

AGREEMENT FOR THE FORMATION OF THE
CENTRAL ARKANSAS INTERMODAL AUTHORITY

Conway, Faulkner and Perry Counties, all of which are situated entirely in the State of Arkansas (hereinafter referred to as the Participants or Participating Entities), hereby agree as follows:

ARTICLE 1 – AUTHORIZATION

The Participants herewith create and establish a regional intermodal authority to be known as the Central Arkansas Intermodal Authority (hereinafter referred to as the Authority) and constitute it a Public body corporate for the purposes and under the terms herein stated pursuant to the authority of the regional Intermodal Facilities Act, Act 690 of 1997 codified under Title 14 Chapter 143 of the Arkansas Code Annotated, as enacted and hereafter amended (hereinafter referred to as the Act).

ARTICLE 2 – DURATION

The Authority shall have perpetual succession. Such succession shall continue until the existence of the Authority is terminated as herein provided.

ARTICLE 3 – ORGANIZATION

A. Constitution. A Board of Directors consisting of nine (9) members shall govern the Authority. The County Judge of Faulkner County shall appoint five (5) members. The County Judge of Conway County shall appoint two (2) members. The County Judge of Perry County shall appoint two (2) members. In the event a Board Member's term ends as a result of death, resignation, or removal, then the County Judge shall make a replacement appointment within thirty (30) days.

One of the appointed members from each county can be a municipal or county government elected or non-elected official appointed by the respective participating entity. A County Judge shall not appoint himself or herself as a member of the Board of Directors. However, only one (1) board member appointed by the County Judge of a participating entity can be a government official of that respective entity. In the event that a member who is an elected official appointee to the Board from a participating entity is not reelected to his or her position on the participating entities legislative body, that member is not eligible for membership on the Authority's Board, and the County Judge of that participating entity shall appoint another member to the Authority's Board to fulfill the term of that Board Member who was not reelected. Should a participating county not appoint a government official to this position, this member may be appointed from the public at large without any restrictions other than those set forth in Subsection E. of this Article.

The Authority's membership will be as follows:

Faulkner County 5 Members

Conway County 2 Members
Perry County 2 Members

Terms. At the first meeting of the Board of Directors, the appointed members from each County shall draw lots for their initial terms. Three members shall have two year terms; three members shall have four year terms; and three members shall have six year terms. The outcome of the drawing of lots shall determine the initial term of office for each member of the Board.

B. The terms of the initial members of the Board of Directors shall commence on the respective dates on which each member is appointed as a Director and shall end at 12:01 A.M. on the dates specified below.

<u>Position</u>	<u>Member</u>	<u>Term Ends</u>
1	Faulkner County	_____
2	Faulkner County	_____
3	Faulkner County	_____
4	Faulkner County	_____
5	Faulkner County	_____
6	Conway County	_____
7	Conway County	_____
8	Perry County	_____
9	Perry County	_____

After the drawing of the lots, each successor Director shall be appointed for a term commencing on the date of his or her appointment and ending at 12:01 A.M. on the sixth year anniversary of the date of the expiration of his or her predecessor's term of office. Incumbents shall continue to serve until their successors are appointed.

C. Removal. A member of the Board of Directors, once qualified, shall not be removed during his or her term except for cause or for any other reason by the County Judge of the governmental unit which appointed that member.

D. Vacancy. If any member of the Board of Directors dies, resigns, or for any other reason ceases to be a member of the board, the County Judge of the governmental unit which such member represents shall appoint another person to fill the unexpired portion of the term of the member within thirty (30) days.

E. Qualifications. A member of the board of Directors shall, at all times, be a resident and qualified elector of the County which the member represents.

F. Pay and Expenses. The members of the Board of directors of the Authority shall receive no compensation, whether in the form of salary or per-diem or otherwise, for or in connection with his or her service as a member. Each member of the Board of Directors shall be entitled to reimbursement of actual travel and out-of-pocket expenses incurred on behalf of the Authority as authorized by the Board. Such expenses shall be reimbursed in accordance with procedures established by the Board of Directors.

ARTICLE 4 – OFFICERS, MEETINGS, AND BYLAWS

A. Officers. At its organizational meeting and at the first regular meeting of each year, the Board of Directors shall elect one of its members as chairman, one as Vice Chairman, one as Secretary, and one as Treasurer. At least one of the board members of each participating Counties shall hold one of the four (4) official positions of the Executive Committee as described in the following section.

B. Executive Committee. The Chairman, Vice Chairman, Secretary, and Treasurer shall compose the Executive Committee of the Authority. The Board of directors may, by a two-thirds (2/3) majority vote, delegate to the Executive Committee such powers and duties as the Board may deem property. If a County appoints a government official of that County or an elected official of that County, the government official or elected official shall not be authorized to serve as an officer and executive committee member.

C. Other Committees. The Board of Directors may create such committees as it deems necessary for the proper exercise of its functions.

D. By-Laws. The Board of Directors shall adopt such By-Laws for the governance of the affairs of the Authority as are not inconsistent with the provisions of this Agreement or Arkansas law.

E. Meetings. The Board of Directors shall, upon reasonable notice, meet not less than quarterly at dates, times and places to be established by the Board. All meetings shall be publicly announced at least seven (7) days prior to the meeting and open to the public as provided by Arkansas law. Special meetings for specific and stated purposes may be called by an Executive Committee member or upon the direction of a majority of the members of the Board, and these meetings shall require public notice at least seven (7) days prior to the meeting date.

F. Voting. The attendance at a Board meeting of seven (7) of the membership positions of the Board shall constitute a quorum. A super-majority vote of 2/3 of the membership as well as an affirmative vote by at least one (1) member from each county shall be required for any action of the Board.

G. Public Record. The Board of Directors shall keep a record of its activities and business in accordance with law, and the records of the Board of Directors shall be public.

H. Conflict of Interest. Any member of the Board of Directors or any officer, employee or agent of the Authority (including any corporation of other business in which such member, officer, employee or agent has a substantial interest) who has a financial interest, other than de minimus, in any business of the Authority, in any contract of the Authority, or in any property or other assets in which the Authority is interested, shall file with the Secretary of the Authority a written statement of such interest, and any such member of the board shall abstain from voting on or exerting any influence on or about any matter related to the matter in which the member of the board has a financial interest. A member's selling to or contracting with the Authority for the provision of goods or services to the Authority is considered a conflict of interest that shall be avoided. A member's utilization of the shipping, freight handling and other services of the Authority is not considered a conflict of interest. The Authority shall employ no person who is related to a member or officer of the Authority by blood or marriage within the fourth degree.

ARTICLE 5 – PURPOSES, POWERS AND DUTIES

A. Purposes. The primary purpose of the Authority shall be to acquire, equip, construct, maintain, or operate an intermodal facility or facilities and appurtenant facilities or properties so located as from time to time determined by the Board of Directors to best serve the region in which the Authority is located. Another purpose of the Authority shall be to acquire, construct, equip, maintain or operate, or cause to be acquired, constructed, equipped, maintained, or operated industrial, warehouse, distribution and related types of facilities located at or near an intermodal facility for the purposes of securing and developing industry or commerce. Any of such facilities may be on property of the Authority or by arrangement at another location.

B. Powers and Duties. In addition to other powers and duties elsewhere conferred and imposed and acting through its duly constituted Board of Directors, the Authority shall have all powers and duties conferred and imposed by the Act or otherwise by the Arkansas General Assembly to regional intermodal facilities authorities, unless excluded herein. In addition to the foregoing, the Authority shall specifically have the following powers and duties:

1. To make and adopt all necessary by-laws, rules, and regulations for its organization and operations not inconsistent with law;
2. To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation;
3. To enter into contracts with any person, governmental department, firm, or corporation, including both public and private corporations, and generally to do any and all things necessary or convenient for the purpose of acquiring, equipping, constructing, maintaining, improving, extending, financing, and or operating an intermodal facility including, without limitation, railway-highway terminals, highway-railway terminals, shipping facilities, railroad sidings, turnouts, spur branches, switches, yard tracks, bridges and trestles, parks for industrial facilities, buildings, warehouses, utilities, highways, roads, streets, roadways and approaches, bulk loading and unloading facilities, elevators,

tipples, compresses, refrigeration storage plants, transfer equipment, and related improvements and facilities as the Board of Directors may deem feasible for the expeditious and efficient handling of freight, commerce, and passengers to and from any other part of the State of Arkansas or any other state and foreign countries to best serve the region in which the Authority is located;

4. To delegate any authority given to it by law to any of its officers, committees, agents, or employees;
5. To apply for, receive, and use grants-in-aids, donations and contributions from any source, including but not limited to, the federal government, or any agency thereof, and the State of Arkansas, or any agency thereof, and to accept and use bequests, devices, gifts, and donations from any person, firm, or corporation;
6. To acquire lands and hold title thereto in its own name;
7. To acquire, own, lease as lessor or as lessee, sell, encumber, dispose of, or otherwise deal in and with any facilities or real, personal, or mixed property, wherever located;
8. To borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures, and other evidences of indebtedness therefore, and give such security therefore as shall be requisite, including giving mortgage or deed of trust on its own properties and facilities in connection with the issuance of mortgage bonds;
9. To raise funds by the issuance and sale of revenue bonds in the manner and according to the terms set forth in the Act;
10. To expend its funds in the execution of the powers and authorities given herein or by law and to invest and reinvest any of its funds pending need therefore;
11. To apply for, receive, and use loans, grants, donations, technical assistance, and contributions from an agency of the federal government or the State of Arkansas;
12. To assume the rights and responsibilities of a municipality with respect to all existing and future permits and franchises with public utilities for the supplying of public utility service to the intermodal facility;
13. To enforce all rules, regulations, and statutes relating to its intermodal facilities;
14. To plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, and regulate its intermodal facilities auxiliary services and facilities, and to establish minimum building codes and regulations to protect its facilities, and to establish minimum building codes and regulations to protect its facilities

and to police the intermodal facilities and other facilities of the Authority, in cooperation with law enforcement agencies and officers having jurisdiction in the area where the facilities of the Authority are located;

15. To levy and collect a tax or fee, which tax or fee shall be levied upon and collected from the shippers, transporters or other users loading or unloading freight, commerce or passengers at the terminal or other facilities of the Authority, and the Authority is empowered to make reasonable classifications of such shippers, transporters or users for this purpose;
16. To receive real and personal property from the United States for intermodal facilities and related purposes by donation, purchase, lease or otherwise, and subject to the conditions and requirements relating thereto as the United States may require and to which the Authority may agree;
17. To apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate and maintain foreign trade zones within the area of jurisdiction of the Participants and to establish, operate, and maintain such foreign trade zones;
18. To promote, advertise, and publicize the Authority and its facilities; provide information to shippers, transporters, users, operators and other commercial interests; and to represent and promote the interests of the Authority; and
19. To take such other action, not inconsistent with law or this Agreement, as may be necessary or desirable to carry out the powers and authorities conferred by the Act and the intent and purposes of it.

Nothing in this agreement shall authorize the Authority (a) to provide, directly or indirectly, basic local exchange service or (b) to levy any taxes, except those taxes described in paragraph 15 above, or (c) to exercise eminent domain authority, or (d) to create or operate an improvement district. The parties expressly agree that the four above mentioned powers (a-d) are prohibited absent modification to this Agreement as provided in Article 8.

ARTICLE 6 – FINANCING

The costs of planning, acquiring, establishing, developing, constructing, improving, or equipping an intermodal facility and other facilities authorized by the Act may be funded in any manner not inconsistent with the Arkansas Constitution or Arkansas law, including but not limited to: the issuance of revenue bonds, borrowing money, and allocation of other available funds from whatever source; revenues derived from the operation of the facilities of the Authority; revenues from leases and contracts granting privileges for the use of the Authority's facilities; revenues from conferring the privilege of supplying goods, commodities, services, or facilities at the intermodal facility; revenue from tax authorized herein; and gifts and grants. Financing of operations and maintenance may be from revenues derived from any and all of the foregoing sources.

ARTICLE 7 – ACCOUNTS AND REPORTS

All funds received by the Authority shall be deposited in such banks as the Board may direct and shall be withdrawn therefrom in such manner as the Board may direct. The Authority shall keep strict account of all of its receipts and expenditures and shall make a report each quarter to the participating entities which have made contributions. The report shall contain an itemized account of its receipts and disbursements during the preceding quarter. The report shall be made within sixty (60) days after the termination of the quarter. Within sixty (60) days after the end of each fiscal year, the Authority shall cause an annual audit to be completed by an independent certified public accountant in conformance with auditing standards generally accepted in the United States of America and shall file a copy of the resulting audit report with each of the governing bodies participating in the Authority. This audit shall contain a statement of its receipts and disbursements for the preceding year. The books, records, and accounts of the Authority shall be subject to audit and examination by any person or proper public official or body in the manner provided by law.

ARTICLE 8 – AMENDMENT

This Agreement may be modified or amended by the enactment of an ordinance by the Quorum Court of each Participant approving any modification or amendment.

ARTICLE 9 – TERMINATION AND INITIAL CONTRIBUTIONS

This Agreement shall continue in full force and effect subsequent to its adoption by all of the Participants. Any County may terminate its participation in this Agreement by its Quorum Court approving an Ordinance revoking its participation.

In the event the Authority shall be dissolved or for any reason the Authority shall cease to function, and no successor entity shall assume the powers, duties and obligation of the Authority, upon due satisfaction of all financial debts and obligations of the Authority, the properties and assets of the Authority shall be liquidated and distributed to the remaining Participants equally. For the purposes of carrying out this provision, the board of Directors shall appoint a trustee, who shall be paid reasonable compensation and who shall serve until the property and assets of the Authority have been fully liquidated.

Each of the participants shall make an equal contribution of one (1) dollar to the Authority upon its establishment. This initial contribution shall place the entities in the capacity of being equal contributors to the Authority. Participants are not expected, required, or anticipated to make further financial contributions to the Authority.

ARTICLE 10 – LIMITATION OF LIABILITY

None of the Participants has herewith obligated itself to expend any of its individual funds nor has it authorized the use of its individual bonding capacity. The obligations of the Authority, including revenue bonds issued by the Authority under the act, shall be payable from and

secured by the revenues, property and other resources of the Authority as may be pledged to secure such obligations, and shall not constitute a general or limited obligation of any Participant. Bonds issued by the Authority shall not constitute an indebtedness of any Participant within any constitutional or statutory limitation.

ARTICLE 11 – MISCELLANEOUS

- A. Entire Agreement. This writing constitutes the entire Agreement between and or among the Participants. All amendments or modifications hereto must be in writing.
- B. Severability. The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Agreement contained shall not affect the remaining provisions of this Agreement or any part thereof.
- C. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall together constitute but one and the same instrument.
- D. Effective Date. This Agreement shall become effective and be dated as of the date on which the last of the three (3) participants has executed this Agreement, as reflected below.
- E. Definitions. All terms contained in this Agreement shall have the same meaning, respectively, in this Agreement as such terms are given in the Act, unless otherwise defined herein.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed in their respective behalves on the signature date set forth below:

CONWAY COUNTY, ARKANSAS

DATE: _____

By: _____
County Judge

ATTEST:

By: _____
County Clerk

FAULKNER COUNTY, ARKANSAS

DATE: _____

By: _____

County Judge

ATTEST:

By: _____
County Clerk

PERRY COUNTY, ARKANSAS

DATE: _____

By: _____
County Judge

ATTEST:

By: _____
County Clerk