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708402 - Master Agreement

CIND 9411

CIND

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LAND LEASE

268733

ST. PAUL, TOWN OF

708402

LAND LEASE

RENT NO: CIND9411

THIS LEASE made and entered into by and between the *Central Railroad of Indiana*, a corporation, as Lessor, hereinafter referred to as "Railroad", and *St. Paul, City of* hereinafter referred to as "Lessee", whose billing and mailing address is, *P.O. Box 123, St. Paul, IN 47272*.

WITNESSETH, that the parties hereto, for and in consideration of the performance of the covenants, conditions and agreements hereinafter expressed, agree as follows:

1. The Railroad hereby leases to Lessee the property highlighted in yellow on EXHIBIT A attached hereto and made a part hereof, hereinafter called the "Premises," which is located at Railroad Milepost 72.60 at or near *St. Paul, IN* and more particularly described as follows:

*18000 SQ FT of Land
For the purpose of Parking Lot*

The term of this lease will commence on the *1st day of June, 1994*, and will continue on an annual basis thereafter unless terminated as hereinafter provided. The leased property is to be used exclusively as described above and for no other purpose without express written consent of the Railroad. Lessee agrees to pay, a one (1) time fee for application, preparation, recording and filing and other incidental expenses of ~~250.00~~ *250.00*, and as base rent for said demised Premises, the sum of *\$200.00* per year throughout the term of this lease. The lease payment is to be paid to the Railroad in advance on the first day of this lease and each year thereafter. On the first anniversary of the commencement date of this lease, the annual rent will be subject to adjustment based on the annual change in the Consumer Price Index (CPI), All Urban Consumers, as published by The United States Department of Labor. In no event will the annual rent be less than the base rent and all increases will be limited to 5% per annum, regardless of the change in the annual CPI. *ESL*

2. Lessee accepts this lease subject to all lawful outstanding existing liens and superior rights, if any, in and to said Premises and Lessee agrees it shall not have any claim against Railroad for damages on account of any deficiency in title of Premises, and, further agrees that in the event of failure of such title the sole remedy of Lessee shall be the right to the return of a proportionate share of rent paid in advance without interest for any period in which Lessee is deprived of possession of Premises by title superior to that of the Railroad.
3. The Lessee shall, in addition to the rental payments herein provided, pay any sales or use tax now or hereafter imposed by state, federal or local government, and all real estate taxes which may be levied against the demised Premises. It is further provided and understood by the Lessee that in the event, at any time during the term hereof or of any extended term, the demised Premises shall become locally assessed, then and in that event it shall become the Lessee's obligation to pay all such sales, use and real estate taxes. Lessee agrees, pursuant to the terms, covenants and conditions of this lease, to promptly pay all such real estate taxes assessed against any improvements which Lessee has placed or caused to be placed, on the demised Premises or

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which are owned by the Lessee, whether assessed directly to the Lessee as owner or assessed against the Railroad as owner of the demised Premises upon which such improvements have been placed.

Lessee further agrees to pay all other taxes, license fees or other charges which may become due or which may be assessed against the demised Premises, Lessee, the business conducted on the Premises or any improvements thereon. Lessee shall promptly reimburse Railroad for any items which may be paid by Railroad upon presentation by Railroad of bills for same. If the tenant shall fail to promptly reimburse the Railroad, all sums so paid by the Railroad shall be deemed additional rental and recoverable as such. In the event the Premises hereby demised, or any part thereof, shall be subject to any special assessment for any public improvement or improvements, it will be the responsibility of the Lessee to pay all costs of such assessments.

4. Lessee has examined Premises and knows the condition of said Premises and acknowledges that no representations as to the condition and repair thereof have been made by the Railroad or its agents or employees prior to or at the execution of this lease that are not herein expressed. Lessee accepts Premises subject to any and all existing easements, Railroad facilities, together with any future installations thereof, provided such future installations do not interfere with Lessee's use of Premises. Should it at any time become necessary to relocate any of Railroad's facilities by reason of this lease, or Lessee's use of Premises, Lessee shall bear and pay the cost of so doing.
5. No improvement shall be constructed by Lessee on the Premises without prior written consent of the Railroad. Such consent shall not relieve Lessee of any responsibility otherwise imposed by law or the terms of the lease. Lessee shall not enter into any contract for labor, materials, or services for improvements on Premises without stipulating that no lien shall arise or be claimed on account thereof against the title or interest of the Railroad, and that such lien shall be limited to the interest of the Lessee. Lessee shall furnish Railroad with copies of any contracts, contractors' sworn statements together with full and complete waivers of lien from all those furnishing services or material to the Premises.
6. Lessee shall not interfere with or obstruct drainage ditches or drain pipes on or below the surface of the ground as the same may exist on the Premises, nor shall Lessee put or permit any contaminant matter to enter into any drainage ditch or drain pipe on the Premises. If it should become necessary to make any change or alteration in any existing drainage ditch, drain pipe(s) on or below the surface of the ground on Premises by reason of any improvements that Lessee may desire to construct thereon, Lessee shall, at its own expense, make such changes or alterations in a manner satisfactory to the Railroad's Engineering Superintendent or his authorized representative.

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7. Lessee shall not erect or maintain, or allow to be erected or maintained, any building, structure or physical obstruction of any kind, adjacent to or over any railroad track a distance less than those prescribed by lawful authority; in the absence of any such clearances prescribed by lawful authority, no building, structure or physical obstruction shall be erected, maintained or allowed to exist within eight and one-half (8-1/2) feet of the center line of any railroad track or at a height of less than twenty-three (23) feet above the top of the rails of the track (with suitable increase in such clearances where required because of curvature and/or super-elevation of the track), except as to wires, the overhead minimum clearance of which shall be in accordance with special of which shall be in accordance with specifications of the National Electrical Safety Code and in no case less than twenty-seven (27) feet, (Twenty-five [25] feet in the case of wires or cables suspended from messengers), above the top of rails of any railroad track. Knowledge of or notice to the Railroad of Lessee's failure to perform this covenant and Railroad's continued operation over any railroad track thereafter shall not be a waiver of this covenant.
8. Lessee will not use, or suffer or permit to be conducted, any trade or business on the leased Premises which may invoke the action of duly constituted civil authorities in the performance of their duties maintaining the health, welfare and safety of its citizens. Lessee shall comply with all present and/or future regulations, rules and requirements of all Federal, State or Municipal agencies relative to the provisions regarding pollution of the environment. Lessee shall in no way pollute the Premises or surrounding areas.

Lessee herein agrees that any permits granted by Railroad to Lessee under the terms of this lease shall not be constituted as a waiver by Railroad of any of the prohibitions herein contained.

Failure of Lessee to comply with civil authorities, or to remove the cause and/or effects of pollution of the environment within a period of thirty (30) days after notification by Railroad (or other duly constituted authority) to Lessee, shall be cause for Railroad to declare this lease terminated as of the end of the 30-day period.
9. The Railroad shall have the right at any time, but not the obligation, to inspect Premises to assure itself that there has been compliance with the terms of this lease; but the exercise by the Railroad of such right, or the failure to exercise the same, shall not relieve Lessee of any obligation imposed upon Lessee under the terms of this lease.
10. No signs or advertisements except those of the Lessee's business shall be displayed on the Premises; signs or advertisements for Lessee's business shall be erected so as to not obstruct the view at grade crossings.

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11. No intoxicating liquors shall be sold, dispensed, consumed or stored on Premises without Lessee first obtaining written consent of the Railroad.
12. Lessee shall pay for all utility service brought to and/or consumed on the Premises and agrees that artificial lighting shall be electricity only. Any electrical installation on Premises, where oil or flammable liquids are handled or stored, except in unbroken original containers, shall conform to and be maintained in accordance with the provisions of the then current edition of the National Electrical Code with respect to Class I Hazardous Locations. Lessee agrees that the portion of any track or siding, whether the property of Lessee or Railroad, upon which cars of flammable or explosive liquids are placed or stored, loading or unloading shall be adequately protected against the hazard of fire or explosion due to stray electrical currents or static discharge. Lessee agrees to comply with all applicable Federal, State and Municipal Laws, Rules and Regulations governing the handling of all hazardous and/or flammable and/or explosive liquids, gasses and solid materials and wastes. The purchase, sale, processing, handling, transportation or storage of hazardous waste as defined by Federal, State and Municipal Laws, Rules and Regulations whether primarily or incidentally or in any form related to the Lessee's operations on the premises is strictly forbidden, unless otherwise provided herein.
13. Lessee agrees that at all times during the continuance of this lease it will exercise such care, and cause such precautions to be taken, as shall adequately protect the facilities, buildings and structures plus contents thereof on said Premises, and all property, of whatever description, including, but not limited to that belonging to the parties hereto, situated on Premises, against all dangers to which they may be exposed from fire regardless of cause.
14. As a part of the consideration, Lessee agrees to indemnify and hold harmless, Railroad and its officers, agents and employees from and against all liabilities, losses, damages, claims, demands, suits, fines, penalties, judgments, costs, attorney fees and expenses (the "Loss") for; (1) any personal injuries to or loss of life of, any person whomsoever, including but not limited to officers, employees, agents, patrons and licensees of the parties hereto, or any damage to any property including, but not limited to property of the parties or property in the possession or custody of the parties hereto, which such loss may be caused by, result from or arise by reason of, in connection with or incident to the grant or exercise of the rights herein contained or the presence or activities of any officer, agent or employee of the parties hereto, regardless of considerations of fault or negligence; (2) any use, disuse, or condition of the subject property or any part thereof, including but not limited to violation of any federal, state or local law, statute or regulation or the condition of or environmental contamination of the subject property. This Indemnity and Hold Harmless Section shall be a continuing obligation for so long as the rights granted hereby are in effect and thereafter until all potential liability of Railroad shall be extinguished.

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15. Lessee agrees to assume, indemnify and save harmless Railroad against (a) any penalty or damage or charges imposed on Railroad for any violation of any laws or ordinances occasioned by the act or neglect of Lessee or those holding under Lessee, (b) any and all liability, loss, cost, damage and expense (including attorneys' fees), arising out of or from any accident or other occurrence on or about Premises or attributable to occupancy of Premises by Lessee [or attributable to the operation of engines, cars or other equipment over and upon and side, spur, industry or other track connecting Premises with the main line of Railroad, or located on any part of Premises] causing injury to any person (including the parties hereto and their employees) or property (including that belonging to the parties hereto), all claims and any and all loss, cost, damage or expense, including, but not limited to, that occurring to the parties hereto, arising out of any failure of Lessee in any respect to comply with and perform all the requirements and provisions of this lease. [The indemnity provided for in this paragraph shall be applicable regardless of negligence of Railroad in connection with the obligation imposed on Lessee in Paragraphs 7 and 16 of this lease.] The Railroad shall not be liable to the Lessee resulting from any accident in or about the demised Premises whether resulting directly or indirectly from any act or neglect of the Lessee, Railroad or general public.
16. Lessee agrees, at all times during the term hereof, at its own expense, to keep the improvements on the Premises insured against loss by fire and those risks now or hereafter normally covered by the term "extended coverage" for not less than one hundred percent (100%) of their full insurable value from insurance companies acceptable to the Railroad. Lessee further agrees that the Railroad shall be named as one of the insured's and furnished a duplicate original of said insurance policy, which shall further provide for thirty (30) days prior written notice to the Railroad of any change in coverage or cancellation thereof.

As a further consideration, Lessee agrees at Lessee's sole cost, to secure, prior to the effective date of this lease, and to keep in effect at all times during the term hereof, a policy of insurance satisfactory to the Railroad as an insured party and protecting the Railroad against any and all liability for personal injury (including death) or property damage directly or indirectly resulting from the granting or exercise of this lease and that said insurance be primary as it relates to this lease. Such insurance shall have a minimum combined single limit of \$1,000,000 per occurrence, and the insurance policy or policies must be furnished to and approved by Railroad prior to effective date of this lease. This policy must also insure the Railroad against any and all damages, claims, demands, causes of action, suits, judgments, and all cost and expense pertaining thereto, resulting or arising from death or injury to persons whomsoever, or loss or destruction of or damage to person or property whatsoever growing out of or incidental to the use or occupancy of the premises, or any part thereof, by any person(s), with or without consent of lessee, [or arising from or growing out of Railroad operation or maintenance by Railroad, or from any causes whatsoever.] Said insurance shall specifically refer to and cover the indemnity provided under this lease and shall further provide

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for thirty (30) days prior written notice to Railroad of any change in coverage or cancellation thereof. It is understood and agreed by Lessee that furnishing of such policy of insurance and acceptance by the Railroad is not intended to, and shall not limit, affect or modify the obligation of Lessee under any provisions of this lease.

17. The Lessee agrees, if requested by the Railroad, that it will, at its own expense, erect and maintain a good, substantial fence or barricade on the Premises separating the same from other property of the Railroad on which Railroad operations are conducted.
- [18. If Lessee fails to substantially begin compliance with any obligation under the terms of this lease after receiving ten (10) days' written notice from the Railroad, the Railroad may, at its option, perform such obligations at the sole cost and risk of Lessee. Cost of work performed by Railroad for Lessee's account referred to in this lease is hereby defined to be the cost of labor and material furnished by Railroad and rental on equipment used plus normal additives. In addition, the term "cost" is defined to include transportation taxes payable by Railroad under any excise, sales or use tax based on the wages of labor, cost of material, or the gross cost of the work, as the case may be. Bills covering such gross cost and expense as herein defined shall be paid by Lessee within fifteen (15) days after the receipt thereof.
19. Failure or delay by Railroad to require full compliance with any or more of the terms of this lease shall not be held as a waiver of a right to subsequently insist upon such compliance.
20. If for a period of fifteen (15) days the rent, or any part thereof, shall be unpaid on the day when due, or if default shall be made by Lessee for a period of ten (10) days after written notice in keeping or performing any of the other covenants or agreements herein contained, or if bankruptcy, insolvency, receivership, foreclosure or any similar proceedings affecting Lessee shall be instituted and not dismissed for said period, Railroad may at its election declare this lease terminated or assess a service charge at the rate of one percent (1%) per month on the amount of such rent for each month or portion of a month that the same shall remain unpaid or default not remedied; [provided, however, that such service charge shall in no event be less than twenty-five dollars (\$25.00).]

When the term of this lease shall be ended for any cause, Lessee covenants and agrees to give up and surrender to Railroad peaceably and immediately Premises and Railroad owned improvements thereon without further demand or notice. [Railroad may restore Premises and improvements to the original condition at the sole cost of Lessee.]

Termination of this lease shall not affect the Railroad's rights with respect to Lessee's obligation for rent and shall not prevent Railroad from pursuing such action or proceedings as may be necessary.

21. This lease is subject to the approval of any Federal, State or

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Municipality authority having jurisdiction therein.

22. The Railroad may terminate this lease and the tenancy hereby created at any time by giving Lessee sixty (60) days' notice of such intention. No termination of this lease shall release the parties from any liability or obligation that accrued prior to said termination. In the event this lease is terminated pursuant to this paragraph, any unearned prepaid rentals made by the Lessee shall be refunded to the Lessee on a ~~pro~~-prorated basis less any other amounts which may be due the Railroad, but in no instance will the amount refunded be less than twenty-five dollars (\$25.00).
23. All notices to be given to Lessee shall be considered as having been properly given upon mailing same by certified U.S. Mail, return receipt requested, addressed to the Lessee at its address shown herein; or, for the purposes of effectuating termination as provided herein, notice may be served upon Lessee by (a) personally delivering same to Lessee or any of its employees on the Premises; (b) by posting said notice of termination on the Premises; or (c) by mail as above provided. All notices to the Railroad shall be addressed to:

*Vice President-Marketing
P.O. Box 554
Kokomo, Indiana 46903-0554*

by certified U.S. Mail, return receipt requested, and shall be considered as having been properly given when actually received by the Railroad.

24. The Lessee shall, at its own expense, remove or cause to be removed all buildings, structures, foundations, footings, materials, signs or signboards, debris or other articles or facilities owned or used by Lessee or place on, above or below the surface of the premises by Lessee or by any person, firm or corporation or former Lessee through which the Lessee does or did at any time obtain a clear position of the premises whether by assignment or otherwise. Lessee agrees to restore the premises to a conditions satisfactory to the Railroad.

It is expressly understood by the Lessee that until such time as the Premises are surrendered to the Railroad free and clear of all buildings, structures, foundations, materials, signs or debris or other articles or facilities owned by the Lessee and the Premises are restored to the original condition satisfactory to the Railroad, Lessee shall be liable to the Railroad for such rental as [the Railroad may from time to time determine.] The Lessee shall also be liable for any and all losses and/or damages which the Railroad may sustain or become liable for resulting from the failure of the Lessee to restore the Premises to the original condition. The Railroad may at its sole election remove or dispose of any such property without any liability whatsoever to Lessee and charge the Lessee for all cost and expense incidental to such removal or, if Railroad elects not to remove the improvements, they shall become the property of the Railroad.

25. The invalidity or unenforceability of any provision of this lease

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shall not affect or impair any other provision hereof.

26. Lessee shall not assign this lease or sublet the demised Premises or any part thereof without the written consent of the Railroad. Lessee shall not allow or permit any transfer of this lease, or any interest hereunder, by operation of law, or convey mortgage, pledge or encumber this lease or any interest herein; and, in the event the Lessee shall violate any of the covenants contained in this paragraph, the Railroad may, at its option, terminate his lease without any notice whatsoever to the Lessee.
27. If the whole or any part of the demised Premises shall be taken or condemned by any competent authority for any purpose, or is sold by the Railroad under threat of condemnation, the term of this lease shall end upon and not before the date when possession of the part so taken shall be required for such use or purpose, and without apportionment of the award. Current rent shall be apportioned as of the date of such termination and Lessee shall have no right to share in the condemnation award or sales proceeds.
28. All of the covenants, agreements, conditions and undertakings contained in this lease shall be binding upon the inure to the benefit of the legal representatives, successors or assigns of the respective parties hereto.
29. Lessee hereby constitutes and irrevocably appoints any attorney of any court to be the true and lawful attorney of Lessee, and, in the name, place and stead of Lessee, to appear for Lessee in any court of record at any time in any suit or suits brought against Lessee for the enforcement of any right hereunder by Railroad, to waive the issuance and service of process by trail by jury, and from time to time, to confess judgment or judgments in favor of Railroad and against Lessee for any money due hereunder by Lessee to Railroad and for costs of suit and for a reasonable attorney's fee in favor of Railroad to be fixed by the court, and to release all errors that may occur or intervene in such proceedings, including the issuance of execution upon any such judgment, and to stipulate that no appeal shall be prosecuted from such judgment or judgments, and that no proceedings in chancery or otherwise shall be filed or prosecuted to interfere in any way with the operation of such judgment or judgments, or of any execution issued thereon or with any supplemental proceedings taken by Railroad to collect the amount of any such judgment or judgments and to consent that execution on any judgment or decree in favor of Railroad and against Lessee may issue forthwith.
30. It is expressly agreed by and between the parties thereto that all of the agreements, terms and covenants contained in this lease are the only agreements entered into between the parties affecting the demised Premises. The Lessee expressly acknowledges that the Railroad has made no agreements affecting the demised Premises except those as are expressed therein.

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31. It is agreed by the parties that the following additional terms and conditions will also apply;

- (a) Railroad agrees to provide Lessee with the first right to purchase premises or any portion of premises in the event that Railroad decides to sell said premises, at a purchase price not to exceed eight thousand dollars (\$8,000.00) per acre.
- (b) Railroad agrees not to terminate this lease under the provisions of Item 22., except by reason of default, until June 1, 2014.
- (c) Lessee agrees to contract for a survey of the demised premises at its sole cost and expense. The square footage and rental defined in this agreement will be adjusted in line with the results of the survey. Lessee will furnish Railroad name of surveyor and provide a copy of the survey when available.

IN WITNESS WHEREOF, the parties hereto have caused this lease to be executed in duplicate original;

St. Paul, City of

By: Charles J. Davis

Title: Pres

Date: Feb 7-95

Central Railroad of Indiana

By: Dan Miller (WSA)

Dan Miller

President & CEO

Date: 6/25/94

* This agreement must be signed by an authorized officer of the corporation or; in the event of a partnership must be signed by all legal partners.

CROSSING
NO. 72 64 CH

CROSSING
NO. 72 72 CH

CROSSING
NO. 72 96 CH

EXHIBIT A

(Match Map No. 15, 1901)

ST 1/4 Sec 3

ST 1/4 Sec 3

ST. PAUL, IND.

NOBLE TWP. SHELBY CO.
ADAMS TWP. DECATUR CO.

STOKELY CANNING CO.

NE 1/4 Sec 4

SE 1/4 Sec 4

Jacob Feaster

Abraham Criss

Abraham Criss

No. 13

R-8E
T-11N

PARKING AREAS: EAST WASHINGTON STREET;

JACKSON - WEBSTER: 30' x 200' = 6,000

WEBSTER - MAIN N. 30' x 200' = 6,000

WEBSTER - MAIN S. 30' x 200' = 6,000

18,000 SQ. FT.

NUMBER	GRANTOR	QUANTITY	REMARKS
1	John P. Paul	1 AC. 10 R.	No Lease
2	James A. Arity	1 AC. 10 R.	No Lease
3	Jacob Feaster	1 AC. 10 R.	No Lease
4	SOLD	1 AC. 10 R.	No Lease
5	Abraham Criss	1 AC. 10 R.	No Lease
6	Sec. 10 R.	1 AC. 10 R.	No Lease
7	Jacob Criss	1 AC. 10 R.	No Lease
8	Abraham Criss	1 AC. 10 R.	No Lease
9	Sec. 10 R.	1 AC. 10 R.	No Lease
10	Emmett Powell	1 AC. 10 R.	No Lease
11	Sec. 10 R.	1 AC. 10 R.	No Lease
12	John F. Stevens	1 AC. 10 R.	No Lease
13	Ind. & S. R. Co.	1 AC. 10 R.	No Lease

NOTE: For title secured in the Survey 18 of the Owner's Charter - Feb. 18, 1901.

CIVIL TOWN OF ST. PAUL, INDIANA

June 4, 1963

A resolution authorizing an agreement between the
New York Central System and the Civil Town of St. Paul
concerning the undercrossing of the right of way and
tracks of the force main of the St. Paul sewerage plant.

Vote on the resolution - 3 ayes - no nos.

George Miller
George Miller, Pres.

ATTEST: Merle C. Winkler
Merle C. Winkler
Clerk-Treasurer

(Printed in U.S.A.) MU

This Agreement, made this 1st day of July, 1963, between THE NEW YORK CENTRAL RAILROAD COMPANY, (Lessee of the railway and property of The Cleveland, Cincinnati, Chicago and St. Louis Railway Company), hereinafter called First Party, and the TOWN OF ST. PAUL, INDIANA, a municipal corporation,

hereinafter called Second Party,

Witnesseth, that the parties hereto, in consideration of the covenants and agreements hereinafter contained, covenant and agree as follows:

First Party hereby licenses and permits, but without warranty, the Second Party, to install, maintain, and use a six inch (6") cast iron force main encased in a sixteen inch (16") steel casing pipe having a wall thickness of $\frac{1}{4}$ " across and under First Party's right-of-way and tracks at valuation station 3845/34, and an eight inch (8") cast iron gravity flow sewer encased in an eighteen inch (18") steel casing pipe having a wall thickness of 0.281" across and under First Party's right-of-way and track at valuation station 3824/00 - all at St. Paul, Indiana, and as indicated on prints of plans dated February 28, 1963

are which ~~are~~ hereto attached and hereby made a part of this instrument, all of which is hereinafter referred to as the "WORK," upon the following terms and conditions, all of which Second Party covenants and agrees to keep, abide by and perform:

FIRST: Said WORK shall be done at such time or times, in such manner, with such material and under such general conditions as shall be satisfactory to and approved by the Chief Engineer of First Party, or his duly authorized agent, and as will not interfere with the proper and safe use, operation, and enjoyment of the property and railroad of First Party. Second Party shall after the doing of said WORK restore the premises of First Party to the same or as good a condition as they were in prior to the commencement of the doing of said WORK.

SECOND: All the work to be done by Second Party, or by the contractors, agents or servants of Second Party, in connection with the doing of said WORK, or in connection with the repair, renewal or maintenance thereof, shall be done at the sole risk and expense of Second Party, and the cost of all work done by First Party in connection therewith, the checking of plans and the wages of any inspectors or watchmen which, in the judgment of the said Chief Engineer of First Party, may be required during the doing of said WORK, or in connection with the repair, renewal, maintenance or use thereof, for the proper and safe protection of the property, traffic and business of First Party, shall be paid to First Party by Second Party, upon bills being rendered therefor. **Second Party shall in no instance be relieved from making such payments by any third party or parties agreeing in any manner to assume or pay same.**

THIRD: First Party may, at its election, do all the work within the exterior lines of its lands in connection with or necessary for the doing of said WORK, or in connection with the repair, renewal, maintenance or use thereof, through its lands and across its roadway and tracks, and all said WORK shall be paid for by Second Party as hereinbefore provided.

FOURTH: Second Party shall, if requested so to do by First Party, advance to First Party the estimated cost of said WORK, and upon the completion of said WORK, the unexpended balance, if any, shall be returned to Second Party, or if the sum advanced by Second Party to First Party insufficient to pay for the cost of said WORK, then Second Party shall pay to First Party such additional sum as was necessary to complete said WORK, upon being furnished by First Party with a detailed statement of the amount and cost of such additional work.

FIFTH: Whenever it may be necessary to make any repairs to or renewals of said WORK in or upon the premises of First Party, such repairs or renewals shall be made under the supervision and control of said Chief Engineer of First Party, or his duly authorized agent, at the sole expense of Second Party, in such a manner as to interfere as little as possible with the premises, property and business of First Party, and Second Party shall, at the cost and expense of Second Party, restore the premises of First Party to the same or as good a condition as they were in prior to the making of such repairs or renewals; or First Party may, at its election, make such repairs or renewals, and the expense thereof shall be paid to it by Second Party, as hereinbefore provided.

~~SIXTH: Second Party shall at all times hereafter assume all liability for, and pay and indemnify and save harmless First Party from and against any and all damages, losses, claims, demands, suits, costs, or expenses which First Party may suffer, sustain, or be subject to, directly or indirectly, caused either wholly or in part by reason of the location, construction, maintenance, use, presence or removal of said WORK, regardless of whether or not caused or contributed to by the negligence of First Party, its agents, or employees.~~

SEVENTH: This agreement and the license and privilege it confers may be revoked and terminated at the option of First Party at any time by giving thirty (30) days' written notice to Second Party or by posting such notice in a conspicuous place where said WORK has been done; and upon the expiration of said thirty (30) days after service of said notice, this agreement and the license and privilege hereby granted shall be absolutely terminated and extinguished; and thereupon, Second Party shall remove said WORK from the premises of First Party and restore same to their former condition at the expense of Second Party, or on the failure of Second Party so to do, First Party may remove said WORK at the expense of Second Party, which the latter hereby expressly agrees to pay on demand.

EIGHTH: It is understood and agreed by and between the parties hereto that if, at any time or times hereafter, First Party shall desire to make any changes in its tracks, structures, roadbed or other facilities at the point of crossing, or make any changes whatever in, to, upon, over or under the premises owned, controlled or leased by said First Party, and crossed or in any way affected by the WORK of Second Party under this agreement, then Second Party shall, at its own cost and expense, upon thirty (30) days' notice in writing to that effect from First Party make such changes in the location or construction of its said WORK, as in the judgment of the Chief Engineer of First Party may be necessary to accommodate any future construction, improvements or changes of said First Party.

NINTH: It is agreed that in no event shall any wires, pipes, or other structures, except those herein mentioned and shown on the blueprint hereto attached be strung or placed across the tracks or upon the property of First Party, without express permission so to do, in writing from said First Party, to that effect; and that in that event, all the terms and conditions of this agreement shall immediately, upon the giving of such permission for the stringing and placing of such additional wires, pipes or other structures, apply to and cover the same with the same effect as if the right to string or place them had been incorporated in this agreement.

TENTH: It is understood and agreed by and between the parties hereto, that if at any time during the continuance of this agreement, Second Party hereto removes, abandons or discontinues the use of the WORK hereinabove referred to, this agreement and all rights hereby conferred upon said Second Party shall be deemed to be abrogated and determined as of the date of such removal, abandonment or discontinuance, without further action on the part of either party; and Second Party covenants and agrees that, in case said WORK hereinabove referred to is at any time during the continuance of this agreement discontinued or abandoned, said Second Party shall, within sixty (60) days after the abandonment or discontinuance of said WORK, actually remove said WORK from the premises of First Party hereto, or cause it to be removed, and if, after the expiration of said sixty (60) days the said WORK is not actually removed, it is understood that First Party hereto may forthwith remove the same at the risk and expense of Second Party, and without being in any manner liable to said Second Party for such removal, and Second Party covenants and agrees to pay to First Party hereto the cost of such removal upon the receipt of bill therefor rendered to Second Party.

ELEVENTH: Second Party shall pay to First Party, (1) upon delivery to Second Party of executed copy hereof, the sum of Ninety Dollars (\$90.00), and (2) as rental for the privilege herein granted, the sum of Thirty Dollars (\$30.00) per annum, beginning on the first day of July, 1963, and annually in advance thereafter, during the term and continuance of this permit, not subject to pro-rata refund for any period less than the annual term.

TWELFTH: It is understood and agreed by and between the parties hereto that the wall thickness of $\frac{1}{4}$ " for the sixteen inch (16") encasement pipe and 0.281" for the eighteen inch (18") encasement pipe are the minimum for steel having a yield point of 33,000 pounds per square inch or more with no allowance made for corrosion or deterioration, and is permitted only with the understanding that The Second Party (the owner of the pipe line) assumes full and complete responsibility for maintaining the full wall thickness and strength of the encasement pipes until their use is terminated, at which time Second Party shall remove the carrier pipes and compactly fill with sand the encasement pipes.

THIRTEENTH: The Town of St. Paul, Indiana is authorized to enter into this agreement by Resolution/Ordinance No. _____ of its _____ adopted _____, 1963.

The covenants and agreements herein contained shall be binding upon, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto respectively.

In Witness Whereof, the parties hereto have duly executed this instrument in duplicate, the day and year first above written.

THE NEW YORK CENTRAL RAILROAD COMPANY

(Lessee of the railway and property of The Cleveland, Cincinnati, Chicago and St. Louis Railway Company)

Approved as to Form:

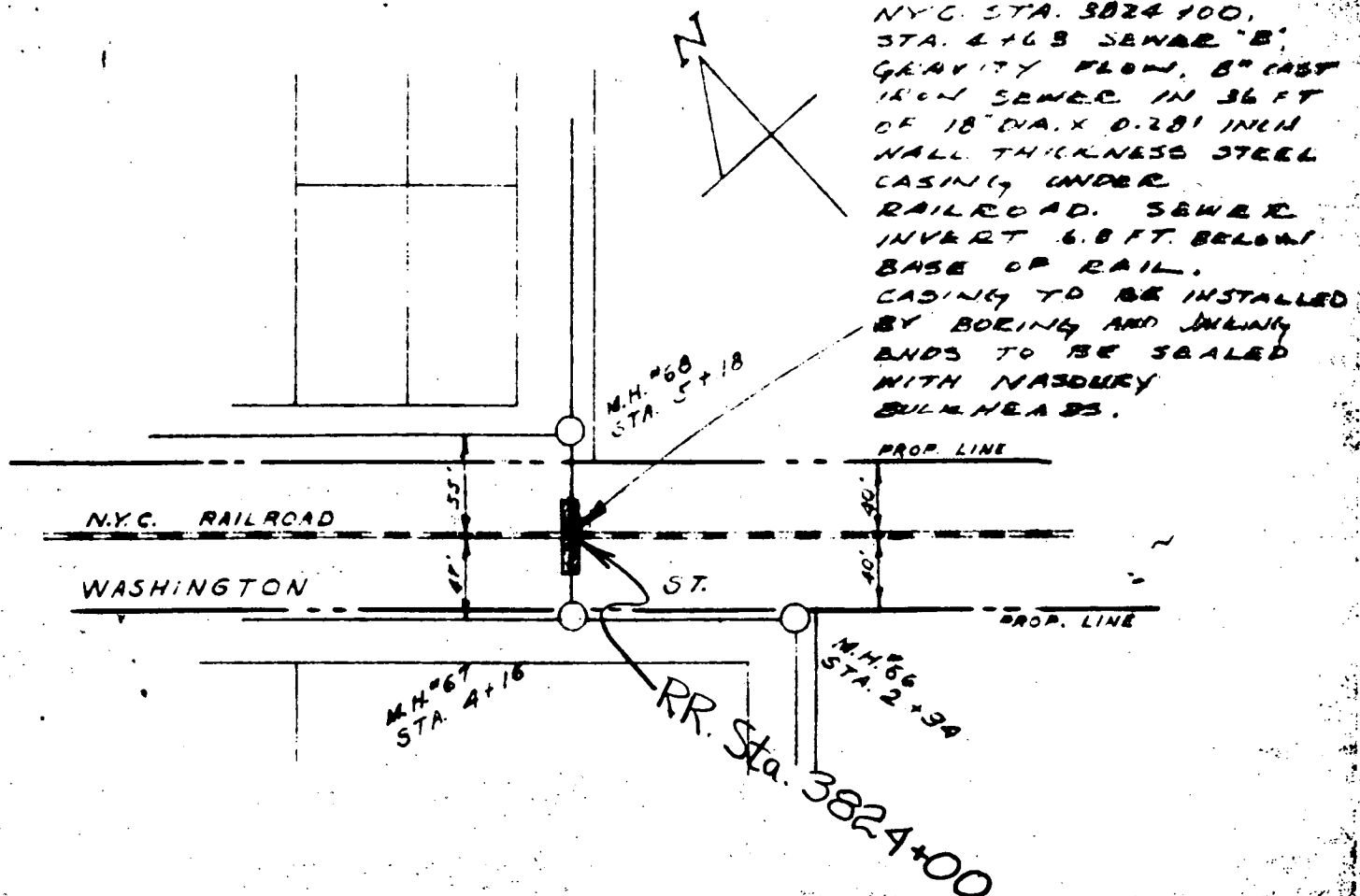
G. D. Olson
General Attorney

By C. E. Defendorf
Chief Engineer

TOWN OF ST. PAUL, INDIANA, a municipal corporation

By George H Miller
Its Pres.

133 022



NEW YORK CENTRAL
OFFICE OF CHIEF ENGINEER
CCC & SILBY CHICAGO, ILL.
MAY 8, 1963 EFS



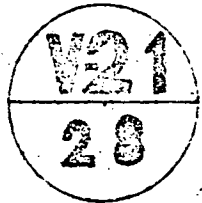
TOWN OF ST. PAUL - INDIANA
SEWERAGE WORKS
TRUNK SEWER "B"
RAILROAD CROSSING

ENGINEER:
HOWARD BARTH & ASSOCIATES
301 BATES BUILDING
GREENSBURG - INDIANA

DATE FEB. 28, 1963
DRAWN H. J. BARTH

SCALE 1" = 100'-0"

PR Sta. 3845+34



NYC. STA. 3845+34
 STA. 26+28 SEWER "A"
 6" CAST IRON FORCE MAIN
 IN 74 FT. OF 16" DIA X 1/4"
 WALL THICKNESS STEEL
 CASING UNDER RAILROAD.
 SEWER INVERT 15.4 FT.
 BELOW BASE OF RAIL
 CASING TO BE INSTALLED
 BY BORING AND JACKING.
 ENDS TO BE SEALED
 WITH MASONRY BULK HEADS,
 LAID LOOSE.

NEW YORK CENTRAL SYSTEM

OFFICE OF THE CHIEF ENGINEER
 CCC & SILRy CHICAGO, ILLINOIS
 MAY 8, 1963

EFS

TOWN OF ST. PAUL - INDIANA SEWERAGE WORKS TRUNK SEWER "A" RAILROAD CROSSING

ENGINEER:

HOWARD BARTH & ASSOCIATES
 301 BATES BUILDING
 GREENSBURG - INDIANA

DATE
 DRAWN

FEB. 28, 1963
 H. J. BARTH

