor's conveyance shall be made subject to the right of Licensee to continue to occupy the Crossing on the specific segment of Right-of-Way, and to operate, maintain, repair, renew thereon and to remove therefrom the facilities of Licensee, subject to all other terms of this Agreement.

17. TITLE; LIENS, ENCUMBRANCES:

17.1 Licensee understands that Licensor occupies, uses and possesses lands, rights-of-way and rail corridors under all forms and qualities of ownership rights or facts, from full fee simple absolute to bare occupation. Accordingly, nothing in this Agreement shall act as or be deemed to act as any warranty, guaranty or representation of the quality of Railroad's title for any particular Right-of-Way in Crossing(s) occupied, used or enjoyed in any manner by Licensee under any rights created in this Agreement. It is expressly understood that Railroad does not warrant title to any Right-of-Way in Crossing(s), and Licensee will accept the grants and privileges contained herein, subject to all lawful outstanding existing liens, mortgages and superior rights in and to the Right-of-Way, and all leases, licenses and easements or other interests previously granted to others herein.

17.2 The term "license," as used herein, shall mean with regard to any portion of the Right-of-Way which is owned by Licensor in fee simple absolute, or where the applicable law of the State where the Crossing is located otherwise permits Licensor to make such grants to Licensee, as "permission to use" the Right-of-Way, with dominion and control over such portion of the Right-of-Way remaining with Licensor, and no interest in or exclusive right to possess being otherwise granted to Licensee. With regard to any other portion of Right-of-Way occupied, used or controlled by Licensor under any other facts or rights, Licensor merely waives its exclusive right to occupy the Right-of-Way and grants no other rights whatsoever under this Agreement, such waiver continuing only so long as Licensor continues its own occupation, use or control, and Licensee acknowledges that it does not have the right to occupy any such portion of the Right-of-Way without also receiving the consent of the owner of the fee simple absolute estate. In such cases, Licensee shall not be permitted access to the Right-of-Way until it provides Licensor with evidence, reasonable satisfactory in Licensor's sole discretion, that it has either obtained the consent of the owner of the fee simple absolute estate, or does not otherwise require such consent. Further, Licensee shall not obtain, exercise or claim any interest greater than the rights of Licensor in the Right-of-Way, under this Agreement.

17.3 Licensee agrees it shall not have nor shall it make, and hereby completely and absolutely waives its right, to any claim against Railroad for damages on account of any deficiencies in title to the Right-of-Way in the event of failure or insufficiency of Railroad's title to any portion thereof arising from Licensee's use or occupancy thereof.

17.4 Licensee agrees to full and completely indemnify and defend all claims or litigation for slander of title, overburden of easement, or similar claims arising out of or based upon Licensee's facilities placement, or the presence of Licensee's facilities in, on or along any Crossing(s), including claims for punitive or special damages.

17.5 Licensee shall not at any time own or claim any right, title or interest in or to Licensor's property occupied by the Crossings(s), nor shall the exercise of this Agreement for any length of time give rise to any right title or interest in License to said property other than the license herein created.

18. GENERAL PROVISIONS:

18.1 This Agreement, and the attached specifications, contains the entire understanding between the parties hereto.

18.2 Neither this Agreement, any provision hereof, nor any agreement or provision included herein by reference, shall operate or be construed as being for the benefit of any third person.

18.3 Neither the form of this Agreement, nor any language herein, shall be interpreted or construed in favor of or against either party hereto as the sole drafter thereof.

18.4 This Agreement is executed under current interpretation of applicable Federal, State, County, Municipal or other local statute, ordinance or law(s). However, each separate division (paragraph, clause, item, term, condition, covenant or agreement) herein shall have independent and severable status for the determination of legality, so that if any separate division is determined to be void or unenforceable for any reason, such determination shall have no effect upon the validity or enforceability of each other separate division, or any combination thereof.

18.5 This Agreement shall be construed and governed by the laws of the state in which the Pipeline and Crossing is located.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate (each of which shall constitute an original) as of the date and year first above written.

Witness for Licensor:

_____

CSX TRANSPORTATION, INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Witness for Licensee:

_____

CITY OF ATLANTA

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the Licensee to the terms and conditions of this Agreement.

Print/Type Name: _____

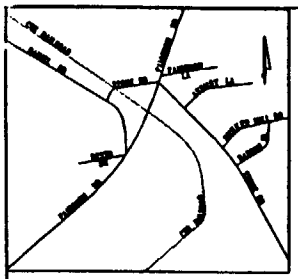
Print/Type Title: _____

Tax Identification Number: _____

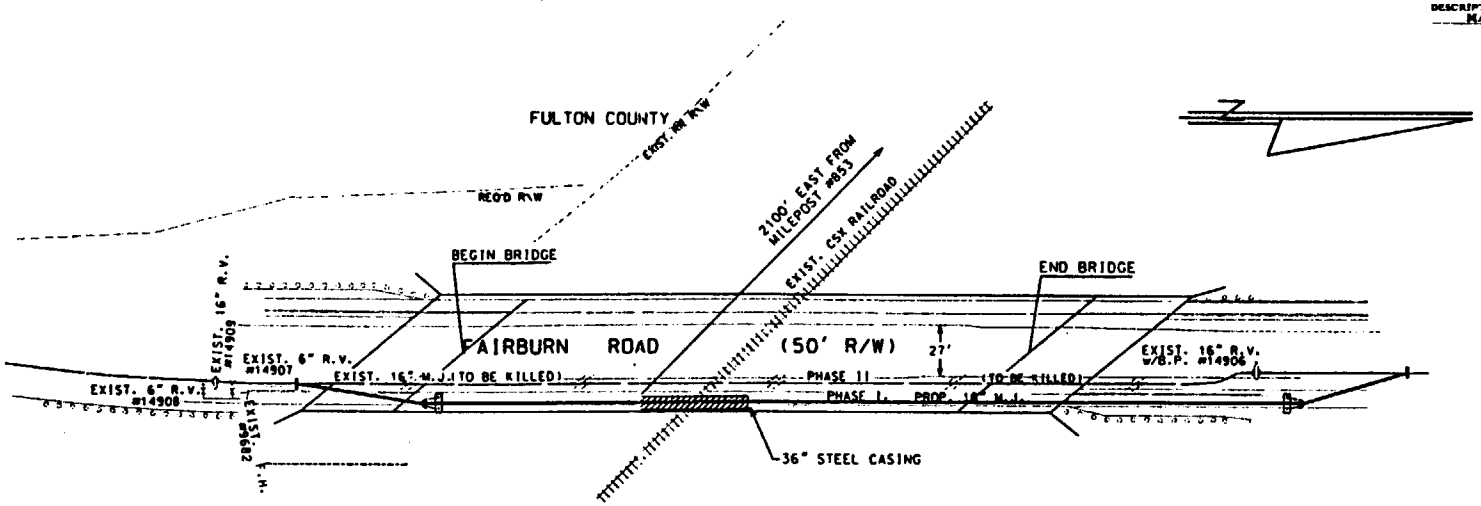
Authority under Ordinance or
Resolution No._____,
dated _____.

CSX & D.O.T. PERMIT REQUIRED

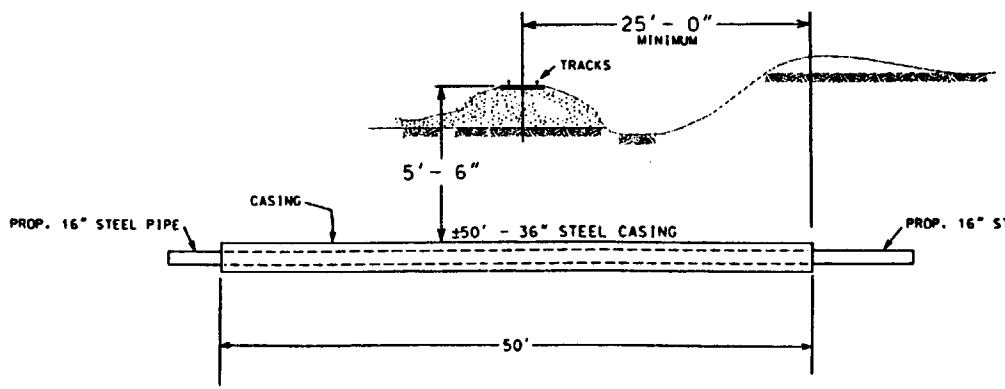
JOB NO. 784-STOP
FAIRBURN RD. FROM
STONE RD. TO
DATE 08-11-00
SHEET NO. 1 OF 3 SHEETS
REVISION
LAND LOT 8 DIST. 14TH
DESCRIPTION
MAIN RELOCATION



LOCATION MAP
BEN HILL AREA
N.T.S.



PLAN



RAILROAD PROFILE

CSX-039515

DRAWING # KL039515
8-28-2000

CONCRETE SHALL BE CLASS A
3000 PSI HIGH EARLY

BILL OF MATERIALS

AMT.	SIZE	ARTICLE	AMT.	SIZE	ARTICLE	AMT.	SIZE	ARTICLE
105'	6"	F.M. PIPE						
2	6"	GATE VALVE						
2	16"	SLEEVE, M.J.						
2	16"	PLUG, M.J.						
(SET)	16"	STRAPS & RODS						

BILL OF MATERIALS

AMT.	SIZE	ARTICLE	AMT.	SIZE	ARTICLE	AMT.	SIZE	ARTICLE

REFERENCES

LEGEND

PLAN OF IMPROVEMENT
WATER MAIN INSTALLATION

UNITED WATER SERVICES ATLANTA