

## SUPPLEMENTAL FUNDING AGREEMENT

This Supplemental Funding Agreement (this “**Agreement**”) effective as of the last date written by an executing party (the “**Effective Date**”), is by and between BNSF Railway Company, a Delaware corporation (“**BNSF**”) and the City of Fort Worth, a Texas home-rule municipal corporation (the “**City**”).

### STATEMENT OF FACTS:

- A. Five major freight and passenger rail lines from across North America merge into a single intersection in Fort Worth, Tarrant County, Texas (such intersection, the “**Tower 55 Junction**”), where two north-south main lines (the “**North-South Lines**”) cross two east-west main lines (the “**East-West Lines**”).
- B. BNSF owns and maintains one of the North-South Lines, and the Union Pacific Railroad Company, a Delaware corporation (“**UPRR**”) owns and operates the other North-South Line and both East-West Lines.
- C. The Tower 55 Junction causes delays and congestions because trains must stop and wait for other trains on conflicting tracks to pass through the crossing.
- D. BNSF and UPRR are participating in a rail mobility and livability improvement project in the vicinity of the Tower 55 Junction that includes designing and constructing an additional rail line and making other related infrastructure modifications and improvements (the “**Project**”).
- E. The State of Texas (the “**State**”), in collaboration with BNSF, UPRR, and the City, applied to the United States Department of Transportation for funding for the Project under the grant program (the “**TIGER II Program**”) provided in the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2010 (Division A of the Consolidated Appropriations Act, 2010 (Pub. L. 111-117, December 16, 2009)), regarding National Infrastructure Investments.
- F. The State was awarded a grant for the Project under the TIGER II Program in an amount up to \$34,000,000 on October 20, 2010.
- G. The Texas Transportation Commission, in Minute Order Number 112515 dated December 16, 2010, indicated that the State would help finance the Project in an amount up to \$1,000,000.
- H. Because the City considers the Project one of its top transportation priorities in both its federal and state legislative programs and has sought to develop solutions to alleviate congestion at the Tower 55 Junction through its inter-local agreement with the North Central Texas Council of Governments (M&C C-22033, April 3, 2007, and because the Tower 55 Project is expected to reduce locomotive idling, reduce vehicle idling and congestion at roadway crossings, improve safety, and improve air quality, the City concurrently pledged \$1 million in local funding for the Project.

## AGREEMENTS:

In consideration of the recitations described above and in the hereinafter defined CFA, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the City and BNSF hereby agree as follows:

1. Definitions. Capitalized terms used but not defined in this Agreement have the meanings given such terms in that certain Community Facilities Agreement, City Contract No. \_\_\_\_\_, executed by and between BNSF and the City and dated effective on or about the Effective Date (the “CFA”).

2. City Contribution. The City agrees to contribute \$1,000,000 (the “**City Contribution**”) toward the costs of the Project, such amount payable to BNSF within ten business days after the parties’ mutual execution and delivery of the CFA and this Agreement. As recited above, the City Contribution is separate from and in addition to amounts payable by the City with respect to the Improvements pursuant to paragraph I of, and Attachment B to, the CFA.

3. BNSF Distribution. BNSF acknowledges that a portion of the City Contribution (the “**UPRR Share**”) is payable to UPRR, another Project participant. BNSF will cause the UPRR Share of the City Contribution to be paid over to UPRR pursuant to and in accordance with a separate written agreement between BNSF and UPRR.

*[Remainder of page intentionally left blank; signatures follow]*

