

LEASE AGREEMENT

AGREEMENT made effective this 20th day of January, 2009 between North Dakota Port Services, Inc., Minot, ND, a North Dakota corporation (NDPS) and the City of Minot (MINOT)

RECITALS

WHEREAS, NDPS intends to locate and develop a facility for the purpose of loading, unloading and handling of products in connection with the transportation of such products on railroad cars and by other means; and

WHEREAS, MINOT is the owner of real property suitable for NDPS's intended operations;

NOW, in consideration of the mutual promises contained herein, the parties agree as follows:

1. **Premises.** MINOT hereby exclusively leases to NDPS, and NDPS hereby rents from MINOT, the following real property (the "Premises") located in Ward County, North Dakota:

That portion of Outlot 81 of NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, Twp. 155 N., Rge. 82 W., consisting of an area measuring 3,230 feet by 65 feet, together with the spur track and track pad thereon, as more specifically shown on the attached Exhibit A hereto and incorporated herein, and as hereinafter referred to as "Parcel A", and

Outlot 81 of NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, Twp. 155 N., Rge. 82 W., less Parcel A described above, as more specifically shown on the attached Exhibit B hereto and incorporated herein, and as hereinafter referred to as "Parcel B", and

Outlot 80 of a portion of Outlot 74, Section 21, Twp. 155 N., Rge. 82 W., as more specifically shown on the attached Exhibit C hereto and incorporated herein, and as hereinafter referred to as "Parcel C".

2. **Lease Term.** The term of this Lease shall be for a period of thirty (30) years, commencing on the effective date of this Lease. Upon expiration of the initial term, NDPS shall have the first right to negotiate a new Lease with MINOT, the terms of which NDPS and MINOT hereby agree shall be reasonable to both parties and negotiated in good faith, based upon the operations of the Premises as of the expiration of the initial term.

3. **Rent.** As set forth above, the Premises is comprised, for purposes of this Agreement, of a Parcel A, Parcel B, and Parcel C, which are shown on the attached

Exhibits A, B and C hereto. Subject to any adjustment as provided below, NDPS shall pay to MINOT as rental for the Premises during the term of this Agreement, the annual amounts, as follows:

3.1 **Parcel A.** NDPS shall pay to MINOT as rent for Parcel A the sum of \$500.00 per annum during the term of this Lease, with such rent to be payable in advance on February 1, 2009 and on February 1st of each and every subsequent year thereafter during the term of this Agreement, as set forth on the rent schedule attached hereto as Exhibit D.

3.2 **Parcel B.** NDPS shall pay to MINOT as rent for Parcel B the sum of \$1.00 per annum during the first two years of this Agreement, such rent to be payable in advance on February 1, 2009 and February 1, 2010. Thereafter, NDPS shall pay MINOT as rent for Parcel B the sum of \$40,000 for the third year, such payment to be made in advance on February 1, 2011, with the annual rent payment to then increase in an amount of \$1,000.00 each and every subsequent year thereafter during the term of this Agreement, with each such increased rent amount to be paid in advance on February 1st of each and every such year, as set forth on the rent schedule attached hereto as Exhibit D.

3.3 **Parcel C.** NDPS shall pay to MINOT as rent for Parcel C the sum of \$1.00 per annum during the first two years of this Agreement, such rent to be payable in advance on February 1, 2009 and February 1, 2010. Thereafter, NDPS shall pay MINOT as rent for Parcel C the sum of \$10,000 for the third year, such payment to be made in advance on February 1, 2011, with the annual rent payment to then increase in an amount of \$1,000.00 each and every subsequent year thereafter during the term of this Agreement, with each such increased rent amount to be paid in advance on February 1st of each and every such year, as set forth on the rent schedule attached hereto as Exhibit D.

4. **Warranty of Title and Quiet Possession.** MINOT covenants that it is seized of the Premises in fee simple absolute, except for any United States Department of Commerce – Economic Development Administration restrictions, terms and conditions which may apply to or encumber Parcel A. MINOT covenants that it has full right to make and enter into this lease and that NDPS shall have quiet and peaceable possession of the Premises during the term of this Agreement.

5. **Use of Premises.**

5.1 **Permissible Uses.** NDPS shall use the Premises for the construction, ownership, and operation of a facility as deemed necessary by NDPS for the purpose of loading, unloading and handling of products in connection with the transportation of such products on railroad cars and by other means, together with other business purposes related thereto and as deemed necessary by NDPS, its successors, assigns or mortgagees (hereafter collectively referred to as the "Facility").

5.2 **NDPS's compliance with laws.** NDPS shall comply with and abide by all federal, state, county, municipal, and other governmental statutes, ordinances, laws, and regulations affecting the Premises, the improvements on or any activity

or condition on or in the Premises, which shall include the obligation to provide the public equal and uniform use of the Facility services.

5.3. **Prohibited Uses.** NDPS shall not use, or permit the Premises, or any part of the Premises, to be used for any purpose(s) other than those for which the Premises are leased under this Agreement.

5.4. **Waste and Nuisance Prohibited.** During the term of this lease, NDPS shall comply with all applicable laws affecting the Premises. NDPS shall not commit, or suffer to be committed, or allow any waste, or nuisance to MINOT's interest in the Premises.

5.5. **Abandonment of Premises.** NDPS shall not abandon the Premises at any time during the term of this Agreement. If NDPS abandons the Premises, any personal property belonging to NDPS and left on the Premises shall be deemed to be abandoned, at the option of MINOT, except such property (if any) as may be encumbered by NDPS's lenders, mortgagees, lien holders or MINOT.

5.6. **Government Approvals.** NDPS shall be solely responsible for obtaining and maintaining any and all approvals of any local, state or federal agencies that may be necessary to construct, operate and maintain the Facility.

6. **Construction and Maintenance of Facility.**

6.1. **Maintenance of Premises and Improvements.** NDPS may, at any time or times during the term of this Lease, including any extensions thereto, construct and build any buildings or other improvements, at its own cost, as deemed necessary by NDPS, for the proper operation of the Premises and Facility. MINOT understands and agrees that NDPS may obtain funds from a bank, other financial institution or entities and/or through any other source of financing, at the discretion of NDPS (herein collectively referred to as "the Bank") to construct and operate the Facility. The respective rights and obligations between NDPS and the Bank, and between MINOT and the Bank, respectively, will be set forth in other documents and this document, by referencing the Bank, is not intended to set forth all those rights and obligations. NDPS shall, throughout the term of this Agreement, at its own cost, and without any expense to MINOT, operate and maintain the Premises and all buildings and improvements of every kind that may be a part of the Premises, and all other appurtenances to the Premises in reasonably good order, condition and repair. MINOT shall not be obligated to make any repairs, replacements, or renewals, of any kind, nature, or description, to the Premises or any buildings or improvements on the Premises or any appurtenances to the Premises.

6.2. **Damage to and destruction of improvements.** The damage, destruction, or partial destruction of any building or other improvement that is a part of the Premises or any appurtenances to the Premises shall not release NDPS from any obligation under this Agreement, except as expressly provided below. In case of damage to or destruction of any such building or other improvement, NDPS shall, at its own expense, promptly repair and restore the Premises to a good and operable condition.

7. **Right of Entry.** MINOT and the agents and employees of MINOT, as the owner of the Premises and in protecting its interest in the Premises as Owner and Landlord under this Agreement, shall have the right, upon reasonable advance notice to NDPS, to enter into and on the Premises at such reasonable times and for the purpose of inspecting the Premises. Such entry by MINOT to protect its interests as a Landlord under this Agreement, shall be conducted in such a manner so as not to interfere with the operations of NDPS.

8. **Liens and Encumbrances. Voluntary Liens and Encumbrances.** NDPS may voluntarily encumber by mortgage or other proper instrument, its leasehold interest and estate in Parcel B and Parcel C, together with all buildings and improvements placed by NDPS thereon to the Bank or to others. However, no encumbrance, foreclosure, conveyance, or exercise of any such right shall relieve NDPS from its liability under this Agreement.

9. **Subletting and Assignment.** Except as provided in section 8 above, NDPS shall not assign or transfer this Agreement, or any interest in this Agreement, without the express written consent of MINOT, which consent shall not be unreasonably withheld. Should MINOT consent to an assignment, such consent shall not release NDPS from, or otherwise affect in any manner, any of NDPS's obligations under this Agreement unless otherwise agreed to between the parties, and consent to an assignment shall not be deemed to be a consent to any subsequent assignment. Notwithstanding the foregoing, however, conveyances to affiliates, subsidiaries or joint ventures of which NDPS remains a majority owner with management control, or any assignment by the Bank of its rights, shall not require the consent of MINOT and shall not constitute a violation of this provision, provided MINOT is given notice of such conveyance or assignment and provided that any such conveyance or assignment shall not in any way limit or impair MINOT's rights and interests in the Premises.

10. **Utilities.** NDPS shall fully and promptly pay for all public utilities of every kind (including, but not limited to water, gas, heat, light, power, telephone service, etc.) furnished to the Premises during the term of this Agreement, and all other costs and expenses of every kind whatever of or in connection with the use, operation, and maintenance of the Premises and all activities conducted on the Premises, and MINOT shall have no responsibility of any kind for any such utilities.

11. **Taxes, Assessments, and Mechanic's Liens.** NDPS shall promptly pay and discharge any taxes, assessments, rates, charges, license fees, municipal liens, and levies of every name, nature, and kind whatever, including all governmental charges of whatever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge on or against the Premises, or any part of the Premises, the leasehold of NDPS in and under this Agreement, the Premises, any building or buildings, or any other improvements now or later placed on the Premises, or on or against NDPS's estate created by this Agreement that may be a subject of taxation, or on or against MINOT by reason of its ownership of the fee underlying this Agreement.

NDPS agrees to pay, when due, all sums of money that may become due for, or purporting to be due for, any labor, services, materials, supplies or NDPS's equipment

alleged to have been furnished or to be furnished to or for NDPS, in, upon or about the Premises and which may be secured by any mechanic's, materialmen's or other lien against the Premises and/or NDPS's interest therein. NDPS will cause each such lien to be fully discharged and released, except for any mortgage, lien or encumbrance placed thereon to the Bank or to others as specifically contemplated and otherwise agreed to herein, provided, however, that if NDPS desires to contest any such lien, it may do so, but notwithstanding any such contest, if such lien shall be reduced to final judgment and such judgment or such processes issued for the enforcement thereof is not promptly stayed or if so stayed and such stay thereafter expires, then, and in that event, NDPS shall forthwith pay and discharge said judgment.

12. **Environmental Provisions.** NDPS shall comply with all environmental laws, orders and regulations of federal, state, county and municipal authorities and with any directive issued pursuant to law by any public office, which shall impose any order or duty upon NDPS pertaining to the Premises or NDPS's use of the Premises. NDPS's failure to comply with the provisions of this section shall be an act of default under this Agreement and entitle MINOT to pursue any applicable remedies available to it.

13. **Insurance.**

13.1. **Liability Insurance.** NDPS shall, at all times during the term of this Agreement and at NDPS's sole expense, maintain full and adequate insurance for the Premises and all buildings and improvements of every kind that may be a part of the Premises and all appurtenances to the Premises against loss or damage with loss payable to the Bank, to MINOT and to NDPS as their interests may appear. Such insurance shall be written by companies of recognized financial standing which are well rated by national rating organizations and are legally qualified to issue such policies of insurance in the state of North Dakota. Any loss adjustment shall require the written consent of the Bank, MINOT and NDPS. NDPS shall also maintain, throughout the term of this Agreement, commercial general liability and personal injury liability insurance covering the Premises and its appurtenances in the amount of \$1,000,000.00 per occurrence for injury to or death of any one person and \$5,000,000.00 in the aggregate for injury to or death of any number of persons in one occurrence. Such insurance shall specifically insure NDPS against all liability assumed by NDPS under this Agreement to the extent that such coverage is available, as well as liability imposed by law, and shall insure the Bank, MINOT and NDPS as their interests may appear. NDPS shall deliver the policies, or certificates of the policies, to MINOT upon request.

14. **Indemnification.** MINOT shall not be liable for any loss, injury, death, or damage to persons or property that at any time may be suffered or sustained by NDPS or by any person who may at any time be using or occupying or visiting the Premises or be in, on, or about the Premises, whether the loss, injury, death, or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of NDPS or of any occupant, subtenant, visitor, or user of any portion of the Premises, or shall result from or be caused by any other matter or thing whether of the same kind as, or of a different kind than, the matters or things above set forth. NDPS shall indemnify MINOT against any and all claims, liability, loss, or damage whatever on account of any

such loss, injury, death, or damage. NDPS waives all claims against MINOT for damages to the building and improvements that are now on or later placed or built on the Premises and to the property of NDPS in, on, or about the Premises, and for injuries to persons or property in or about the Premises. The two preceding sentences shall not apply to loss, injury, death, or damage arising by reason of the negligence or misconduct of MINOT, its agents, or employees.

15. Casualty.

15.1. Except as provided in section 15.2 below, if, at any time during the term of this Agreement, the Premises or any other improvements shall be damaged or destroyed by fire or other casualty (including any casualty for which insurance coverage was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, NDPS, at its sole cost and expense, and whether or not the insurance proceeds, if any, shall be sufficient for the purpose, shall proceed with reasonable diligence (excepting delays due to act of God, weather conditions, riot, war, court order, and the like) to repair, alter, restore, replace, or rebuild the same as nearly as possible to its value, condition, and character immediately prior to such damage or destruction.

15.2. Notwithstanding section 15.1 above, should the improvements on the Premises be destroyed by fire or other casualty (including any casualty for which insurance coverage was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, NDPS, if not then in default under this lease agreement, may in its discretion elect to terminate this Agreement by written notice served on MINOT within one hundred twenty (120) days after the occurrence of the destruction. Upon such termination, rent, taxes, assessments, and any other sums payable by NDPS to MINOT under this lease agreement shall be prorated as of the termination date. If any rent, taxes, or assessments shall have been paid in advance, MINOT shall rebate any such payment for the unexpired period for which payment shall have been made.

15.3. Except as otherwise provided in this section 15, all insurance money paid to NDPS on account of damage to or destruction of improvements on the Premises or other improvements shall be held by NDPS in trust and applied exclusively to cost of repairing or rebuilding improvements on the Premises, to the extent that NDPS elects to so repair as provided for herein. Under no circumstances shall MINOT be obligated to make any payment, disbursement, or contribution towards the cost of the work.

16. Eminent Domain.

16.1. **Effect of total condemnation.** If the entire Premises shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Agreement shall terminate and expire as of the date of the taking.

16.2. **Effect of partial condemnation.** If a portion of the Premises shall be so appropriated or taken and the remainder of the Premises is not suitable for operation of the Facility, NDPS shall have the right to terminate this Agreement

as of the date of the taking by giving to MINOT written notice of termination within one hundred twenty (120) days after MINOT has notified NDPS in writing that the Premises has been so appropriated or taken. If there is a partial taking and NDPS does not terminate this Agreement, then this Agreement shall continue in full force and effect as to the part not taken, and the rental to be paid by NDPS during the remainder of the term, reduced proportionately.

16.3. Condemnation award. In the event of the termination of this Agreement by reason of the total or partial taking of the Premises by eminent domain, then in any such condemnation proceedings, MINOT and NDPS shall be free to make claim against the condemning or taking authority for the amount of any damage done to them, respectively, as a result of the condemning or taking. In the event of a partial taking of the Premises and this Agreement is not terminated, NDPS shall have the right to make claim against the condemning or taking authority for the cost of the improvements placed on the Premises by NDPS and located on the Premises at the time of the taking or appropriation.

17. Default.

17.1. NDPS' Right to Purchase. In the event that NDPS shall fail to perform any obligation, other than the obligation to pay rent, as required under this Agreement, MINOT shall provide written notice to NDPS and to the Bank setting forth the details as to NDPS' failure to perform, and NDPS shall have a period of 60 days after receipt of such written notice to cure such failure to perform or, as such notice of failure to perform may relate to Parcel B or Parcel C, to provide written notice to MINOT that NDPS shall purchase Parcel B and Parcel C. To the extent that NDPS shall provide written notice to purchase to MINOT, then and in that event the closing of such purchase shall occur within 90 days after the date of such written notice provided by NDPS to MINOT, with the purchase price for the Parcel B and Parcel C, respectively, and the deed to be conveyed by MINOT to NDPS, as set forth in paragraph 18 below.

17.2. MINOT Right of Reentry. In the event that NDPS shall fail to pay rent when due and the failure shall continue for a period of thirty (30) business days after MINOT shall have given NDPS and the Bank written notice of such failure, or in the event that NDPS shall not cure any other failure to perform or purchase Parcels B and C within the time period described in paragraph 17.1 above, MINOT shall have the immediate right of reentry and may remove all persons and property from the Premises except to the extent that the Bank shall have rights to exercise its rights as a mortgagee or secured lender.

If there is no lien or encumbrance against the Premises or Facility then should MINOT elect to reenter, as provided in this Agreement, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, MINOT may either terminate this Agreement or it may from time to time, without terminating this Agreement, relet the Premises or any part of the Premises for such term or terms (which may be for a term extending beyond the term of this Agreement) and at such rental or rentals and on such other terms and conditions as MINOT in the sole discretion of MINOT may deem advisable

with the right to make alterations and repairs to the Premises. No reentry or taking possession of the Premises by MINOT shall be construed as an election by MINOT to terminate this Agreement unless a written notice of such intention is given to NDPS or unless the termination of this Agreement is decreed by a court of competent jurisdiction. In spite of any reletting without termination, MINOT may, at any subsequent time, elect to terminate this Agreement for such previous breach. Should MINOT at any time terminate this Agreement for any such breach, in addition to any other remedy it may have, MINOT may recover from NDPS all damages, costs and expenses incurred by reason of the breach, including the cost of recovering the Premises, as well as attorney's fees.

18. **Option to Purchase and Right of First Refusal.** During the term of this Agreement, NDPS shall have the option to purchase the portion of the Premises described and set forth as Parcels B and C as attached hereto and discussed herein, at any time pursuant to the provisions of paragraph 17.1 or, if not pursuant to the provisions of paragraph 17.1, at any time on or after February 1, 2011. In this regard, in exercising such option to purchase, NDPS shall be required to purchase both Parcel B and C, for a total purchase price of \$2,068,800.00, with said purchase to mandate in future operations the obligation of NDPS to provide the public equal and uniform use of the Facility services. This obligation, specified in the preceding sentence, is defined as public access only, and shall not include day-to-day management decisions. As to such total purchase price, an amount of \$1,393,770.00 shall be allocated toward the purchase of Parcel B, with the amount of \$675,030.00 to be allocated toward the purchase of Parcel C. To exercise such Option to Purchase Parcels B and C on or after February 1, 2011, NDPS shall provide MINOT 120 days written notice of its intention to purchase such property. At the time of any purchase, NDPS shall, at its cost, cause Parcel A to be surveyed and platted, so that Parcel B may be legally conveyed to NDPS separate and apart from Parcel A. The total purchase price will be paid by NDPS to MINOT in exchange for conveyance of title to the Parcels B and C purchased free and clear of all encumbrances, evidenced by the owner's title insurance policy furnished by MINOT, and the Parcels B and C shall be conveyed to NDPS by Warranty Deed. If the closing of any purchase by NDPS is held in any year after the annual rent payment has been made in advance as provided for herein, the annual rent for such year shall be pro-rated between the parties, and such pro-ration of rent shall be reflected as a deduction in the purchase price to be paid by NDPS. If NDPS shall exercise its option to purchase as described herein, the provisions of this Agreement shall terminate with respect to Parcels B and C, with the provisions of this Agreement, and the rights and obligations of NDPS and MINOT as set forth herein, to then only apply to Parcel A.

If, at any time subsequent to a purchase from MINOT and NDPS's receipt of title to Parcels B and C as provided for above, NDPS shall receive a bona fide offer from a third party to purchase and receive title to such Parcels B and C or, in the alternative, a bona fide offer from a third party to purchase and receive title to Parcels B and C and some or all of the improvements constructed upon Parcels B and C, then NDPS shall give to MINOT notice in writing of the terms of the bona fide offer and MINOT shall have a period of thirty (30) days from the date of such written notice to elect to purchase such property to be purchased by the third party and to execute documents necessary to legally bind MINOT to such purchase under the same terms and conditions as provided

in the bona fide offer to purchase from the third party. If MINOT does not fully exercise its right of first refusal to so purchase as provided for herein within the thirty (30) day period, NDPS may then sell to the third party under the terms of the third party's bona fide offer to purchase.

If MINOT shall not exercise its right of first refusal and NDPS shall complete the sale to the third party as provided for above, NDPS shall have the right to assign its interest in this Agreement as it relates to NDPS's leasing of the Parcel A described herein, and it is agreed that MINOT's failure to exercise its right of first refusal constitutes MINOT's express written consent to such assignment to the third party as may otherwise be required pursuant to paragraph 9 of this Agreement.

19. **Disposition of Improvements Upon Termination of Lease.** On termination of this Agreement for any cause, NDPS or the Bank may, at their expense, remove any buildings or other improvements from the Premises, and in such event shall repair any damage to the Premises caused by any such removal.

20. **Notices.** All notices, certifications, or communications required by this Agreement shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested, or delivered by a recognized overnight delivery service, prepaid, addressed to the respective parties, as follows:

To MINOT:

Minot, ND 58701

To NDPS:

Attn: Gregory A. Johnson
#18 30th Street SW
Minot, ND 58701

To Bank:

The address to which any notice, demand, or other writing may be given or made or sent to any party as above provided may be changed by written notice given by the party as above provided.

21. **Waiver.** The waiver by MINOT of, or the failure of MINOT to take action with respect to, any breach of any term, covenant, or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant, or condition, or subsequent breach of the same, or any other term, covenant, or condition contained in this Agreement. The subsequent acceptance of rent under this Agreement by MINOT shall not be deemed to be a waiver of any preceding breach by NDPS of any term, covenant, or condition of this Agreement, other than the failure of NDPS to pay the particular rental so accepted, regardless of MINOT's knowledge of a preceding breach at the time of acceptance of rent.

22. **Relationship Between Parties.** This Lease shall not be deemed to give rise to a partnership relation between the parties, and neither party shall have authority to obligate the other. Each party agrees that the other party shall in no way be responsible for the debts of or liabilities for accidents caused by the other party.

23. **Remedies Cumulative.** All remedies conferred on MINOT in this Agreement shall be deemed cumulative and no one exclusive of the other, or of any other remedy conferred by law.

24. **Parties Bound.** The covenants and conditions contained in this Agreement shall bind the heirs, successors, executors, administrators, and assigns of all of the parties to the Agreement.

25. **Severability.** If any provision of this Agreement shall be declared invalid or unenforceable, in whole or in part, the remaining terms of this Agreement shall remain valid and enforceable to the fullest extent permitted by the law.

26. **Counterparts.** This Agreement may be executed by the parties in counterparts, which, when taken together, shall constitute an original document; *provided*, however, that this Agreement shall not be binding upon either party unless and until each party has executed a counterpart. A photocopy or facsimile signature shall have the same force and effect as an original signature.

27. **Time of the Essence.** Time is of the essence of this Agreement, and of every covenant, term, condition, and provision of this Agreement.

28. **Captions.** The captions appearing under the section number designations of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

29. **Governing Law.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of North Dakota. All parties agree the proper forum for the resolution of any dispute or claim pursuant to this Agreement shall be the District Court of Ward County, North Dakota and each party hereby irrevocably submits itself to the jurisdiction of the District Court of Ward County, North Dakota.

30. **Cooperation.** The parties agree to execute whatever papers and documents may be necessary to effectuate the terms of this Agreement.

31. **Entire Agreement.** This Agreement shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on either party except to the extent incorporated in this Agreement. This Agreement may be amended at any time only by agreement of the parties evidenced in writing, signed by both parties to this Agreement.

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Dated: Jan. 20, 2009

NORTH DAKOTA PORT SERVICES, INC.

BY Gregory A. Johnson
Gregory A. Johnson, President

STATE OF NORTH DAKOTA)
COUNTY OF WARD)

The foregoing instrument was acknowledged before me on Jan 20th, 2009 by
Gregory A. Johnson on behalf of North Dakota Port Services, Inc.

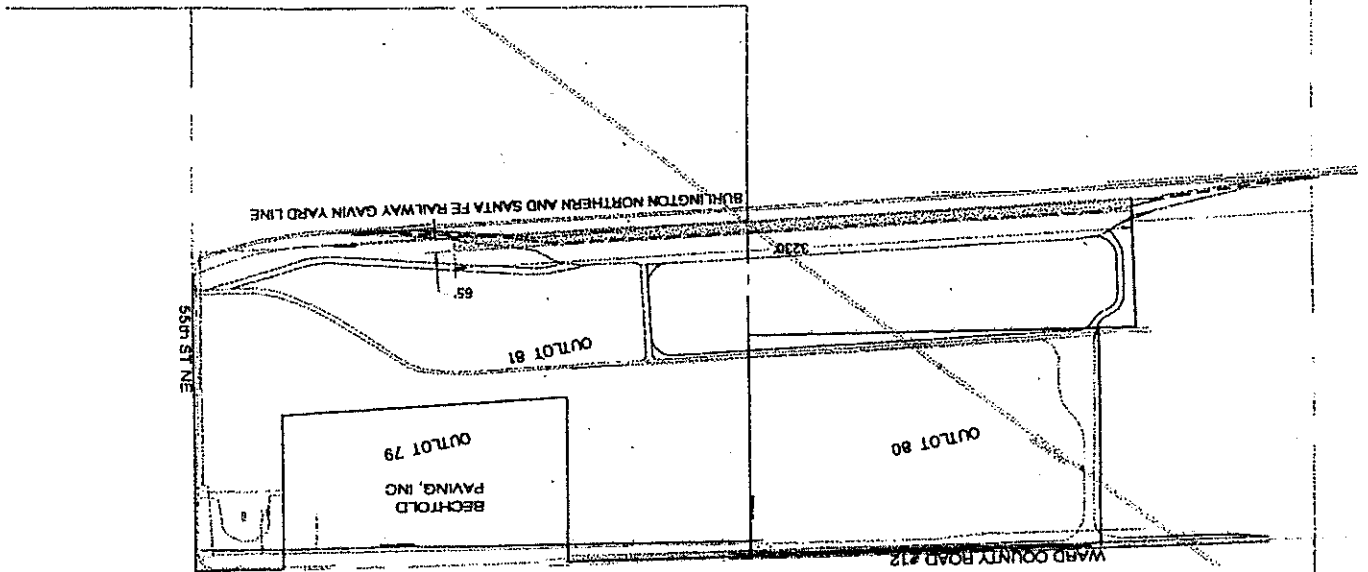
Kevin M Bohl
Notary Public

LANDI R FUNKLE
Notary Public
State of North Dakota
My Commission Expires March 2, 2012

KEVIN M. BOHL
Notary Public
State of North Dakota
My Commission Expires Nov. 19, 2009

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EXHIBIT A - PARCEL A



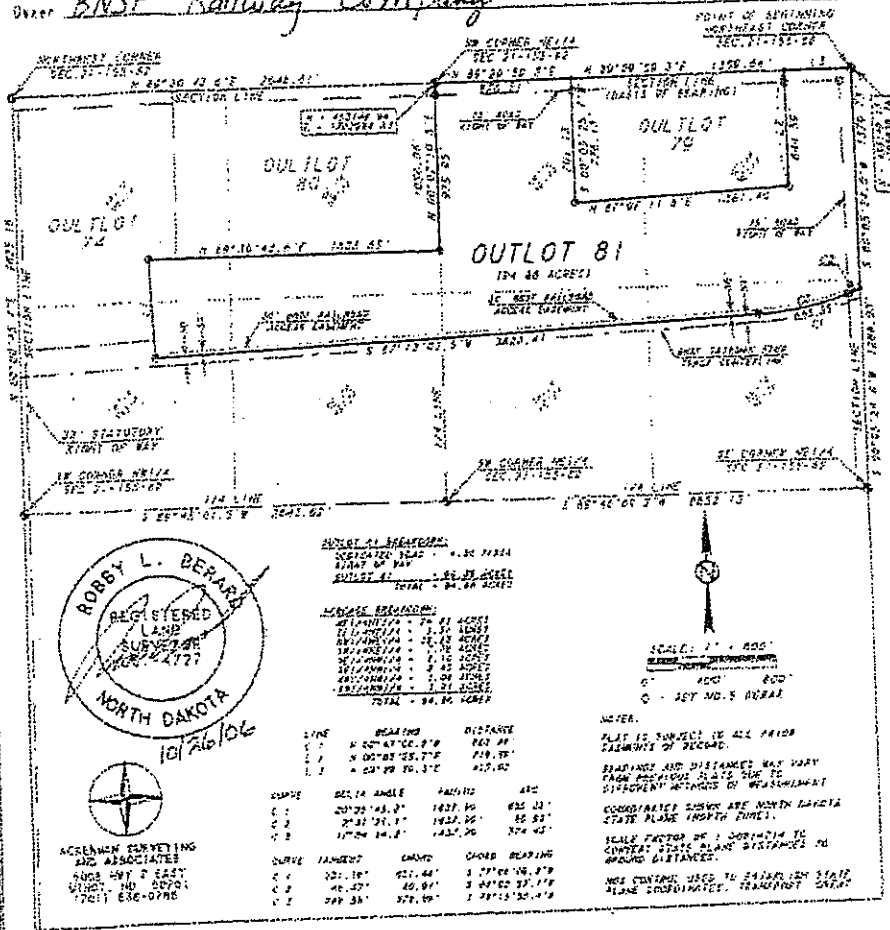
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|---|---|
| <p>INTERMODAL FACILITY - PHASE 1 RIGHT-OF-WAY ACQUISITION MINOT AREA DEVELOPMENT CORPORATION MINOT, NORTH DAKOTA</p> | |
| <p>DATE: 12/15/2009 DRAWN BY: JLD CHECKED BY: JLD SCALE: 1"=500'</p> | <p>STATE OF NORTH DAKOTA DEPARTMENT OF REVENUE AND TAXATION DIVISION OF LAND MANAGEMENT 600 SOUTH STATION AVENUE BISMARCK, ND 58101</p> |
| <p>ACKERMANESTYGLD</p> | |
| <p>DATE: 12/15/2009</p> | |

EXHIBIT B - PARCEL B

NE 212, 2151101
215403
215406
215407

PLAT OF OUTLOT 81

of NE 1/4 & NW 1/4 Section 21, Township 155 North, Range 82 West
Owner *BNSF Railway Company*



Outlot 81, of NE 1/4 & NW 1/4 Section 21, Township 155 North, Range 82 West
Described as follows:

Beginning at the Northeast corner of Section 21, Township 155 North, Range 82 West, Ward County, North Dakota; Thence S 00°05'24.0"W, along the East boundary of Section 21, a distance of 1379.73 feet; Thence along a curve to the right a distance of 655.35 feet, said curve having a radius 1837.98 feet and a chord of 651.88 feet which bears S 77°00'09.8"W; Thence S 67°13'02.5"W, a distance of 3823.41 feet; Thence N 02°47'09.2"E, a distance of 623.83 feet; Thence N 89°30'43.6"E, a distance of 1833.65 feet; Thence N 00°07'10.5"E, a distance of 1050.06 feet to the North boundary of said Section 21; Thence N 69°29'59.3"E, along the North boundary of Section 21, a distance of 876.21 feet; Thence S 00°06'25.7"W, a distance of 776.13 feet; Thence N 87°07'11.5"E, a distance of 1367.46 feet; Thence N 00°05'25.7"E, a distance of 719.59 feet to the North boundary of said Section 21; Thence N 69°29'59.3"E, along the North boundary of Section 21, a distance of 415.02 feet to the point of beginning. Tract contains 94.86 Acres.

THE UNDERSIGNED owner of the within described property, in accordance with the provisions of Section 57-02-30 of the North Dakota Century Code, and upon demand of the County Auditor of Ward County, North Dakota, has caused to be made the within and foregoing plat of said land, with the lots or therein described, hereby donate and dedicate all the streets and alleys herein shown to the public for public use.

IN TESTIMONY WHEREOF the said owner has hereunto set his hand and seal this 30th day of October 2006.

Signed in presence of BNSF Railway Company (Seal)

James J. O'Neil (Seal)

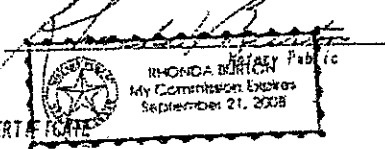
James J. O'Neil, V.P. & CRED. (Seal)

BNSF RAILWAY COMPANY
STATE OF NORTH DAKOTA
County of WARD

On this 30th day of October in the year 2006, before me, a Notary Public in and for said County and State, personally appeared James J. O'Neil, Assistant Vice President, Corporate

Real Estate Development of BNSF RAILWAY COMPANY
known to me to be the person who described is, and who executed the foregoing instrument and acknowledged that he executed the same.

My Commission Expires: 9/21/2008



SURVEYOR'S CERTIFICATE

I, ROBBY L. BEARD Registered Land Surveyor, do hereby certify that at the request of

WADC I made the within and foregoing plat and description of the land as herein described, and that the lot, its location, area and location, as indicated on said plat and contained in said description, are true and correct.

ROBBY L. BEARD Registered Land Surveyor #4781

Subscribed and sworn to before me this 26 day of October, 2006.

My Commission Expires:

CHAD B. ATTENTION
Notary Public, State of North Dakota
My Commission Expires Nov. 11, 2008

Approved November 7 2006
Wanda D. Whitely

Approved _____ 20

Taxes and special assessments paid and transfer accepted this 30 day of November 2006
Lance B. Deputy
Ward County Auditor

2861757
Page: 2 of 2
11/08/2006 02:50A
WARD COUNTY RECORD OCL 15 No Ward County, ND
RECORDER'S OFFICE, WARD COUNTY, ND 58001
I certify that this instrument was filed for record this date
Shelia A. Grier, County Recorder
Shelia A. Grier, County Recorder

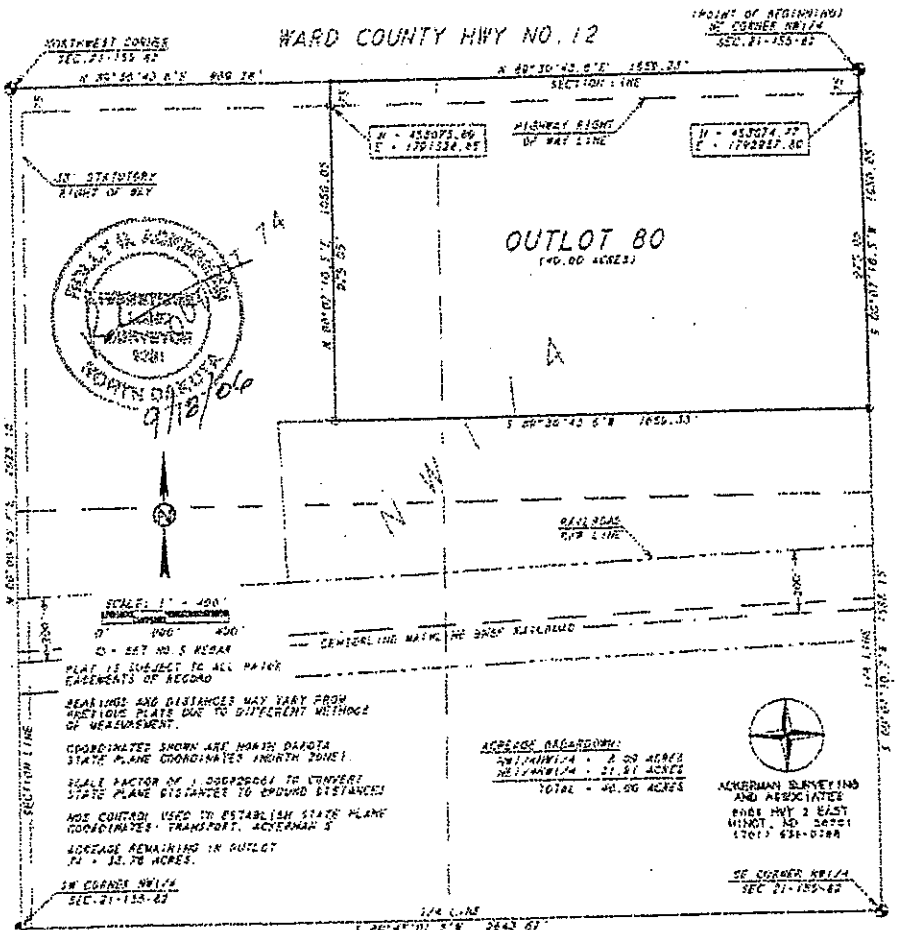


EXHIBIT C - PARCEL C

NE 210099000740

PLAT OF OUTLOT 80

of A PORTION OF OUTLOT 74 Section 21, Township 155 North, Range 62 West
 Owner Gravel Products, Inc.



Outlot 80, of A PORTION OF OUTLOT 74 Section 21 Township 155 North, Range 62 West
 Described as follows:

Beginning at the Northeast corner of the NW 1/4 of Section 21, Township 155 North, Range 62 West, Ward County, North Dakota; Thence S 00°07'10.5"W, along the East boundary of the NW 1/4 of Section 21, a distance of 1050.05 feet; Thence S 89°30'43.6"W, a distance of 1659.33 feet; Thence N 00°07'10.5"E, a distance of 1050.05 feet to the North boundary of said Section 21; Thence N 89°30'43.6"E, along the North boundary of Section 21, a distance of 1659.33 feet to the point of beginning. Tract contains 40.00 Acres.

THE UNDERSIGNED, owner of the within described property, in accordance with the provision of Section 37-02-29 of the North Dakota Century Code, and upon demand of the County Auditor of Ward County, North Dakota, caused to be made the within and foregoing plat of said land, with the lots as therein described, hereby donate and dedicate all the streets and alleys between same to the public for public use.

IN TESTIMONY WHEREOF the said owner has hereunto set his hand and seal this 18th day of September 2006.

Signed in presence of _____ (Seal)
_____ (Seal)
_____ (Seal)

STATE OF NORTH DAKOTA } ss.
County of Ward

On this 18th day of September in the year 2006, before me, a Notary Public in and for said County and State, personally appeared Gravel Products, Inc. President

Joel Schriock
knows to be the person who is described in, and who executed the foregoing instrument and acknowledged that he executed the same.

My Commission Expires: _____
PERCY SCHRIOCK
Notary Public Notary Public
State of North Dakota
My Commission Expires May 4, 2011

SURVEYOR'S CERTIFICATE

I, ROLLY B. ACKERMAN, Registered Land Surveyor, do hereby certify that at the request of GRAVEL PRODUCTS I made the within and foregoing plat and description of the land as herein described, and that the lots, distances, area and location, as indicated on said plat and contained in said description, are true and correct.

[Signature]
ROLLY B. ACKERMAN Registered Land Surveyor #2391

Subscribed and sworn to before me this 18th day of September 2006
My Commission Expires: _____

ROBBY L. BEFARD
Notary Public, State of North Dakota
My Commission Expires Dec. 19, 2007

[Signature]
Notary Public
STATE OF NORTH DAKOTA

Approved [Signature] 2006
Ward County Auditor

Approved _____ 20____

Taxes and other charges noted paid and receipt accepted this 18th day of September 2006
[Signature]
Ward County Auditor

2860376
Page: 2 of 2
09/28/2006 11:39A
WARD COUNTY RECORD 07L 12.28 Ward County, ND

RECORDER'S OFFICE, WARD COUNTY, ND 58125/2006 11-39AM
I certify that this instrument was filed for record this date.
Shirley Dejen, County Recorder
[Signature] 2860376



EXHIBIT D

RENT SCHEDULE

| PAYMENT DATE | <u>PARCELA</u> | <u>PARCEL B</u> | <u>PARCEL C</u> |
|--------------|----------------|-----------------|-----------------|
| 02/01/2009 | \$500.00 | \$ 1.00 | \$ 1.00 |
| 02/01/2010 | \$500.00 | \$ 1.00 | \$ 1.00 |
| 02/01/2011 | \$500.00 | \$40,000.00 | \$10,000.00 |
| 02/01/2012 | \$500.00 | \$41,000.00 | \$11,000.00 |
| 02/01/2013 | \$500.00 | \$42,000.00 | \$12,000.00 |
| 02/01/2014 | \$500.00 | \$43,000.00 | \$13,000.00 |
| 02/01/2015 | \$500.00 | \$44,000.00 | \$14,000.00 |
| 02/01/2016 | \$500.00 | \$45,000.00 | \$15,000.00 |
| 02/01/2017 | \$500.00 | \$46,000.00 | \$16,000.00 |
| 02/01/2018 | \$500.00 | \$47,000.00 | \$17,000.00 |
| 02/01/2019 | \$500.00 | \$48,000.00 | \$18,000.00 |
| 02/01/2020 | \$500.00 | \$49,000.00 | \$19,000.00 |
| 02/01/2021 | \$500.00 | \$50,000.00 | \$20,000.00 |
| 02/01/2022 | \$500.00 | \$51,000.00 | \$21,000.00 |
| 02/01/2023 | \$500.00 | \$52,000.00 | \$22,000.00 |
| 02/01/2024 | \$500.00 | \$53,000.00 | \$23,000.00 |
| 02/01/2025 | \$500.00 | \$54,000.00 | \$24,000.00 |
| 02/01/2026 | \$500.00 | \$55,000.00 | \$25,000.00 |
| 02/01/2027 | \$500.00 | \$56,000.00 | \$26,000.00 |
| 02/01/2028 | \$500.00 | \$57,000.00 | \$27,000.00 |
| 02/01/2029 | \$500.00 | \$58,000.00 | \$28,000.00 |
| 02/01/2030 | \$500.00 | \$59,000.00 | \$29,000.00 |
| 02/01/2031 | \$500.00 | \$60,000.00 | \$30,000.00 |
| 02/01/2032 | \$500.00 | \$61,000.00 | \$31,000.00 |
| 02/01/2033 | \$500.00 | \$62,000.00 | \$32,000.00 |
| 02/01/2034 | \$500.00 | \$63,000.00 | \$33,000.00 |
| 02/01/2035 | \$500.00 | \$64,000.00 | \$34,000.00 |
| 02/01/2036 | \$500.00 | \$65,000.00 | \$35,000.00 |
| 02/01/2037 | \$500.00 | \$66,000.00 | \$36,000.00 |
| 02/01/2038 | \$500.00 | \$67,000.00 | \$37,000.00 |