



RECORDATION NO. 15018-1A

AUG 4 1986 -2 53 PM

INTERSTATE COMMERCE COMMISSION

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232
Telephone: (518) 457-2411

FRANKLIN E. WHITE
COMMISSIONER

July 31, 1986

Office of Secretary
Application and Fees Unit
Room B-207
Interstate Commerce Commission
12th and Constitution Avenue, N.E.
Washington, DC 20423

Re: Recording Evidence of
Agreement, 49 USC §11303
#D94144 dated 9/17/75

Dear Madam:

I have enclosed the following true copies of original documents described below, which have been certified to be complete and identical in all respects to the original document under 49 C.F.R. 1177.3(b), to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is an Agreement, a primary document identified as Agreement No. D94144 and dated September 17, 1975, between the New York State Department of Transportation and the Delaware and Hudson Railway Company by which New York State acquires title to certain rolling stock and equipment used by the Delaware and Hudson Railroad (D&H) in exchange for an executory promise that the D&H rehabilitate the equipment and maintain certain railroad services for a specific period.

The filing of this document does not constitute a waiver of any rights New York may have under the contract or pursuant to any law.

The names and the addresses of the parties to the documents are as follows:

Title holder to equipment:

New York State Department of Transportation
Legal Services Bureau
Building 5, Room 509
State Campus
Albany, New York 12232

100 OFFICE OF
THE SECRETARY
AUG 4 2 52 PM '86
MOTOR OPERATING UNIT

Counterpart

Service provider and user of equipment:

Delaware and Hudson Railway Co.
5th Street
Watervliet, New York 12189

A description of the rolling stock and equipment covered by the document follows:

This Agreement involves eight (8) Alco Model 251c 12 cylinder diesel engineer bearing D&H Company numbers:

4106	4115
4107	4119
4112	4122
4113	4128

The filing fee has been waived pursuant to 49 C.F.R. 1002.2(e)(1) because the New York State Department of Transportation is a State governmental entity.

Please return the extra certified true copies not needed by the Commission for recordation to:

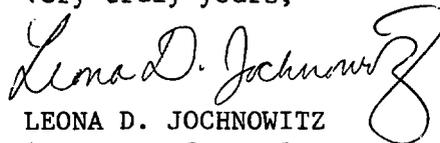
Leona Jochnowitz or William J. Dwyer, Esqs.
Legal Services Bureau
(518) 457-2411
New York State Department of Transportation
Building 5, Room 509
State Campus
Albany, New York 12232

A short summary of the document to appear in the index follows:

This is a primary document and represents an Agreement between the title holder, the New York State Department of Transportation and the D&H Railroad, the service provider and the user of this equipment. Under the terms of this Agreement, New York State acquires title to the items and the D&H Railroad promises to rehabilitate the aforementioned eight diesel locomotives at a cost to the State not to exceed \$2,200,000.00, to use these locomotives principally in New York State, and to maintain them during the period set forth in this Agreement.

The filing of this document does not constitute a waiver of any rights New York State may have under the Agreement or pursuant to law.

Very truly yours,



LEONA D. JOCHNOWITZ
Assistant Counsel
Legal Services Bureau

cc: Kathleen King, Esq.
Office of Secretary



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
RAYMOND T. SCHULER, COMMISSIONER

DS-144

|||||
AGREEMENT
|||||

PROJECT NO. S935.25
REHABILITATION OF EIGHT (8) LOCOMOTIVES FOR THE
DELAWARE AND HUDSON RAILWAY

Rail Preservation Project

AGREEMENT

THIS AGREEMENT made this 17th day of September, 1975, by and between the People of the State of New York, acting by and through the Commissioner of Transportation, and Delaware and Hudson Railway Company, a railroad company doing business in the State.

WITNESSETH:

WHEREAS, Article 10-A of the Transportation Law authorizes the expenditure of monies received by the State from the sale of bonds pursuant to the Rail Preservation Bond Act of 1974 for any approved rail preservation project; and

WHEREAS, said Article 10-A further provides for the undertaking of any approved rail preservation project by the State acting by and through the Commissioner; and

WHEREAS, the Commissioner has reviewed the projects to be undertaken pursuant to this Agreement as required by said Article 10-A and has approved them.

NOW, THEREFORE, the parties hereto, in consideration of the mutual promises conditions terms and obligations herein set forth, do agree and covenant as follows:

ARTICLE ONE

DEFINITIONS

"Commissioner" means the Commissioner of Transportation of the State of New York or his duly authorized representative.

"Department" means the New York State Department of Transportation.

"Railroad" means the Delaware and Hudson Railway Company.

"State" means the People of the State of New York acting by and through the Commissioner.

"Capital Facilities" means materials, equipment, facilities or supplies acquired, constructed, reconstructed, established, improved or rehabilitated by or on behalf of RAILROAD pursuant to the provisions of this Agreement for the purpose of accomplishing the work program set forth in the Work Schedule (Appendix 1 of this Agreement).

"Agreement" means this document and any attachments hereto referred to herein.

ARTICLE TWO

CAPITAL IMPROVEMENTS

Section 2.1. Description of Work.

RAILROAD agrees to provide for the accomplishment, at STATE expense, of the work described in the Work Schedule (Appendix 1) which is attached hereto and made a part hereof and in accordance with specifications approved by the COMMISSIONER. The monetary amounts specified in said Work Schedule for particular items of work are estimates, and the transfer of amounts between line items is permitted as necessary, subject to the prior written approval of the COMMISSIONER. Any time limits for the accomplishment of work which are set forth in said Work Schedule may be extended by the COMMISSIONER as he deems necessary.

Section 2.2 Performance of Work.

RAILROAD agrees to undertake and to proceed expeditiously with the work to be accomplished as specified in the Work Schedule and to complete said work within the time limits specified therein; provided, however, that RAILROAD shall not be obligated to incur costs for the accomplishment of the work specified in the Work Schedule in excess of the amount that STATE is obligated to pay under this Agreement.

Section 2.3. Maintenance.

RAILROAD agrees to maintain the Capital Facilities, as well as ancillary facilities useful or necessary for providing rail transportation services thereon or therewith, in good order and repair and in accordance with applicable Federal Railroad Administration (FRA) standards and/or the COMMISSIONER'S standards as specified in the attached Maintenance Schedule (Appendix 2), for the periods of time specified in said Maintenance Schedule, commencing the date the final reimbursement payment to RAILROAD is made, for each Work Item, pursuant to Section 2.4 of this Agreement. In the absence of applicable FRA Standards, and where COMMISSIONER has not specified standards, RAILROAD shall maintain the Capital Facilities and ancillary facilities in accordance with such maintenance specifications as are recommended by the manufacturer thereof, or maintenance procedures and practices commonly accepted in the railroad industry for the same or similar facilities, whichever standard is higher.

Section 2.4. Reimbursement.

(a) Track, Roadbed, Station and Related Facilities - STATE agrees to reimburse RAILROAD for the entire cost which RAILROAD incurs of track, roadbed and station work performed, as described in the attached Work Schedule, including the cost of preliminary and construction engineering as well as for facilities provided by RAILROAD under this Agreement in connection with said work, pursuant to the Brown Book dated June 1, 1930, which together with amendments thereto has been issued by COMMISSIONER, it being intended by the parties hereto that by reference to said Brown Book and amendments thereto it is agreed that the provisions thereof are deemed to be included herein and are accepted as binding upon the parties to the same extent and with the same force and effect as if said Brown Book and amendments thereto had been set forth in and made a part of this Agreement. Provided, however, that

STATE shall not be obligated to pay nor shall RAILROAD claim reimbursement for the use of facilities or equipment which have been acquired by RAILROAD in whole or in part with funds provided by STATE under this or any other agreement. Rental charges for RAILROAD owned equipment or facilities shall not be eligible for reimbursement hereunder when suitable STATE-financed equipment or facilities are available to RAILROAD for the work to be accomplished at the time required. RAILROAD shall submit to STATE fair and reasonable charges for the cost of the work performed, or facilities and equipment provided, by RAILROAD, less the value of materials recovered, as evidenced by detailed invoices acceptable to COMMISSIONER. Provided, however, that RAILROAD shall not be required to deduct the value of materials recovered which are to be utilized by RAILROAD in maintaining or improving its rail system in New York State consistent with programs or projects approved by COMMISSIONER. With respect to materials recovered which RAILROAD does not intend to use in maintaining or improving its rail system in New York State, RAILROAD shall invest such sums as shall equal the total value of such materials recovered in capital improvements to its rail system in New York State within two years following the date of recovery thereof. STATE shall reimburse RAILROAD in the amount of the approved costs so submitted, but in no event shall the cost to STATE of said work exceed the amounts specified in the attached Work Schedule, except as such cost may hereafter be increased pursuant to an amended agreement. All costs so submitted by RAILROAD shall be subject to approval by COMMISSIONER and to audit by the State Comptroller. Reimbursement therefor by STATE to RAILROAD will be made in monthly progress payments as to work performed or facilities provided by RAILROAD in accordance with approved certificates showing the cost of the work so performed or facilities provided. Upon the completion of all work a final statement of costs shall be submitted to STATE

within sixty (60) days. The final reimbursement payment to RAILROAD shall be made within thirty (30) days from the submission of the final statement, subject to final audit by the State Comptroller.

(b) Locomotives and Rolling Stock - STATE agrees to reimburse RAILROAD for costs incurred by RAILROAD for the rehabilitation and refurbishing of locomotives and rolling stock within the amounts set forth, and as such work is described, in the attached Work Schedule.

Section 2.5. Eligible Costs; Progress Payments.

Monthly progress payments shall be made by STATE to RAILROAD for eligible costs incurred by RAILROAD in accomplishing the work. Eligible costs for reimbursement shall include:

(a) Costs incurred by RAILROAD for direct labor and approved fringe benefits in connection with the work to be accomplished hereunder as specified in the Work Schedule (Appendix 1) attached hereto; and

(b) The value, as evidenced by vendor's bills, of materials incorporated into the work accomplished hereunder, as such work is specified in the Work Schedule (Appendix 1).

(c) Costs incurred by RAILROAD, in connection with the accomplishment of the work specified in the Work Schedule (Appendix 1), pursuant to contracts approved by COMMISSIONER, as such costs are documented by receipted bills or other evidence satisfactory to COMMISSIONER.

Section 2.6. Use and Disposition of Facilities.

RAILROAD agrees that, during the periods of time during which title to a Capital Facility or component thereof is held by STATE, such Capital Facility shall not be leased, rendered unusable, relinquished or disposed of by RAILROAD

without the express written consent of COMMISSIONER first having been obtained. It is intended that the Capital Facilities covered by this Agreement shall be used principally in New York State. Any other use is prohibited unless the prior written approval of the COMMISSIONER has been obtained. The provisions of this Section 2.6 shall not be applicable to Trackage Rights Agreements.

Section 2.7. Manner of Performing Work.

Subject to the provisions of Section 2.9 hereof, work specified in the Work Schedule (Appendix 1) may be performed by the employment of RAILROAD's manpower and equipment or by approved contract, provided, however, that STATE may elect with RAILROAD's approval to perform any such work with its own forces and equipment.

Section 2.8. Materials and Equipment Acquired by Railroad.

Notwithstanding any other provision of this Agreement, or of any provision, term or condition incorporated herein by reference, no expenditure by RAILROAD for any Capital Facility or component thereof listed in Appendix 3 hereof shall be eligible for reimbursement under this Agreement unless and until such title or interest as RAILROAD has in or to such item, free of all taxes, shall have been conveyed to STATE. Unless COMMISSIONER determines otherwise, such conveyance shall be made prior to the installation or use of such Capital Facility or component thereof in or upon RAILROAD'S property. All Capital Facilities and components thereof shall thereafter at all times be and remain the sole and exclusive property of STATE, until conveyance thereof back to RAILROAD, and RAILROAD shall have no right, title or interest therein or thereto except as expressly set forth herein. Title to Capital Facilities and components thereof shall be conveyed back to RAILROAD in

accordance with the Schedule set forth in Appendix 3 of this Agreement upon a determination by COMMISSIONER that RAILROAD has substantially complied with all of the provisions of this Agreement.

Section 2.9. Acquisition of Materials & Equipment by State.

Notwithstanding any other provision of this Agreement, STATE, at COMMISSIONER'S exclusive option, shall have the right to contract directly with vendors and contractors for materials and equipment which meet RAILROAD'S standards and which are necessary for the accomplishment of the work described in the Work Schedule (Appendix 1). Materials and equipment so acquired by STATE shall at all times be and remain the sole and exclusive property of STATE, and RAILROAD shall have no right, title or interest therein except as expressly set forth herein. In exercising such option the COMMISSIONER shall give due consideration to any time limits for the accomplishment of the work which are set forth in the Work Schedule.

Section 2.10. Inspection.

During the term of this Agreement the COMMISSIONER or his duly authorized representatives shall have the right to enter upon the premises of RAILROAD for the purposes of inspecting and examining the condition of any Capital Facility. Such right shall only be exercised at reasonable times and upon prior notice to RAILROAD. RAILROAD shall, whenever requested by COMMISSIONER, advise COMMISSIONER or his representative of the exact location of the equipment or materials.

Section 2.11. Liability For Loss or Damage.

RAILROAD hereby assumes and shall bear the entire risk of loss and damage, from any and every cause whatsoever, to the Capital Facilities. No loss or damage to any Capital Facility, or any part thereof, shall impair any obligation of RAILROAD under this Agreement which shall continue in full force and effect.

In the event of loss or damage to any such Capital Facility, ordinary wear and tear excepted, RAILROAD at the option of STATE shall:

(a) Place the same in good repair, condition and working order; or

(b) Replace the same with like equipment in good repair, condition and working condition.

Section 2.12. Use of Capital Facilities.

RAILROAD shall use the Capital Facilities in a careful and proper manner and shall comply with and conform to all applicable Federal, State and local laws, ordinances and regulations in any way relating to the possession, use or maintenance thereof. If STATE supplies RAILROAD with labels, plates or other markings indicating STATE's ownership thereof, RAILROAD shall affix and keep the same upon a prominent place on the Capital Facility designated by STATE.

Section 2.13. Maintenance of Way Equipment.

Maintenance of way equipment purchased in whole or in part with funds provided pursuant to this Agreement may be assigned by COMMISSIONER for use on other railroads within the State of New York. Commissioner shall consider the needs of RAILROAD for such equipment in considering any such assignment. No such assignment shall be made unless and until the assignee railroad agrees in writing (1) to assume RAILROAD'S obligations and liabilities with respect to the assigned equipment during the period of assignment; and (2) to compensate RAILROAD for the use of such equipment at applicable General Manager's Association (New York) rates in effect at that time.

ARTICLE THREE

MISCELLANEOUS

Section 3.1. Indemnity.

RAILROAD shall indemnify STATE and its employees against, and hold them harmless from, any and all claims, actions, suits, proceedings, costs, expenses, judgments, suits, damages and liabilities, including attorney's fees, arising

out of, connected with, or resulting from the materials or equipment, including without limitation the manufacture, selection, delivery, possession, use or operation of the equipment or materials subject to this Agreement.

Section 3.2. Default.

If RAILROAD, with regard to any item or items of equipment or material for which payment is made by STATE pursuant to this Agreement, fails to observe, keep or perform any provision of this Agreement required to be kept, observed or performed by RAILROAD, STATE shall have the right, upon ten (10) days notice in writing to RAILROAD, to take possession of any or all such items of equipment or material, wherever same may be located, without any court order or other process of law. Any such taking of possession shall not constitute a termination of this Agreement as to any or all items of equipment or material unless STATE expressly so notifies RAILROAD in writing.

Section 3.3. Bankruptcy.

Neither this Agreement nor any interest therein is assignable or transferable by operation of law. If any proceeding under the Bankruptcy Act, as amended, is commenced by or against RAILROAD, or if RAILROAD is adjudged insolvent, or if RAILROAD makes any assignment for the benefit of its creditors, or if an order of attachment or execution is levied on any Capital Facility for which payment has been made pursuant to this Agreement and is not released or satisfied within ten (10) days thereafter, or if a receiver is appointed in any proceeding or action to which RAILROAD is a party with authority to take possession or control of any Capital Facility, STATE shall have and may exercise the remedy set forth in Section 3.2 hereof, and in such case this Agreement shall, at the option of STATE, without notice, immediately terminate and shall not be treated as an asset of RAILROAD after the exercise of said option.

Section 3.4. Assignment.

RAILROAD agrees that it will not assign this Agreement or any interest herein without first obtaining COMMISSIONER'S written consent thereto.

Section 3.5. Personal Property.

The Capital Facilities are, and shall at all times be and remain, personal property notwithstanding that the Capital Facilities or any part thereof may now be, or hereafter become, in any manner affixed or attached to, or imbedded in, or permanently resting upon, real property or any building or structure thereof, or attached in any manner to what is permanent by whatever means.

Section 3.6. Non-Waiver.

No covenant or condition of this Agreement can be waived except by the written consent of COMMISSIONER. Forbearance or indulgence by STATE in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by RAILROAD, and, until complete performance by RAILROAD of said covenant or condition, STATE shall be entitled to invoke any remedy available to it under this Agreement or by law or in equity despite said forbearance or indulgence.

Section 3.7. Entire Agreement.

This instrument and the attached Schedules identified herein constitute the entire agreement between STATE and RAILROAD, and it shall not be amended, altered or changed except by a written agreement signed by the parties hereto.

Section 3.8. Force Majeure.

The obligations of the parties hereunder shall be subject to force majeure (which shall include strikes, riots, floods, accidents, acts of God, and other causes or circumstances beyond the control of the party claiming such force majeure as an excuse for non-performance), but only as long as, and to the extent that, such force majeure shall prevent performance of such obligations.

Section 3.9. Successors and Assigns.

All the covenants and obligations of the parties hereunder shall bind their successors and assigns whether or not expressly assumed by such successors and assigns.

Section 3.10. Interpretation.

The Article and Section headings utilized in this Agreement are for convenience only and shall not affect the construction hereof. This Agreement shall be construed in accordance with and governed by the laws of the STATE of New York. All Appendices attached hereto are integral parts of this Agreement and the provisions set forth in the Appendices shall bind the parties hereto to the same extent as if such provisions had been set forth in their entirety in the main body of this Agreement. Nothing expressed or implied herein shall give or be construed to give to any person, firm or corporation other than STATE or RAILROAD any legal or equitable right, remedy or claim under or in respect of this Agreement. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing signed by COMMISSIONER and RAILROAD unless a provision hereof expressly permits either of said parties to effect termination, amendment, supplementation, waiver or modification hereunder, in which event such action shall be taken in accordance with the terms of such provision.

Section 3.12. Severability.

If any part of this Agreement is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this Agreement and the remaining parts of this Agreement shall be enforced as if such invalid, illegal or unenforceable part were not contained herein.

Section 3.13. Notices.

Any request, demand, authorization, direction, notice, consent, waiver, or other document provided for or permitted by this Agreement to be made upon, given or furnished to, or filed with one party by the other party, shall be in writing and shall be delivered by hand or by deposit in the mails of the United States, postage prepaid, if to COMMISSIONER, in an envelope addressed as follows:

Commissioner of Transportation
State of New York
Department of Transportation
1220 Washington Avenue
State Campus
Albany, New York 12232

and if to RAILROAD, in an envelope addressed to the attention of:

Mr. Thomas W. Egan
Vice President and Comptroller
Delaware and Hudson Railway Company
Albany, New York 12207

Each party may change the address at which it shall receive notification hereunder by notifying the other of such change.

Section 3.14. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original.

Section 3.15. Relationship of Parties.

The relationship of the RAILROAD to the STATE is that of an independent contractor, and said RAILROAD, in accordance with its status as such contractor,

covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of the STATE by reason hereof, and that it will not, by reason hereof, take any claim, demand or application to or for any right or privilege applicable to an officer or employee of the STATE, including, but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

Section 3.16: Records and Documents.

RAILROAD shall maintain books, records and supporting documents in connection with the work to be accomplished pursuant to this Agreement. All books, records, bills, vouchers, payrolls, invoices and other documents of every type and description pertaining to the work under this Agreement shall be available to Commissioner or the State Comptroller, or their authorized representatives, for inspection and audit. All costs charged to STATE under this Agreement shall be supported by payroll and time records, material consumption reports, business expense statements, paid invoices, and contracts evidencing in detail the nature of the charges for which reimbursement is sought.

Section 3.17: Approval of Contracts.

RAILROAD shall not execute any contract, subcontract or amendment thereto, or obligate itself in any other manner with any third party with respect to the work to be undertaken pursuant to this Agreement without the prior written approval of the COMMISSIONER.

Section 3.18: Effective Date of Agreement.

This Agreement shall take effect at the time at which it is approved by the State Comptroller.

Section 3.19. Executory Clause.

This agreement shall be deemed executory only to the extent of two million two hundred thousand (2,200,000.00) dollars and no liability on account thereof shall be incurred by STATE beyond this amount for the purposes herein set forth unless a supplemental agreement shall have been entered into between the parties hereto.

Section 3.20. Termination Clause.

STATE reserves the right to terminate or suspend this Agreement, for any reason whatsoever. Such right of termination or suspension shall be exercised, at the discretion of COMMISSIONER, by delivery of written notice thereof to RAILROAD, and such termination or suspension shall thereupon take effect immediately. However, nothing in this Agreement or in this Section 3.20 shall relieve STATE of its obligation to reimburse RAILROAD for costs and expense which RAILROAD has incurred or committed itself to under the terms or for the purposes of this Agreement prior to such termination or suspension.

Section 3.21. Documents Forming Agreement.

This Agreement shall consist of this document and the following attachments:

- | | | |
|------------|---|---|
| Appendix 1 | - | Work Schedule |
| Appendix 2 | - | Maintenance Schedule |
| Appendix 3 | - | Title Schedule |
| Appendix 4 | - | Special Provisions |
| Schedule B | - | New York State Required Standard Contract Clauses |

PEOPLE OF THE STATE OF NEW YORK

BY

[Handwritten Signature]

TITLE

Delaware and Hudson Railway Company

Railroad

BY

[Handwritten Signature]

TITLE

President

Approved

Attorney-General

Approved

JAN 22 1878

[Handwritten Signature]

For the Comptroller pursuant to
Section 112, State Finance Law

WORK SCHEDULE

To alleviate its freight locomotive power shortage, Delaware and Hudson Railway Company Locomotives numbered

4106
4107
4112
4113
4115
4119
4122
4128

will be rehabilitated in such a manner that:

1. The life and frame expectancy of the chassis of the rebuilt locomotive is the same as for new locomotives.
2. Traction motors receive the same guarantee as new components.
3. The engine is completely remanufactured and carries the same guarantee as a new engine.
4. The main generator, auxiliary generators and other electrical rotating equipment receive the same guarantee as new components.
5. Wiring is replaced and has the same life expectancy as a new locomotive.
6. Axles and gears are inspected and replaced as necessary.
7. Radiators and cooling system have the same life expectancy as new locomotives.
8. Fuel tanks and fuel system components have the same life expectancy as on new locomotives.
9. Air brake equipment is new and, therefore, has the same life expectancy as new locomotives.
10. Dynamic brakes will be completely reconditioned and they have the same life expectancy as a new locomotive.
11. The chassis and body is thoroughly inspected and sandblasted and brought back to same standards as a new locomotive.

To insure that the rehabilitations performed meet these standards, not less than the following work must be done:

Minimum Rehabilitation Operations

PRIME MOVER The prime mover will be a completely remanufactured Alco Model 251C 12 cylinder diesel engine. Each of the (8) diesel engines will be remanufactured and modernized by the original builder (Alco Engine Division of White Industrial Power). The installation of this type engine will be accompanied by other modifications which will produce a net increase of locomotive horsepower from 1600 HP to 2000 HP for traction purposes.

ENGINE GOVERNOR General Electric MG6 - completely remanufactured.

COOLING WATER SYSTEM Cooling water system will include new radiators designed to accommodate a 2,000 Horsepower rating.

COOLING SYSTEM FAN AND FAN DRIVE The cooling system fan drive will be completely remanufactured and modified to accommodate a 2,000 Horsepower rating.

COOLING WATER EXPANSION TANK The cooling water expansion tank will be thoroughly cleaned and inspected. The tank will be tested for leaks and repaired as necessary to assure long service life.

COOLING WATER PIPING All water piping to and from the diesel engine to the radiators will be replaced as necessary to assure long service life.

LUBE OIL SYSTEM The lube oil system external to the diesel engine will be thoroughly cleaned and reconditioned or replaced as necessary to assure reliable and dependable service.

LUBE OIL COOLER The lube oil cooler will be thoroughly cleaned and reconditioned in accordance with O.E.M. specifications. After proper cleaning and reconditioning the O.E.M. has recommended reapplication for a 2,000 HP rating.

FUEL OIL SYSTEM The fuel oil system external to the diesel engine will be thoroughly cleaned and reconditioned or replaced as necessary to assure dependable service. This includes the reconditioning or replacement of fuel oil pressure regulating valves, fuel oil transfer pump, fuel oil transfer pump motor and fuel oil filter system, both primary and secondary.

Additionally, the fuel system will be modified to the same arrangement specifications of the Delaware and Hudson Railway Company as applied to D&H PA units 19, 16, 18, and 17.

Also the fuel system will further include a "Low Fuel Pressure Warning System" as specified by the Delaware and Hudson Railway Company and currently being applied to D&H PA units.

FUEL OIL TANKS The existing tanks of each locomotive will be thoroughly cleaned, inspected, tested for leaks and structural integrity, repaired or replaced if necessary.

AIR HANDLING SYSTEM The diesel engine will be equipped with disposable media filters of the bag type. Also the air intake to the diesel engine will be arranged to draw 100% air from outside the carbody.

ELECTRICAL ROTATING EQUIPMENT All electrical rotating equipment received in operating condition will be completely reconditioned as necessary to qualify it for complete rebuilders standard warranty coverage. Electrical rotating equipment received in non-operating condition will be remanufactured as necessary to qualify it for complete rebuilders standard warranty coverage.

EXCITATION CONTROL SYSTEM The amplidyne system of excitation control will be retained and thoroughly reconditioned as necessary to assure as long a service life as for new locomotives.

WHEEL SLIP CONTROL SYSTEM Bridge type system will be reconditioned in kind.

SWITCHES All contactors, relays and switches including heavy duty reverse gear, dynamic brake switch, etc. will be thoroughly reconditioned or replaced as required to assure reliable service.

DYNAMIC BRAKE EQUIPMENT Complete dynamic brake equipment system will be thoroughly reconditioned and performance tested to assure reliable and dependable operation.

MAIN POWER CABLING All main power cabling will be replaced with new high quality wiring in accordance with currently accepted standards for new locomotives.

ELECTRIC CABINET During the remanufacturing process, all components within the electric cabinet will be removed and the electrical cabinet structure will be thoroughly cleaned and repainted before reapplication of the electrical equipment.

ELECTRICAL CABINET ACCESS DOORS All access doors to each electrical equipment cabinet on the locomotive will be arranged to provide access without the use of hand tools.

TRACTION MOTOR BLOWER The traction motor blower arrangement will include a single gear driven traction motor blower supplying cooling air to the traction motors of both trucks. The single blower will be driven by a powered take off from the main generator gear train and the cooling air for the rear truck will be ducted along the running board to supply cooling air to the traction motors of the truck at the free end of the engine. The single blower will be of the type used with Alco C-420 locomotive.

THE CAR BODY - LONG HOOD SECTION The entire long hood section will be raised 6 inches to accommodate the single traction motor blower duct arrangement and modified to facilitate removal of 251 power assemblies during regular maintenance. The car body after removal and before the remanufacturing process will be completely sand blasted and primed and painted on the inside. Disposable filters will be applied to the car body.

OPERATING CAB The operating cab will be completely refurbished and reconditioned in kind. The refurbishing includes new flooring and other repairs to give it a new like appearance.

CAB SEATS The cab seats will be replaced with three new tri-pod seats as per D&H specifications.

CAB HEATERS Two Young Hot Water type heaters will be applied with outside air intake.

ENGINEERS CONTROL STAND The engineer's control stand will be completely remanufactured and positioned for operation with the short hood end designated as the "F" end.

AIR BRAKE EQUIPMENT Schedule 26L air brake equipment will be applied including the following extras:

1. Two duplex 4 $\frac{1}{2}$ " guages applied on control stand with test fittings.
2. Safety control with P2A application valve.
3. Break-In-Two protection with A-1 charging cutoff pilot valve.
4. 2 HB5 Relayaire valves in lieu of check valve arrangement as per D&H specifications.
5. Automatic drain valve applied to #1 reservoir.
6. Air Filter - Separator applied after #2 reservoir.
7. Brake Pipe Cut Out Cock - included.
8. Air Compressor Control, pressure switch and magnet valve, not synchronized. Manual unloading valve to cut out disabled compressor included.
9. Air Compressor. The furnished air compressor (3CDC) will be completely remanufactured.

SPEED METER Electric Speed Meter will be applied as basic. In event that the furnished locomotive is equipped with a mechanical speed indicator - speed recorder, such equipment will be reconditioned in kind in lieu of applying Electric Speed Meter.

HORN AND HORN VALVE The horn and horn valve will be reconditioned in kind.

BELL AND BELL RINGER The bell, bell ringer and bell valve will be reconditioned in kind.

CAB APPURTENANCES All cab appurtenances such as windshield wiper motors, sun visors, wind deflectors, etc. will be reconditioned or replaced in kind.

CAB INSTRUMENTATION Cab instrumentation gauges such as fuel oil pressure gauge, lube oil pressure gauge, etc. will be reconditioned in kind. A no battery charge light will be applied in lieu of ammeter.

Cab instrumentation will be relocated within the cab consistent with short hood lead. (Includes 2 20 lb. dry type fire extinguishers - 1 in cab and 1 in engine compartment.)

BATTERIES New 420 ampere hour batteries will be applied (MS 420 - Exide)

BATTERY CHARGING REGULATOR A solid state battery charging regulator will be applied.

MAIN FRAME Before remanufacturing, the main frame will be thoroughly cleaned, inspected and repaired as necessary to assure a service life as long as for new locomotives.

DRAFT GEAR, YOKES, COUPLERS Reconditioned in kind.

FOOT BOARDS Arranged to conform with currently effective rules of the F.R.A for such locomotives.

NUMBER BOXES AND LIGHTING Number boxes and all lighting will be repaired and reconditioned in kind. Also new class lights will be applied as per D&H specifications.

SANDING SYSTEM The following items are included for application in connection with an electric sanding system.

1. Automatic sanding from brake valve initiated emergency.
2. Automatic sanding from brake pipe initiated emergency.
3. Automatic sanding of affected unit only, actuated by wheel slip detection device. Manual control is spring loaded. This system does include sand shut off valves.
4. Other components of the existing sanding system such as the sand tanks, sand fills, sand pipes will be reconditioned in kind.

CAR BODY SHORT HOOP END The short hood end will be lowered to a new profile and headlights and number boards modified accordingly. Additionally a standard M-K snow plow will be applied at the short hood end of unit. Also, each unit will be ballasted to a nominal 260,000 lbs. in working order.

TRUCKS The locomotive trucks will be thoroughly reconditioned in kind and including the following:

1. AXLES New or reconditioned axles applied.
2. BRAKE CYLINDERS Reconditioned in kind.

3. BRAKE SHOES New standard cast iron brake shoes will be applied.
4. SLACK ADJUSTERS Reconditioned in kind.
5. WHEELS All new A.A.R. class "B" 40" wheels will be applied.
6. PINS AND BUSHINGS All pins and bushings will be renewed.
7. SPRINGS All trucks springs will be thoroughly inspected and qualified or replaced.
8. TRACTION MOTORS SUSPENSION BEARINGS The traction motors will be applied with qualified suspension bearings and new lubricating wicks.
9. JOURNAL ROLLER BEARINGS Will be reconditioned in kind.
10. FRAMES, EQUALIZERS, JOURNAL BOXES AND BOLSTERS Inspected for cracks and signs of metal fatigue, reconditioned or if necessary replaced, and new liners and wear plates installed.

STATIC MG SET A new "static" MG set will be applied in lieu of the standard motor driven MG set.

AUTOMATIC TRANSITION Genisco system of automatic transition control will be applied.

SEAL BEAM HEADLIGHT The headlight arrangement will be converted to the new Seal Beam type.

REDUCED POWER SWITCH A reduced power switch and accompanying circuit control will be applied.

RADIATOR SHUTTERS The radiator shutters will be reconditioned in kind and provided with suitable replacement operating cylinders.

PAINTING

1. Painting (Cab Interior) Suede grey enamel. Road numbers stencilled in cab. Mylar 600V labels applied to contactor compartment doors.
2. Painting (Exterior) DuPont Imron enamel to customer supplied drawing. Application of D&H supplied decals/

LOAD TESTING Completed locomotive will be thoroughly load tested and given a limited track test to assure correct functioning of all systems.

OPERATING MANUALS - SCHEMATICS - DIAGRAMS A nominal supply of operating manuals, reproducible drawings of the physical electrical diagrams and air piping schematic diagrams will be furnished for Railroad's operating and maintenance reference.

A list of parts, new, remanufactured or reconditioned, used in the rebuilding of each locomotive, will be furnished State by Railroad before or at acceptance of each locomotive.

Total New York State Department of Transportation funding not to exceed \$2,200,000.

MAINTENANCE SCHEDULE

Locomotives shall be maintained in good working order and shall have a current ICC Locomotive inspection certificate at all times during the ten-year period of this Agreement and for the ten-year period subsequent to the agreement period. This will constitute a 20-year maintenance provision which should conform to the anticipated locomotive life. Maintenance performed must be in accordance with the requirements of Section 2.3 of this Agreement.

TITLE SCHEDULE

It is agreed that locomotives fall within the definition of "capital facilities." Title to all locomotives which shall be rehabilitated pursuant to this Agreement shall be conveyed by RAILROAD to STATE by means of a bill of sale. Consideration for the bill of sale will be the payment of one dollar (\$1.00), waived. By written instrument, said locomotives will be simultaneously leased back by STATE to RAILROAD for a period of ten (10) years. Consideration for the lease will be the payment of one dollar (\$1.00) per year, waived. Immediately upon the completion of said ten (10) year period, title to said locomotives will revert to RAILROAD.

The locomotives included in this title schedule are:

Number(s)	4106
	4107
	4112
	4113
	4115
	4119
	4122
	4123

SPECIAL PROVISIONS

1. The rehabilitated locomotives will be used primarily in New York State; this will be ascertained through periodic inspections to determine usage patterns.
2. The State assistance provided for this project shall be used solely for the direct costs of locomotive rehabilitation. All costs not directly of a capital nature such as inspection trips, administrative costs, etc. will be borne by the Delaware and Hudson;
3. Upon completion of the rehabilitation work and upon final acceptance by the State that the work has been satisfactorily completed, title to the locomotives shall be transferred to the State for a period of ten years. During this ten-year period, the State will write down its financial interest in these locomotives and at the end of the period, title will be transferred back to the Delaware and Hudson;
4. During the ten-year period of use of the locomotives by the Delaware and Hudson when the State holds title, the Delaware and Hudson will hold harmless the State for any suits, claims, liabilities and costs arising from their use and be responsible for maintaining the locomotives in good running condition.
5. To ensure that the provisions of the State Constitution covering maximum expected life (20 years) of capital facilities are met, the State will be reimbursed by the Delaware and Hudson on a pro rata basis for equipment taken out of service prior to the expiration of such period of expected life; and
6. Specific Department of Transportation approval will be obtained prior to subleasing any of the locomotives to a third party and payment to the State of any revenue gained from such lease during the period of State ownership to be made.

SCHEDULE B NEW YORK STATE REQUIRED STANDARD CLAUSES

The parties to the attached contract further agree to be bound by the following, which are hereby made a part of said contract:

I. This contract may not be assigned by the contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent, in writing, of the State

II. This contract shall be deemed executory only to the extent of money available to the State for the performance of the terms hereof and no liability on account thereof shall be incurred by the State of New York beyond moneys available for the purpose thereof.

III. The contractor hereby agrees to the provisions of sections 139-a and 139-b of the New York State Finance Law which require that upon the refusal of a person, when called before a grand jury, head of a State department, temporary State commission or other State agency, or the organized crime task force in the Department of Law, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the State, any political subdivision thereof, a public authority or with any public department, agency or official of the State or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract,

(a) such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with New York State or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal, and

(b) any and all contracts made with the State of New York or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be canceled or terminated by the State of New York without measure and penalty or damages on account of such cancellation or termination, but any moneys owing by the State of New York for goods delivered or work done prior to the cancellation or termination shall be paid.

IV. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin, and will take affirmative action to insure that they are afforded equal employment opportunities without discrimination because of race, creed, sex, color or national origin. Such action shall be taken with respect to, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including a, apprenticeship and on-the-job training.

b. The contractor will send to each labor union or representative of workers with which he has or is bound by a collective bargaining or other agreement or understanding, a notice, to be provided by the State Division of Human Rights, advising such labor union or representative of the contractor's agreement under clause (a) through (c) hereof, and other clauses "non-discrimination clauses". If the contractor was directed to do so by the contracting agency as part of the bid or negotiation of this contract, the contractor shall request such labor union or representative to furnish him with a written statement that such labor union or representative will not discriminate because of race, creed, sex, color or national origin and that such labor union or representative will affirmatively cooperate, within the limits of its legal and contractual authority, in the implementation of the policy and provisions of these non-discrimination clauses or that it consents and agrees that recruitment, employment and the terms and conditions of employment under this contract shall be in accordance with the purposes and provisions of these non-discrimination clauses. If such labor union or representative fails or refuses to comply with such a request that it furnish such a statement, the contractor shall promptly notify the State Division of Human Rights of such failure or refusal.

c. The contractor will post and keep posted in conspicuous places, available to employees and applicants for employment, notices to be provided by the State Division of Human Rights setting forth the substance of the provisions of clauses (a) and (b) and such provisions of the State's laws against discrimination as the State Commissioner of Human Rights shall determine.

d. The contractor will state, in all solicitations, or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, sex, color or national origin.

e. The contractor will comply with the provisions of Sections 291-299 of the Executive Law and the Civil Rights Law, will furnish all information and reports deemed necessary by the State Commissioner of Human Rights under these non-discrimination clauses and such sections of the Executive Law, and will permit access to his books, records and accounts by the State Commissioner of Human Rights, the Attorney General and the Industrial Commissioner for purposes of investigation to ascertain compliance with these non-discrimination clauses and such sections of the Executive Law and Civil Rights Law.

This contract may be forthwith canceled, terminated or suspended, in whole or in part, by the contracting agency on the basis of a finding made by the State Commissioner of Human Rights that the contractor has not complied with the non-discrimination clauses, and the contractor may be declared ineligible for future contracts made by or on behalf of the State or a public authority or agency of the State, until he satisfies the State Commissioner of Human Rights that he has established and is carrying out a program in conformity with the provisions of these non-discrimination clauses. Such finding shall be made by the State Commissioner of Human Rights after conciliation efforts by the State Division of Human Rights have failed to achieve compliance with these non-discrimination clauses and after verified complaint has been filed with the State Division of Human Rights, notice thereof has been given to the contractor and an opportunity has been afforded him to be heard publicly before the State Commissioner of Human Rights or his designee. Such sanctions may be imposed and remedies invoked independently of or in addition to sanctions and remedies otherwise provided by law.

g. The contractor will include the provisions of clauses (a) through (f) in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to operations to be performed within the State of New York. The contractor will take such action in enforcing such provisions of such subcontract or purchase order as the contracting agency may direct, including sanctions or remedies for non-compliance. If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor shall promptly so notify the Attorney General, requesting him to intervene and protect the interest of the State of New York.

V. It is hereby agreed that all applicable provisions of the Labor Law of the State of New York shall be carried out in the performance of this contract.

VI. This agreement shall be void and of no effect unless the contractor shall secure compensation insurance for the benefit of, and keep insured during the life of this agreement, such employees engaged therein as are required to be insured by the provisions of the Workmen's Compensation Law of the State of New York.

VII. The relationship of the contractor to the State is that of an independent contractor, and said contractor, in accordance with its status as such contractor, covenants and agrees that it will conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of the State by reason hereof, and that it will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the State, including, but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

8. The bidder, in submitting a bid, certifies as to its own organization, and as to the organization of its principals, that it is not a labor union or a labor organization, and that it is not a party thereto, and that it is not a labor organization or a labor union, and that it is not a party thereto.

9. The prices in this bid have been arrived at independently without collusion, consultation, conference, agreement, or arrangement, for the purpose of restricting competition, as to any matter relating to such prices with any competitor or with any competitor.

10. Unless otherwise required by law, the prices which have been quoted in this bid have not been or will not be disclosed by the bidder and will not knowingly be disclosed by the bidder prior to the opening of the bid to any other bidder or to any competitor.

11. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

12. A bid shall not be considered for award nor shall any award be made where (a) (1) (1) and (2) above have not been complied with, provided however, that if in any case the bidder cannot make the foregoing certification, the bid shall be returned to the bidder and shall not be considered for award, nor shall any award be made unless the head of the purchasing unit of the state, or the department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

13. The fact that a bidder (a) has published price lists, rates, or tariffs covering systems being procured, (b) has informed prospective customers or proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (a).

14. Any bid or offer made to the state or any public department, agency or official thereof by a corporate bidder for work or service to be performed or to be performed or goods to be sold or to be sold, where competitive bidding is required by statute, rule or regulation, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to constitute the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion at the act and deed of the bidder.