

**EXTENSION OF LEASE OF RAIL OPERATIONS  
AND REAL AND PERSONAL PROPERTY  
COMPRISING THE QUADLOK-ST. CLAIR, WA  
AND BELMORE-OLYMPIA RAIL LINES**

**BY AND BETWEEN**

**THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY, LESSOR**

**AND**

**THE CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, BELTLINE  
DIVISION, TIDELANDS DIVISION, LESSEE**

This Agreement is entered into as of November 16, 2015 (the "Effective Date") between BNSF Railway Company ("BNSF", and the successor to The Burlington Northern and Santa Fe Railway Company), a Delaware corporation (hereinafter referred to as "Lessor" or "BNSF"), and THE CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, BELTLINE DIVISION, TIDELANDS DIVISION (dba TACOMA RAIL, TACOMA MUNICIPAL BELTLINE OR TMBL), a Washington municipal corporation (hereinafter referred to as "Lessee" or "TMBL").

**RECITALS:**

WHEREAS, BNSF and TMBL entered into that certain Lease Agreement dated November 16, 2004 (as amended or supplemented, the "Original Agreement"), and;

WHEREAS, BNSF and TMBL extended the Original Agreement through November 15, 2016, and;

WHEREAS, BNSF and TMBL desire to extend the terms and conditions of the Lease Agreement as Amended as directed below.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

The Original Agreement is hereby amended to reflect the following agreements and revisions:

**1. TERM**

Section 3.1 of the Original Agreement is hereby amended as follows:

“Section 3.1 Effective Date and Term. This Agreement shall become effective as of the Effective Date, provided that transfer of all operations under this Agreement shall occur on and after the Commencement Date, and the terms hereof shall continue in effect through 11:59 p.m. Central Time on March 15, 2016 (the “Expiration Date”) unless earlier terminated as provided herein. Notwithstanding the foregoing, to the extent provided herein certain terms and conditions of this Agreement and any related provisions necessary for the enforcement and or administration thereof may survive and be enforceable by the term of this Agreement where expressly provided in this Agreement.”

## 2. SATISFACTION AND ACCORD OF SECTION 3.7(e) REQUIREMENTS

Section 3.7(e) and 5.2 requires to TMBL to surrender and return the Premises to BNSF in a certain condition. The Parties agree that it is in their best interests if TMBL satisfies its requirements under Sections 3.7(e) and 5.2 through a combination of performance and other consideration, specifically: (1) TMBL agrees to extend the Original Agreement by additional four months to help facilitate an efficient transition freight rail services to a new operator of the Premises, (2) TMBL pays BNSF \$250,000, and (3) TMBL makes available 500 used railroad ties in good condition to BNSF at the Premises. Upon performance of the above three conditions, the Parties agree that TMBL shall have fully performed and satisfied all requirements of Sections 3.7(e) and 5.2.

## 3. CATASTROPHIC LOSS DURING TERM EXTENSION

During the term of this extension BNSF agrees that it will responsible and hold TMBL harmless in the event of damage or loss to any part of the Premises is caused by an Act of God in an amount greater than \$1,000,000.

## 4. RATIFICATION

Except as amended by this Amendment, all of terms and provisions of the Original Agreement as supplemented and amended are hereby reaffirmed and remain in full force and effect. In the event there is a conflict between the terms and provisions of the Original Agreement and the terms and provisions of this Amendment, the terms and provisions of this Amendment shall control.

## 5. MISCELLANEOUS

This Amendment: (a) shall be binding upon and inure to the benefit of BNSF and TMBL and their respective legal representatives, heirs, successors and permitted assigns; (b) may be modified or amended only by a writing signed by each party hereto; and (c) may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument. The signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents. Counterparts of this Amendment may also be exchanged via

electronic facsimile machines and any electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes.

IN WITNESS WHEREOF, the parties here to have caused their duly authorized representatives to execute this Amendment to be effective as of the Effective Date set forth above.

BNSF RAILWAY COMPANY:

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TACOMA RAIL:

BY: \_\_\_\_\_

NAME: DALE KING

TITLE: SUPERINTENDENT TACOMA RAIL

**EXTENSION OF HANDLING CARRIER AGREEMENT**

**BY AND BETWEEN**

**THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY, LESSOR**

**AND**

**THE CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, BELTLINE  
DIVISION, TIDELANDS DIVISION, LESSEE**

This Agreement is entered into as of November 16, 2015 (the "Effective Date") between BNSF Railway Company ("BNSF", and the successor to The Burlington Northern and Santa Fe Railway Company), a Delaware corporation (hereinafter referred to as "Lessor" or "BNSF"), and THE CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, BELTLINE DIVISION, TIDELANDS DIVISION (dba TACOMA RAIL, TACOMA MUNICIPAL BELTLINE OR TMBL), a Washington municipal corporation (hereinafter referred to as "Lessee" or "TMBL").

**RECITALS:**

WHEREAS, BNSF and TMBL entered into that certain Handling Carrier Agreement granted in the Agreement of Purchase and Sale of Freight Rail Easement By and Between The Burlington Northern and Santa Fe Railway Company, Seller and City of Tacoma, Department of Public Utilities, Beltline Division, Tidelands Division, Buyer, dated November 16, 2004 (as amended or supplemented, the "Original Agreement"), and;

WHEREAS, BNSF and TMBL extended the Original Agreement through November 15, 2016, and;

WHEREAS, BNSF and TMBL desire to extend the terms and conditions of the Lease Agreement as Amended as directed below.

**AGREEMENT:**

NOW, THEREFORE, in consideration of the mutual covenants and obligations of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

The Original Agreement is hereby amended to reflect the following agreements and revisions:

**1. TERM**

Section 14.1 of the Original Agreement is hereby amended as follows:

“Section 14.1 *Term of Through Rates and Routes and Provisions.* Except as may be expressly provided otherwise in this Agreement, all of the terms of this Article XIV shall apply and bind the parties for a term of eleven years and four months from and after the Commencement Date and on ending at 11:59 p.m. Central Time on March 15, 2016 (the “Expiration Date”). Notwithstanding the foregoing, in the event of Buyer’s material default of any of the provisions of the Agreement and for so long as such default remains unremedied, Seller may, without prejudice to any other rights or remedies available in this Agreement, or at law or in equity, elect to revoke any or all of Buyer’s rights or privileges concerning handling carrier status under this Article XIV. In such an event, to the extent any provisions of this Article shall no longer apply to the parties, such terms shall be subject to the AAR Interchange Rules as amended from time to time and any applicable rules or tariffs that would otherwise apply in the absence of this Agreement.”

## 2. RATIFICATION

Except as amended by this Amendment, all of terms and provisions of the Original Agreement as supplemented and amended are hereby reaffirmed and remain in full force and effect. In the event there is a conflict between the terms and provisions of the Original Agreement and the terms and provisions of this Amendment, the terms and provisions of this Amendment shall control.

## 3. MISCELLANEOUS

This Amendment: (a) shall be binding upon and inure to the benefit of BNSF and TMBL and their respective legal representatives, heirs, successors and permitted assigns; (b) may be modified or amended only by a writing signed by each party hereto; and (c) may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument. The signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents. Counterparts of this Amendment may also be exchanged via electronic facsimile machines and any electronic facsimile of any party’s signature shall be deemed to be an original signature for all purposes.

IN WITNESS WHEREOF, the parties here to have caused their duly authorized representatives to execute this Amendment to be effective as of the Effective Date set forth above.

BNSF RAILWAY COMPANY:

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TACOMA RAIL:

BY: \_\_\_\_\_

NAME: DALE KING

TITLE: SUPERINTENDENT TACOMA RAIL