

RENT

DRAFT - FOR DISCUSSION PURPOSES ONLY

February 27, 2008

Option 1: Fixed dollar amount with deductions for other payments

A) The C&OR shall pay as rent for the Rail Property the sum of seven hundred ninety-nine thousand dollars (\$799,000) annually, payable in eleven (11) equal monthly installments of sixty-six thousand five hundred eighty-three dollars (\$66,583) each and a twelfth monthly payment of sixty-six thousand five hundred eighty-seven dollars (\$66,587). Payment shall be made payable to Treasurer, State of Ohio, and delivered to ORDC pursuant to the notice provisions of this Lease. Payment is due by the first of each month.

The rent payment made by C&OR pursuant to this agreement may be reduced by the following factors:

- a) If any amount of the acquisition debt, i.e. original certificates of participation, remains outstanding at any time during the term of this agreement, the C&OR shall pay from the gross revenues received from operation of the Rail Property the amount of fifty-eight thousand dollars (\$58,000) per month. Such payments shall fulfill ORDC's Lease requirements with First Capital Corp or its subsidiary, CAPRAIL I, INC. The abovementioned payments shall be made to a special account established and maintained at the Bank of New York by means of direct electronic transfer by the first of each month, or 24 hours before said payments are due, whichever comes later. The amount of such payments may be deducted from the monthly rent amount required above.
- b) If the C&OR obtains a Railroad Rehabilitation and Infrastructure Fund or other infrastructure rehabilitation loan from the Federal Railroad Administration, or its successor, or any other federal agency, and uses the loan amount to defease the certificates of participation or to undertake major capital improvements along the Rail Property, the amount of the payments made to service the loan may be deducted from the monthly rent amount required above.
- c) If the C&OR undertakes major capital improvements along the Rail Property beyond the investments needed to maintain the Rail Property pursuant to section 11 of this agreement, and pursuant to a schedule that has received the prior written approval of the Executive Director of the ORDC, the amount of the improvements may be deducted from the monthly rent amount required above until C&OR has recovered the cost of the improvements. The amount of any deduction pursuant to this section shall receive written approval of the Executive Director of the ORDC.

All deductions made pursuant to this section are subject to audit.

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B) The C&OR shall pay, in addition to the rent defined in section (A) above, an administrative fee of \$5,000 per month. Payment shall be made by the first day of every month, payable to Treasurer, State of Ohio, and delivered to ORDC pursuant to the notice provisions of this Lease.

C) As stipulated in Article 6, "Twenty-Five Year Term," in the event that the C&OR chooses to renew this Lease Agreement for an additional five years, the C&OR and ORDC shall adjust the payments in this Article 8 "Rent" in the following manner:

i) The C&OR payment for rent and the administrative fee shall be the amounts from the previous five year period, escalated or deescalated in accordance with the Consumer Price Index. The amounts shall remain the same for the five years of the renewal period.

D) The C&OR's failure to pay monthly rent will be considered a default of this lease Agreement.

Option 2: Fixed base payment plus per-carload amount

A) The C&OR shall pay as rent for the Rail Property as follows:

1) If any amount of the acquisition debt, i.e. original certificates of participation, remains outstanding at any time during the term of this agreement, the C&OR shall pay from the gross revenues received from operation of the Rail Property the amount of fifty-eight thousand dollars (\$58,000) per month. Such payments shall fulfill ORDC's Lease requirements with First Capital Corp or its subsidiary, CAPRAIL I, INC. The abovementioned payments shall be made to a special account established and maintained at the Bank of New York by means of direct electronic transfer by the first of each month, or 24 hours before said payments are due, whichever comes later. The amount of such payments may be deducted from the monthly rent amount required above.

In addition, the C&OR shall make monthly payments to the ORDC based on carloading data reported for the previous calendar year based on the following schedule:

Schedule One: Charge Per Carload for Traffic Volumes up to 20,000 Carloads Per Year		Schedule Two: Charge Per Carload for Traffic Volumes Over 20,000 Carloads Per Year	
Grain	\$ per car		\$ per car
Ethanol	\$ per car		\$ per car
Coal	\$ per car		\$ per car
Chemicals	\$ per car		\$ per car
Raw Material	\$ per car		\$ per car
Steel	\$ per car		\$ per car
All Other	\$ per car		\$ per car

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Overhead NS \$ per car \$ per car

Payment is due the first day of each month, except the payment in January of each year shall be due by the fifteenth (15th) day of that month.

2) If, at any time during this agreement, there is no acquisition debt outstanding, the C&OR shall make rent payments as follows:

The sum of XX annually, payable in twelve (12) equal monthly installments of \$\$, herein referred to as the “base payment.” Payment shall be made payable to Treasurer, State of Ohio, and delivered to ORDC pursuant to the notice provisions of this Lease.

In addition, the C&OR shall make monthly payments to the ORDC based on carloading data reported for the previous calendar year based on the following schedule:

Schedule One: Charge Per Carload for Traffic Volumes up to 20,000 Carloads Per Year		Schedule Two: Charge Per Carload for Traffic Volumes Over 20,000 Carloads Per Year	
Grain	\$ per car		\$ per car
Ethanol	\$ per car		\$ per car
Coal	\$ per car		\$ per car
Chemicals	\$ per car		\$ per car
Raw Material	\$ per car		\$ per car
Steel	\$ per car		\$ per car
All Other	\$ per car		\$ per car
Overhead NS	\$ per car		\$ per car

Payment is due the first day of each month, except the payment in January of each year shall be due by the fifteenth (15th) day of that month.

- a) If the C&OR obtains a Railroad Rehabilitation and Infrastructure Fund or other infrastructure rehabilitation loan from the Federal Railroad Administration, or its successor, or any other federal agency, and uses the loan amount to defease the certificates of participation or to undertake major capital improvements along the Rail Property, the amount of the payments made to service the loan may be deducted from the monthly rent amounts required above.
- b) If the C&OR undertakes major capital improvements along the Rail Property beyond the investments needed to maintain the Rail Property pursuant to section 11 of this agreement, and pursuant to a schedule that has received the prior written approval of the Executive Director of the ORDC, the amount of the improvements may be deducted from the monthly rent amount required above until C&OR has recovered the cost of the improvements. The amount of any deduction pursuant to this section shall receive written approval of the Executive Director of the ORDC.

All deductions made pursuant to this section are subject to audit.

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B) The C&OR shall pay, in addition to the rent defined in section (A) above, an administrative fee of \$5,000 per month. Payment shall be made by the first day of every month, payable to Treasurer, State of Ohio, and delivered to ORDC pursuant to the notice provisions of this Lease.

C) As stipulated in Article 6, “Twenty-Five Year Term,” in the event that the C&OR chooses to renew this Lease Agreement for an additional five years, the C&OR and ORDC shall adjust the payments in this Article 8 “Rent” in the following manner:

i) The ORDC administrative fee, the base payment, and the per carload scheduled amounts, shall be the amount from the previous five year period, escalated or deescalated in accordance with the Consumer Price Index. The administrative fee, base payment, and per carload scheduled amounts shall remain the same for the five years of the renewal period.

D) The C&OR’s failure to pay the monthly payments required by this section will be considered a default of this lease Agreement.