

EXCHANGE AGREEMENT

THIS EXCHANGE AGREEMENT ("**Agreement**") is effective as of _____, 20__ ("**Effective Date**") between **JACKSON COUNTY, MISSOURI**, a political subdivision of the State of Missouri ("**COUNTY**"), and **BNSF RAILWAY COMPANY**, a Delaware corporation ("**BNSF**").

RECITALS

A. BNSF owns or controls certain real property located in or near the City of Sibley, Jackson County, State of Missouri, including without limitation approximately 5.98 acres (260,385 square feet) in area ("**BNSF Property**") as depicted on **Exhibit "A"** attached hereto.

B. COUNTY owns a road-right-of-way easement interest on certain real property located in or near the City of Sibley, Jackson County, State of Missouri, including without limitation approximately 30.77 acres (3,541 square feet) in area ("**COUNTY Property**") as depicted on **Exhibit "B"** attached hereto.

C. In connection with certain development objectives of COUNTY and BNSF, COUNTY desires to obtain the BNSF Property from BNSF and BNSF desires to obtain the COUNTY Property from COUNTY.

E. The BNSF Property and COUNTY Property may be collectively referred to hereinafter as the "**Exchange Properties**" or individually as an "**Exchange Property**". As used in this Agreement, "**Transferor**" refers to the party that currently owns and is conveying the respective Exchange Property, and "**Transferee**" refers to the party to which the respective Exchange Property will be conveyed.

AGREEMENTS

In consideration of the mutual promises and covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Exchange of the Exchange Properties.

1.1 Exchange. Subject to the terms and conditions set forth in this Agreement, on the Closing Date (defined below): (i) BNSF agrees to quitclaim the BNSF Property to COUNTY and (ii) COUNTY agrees to vacate its interest in the COUNTY Property.

1.2 COUNTY Property Vacation. The COUNTY agrees to vacate, release, and extinguish all right, title, and interest that the COUNTY does own or possess in the COUNTY Property using all prescribed legal and administrative procedures and, in doing so vesting the unencumbered underlying fee interest in BNSF as the sole adjoining owner.

1.2.1 The vacation of the COUNTY Property shall be completed after to the construction of a new Johnson road segment intended to replace the existing Johnson road segment on the COUNTY Property,

1.2.2 It is the intent of COUNTY and BNSF that a new Johnson Road segment be constructed along the new track alignment by BNSF in coordination with COUNTY, with reasonable efforts made to minimize closure time of the existing road segment. BNSF will not warrant the construction of the road and the COUNTY expressly releases and agrees to hold BNSF harmless for any defects in the construction or any liabilities stemming from the construction of the same.

1.3 BNSF Property Deed. The BNSF Property will be quitclaimed by BNSF to COUNTY by quitclaim deed. Notwithstanding the foregoing or anything in this Agreement to the contrary, however, COUNTY acknowledges and affirms that BNSF may not hold fee simple title to the BNSF Property and that BNSF's interest in all or part of the BNSF Property, if any, may rise only to the level of an easement for railroad purposes.

Section 2. Existing Property Information. Within twenty (20) days after the Effective Date, each party will deliver to the other copies of all information (collectively, "**Existing Information**") regarding that party's Exchange Property that such party's Information Representative (as hereinafter defined) has actual knowledge of and that is in his or her possession or is subject to that Information Representative's reasonable direction or control, including, without limitation,

(i) surveys, (ii) environmental studies, (iii) soil studies, (iv) contracts or other agreements pertaining to the maintenance, operation, or use of the Exchange Property (including, without limitation, any leases, easements or licenses currently affecting the Exchange Property), and (v) all other records regarding the boundaries, description, and/or condition of the Exchange Property.

Section 3. Title Insurance, Survey and Other Matters.

3.1 Title Commitment. Within thirty (30) days after the Effective Date, BNSF, at its sole cost and expense, shall obtain and deliver, or cause to be delivered, to the COUNTY for each of the Exchange Properties:

3.1.1 ALTA Owner's Commitment for Title Insurance (each, a "**Title Commitment**") issued by Stewart Title Guaranty Company ("**Title Company**"), 1220 Washington Street, suite 102 Kansas City, MO 64105 , (816) 988-9750 which Title Commitment will set forth the status of the title of the Exchange Property and will show all encumbrances, liens, reservations, restrictions, easements and other matters of record, if any, relating thereto; and

3.1.2 A legible copy of all documents referred to in the Title Commitment, including but not limited to, plats, reservations, restrictions, and easements.

3.2 Property Surveys. Within thirty (30) days after the Effective Date, BNSF, at its sole cost and expense, shall obtain and deliver or cause to be delivered to COUNTY surveys of COUNTY Property and BNSF Property (collectively, the "**Property Surveys**") pursuant to current on-the-ground staked surveys performed by a licensed professional land surveyor satisfactory to BNSF ("**Surveyor**"), which Property Surveys (i) are certified to BNSF and Title Company, (ii) reflect the actual dimensions of and the total number of gross and net acres within the land described therein, (iii) identify any rights-of-way, easements, or other Encumbrances by applicable recording reference, (iv) show the location of all improvements, (v) are conducted in accordance with the Minimum Detail Requirements and Standards for Land Title Surveys of the American Title Association and American Congress on Surveying and Mapping, and (vi) include the Surveyor's registered number and seal, the date of the survey, and a narrative certificate in form and substance reasonably acceptable to COUNTY, BNSF, Title Company and Surveyor. The description of each Exchange Property prepared as a part of each Survey will be used in all of the documents set forth herein that require a description of such Exchange Property.

3.3 Objections and Cure Period. If the Title Commitment or Property Survey for an Exchange Property discloses any Encumbrances or other matters (including but not limited to matters related to the legal description of each Exchange Property) that are not acceptable to the Transferee for such Exchange Property, then Transferee may give Transferor written notice thereof within thirty (30) days after receipt of the Title Commitment and all documents referred to therein, specifying Transferee's objections ("**Objections**"), if any. If Objections are made, Transferor may, but is not obligated to, cure any Objections. If Transferee gives notice of Objections to Transferor and Transferor does not cure the Objections within the twenty (20) day period following receipt of the notice ("**Cure Period**"), then Transferee may either (i) terminate this Agreement by giving written notice thereof to Transferor within ten (10) days after the expiration of such Cure Period, and, upon such termination, neither party will have any further rights or obligations under this Agreement, or (ii) waive the Objections and consummate the conveyance of the Exchange Property subject to the Objections (which will be deemed to be Permitted Encumbrances).

3.4 Monetary Encumbrances. Notwithstanding the above, except as set forth in **Section 3.5** below, in no event will any liens or other monetary Encumbrances affecting the Exchange Properties be Permitted Encumbrances.

3.5 Mortgages and Judgment Liens. Notwithstanding the foregoing or anything to the contrary contained herein:

3.5.1 if any portion of the BNSF Property is encumbered by liens of one or more mortgages of BNSF (or its predecessors), BNSF shall deliver to COUNTY, at BNSF's sole cost and expense, good and sufficient releases of such liens that are applicable to the BNSF Property within one hundred eighty (180) days after the first meeting of BNSF's Board of Directors held after the Closing Date;

3.5.2 any judgment against BNSF that may appear of record as a lien against the BNSF Property shall be settled and satisfied by BNSF if and when it is judicially determined to be valid, and BNSF hereby indemnifies COUNTY for any losses or costs, including but not limited to reasonable attorney's fees, arising out of BNSF's failure to have such a judgment lien so settled and satisfied; and

3.5.3 the releases, settlements or satisfaction by BNSF of such liens referred to in **Sections 3.5.1**

and **3.5.2** above shall be deemed an acceptable cure of such items for purposes of this **Section 3**.

3.6 Definitions. For purposes of this Agreement, "**Encumbrances**" shall be defined as all liens, claims, easements, rights-of-way, reservations, restrictions, encroachments, tenancies, leases and any other encumbrances of whatsoever nature affecting the Exchange Properties. "**Permitted Encumbrances**" shall be defined as all the Encumbrances appearing in the Title Commitment (as defined below) for the Exchange Properties that are either not objected to or are objected to but not cured and that are subsequently waived pursuant to this **Section 3**.

Section 4. Representations and Warranties. Each party represents and warrants to the other party as of the date of this Agreement and as of the Closing Date:

4.1 Authority. It has all necessary power and authority to enter into and consummate this transaction.

4.2 Representations. Except as disclosed to the Transferee in the studies or other materials delivered to the Transferee, to the Transferor's knowledge:

4.1.1 No actions, suits, proceedings, orders, inquiries, or investigations are pending or are threatened against, involving, or affecting the Exchange Property, at law or in equity, or before or by any federal, state, municipal, or other governmental department, court, commission, board, bureau, agency, or instrumentality, alleging the violation of any federal, state, or local law, statute, ordinance, rule, regulation, decree, order, and/or permit relating to Environmental Matters (defined below) or the release of any Hazardous Substances (defined below).

4.1.2 No actions, suits, or proceedings are pending, threatened or asserted against the Exchange Property or against Transferor in connection with the Exchange Property, before or by any federal, state, municipal, or other governmental department, court, commission, board, bureau, agency, or instrumentality.

4.1.3 No pending or threatened condemnation actions exist with respect to the Exchange Property.

4.1.4 Transferor has not received any notice that any ordinance, regulation, law, or statute of any governmental agency pertaining to the Exchange Property has been violated.

4.1.5 No permission, approval, or consent by third parties or governmental authorities is required for Transferor to consummate this transaction.

Section 5. Operations Pending Closing. Except as otherwise set forth in this Agreement, neither party shall (i) enter into or agree to enter into any lease, easement, license or other agreement concerning occupancy or use of any of COUNTY Property or BNSF Property; or (ii) enter into, or consent in writing to, any easement, encumbrance, covenant, condition, restriction or right-of-way affecting COUNTY Property or BNSF Property, without first obtaining the other party's prior written consent, which consent may not be unreasonably withheld, conditioned or delayed. COUNTY and BNSF shall each pay in full prior to the Closing Date for all labor, material and services required to be provided by such party or otherwise contracted for by or on behalf of such party.

Section 6. Conditions to Closing.

6.1 Conditions to Transferee's Obligations. Transferee's obligation to proceed to Closing under this Agreement with respect to the Exchange Property it is acquiring is subject to the following conditions precedent:

6.1.1 As of the Closing Date, this Agreement is in full force and effect and Transferor has timely performed each of its covenants under this Agreement.

6.1.2 The representations and warranties of Transferor in this Agreement are true in all material respects as of the Closing Date.

6.1.3 As of the Closing Date, there shall have been no material adverse change in the condition of the Exchange Property being acquired by Transferee other than as contemplated in this Agreement.

6.1.4 Transferee is able to obtain at Closing the Property Owner Policy (defined below) for the Exchange Property it is acquiring, subject only to the Permitted Encumbrances, unless the conditions set forth in this Section 6.1.4 have been waived by Transferee.

6.2 Notice of Termination. In the event any of the foregoing conditions are not satisfied on or before the Closing Date specified above, Transferee may terminate this Agreement by written notice to Transferor and thereafter shall have no obligation to proceed with the Closing and neither party shall have any further obligation hereunder except those that expressly survive the termination of this Agreement. If Transferee does not so notify Transferor on or before the Closing Date specified above that such condition has not been satisfied then Transferee shall be deemed to have waived such condition and the parties shall proceed to Close this transaction with the remaining terms of this Agreement as if such condition had been satisfied.

Section 7. Closing.

7.1 Closing Date. The closing of the exchange contemplated by this Agreement ("**Closing**") shall occur on or before One Hundred Twenty (120) days after the Effective Date ("**Closing Date**"). Notwithstanding anything to the contrary, the obligations of each party to consummate this transaction shall be subject to the fulfillment on or before the Closing Date of all of the conditions contained within **Section 6**, any or all of which may be waived only by such party in writing, and the delivery of the following items:

7.2 COUNTY Deliveries. At Closing, COUNTY shall deliver to Title Company with respect to COUNTY Property the following:

7.2.1 a resolution, order, or other document ("**COUNTY Vacation**") in form and substance reasonably acceptable to BNSF, fully executed and acknowledged by COUNTY, vacating, releasing, and extinguishing all rights, title and interest that the COUNTY does own or possess in the COUNTY Property, subject only to the Permitted Encumbrances.

7.2.2 such other and further documents as may be reasonably required to consummate the transactions contemplated by this Agreement and for Title Company to issue the Property Owner Policy for the COUNTY Property in accordance with this Agreement.

7.2.3 possession of the COUNTY Property free and clear of all tenancies.

7.3 BNSF Deliveries. At Closing, BNSF shall deliver to Title Company with respect to the BNSF Property the following:

7.3.1 a quitclaim deed ("**BNSF Property Deed**") in form and substance reasonably acceptable to COUNTY, fully executed and acknowledged by BNSF, quitclaiming to COUNTY the BNSF Property;

7.3.2 such other and further documents as may be reasonably required to consummate the transactions contemplated by this Agreement and for Title Company to issue the Property Owner Policy for the BNSF Property in accordance with this Agreement;

7.3.3 Readily Available Funds in an amount as may be necessary to pay for any costs and prorations charged to BNSF under **Section 8** below; and

7.3.4 possession of the BNSF Property free and clear of all tenancies.

7.4 Property Owner Policies.

7.4.1 Closing is conditioned upon the Title Company issuing to each Transferee an ALTA Owner's Policy of Title Insurance (each, a "**Property Owner Policy**") for the respective Exchange Property being acquired by such Transferee. Each Property Owner Policy shall insure the Exchange Property being acquired by such Transferee free and clear of all matters except the standard printed form exceptions and the Permitted Encumbrances applicable to such Exchange Property; provided, however, the printed form survey exception shall be limited to "shortages in area," the printed form exception for restrictive covenants shall be marked "none of record" except those restrictive covenants that are Permitted Encumbrances, there shall be no exception for rights of parties in possession, and the standard exception for taxes shall read: "Standby fees, taxes and assessments by any taxing authority for 20__ and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership."

7.4.2 By mutual agreement, the parties may waive any or all of the conditions set forth in Section 7.4.1 for any or all of the Exchange Properties.

Section 8. Fees and Costs; Taxes. Unless otherwise expressly set forth in this Agreement, COUNTY and BNSF shall allocate certain Closing costs as set forth in this **Section 8**.

8.1 Closing Costs and Fees. BNSF will be solely responsible for any and all recording fees, escrow fees and the cost of obtaining any lien releases for the Exchange Properties.

8.2 Property Owner Policy Costs and Fees. BNSF will be solely responsible for all fees and costs related to any Property Owner Policy obtained pursuant to Section 7.4.1.

8.3 Due Diligence Costs. BNSF shall pay for the cost of the Property Surveys and the premium for the Property Owner Policy for the BNSF Property it is acquiring. BNSF shall pay the premium for the Property Owner Policy for the COUNTY Property it is acquiring; provided further that if BNSF desires extended title insurance coverage on the COUNTY Property to limit the printed form survey exception to "shortages in area," BNSF agrees to pay such additional premium for the COUNTY Property Owner Policy.

8.4 Other Real and Personal Property Taxes. There shall be no proration for real estate taxes, personal property taxes, special tax assessments ("**Taxes**") accruing to, attributable to or becoming a lien against the BNSF Property that are not yet due and payable as of the Closing Date. BNSF shall pay on or before the Closing Date any and all such Taxes attributable to the BNSF Property due and payable on or before the Closing Date. COUNTY shall pay all Taxes accruing to, attributable to or becoming a lien against COUNTY Property that are due and payable on or before the Closing and as to which COUNTY is not exempt as a public agency. COUNTY shall cooperate with BNSF to cause COUNTY Property to be taxed/assessed as part of BNSF's statewide operations rather than at a county or local level as soon as possible following Closing as contemplated in existing state law and COUNTY shall continue to be responsible to pay for any Taxes assessed against COUNTY Property at the county or local level rather than as part of BNSF's statewide operations until such time as COUNTY Property is so taxed/assessed but only to such extent as COUNTY is not otherwise exempt from such tax payments. BNSF shall use reasonable efforts to cause COUNTY Property to be assessed as part of the BNSF's statewide operations as quickly as possible after Closing.

8.5 Other Costs and Expenses. Other than as set forth above or elsewhere in this Agreement, it is the intent of the parties that the COUNTY shall incur no out-of-pocket costs in connection with the transaction contemplated by this Agreement, except for any real estate broker fees, consultant fees, attorney fees, or internal costs including but not limited to employee labor, time and other internal expenses.

Section 9. Condition of Exchange Properties; Tests.

9.1 AS-IS Exchange. Each Transferee acknowledges and agrees that it has been given the opportunity to fully and thoroughly inspect the Exchange Property it is acquiring, and each Transferee will conduct such inspections and tests as Transferee may deem advisable in such Transferee's discretion to fully evaluate and analyze the Exchange Property it is acquiring and all Property Conditions (as hereinafter defined) related thereto. **EACH TRANSFEREE IS ACCEPTING THE EXCHANGE PROPERTY IT IS ACQUIRING ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF SUCH EXCHANGE PROPERTY, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM TRANSFEROR AS TO ANY MATTERS CONCERNING SUCH EXCHANGE PROPERTY,** including, but not limited to, the physical condition of the Exchange Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Exchange Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Exchange Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, under, or in proximity to the Exchange Property; the condition or existence of any above ground or underground structures or improvements, including tanks and transformers in, on or under the BNSF Property; the condition of title to the Exchange Property, and the existence of any leases, easements, permits, orders, licenses, or other agreements, affecting the Exchange Property being acquired (collectively, the "**Property Conditions**").

9.2 Disclaimer. Each Transferee represents and warrants to the Transferor that Transferee has not relied and will not rely on, and Transferor is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Exchange Property the Transferee is acquiring or relating thereto (including specifically, without limitation, any Existing Information related to such Exchange Property or any Exchange Property information packages distributed with respect to such Exchange Property) made or furnished by Transferor, the manager of the Exchange Property being transferred, or any real estate broker or agent representing or purporting to represent

Transferor, to whomever made or given, directly or indirectly, orally or in writing.

9.3 Inspection. Each Transferee shall have the right, from time to time prior to Closing, to enter upon the Exchange Property it is acquiring for the purpose of examining the same and the condition thereof, and to conduct such surveys and to make such engineering and other inspections, tests and studies, including without limitation Phase I environmental assessment (and, if so recommended by the Phase I environmental assessment, conduct a Phase II environmental assessment) (collectively, "**Tests**") as Transferee may determine to be reasonably necessary, all at Transferee's sole cost and expense. Transferee shall have until the Closing Date in which to make such Tests with respect to the Exchange Property it is acquiring as Transferee deems appropriate, and to deliver written notice to Transferor terminating this Agreement if Transferee is not, for any reason or no reason, satisfied with such Exchange Property. If Transferee fails to so deliver such notice to Transferor terminating this Agreement by the Closing Date, then Transferee's right to terminate under this **Section 9.3** shall be deemed to have been waived by Transferee. If Transferee does so deliver notice to Transferor terminating this Agreement, this Agreement shall terminate and the parties shall have no further rights or obligations hereunder, except those that expressly survive termination.

9.6.1 "**Environmental Law(s)**" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, and any similar or comparable state or local law.

9.6.2 "**Hazardous Substance(s)**" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

9.6.3 "**Environmental Matters**" means matters relating to the generation, manufacture, use, storage, handling, release, leak, spill, discharge, transportation and/or disposal of Hazardous Substances, or conditions with respect to the atmosphere, soil, surface and ground waters, wetlands, stream sediments, vegetation, endangered species and stormwater runoff or discharge.

9.5 Survival. The provisions of this **Section 9** shall survive the Closing, shall bind each party and their respective heirs, successors and assigns, and shall be covenants running with the land. The provisions of **Sections 9.1, 9.2, 9.4, 9.6.1** and **9.6.2** shall be included in the BNSF Property Deed and COUNTY Property Deed, and **Section 9.5** shall be included in the BNSF Property Deed.

Section 10. Miscellaneous.

10.1 Time is of the Essence. Time is of the essence of this Agreement. This Agreement is binding upon the heirs, executors, administrators, successors, and assigns of each of the parties hereto.

10.2 Remedies. In any action (declaratory or otherwise) brought by any party in connection with or arising out of the terms of this Agreement, the prevailing party in such action will be entitled to recover from the nonprevailing party all actual costs, actual damages, and actual expenses, including, without limitation, reasonable attorneys' fees and charges.

10.3 Notices. All notices hereunder shall be in writing and addressed as set forth below, or to such other address as may be designated by the party desiring its address to be changed in a notice to other parties given in like manner:

If to COUNTY: _____

If to BNSF: BNSF Railway Company
2650 Lou Menk Drive, MOB2-392
Fort Worth, Texas 76131
Attn: James Ball

Notice will be deemed to have been served and given if (i) delivered in person to the address set forth above for the party to whom the notice is given, (ii) delivered in person at the Closing (if such party is present at the Closing and the delivery is to be made at Closing), (iii) placed in the United States mail, return receipt requested, addressed to such party

at the address specified above, (iv) deposited into the custody of a nationally recognized overnight delivery service for next day delivery, addressed to such party at the address specified above or (v) telecopied by facsimile transmission to the party at the telecopy number listed above, provided that such transmission is followed with a copy sent by overnight delivery or regular mail to the address specified above.

10.4 Waiver. No failure of a party to enforce a provision of this Agreement will be construed as a general or a specific waiver of that provision, or of a party's right to enforce that provision, or of a party's right to enforce any other provisions of this Agreement. No waiver of any breach of any covenant or other provisions herein contained shall be deemed to be a waiver of any preceding or succeeding breach, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed to be an extension of the time for performance of any other obligation or act.

10.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be deemed to constitute a single agreement. The execution and delivery of one counterpart by a party shall have the same force and effect as if that party had signed all other counterparts. The signatures to this Agreement may be executed on separate pages and when attached to this Agreement shall constitute one complete document.

10.6 No Assignment. This Agreement binds and is for the benefit of both parties and their permitted successors and assigns. No party to this Agreement may assign its rights and obligations hereunder without prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

10.7 Governing Law. This Agreement is governed by and must be construed in accordance with the laws of the State of Missouri without regard to principles of conflicts law.

10.8 Entire Agreement. This Agreement may not be modified, amended, or terminated except in writing signed by both BNSF and COUNTY. This Agreement constitutes the entire agreement between the parties with respect to the exchange of the BNSF Property and the COUNTY Property and supersedes any prior understandings and agreements between them respecting the subject matter of this Agreement. There are no other representations, agreements, arrangements, or understandings, oral or written, between and among the parties to this Agreement or any of them, relating to the subject matter of this Agreement.

10.9 Business Days. If the Closing Date or the day for performance of any act required under this Agreement falls on a Saturday, Sunday or legal holiday, then the Closing Date or the day for such performance, as the case may be, shall be the next following regular business day.

10.10 Rule of Construction. Each party and its counsel have reviewed and revised this Agreement. The parties agree that the rule of construction that any ambiguities are to be resolved against the drafting party must not be employed to interpret this Agreement or its amendments or exhibits.

10.11 Severability. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there be added, as a part of this Agreement, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

10.12 Survival. Subject to provisions of **Section 9**, all warranties, representations, covenants, obligations, and agreements contained in or arising out of this Agreement will survive the Closing and the exchange of the BNSF Property and the COUNTY Property. The indemnity obligations set forth in this Agreement shall survive the Closing or earlier termination of this Agreement.

10.13 Condemnation. If prior to Closing any portion of the Exchange Property is the actual or threatened subject of a condemnation or eminent domain action by an entity other than COUNTY, the party to which such Exchange Property is to be conveyed or quitclaimed may elect to either terminate this Agreement or proceed to Closing and receive an assignment of all condemnation proceeds for the Exchange Property.

10.14 Terminology. The captions beside the section number of this Agreement are for reference only and shall not modify or affect this Agreement in any manner whatsoever. Wherever required by the context, any gender shall include any other gender, the singular shall include the plural, and the plural shall include the singular.

Section 11. Default and Remedies. If either party fails to perform any of its obligations under this Agreement either prior to or at Closing for any reason other than a right to terminate this Agreement expressly set forth herein, then the other party, as its sole and exclusive remedy, may terminate this Agreement by giving the other party written notice of such termination, whereupon this Agreement shall immediately terminate and neither party shall have any further rights or obligations hereunder except for those rights or obligations that expressly survive termination of this Agreement. After the Closing, if any dispute arises between the parties with respect to this Agreement or the Closing, neither party is entitled to seek rescission of the conveyances as a remedy, and the only remedies available to an aggrieved party will be to seek monetary damages.

Section 12. Information. If this Agreement is terminated without Closing having occurred, then promptly after such termination: (i) each party shall deliver to the other party legible copies of all Tests, Property Surveys, studies, reports and other written materials obtained or produced with respect to its inspection and due diligence review of the of the other party's Exchange Property and (ii) all copies of the Existing Information provided to the other party pursuant to the provisions of **Section 2** above. The parties agree that the results of any Tests, Property Surveys, studies, reports and other written materials obtained or produced with respect to its inspection and due diligence review of the of the other party's Exchange Property conducted shall be maintained in absolute confidence. The obligations under this **Section 12** shall survive the termination of this Agreement.

Section 13. No Brokers. The parties agree that there are no brokers involved in connection with this exchange. **EACH PARTY AGREES TO INDEMNIFY AND HOLD THE OTHER HARMLESS FROM AND AGAINST THE CLAIMS, DEMANDS, CAUSES OF ACTION, OR OTHER LIABILITY OF ANY AGENT, BROKER, OR OTHER SIMILAR PARTY ARISING FROM OR PERTAINING TO ANY BROKERAGE COMMISSION, FEE, COST, OR OTHER EXPENSE IN CONNECTION WITH THE EXCHANGE OF THE EXCHANGE PROPERTY, TO THE EXTENT SUCH CLAIMS, DEMANDS, CAUSES OF ACTION, OR OTHER LIABILITY ARISE OUT OF ANY COMMITMENTS OR AGREEMENTS OF THE INDEMNIFYING PARTY.**

Section 14. Tax Effect; Section 1031 Exchange.

14.1 Tax Effect. No party has made or is making any representations to the other concerning any of the tax effects of the transactions provided for in this Agreement. No party shall be liable for or in any way responsible to any other party because of any tax effect resulting from the transactions provided for in this Agreement.

14.2 Section 1031 Exchange. BNSF may assign its rights (but not its obligations) under this Agreement to Goldfinch Exchange Company LLC, an exchange intermediary, in order for BNSF to effect an exchange under Section 1031 of the Internal Revenue Code. In such event, BNSF shall provide COUNTY with a Notice of Assignment, in the form attached as **Exhibit "E"**, and COUNTY shall execute an acknowledgment of receipt of such notice.

Section 15. Coordination of Johnson Road Construction. BNSF shall provide reasonable notification to COUNTY of the construction schedule and upon request will allow periodic site access to COUNTY for observation purposes. Upon completion, COUNTY shall have the right to conduct a final inspection and to notify BNSF of any deficiencies requiring corrective measures, which BNSF shall address in a timely manner. COUNTY shall provide written acceptance upon satisfactory completion, subject to the inclusion of a 1 year maintenance period with the contractor.

[Signature Page Follows]

Executed by the parties to be effective as of the Effective Date set forth above.

COUNTY:

JACKSON COUNTY, MISSOURI, a political subdivision of the State of Missouri

By: _____

Name: _____

Title: _____

Date: _____

BNSF:

BNSF Railway Company, a Delaware corporation

By: _____

Name: _____

Title: _____

Date: _____

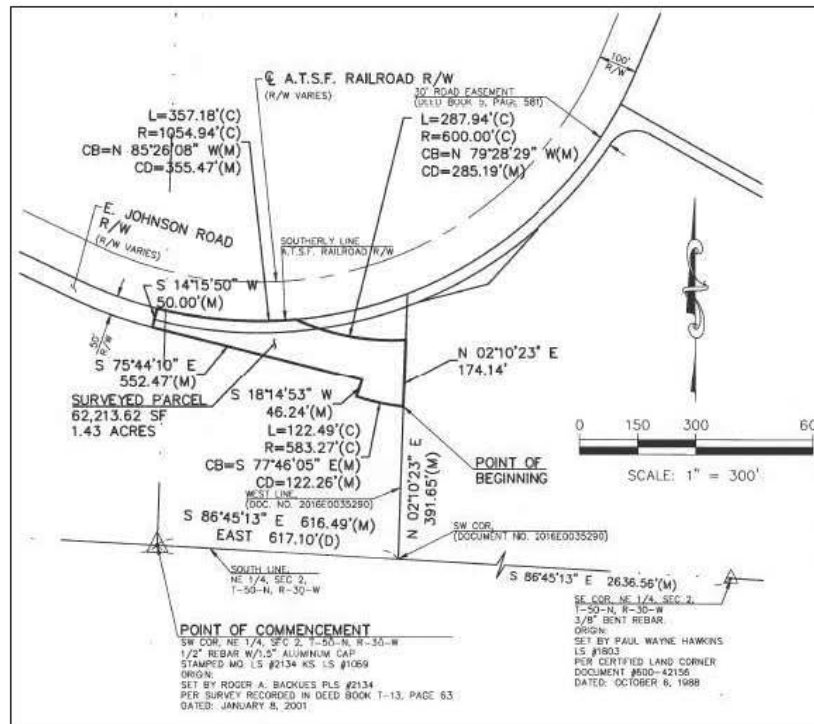
Exhibits attached to Agreement:

Exhibit "A":	Description of BNSF Property
Exhibit "B":	Description of COUNTY Property
Exhibit "C":	Form of Notice Assignment

EXHIBIT "A"

Description of BNSF Property

(Page 1 of 2)



SURVEYED PARCEL 2 DESCRIPTION:

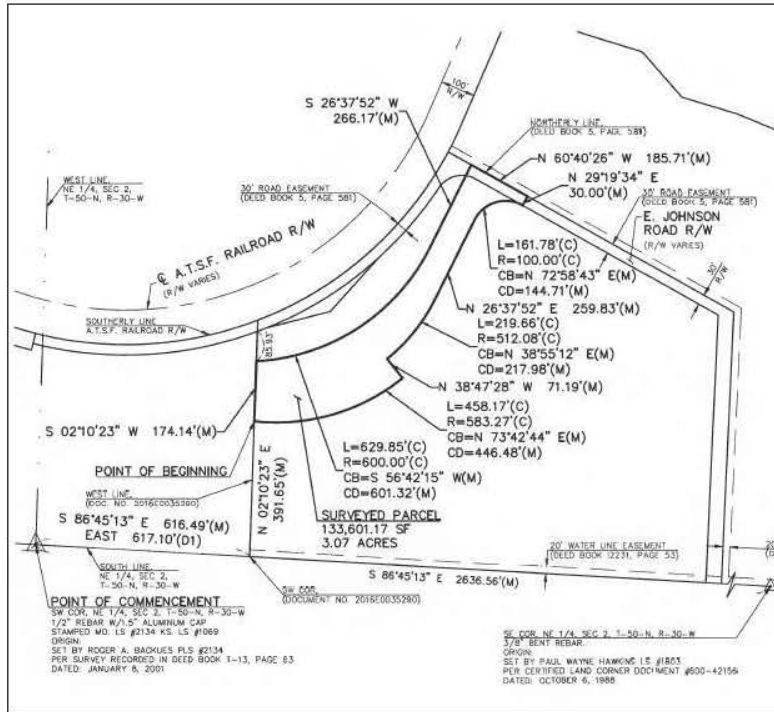
THAT PORTION OF THE NORTHEAST QUARTER AND THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 50 NORTH, RANGE 30 WEST OF THE 5TH PRINCIPAL MERIDIAN IN THE COUNTY OF JACKSON, STATE OF MISSOURI, BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ON THE SOUTH LINE OF SAID NORTHEAST QUARTER, S 86°45'13" E (THIS AND ALL FOLLOWING BEARINGS ARE BASED ON THE MISSOURI STATE PLANE COORDINATE SYSTEM, NAD1983(2011), WEST ZONE 2401) 616.49 FEET TO THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2016E0035290; THENCE ON THE WEST LINE OF SAID TRACT OF LAND, N 02°10'23" E 391.65 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ON SAID WEST LINE, N 02°10'23" E 174.14 FEET TO A POINT OF CURVATURE; THENCE WESTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 600.00 FEET, AN ARC LENGTH OF 287.94 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 79°28'29" W 285.19 FEET TO THE SOUTHERLY LINE OF THE ATCHISON TOPEKA AND SANTA FE RAILROAD RIGHT-OF-WAY AND A POINT OF CURVATURE; THENCE ON SAID SOUTHERLY LINE, WESTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1054.94 FEET, AN ARC LENGTH OF 357.18 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 85°26'08" W 355.47 FEET; THENCE S 14°15'50" W 50.00 FEET TO THE SOUTHERLY LINE OF THE JOHNSON ROAD RIGHT-OF-WAY EASEMENT DESCRIBED IN DEED BOOK 5 AT PAGE 581; THENCE S 75°44'10" E 552.47 FEET; THENCE S 18°14'53" W 46.24 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 583.27 FEET, AN ARC LENGTH OF 122.49 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS S 77°46'05" E 122.26 FEET TO THE POINT OF BEGINNING. CONTAINS 62,213.62 SQUARE FEET, 1.43 ACRES, MORE OR LESS.

END OF DESCRIPTION

EXHIBIT "A"

Description of BNSF Property

(Page 2 of 2)



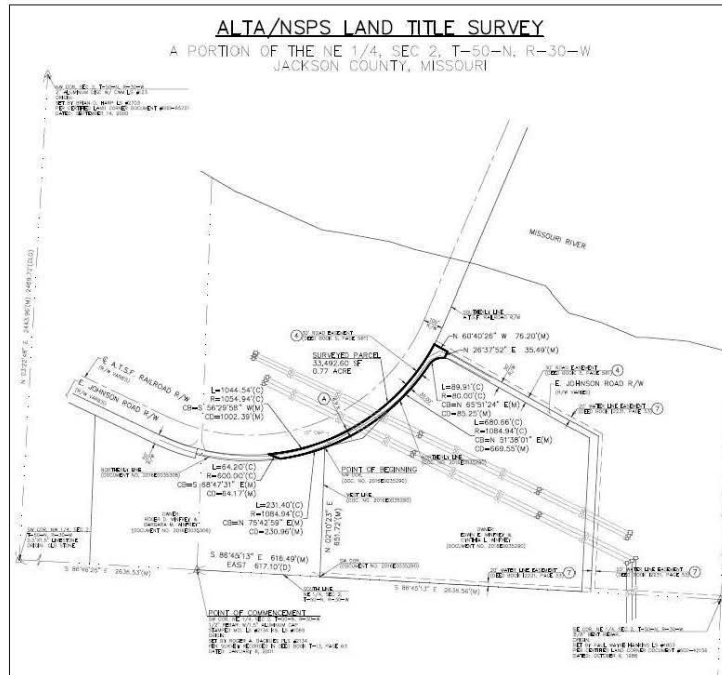
SURVEYED PARCEL 2 DESCRIPTION:

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 50 NORTH, RANGE 30 WEST OF THE 5TH PRINCIPAL MERIDIAN IN THE COUNTY OF JACKSON, STATE OF MISSOURI, BEING DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ON THE SOUTH LINE OF SAID NORTHEAST QUARTER, S 86°45'13" E (THIS AND ALL FOLLOWING BEARINGS ARE BASED ON THE MISSOURI STATE PLANE COORDINATE SYSTEM, NAD1983(2011), WEST ZONE 2401) 616.49 FEET TO THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2016E0035290; THENCE ON THE WEST LINE OF SAID TRACT OF LAND, N 02°10'23" E 391.65 FEET TO THE POINT OF BEGINNING AND A POINT OF CURVATURE; THENCE NORTHEASTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 583.27 FEET, AN ARC LENGTH OF 458.17 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 73°42'44" E 446.48 FEET; THENCE N 38°47'28" W 71.19 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 512.08 FEET, AN ARC LENGTH OF 219.66 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 38°55'12" E 217.98 FEET; THENCE N 26°37'52" E 259.83 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ON THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET, AN ARC LENGTH OF 161.78 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 72°58'43" E 144.71 FEET TO THE NORTHERLY LINE OF SAID TRACT OF LAND; THENCE N 29°19'34" E 30.00 FEET TO THE NORTHERLY LINE OF THE JOHNSON ROAD RIGHT-OF-WAY EASEMENT DESCRIBED IN DEED BOOK 5 AT PAGE 581; THENCE ON SAID NORTHERLY LINE, N 60°40'26" W 185.71 FEET; THENCE S 26°37'52" W 230.68 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ON THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 600.00 FEET, AN ARC LENGTH OF 629.85 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS S 56°42'15" W 601.32 FEET; THENCE S 02°10'23" W 174.14 FEET TO THE POINT OF BEGINNING. CONTAINS 133,601.17 SQUARE FEET, 3.07 ACRES, MORE OR LESS.

END OF DESCRIPTION

EXHIBIT "B"

Description of COUNTY Property



SURVEYED PARCEL DESCRIPTION:

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 50 NORTH, RANGE 30 WEST OF THE 5TH PRINCIPAL MERIDIAN IN THE COUNTY OF JACKSON, STATE OF MISSOURI, BEING DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE ON THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE ON THE SOUTH LINE OF SAID NORTHEAST QUARTER, S 86°45'13" E (THIS AND ALL FOLLOWING BEARINGS ARE BASED ON THE MISSOURI STATE PLANE COORDINATE SYSTEM, NAD1983(2011), WEST ZONE 2401) 616.49 FEET TO THE SOUTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2016E0035290; THENCE ON THE WEST LINE OF SAID TRACT OF LAND, N 02°10'23" E 651.72 FEET TO THE NORTHWEST CORNER OF SAID TRACT OF LAND TO THE POINT OF BEGINNING AND A POINT OF CURVATURE; THENCE ON THE NORTHERLY LINE OF SAID TRACT OF LAND, PARALLEL WITH AND 30 FEET NORMALLY DISTANT FROM THE SOUTHERLY LINE OF THE ATCHISON TOPEKA AND SANTA FE RAILROAD RIGHT-OF-WAY, NORTHEASTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1084.94 FEET, AN ARC LENGTH OF 680.66 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 51°38'01" E 669.55 FEET TO A POINT OF CURVATURE; THENCE CONTINUING ON SAID NORTHERLY LINE, NORTHEASTERLY ON THE ARC OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET, AN ARC LENGTH OF 89.91 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 65°51'24" E 82.25 FEET; THENCE N 26°37'52" E 35.49 FEET; THENCE N 60°40'26" W 76.20 FEET TO SAID SOUTHERLY LINE AND A POINT OF CURVATURE; THENCE ON SAID SOUTHERLY LINE, SOUTHWESTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1054.94 FEET, AN ARC LENGTH OF 1044.54 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS S 56°29'58" W 1002.39 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 600.00 FEET, AN ARC LENGTH OF 64.20 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS S 88°47'31" E 64.17 FEET TO THE NORTHERLY LINE OF A TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2016E0035308 AND A POINT OF CURVATURE; THENCE ON SAID NORTHERLY LINE OF SAID TRACT OF LAND DESCRIBED IN DOCUMENT NO. 2016E0035308, PARALLEL WITH AND 30 FEET NORMALLY DISTANT FROM SAID SOUTHERLY LINE, NORTHEASTERLY ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1084.94 FEET, AN ARC LENGTH OF 231.40 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 75°42'59" E 230.86 FEET TO THE POINT OF BEGINNING. CONTAINS 33,492.60 SQUARE FEET, 0.77 ACRE, MORE OR LESS.

END OF DESCRIPTION

EXHIBIT "C"

Form of Notice of Assignment

Goldfinch Exchange Company LLC
A Delaware limited liability company
40 Lake Bellevue Drive, Suite 101
Bellevue, WA 98005
425-646-4020
425-637-2873 fax

NOTICE OF ASSIGNMENT

TO: JACKSON COUNTY, MISSOURI, a political subdivision of the State of Missouri and any assignees or exchange intermediaries of Jackson County, Missouri ("**COUNTY**")

You and BNSF Railway Company ("**BNSF**") have entered into the Exchange Agreement, dated _____, 20__ for the exchange of the real property described therein. You are hereby notified that BNSF has assigned its rights as Transferor, but not its obligations, to Goldfinch Exchange Company LLC for the purpose of effecting a tax deferred exchange under Internal Revenue Code Section 1031. This is an assignment of rights only and BNSF will deed the property directly to you.

ACKNOWLEDGED:

By: _____

Name: _____

Title: _____

Date: _____