

BOARD OF COUNTY COMMISSIONERS FOR  
ADAMS COUNTY, STATE OF COLORADO

RESOLUTION CONVEYING A DRAINAGE TRACT TO THE BNSF RAILWAY COMPANY  
FOR DRAINAGE IMPROVEMENTS

**Resolution 2014-117**

WHEREAS, Adams County owns a portion of drainage Tract A, Irondale Industrial District, Filing No. 3 Subdivision, being located in the Southwest Quarter of Section 21, Township 2 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Adams County, Colorado, hereinafter the "Property"; and,

WHEREAS, The Property has been annexed by the City of Commerce City; and,

WHEREAS, it is the policy of the City of Commerce City County not to be responsible for local development drainage infrastructure; and,

WHEREAS, Adams County no longer has jurisdiction or control of this area for drainage responsibilities; and,

WHEREAS, BNSF Railway Company (BNSF) is an adjacent property owner that is expanding its operation; and,

WHEREAS, BNSF, as part of its expansion, needs to increase its drainage requirements; and,

WHEREAS, The Property is for drainage purposes and is the logical area for this expansion; and,

WHEREAS, Conveying of the Property will eliminate any obligation the County may have with the continuing ownership of this tract of land.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners, County of Adams, State of Colorado that the Quitclaim Deed to BNSF Railway Company, a copy of which is attached hereto and incorporated herein by this reference be granted to BNSF Railway Company.

BE IT FURTHER RESOLVED, by the Board of County Commissioners, County of Adams, State of Colorado, that the Chairman of the Board of County Commissioners is hereby authorized to execute said Quitclaim Deed on behalf of Adams County, and said action is deemed to be in the best interest of Adams County and its inhabitants.

BE IT FURTHER RESOLVED, by the Board of County Commissioners, County of Adams, State of Colorado, that John Wolken, the Adams County Right-of-way Supervisor, is authorized to execute any non-contractual closing documents on behalf of Adams County.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Henry \_\_\_\_\_ Aye  
Tedesco \_\_\_\_\_ Aye  
Hansen \_\_\_\_\_ Aye

Commissioners

STATE OF COLORADO     )  
County of Adams         )

I, Karen Long, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 10<sup>th</sup> day of March, A.D. 2014.

County Clerk and ex-officio Clerk of the Board of County Commissioners  
Karen Long:



By:



Deputy

NO DOC FEE REQUIRED

**QUITCLAIM DEED**

**THIS DEED**, Made this 10<sup>th</sup> day of March, 2014, between **THE COUNTY OF ADAMS, State of Colorado**, a body politic whose legal address is 4430 South Adams County Parkway, Brighton, Colorado 80601, hereinafter called "Grantor", and **BNSF RAILWAY COMPANY**, a Delaware corporation, (formerly known as The Burlington Northern and Santa Fe Railway Company and formerly known as Burlington Northern Railroad Company) (formerly known as The Burlington Northern and Santa Fe Railway Company and successor by merger to The Atchison, Topeka and Santa Fe Railway Company), of 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantee".

**WITNESSETH:** That the said Grantor, for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, to the said Grantor in hand paid by the said Grantee, the receipt whereof is hereby confessed and acknowledged, hath remised, released, sold, conveyed and quitclaimed, and by these presents doth remise, release, sell, convey and quitclaim, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, unto the said Grantee, its successors and assigns, forever, all the right, title, interest, claim and demand, if any, which the said Grantor hath in and to the following described property, subject, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, located in Adams County, Colorado, hereinafter called "Property", being more particularly described on EXHIBIT "A" attached hereto and by this reference made a part hereof.

Grantee covenants and agrees as follows:

- (a) The Property is designated on the Irondale Industrial District, Filing No. 3 subdivision plat as Drainage Tract A and as such shall only be used for drainage purposes in accordance with current and future jurisdictional approved drainage plans.
- (b) Grantee's interest shall be subject to the rights and interests of Grantor, Grantor's licensees, permittees and other third parties in and to all existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by the Grantor, Grantor's licensees, permittees or other third parties and whether or not of public record.
- (c) Grantee's interest, if any, shall further be subject to, and Grantor does hereby specifically reserve, all coal, oil, gas, casing-head gas and all ores and minerals of every kind and nature including sand and gravel underlying the surface of the Property, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all

such products in any manner which will not damage structures on the surface of the Property, together with the right of access at all times to exercise said rights.

(d) Any improvements constructed or altered on the Property after the date Grantor quitclaims its interest to Grantee shall be constructed or altered in such a manner to provide adequate drainage of water in accordance with approved drainage plans and reports of the jurisdictional authority(ies).

(e) Grantee shall at its sole cost and expense construct upon the Property and maintain, repair and replace in good working order such storm sewer lines, ditches, culverts and/or retention ponds (collectively, "**Drainage Facilities**") as may be required by any and all the jurisdictional authorities having authority to regulate local and regional drainage in accordance with approved drainage plans and reports. If such Drainage Facilities are not so constructed, maintained, repaired or replaced, the jurisdictional authority(ies) shall have the right to enter upon the Property to construct, maintain or repair such Drainage Facilities, and the cost thereof shall constitute a lien upon the Property until Grantee reimburses such costs to or the jurisdictional authority(ies).

(f) **GRANTOR RESERVES UNTO ITSELF, ITS SUCCESSORS AND ASSIGNS, IN PERPETUITY, ANY AND ALL NON-RIPARIAN WATER AND WATER RIGHTS ASSOCIATED WITH THE PROPERTY, INCLUDING BUT NOT LIMITED TO, ANY AND ALL DITCHES AND DITCH RIGHTS, WATER WELLS, SPRINGS, DIVERSION WORKS, WATER LINES, PIPES, PUMPS, MOTORS, GENERATORS, ELECTRICAL GEAR AND WIRES, AND ANY RELATED EQUIPMENT AND IMPROVEMENTS WHATSOEVER, HISTORICALLY USED UPON OR ASSOCIATED WITH THE PROPERTY, INCLUDING ALL MUTUAL WATER COMPANY SHARES, DITCH SHARES, WATER SERVICE AGREEMENTS AND CONTRACTS, AND WATER CLAIMS, AND INCLUDING BUT NOT LIMITED TO, ALL UNAPPROPRIATED, UNDEVELOPED OR UNUSED WATER AND WATER RIGHTS ASSOCIATED WITH OR UNDERLYING THE PROPERTY, AND THE EXCLUSIVE RIGHT TO DEVELOP AND TAKE WATER FROM THE PROPERTY BY ANY MEANS, AND INCLUDING ALL APPROPRIATIONS, PRIORITIES, PERMITS AND CERTIFICATES WHICH ARE APPURTENANT TO, ASSOCIATED WITH, USED UPON, FLOWING OVER, UNDER, OR LYING ON, IN, OR UNDER THE PROPERTY, TOGETHER WITH THE PERPETUAL RIGHT TO CONSTRUCT, INSTALL, OPERATE, REPLACE, REWORK, RECONSTRUCT, REHABILITATE AND MAINTAIN ANY AND ALL WATER DIVERSION, PRODUCTION, AND TRANSPORTATION STRUCTURES, EQUIPMENT, IMPROVEMENTS AND PIPING, INCLUDING BUT NOT LIMITED TO, HEADGATES, DIVERSION STRUCTURES, WATER WELLS, WATER WELL**

**HOUSES, WATER WELL CASING, WATER WELL SCREENS, SPRING COLLECTION GALLERIES, SUMPS, WATER PIPES, AND RELATED ELECTRICAL GEAR AND WIRES, AND TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN WATER PUMPS AND HYDROELECTRIC GENERATION EQUIPMENT AND ALL EQUIPMENT NECESSARY, CONVENIENT OR RELATED TO THE PRODUCTION, TRANSPORTATION OR DELIVERY OF WATER FROM, ON, UNDER OR ACROSS THE PROPERTY, OR ANY PORTION THEREOF.**

(g) Grantee acknowledges and affirms that Grantor may not hold fee simple title to the Property, that Grantor's interest in all or part of the Property, if any, may rise only to the level of an easement Grantee is willing to accept Grantor's interest in the Property, if any, on this basis and expressly releases Grantor, its successors and assigns from any claims that Grantee or its successors may have as a result thereof. In light o' Grantor's disclosure that it may not hold a fee interest in all or part of the Property, Grantee agrees to indemnify, defend and hold Grantor harmless from any suit or claim for damages, punitive or otherwise, expenses, 'Attorneys' fees, or civil penalties that may be imposed on Grantor as the result of any person or entity claiming an interest in any portion of the Property or claiming that Grantor did not have the right to transfer all or part of the Property to Grantee.

(h) **GRANTEE IS ACQUIRING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY,** including, but not limited to the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the 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 Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the leases, easements, permits, orders, licenses, or other agreements, affecting the Property (collectively, the "**Condition of the Property**"). Grantee represents and warrants to Grantor that Grantee has not relied and will not rely on, and Grantor is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, Property information packages distributed with respect to the Property) made or furnished by Grantor, the manager of the Property, or any real

estate broker or agent representing or purporting to represent Grantor, to whomever made or given, directly or indirectly, orally or in writing. Grantee assumes the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Grantee's inspection and indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor and Grantor's officers, directors, shareholders, employees and agents (collectively, "**Indemnitees**") from any and all present or future claims or demands, and any and all damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort or asserting a constitutional claim) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial, restoration or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) losses for or related to injury or death of any person, (d) losses for or related to injury or damage to animal or plant life, natural resources or the environment, and (e) losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Property. The term "**Environmental Law**" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law relating in any way to human health, occupational safety, natural resources, plant or animal life or the environment, including without limitation, principles of common law and equity, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. The term "**Hazardous Substance**" 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.

The covenants and agreements set forth in paragraphs (a) through (h), above, shall be binding upon Grantee and its heirs, successors and assigns, and shall be covenants running with the land benefiting Grantor and its heirs, successors and assigns.

TO HAVE AND TO HOLD the Property unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed on the day and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
ADAMS COUNTY, COLORADO

KAREN LONG,  
CLERK AND RECORDER



Keisha Hirsch  
By: Deputy Clerk

[Signature] 3.10.14  
Chairman Date

Approved as to form:  
Adams County Attorney's Office

[Signature]

STATE OF COLORADO )  
                                  )ss.  
COUNTY OF Adams )

The foregoing Quit Claim Deed was acknowledged before me this 10th day of March, 2014 by Charles "Chaz" Tedesco as Chairman, attested by Keisha Hirsch as Deputy Clerk and ex-officio Clerk of the of the Board of County Commissioners of the County of Adams, State of Colorado, a body politic.

WITNESS my hand and official seal.

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

ATTEST:

BNSF RAILWAY COMPANY.  
a Delaware corporation

By: Tammy K. Herndon  
Tammy K. Herndon

By: [Signature]  
Charles E. Keltner  
Its: Senior Manager, Real Estate



## EXHIBIT "A"

### LEGAL DESCRIPTION

A parcel of land being described in the Resolution recorded on June 30, 1998 at Reception No. C0413716 of the records in the Office of the Clerk and Recorder of Adams County, Colorado, said parcel also being a portion of Drainage Tract "A" in the Irondale Industrial District, Filing No. 3, a Subdivision recorded on November 20, 1981 in File No. 14, Map No. 806 of the records in the Office of the Clerk and Recorder of said Adams County, being more particularly described as follows:

Commencing at the Southwest Corner of Section 21, Township 2 South, Range 67 West of the 6<sup>th</sup> Principal Meridian of said Adams County, thence N90°00'00"E along the southerly line of the Southwest Quarter of said Section 21, a distance of 732.36 feet; thence N00°00'00"E a distance of 75.00 feet to the Southwest Corner of said Drainage Tract "A" and the Point of Beginning:

Thence along the Northwesterly and Northerly lines of said Drainage Tract "A" the following seven (7) courses and distances:

Thence N31°04'32"E a distance of 2058.99 feet;

Thence S77°40'39"E a distance of 100.10 feet;

Thence N88°20'44"E a distance of 168.09 feet;

Thence N75°24'23"E a distance of 124.16 feet;

Thence N62°46'13"E a distance of 184.27 feet;

Thence N47°49'27"E a distance of 324.01 feet;

Thence N60°19'19"E a distance of 198.56 feet;

Thence S00°00'00"W along the northerly prolongation of the East line of Drainage Tract "C" of said Irondale Industrial District, Filing No. 3 and non-tangent with the following described curve a distance of 236.09 feet;

Thence along the Southeasterly, Easterly and Southerly lines of said Drainage Tract "A" the following seven (7) courses and distances:



Thence along the arc of a curve to the left, having a central angle of  $08^{\circ}34'10''$ , a radius of 764.49 feet, a chord bearing of  $S75^{\circ}17'06''W$  a distance of 114.23 feet, and an arc distance of 114.34 feet;

Thence  $S71^{\circ}00'00''W$  tangent with the last and following described curve a distance of 701.40 feet;

Thence along the arc of a curve to the left, having a central angle of  $39^{\circ}55'28''$ , a radius of 764.49 feet, a chord bearing  $S51^{\circ}02'16''W$  a distance of 521.99 feet, and an arc distance of 532.71 feet;

Thence  $S31^{\circ}04'32''W$  tangent with the last and following described curves a distance of 692.67 feet;

Thence along the arc of a curve to the left, having a central angle of  $31^{\circ}04'32''$ , a radius of 764.49 feet, a chord bearing  $S15^{\circ}32'16''W$  a distance of 409.57 feet, and an arc distance of 414.64 feet;

Thence  $S00^{\circ}00'00''W$  tangent with the last described curve a distance 368.88 feet;

Thence  $S90^{\circ}00'00''W$  a distance of 378.43 feet to the POINT OF BEGINNING.

Containing: 6.058 acres, more or less

AFFIDAVIT

**RE: Commitment No. 40766** State of Colorado, County of Adams

Real Property and Improvements located in Irondale Industrial District Filing No. 3 in the City of Commerce City, County of Adams, State of Colorado, and more particularly described in the legal description attached as Exhibit A (hereinafter "Property") and made a part hereof.

Whereas, Assured Title Agency, LLC, (hereinafter "Company") and First American Title Insurance Company (hereinafter "Underwriter") has issued its Commitment No. 40766 covering said Property, and the undersigned owner/seller of the real estate and improvements located on the said Property, being first duly sworn on oath, does hereby make, to the best of its knowledge, the following representations to Underwriter:

Adams County has not contracted for work on the Property. Adams County is not aware of any claim by any person to have performed work on the Property at the request of Adams County, and Adams County has not received any notices of liens on the Property filed by any person alleging to have performed work on the Property at the request of Adams County, nor is Adams County aware of any lawsuit filed by any person claiming to have performed work on the Property at the request of Adams County.

\_\_\_\_\_  
By: John Wolken, Right-of-Way Supervisor  
Adams County, Colorado

State of Colorado )  
                          ) ss:  
County of Adams)

The foregoing instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2014, by John Wolken, Right-of-Way Supervisor for Adams County, Colorado. Witness my hand and official Seal.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

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Thence S71°00'00"W tangent with the last and following described curve a distance of 701.40 feet;

Thence along the arc of a curve to the left, having a central angle of 39°55'28", a radius of 764.49 feet, a chord bearing S51°02'16"W a distance of 521.99 feet, and an arc distance of 532.71 feet;

Thence S31°04'32"W tangent with the last and following described curves a distance of 692.67 feet;

Thence along the arc of a curve to the left, having a central angle of 31°04'32", a radius of 764.49 feet, a chord bearing S15°32'16"W a distance of 409.57 feet, and an arc distance of 414.64 feet;

Thence S00°00'00"W tangent with the last described curve a distance 368.88 feet;

Thence S90°00'00"W a distance of 378.43 feet to the POINT OF BEGINNING.

Containing: 6.058 acres, more or less