

UNION PACIFIC RAILROAD
1400 Douglas Street, Stop 1580
Omaha, Nebraska 68179

P 402 544 4735
jmberman@up.com

Jeremy M. Berman Assistant General Attorney

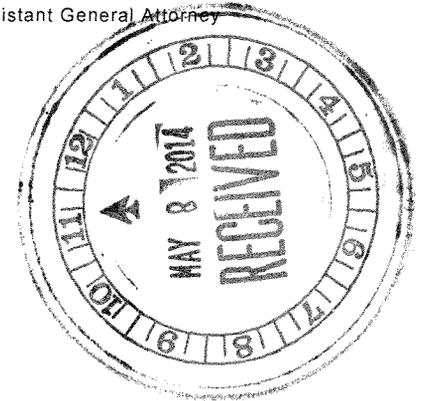
236013

May 7, 2014

Via UPS Overnight

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20024

ENTERED
Office of Proceedings
May 8, 2014
Part of
Public Record



Re: STB Docket No. FD 35827; Union Pacific Railroad Company – Temporary Trackage Rights Exemption – Dallas Area Rapid Transit and Fort Worth Transportation Authority

Dear Ms. Brown

Enclosed for filing in the above proceeding are the following:

1. An original and ten (10) copies of a Verified Notice of Exemption and Caption Summary (Exhibit 3 to the Notice) pursuant to the trackage rights class exemption, 49 C.F.R. § 1180.2(d)(8)
2. A payment form in the amount of \$1,200.00 for the filing fee required by 49 C.F.R. § 1002.2(f).

Please indicate receipt of the enclosed materials by returning a stamped copy of this letter in the self-addressed, stamped envelope enclosed for this purpose.

Very truly yours,



Jeremy M. Berman

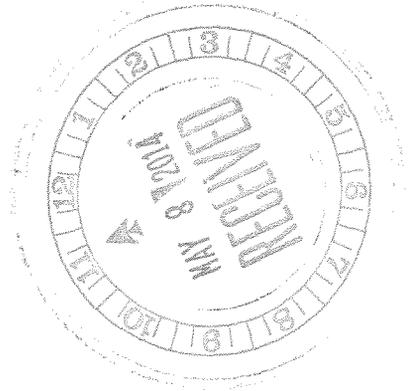
FILED
May 8, 2014
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
May 8, 2014
SURFACE
TRANSPORTATION BOARD



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 35827



**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION --
DALLAS AREA RAPID TRANSIT AND
FORT WORTH TRANSPORTATION AUTHORITY**

VERIFIED NOTICE OF EXEMPTION

UNION PACIFIC RAILROAD COMPANY

Jeremy M. Berman
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-4735
(402) 501-3773 (FAX)
jmberman@up.com

Dated: May 7, 2014
Filed: May 8, 2014

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 35827

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRackage RIGHTS EXEMPTION --
DALLAS AREA RAPID TRANSIT AND
FORT WORTH TRANSPORTATION AUTHORITY**

VERIFIED NOTICE OF EXEMPTION

Union Pacific Railroad Company (“UP”) submits this Verified Notice of Exemption, pursuant to 49 C.F.R. § 1180.2(d)(8) for exemption of temporary overhead trackage rights over approximately 1.4 miles between Milepost 610.5 (the T&P Station) and Milepost 611.9 (the 6th Street Junction) on the TRE Rail Corridor in Fort Worth, Texas.¹

Under 49 C.F.R. § 1180.2(d)(8), the acquisition of temporary trackage rights by a rail carrier over lines owned or operated by any other rail carrier or carriers is exempt if the rights are (i) based on written agreements, (ii) not filed or sought in responsive applications in rail consolidation proceedings, (iii) for overhead operations only, and (iv) scheduled to expire on a specific date not to exceed one year from the effective date of the exemption. The trackage rights covered by this Notice: (i) are based on a written agreement, (ii) are not filed or sought a responsive application in a rail consolidation proceeding, (iii) are for overheard operations only,

¹ Dallas Area Rapid Transit (“DART”) and the Fort Worth Transportation Authority (“the T”) are each a regional transportation authority established under Chapter 452 of the Texas Transportation Code. DART and the T are collectively referred to as Trinity Railway Express (“TRE”).

and (iv) will expire on December 30, 2014, a date that does not exceed one year from the effective date of the exemption. As such, the § 1180.2(d)(8) exemption is applicable.

In accordance with the requirements of 49 C.F.R. § 1180.4(g), UP submits the following information:

§ 1180.6(a)(1) Description of the Proposed Transaction

The transaction covered by this Notice is the acquisition of temporary overhead trackage rights by UP over approximately 1.4 miles of TRE's trackage extending between the T&P Station (TRE Milepost 610.5) and the 6th Street Junction (TRE Milepost 611.9) in Fort Worth, Texas. These temporary trackage rights are granted for the purpose of allowing UP to continue providing rail service between adjacent UP lines during outages on connecting UP lines caused by construction of improvements to Tower 55.

§ 1180.6(a)(1)(i) Summary of the Proposed Transaction

See answer to § 1180.6(a)(1), above.

§ 1180.6(a)(1)(i) Name, Business Address and Telephone Number of Applicant, and the Name of Counsel to whom Questions can be Addressed

The name and business address of the applicant is:

Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179

Questions regarding this transaction are to be addressed to the representative named below:

Jeremy Berman
1400 Douglas Street
Union Pacific Railroad Company
STOP 1580
Omaha, NE 68179

(402) 544-4735
(402) 501-3773 (FAX)
jmberman@up.com

§ 1180.6(a)(1)(ii) Consummation Date

The agreement will be consummated sometime after the effective date of this Notice of Exemption.

§ 1180.6(a)(1)(iii) Purpose of the Transaction

The temporary overhead trackage rights covered by this Notice will allow UP to continue providing rail service between adjacent UP lines during outages on connecting UP lines caused by construction of improvements to Tower 55.

§ 1180.6(a)(5) States in which the Applicant Operates

UP operates in the states of Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

§ 1180.6(a)(6) Map (Exhibit 1)

A map is provided as Exhibit 1.

§ 1180.6(a)(7)(ii) Agreement (Exhibit 2)

A redacted public copy of the executed temporary trackage rights agreement is attached as Exhibit 2. An unredacted copy of the agreement is being filed separately along with a motion for protective order.

§ 1180.4(g)(1)(i) Labor Protection

The applicable labor protection conditions are those imposed in Norfolk and Western Ry. Co. -- Trackage Rights -- BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.

-- Lease and Operate, 360 I.C.C. 653 (1980). The applicable labor protective conditions for the discontinuance component of the temporary trackage rights are those set forth in Oregon Short Line R.R. Co. -- Abandonment – Goshen, 360 I.C.C. 91 (1979).

§ 1180.4(g)(2)(i) Caption Summary (Exhibit 3)

A caption summary of this transaction suitable for publication in the Federal Register is attached as Exhibit 3.

§ 1180.4(g)(3) Environmental Documentation

Environmental documentation is not required for this transaction. See 49 C.F.R. § 1105.6(c)(4) (no environmental documentation required for common use of rail terminals and trackage rights). UP's proposed temporary trackage rights acquisition also is exempt from historic preservation reporting requirements. See 49 C.F.R. § 1105.8(b)(3).

Respectfully submitted,

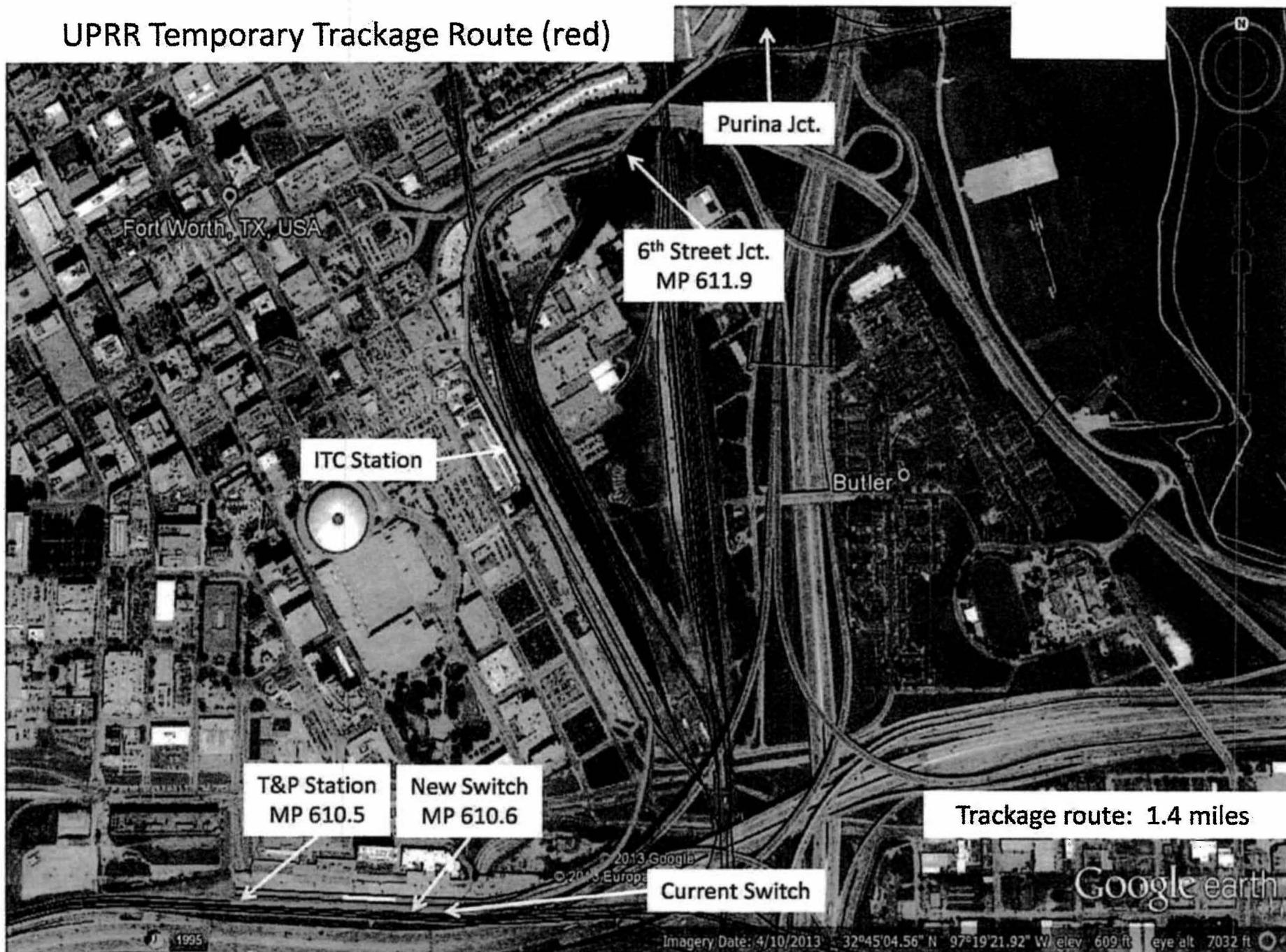
UNION PACIFIC RAILROAD COMPANY

By:



Jeremy M. Berman
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-4735
(402) 501-3773 (FAX)
jmberman@up.com

UPRR Temporary Trackage Route (red)



TEMPORARY JOINT USE AGREEMENT
BETWEEN
DALLAS AREA RAPID TRANSIT
AND
FORT WORTH TRANSPORTATION AUTHORITY
AND
UNION PACIFIC RAILROAD
RELATING TO TEMPORARY ACCESS AND USE OF TRE TRACK IN
FORT WORTH BETWEEN T&P STATION AND 6TH STREET JUNCTION

This Temporary Joint Use Agreement (“Agreement”) is entered into and effective on this 2nd day of May, 2014 by and between Dallas Area Rapid Transit (“DART”) and the Fort Worth Transportation Authority (“the T”), both regional transportation authorities established under Chapter 452 of the Texas Transportation Code, collectively referred to as Trinity Railway Express (“TRE”), and Union Pacific Railroad Company (“Union Pacific” or “UPRR”).

WHEREAS, Union Pacific desires to have temporary use of approximately 1.4 miles of the TRE rail corridor, including necessary right-of-way and appurtenances, signals, communications and facilities of the TRE required for UPRR operation, between the T&P Station, at approximately Milepost 610.5 and the 6th Street Junction at approximately Milepost 611.9 (the “Temporary Joint Trackage”), in Fort Worth, Texas, for freight purposes during construction of at-grade improvements to Tower 55, at locations described in Exhibits A and A-1 attached hereto and incorporated herein for all purposes; and

WHEREAS, the Temporary Joint Trackage is currently used exclusively for passenger train use and such passenger use shall continue to be the highest priority use; and

WHEREAS, Union Pacific has agreed to perform, at its expense, construction of a necessary connection to and any modifications necessary for the use of the Temporary Joint Trackage; and

WHEREAS, the Parties do not intend to impact any existing agreements, including without limitation the Joint Use Agreement between the Parties, dated June 25, 2004, regarding UPRR’s use of TRE trackage from Milepost 643.9 in Dallas to and including Milepost 612.4; and

WHEREAS, TRE is willing to grant Union Pacific temporary access and the right to operate freight trains over the Temporary Joint Trackage for the period of time and only under the terms and conditions hereinafter set forth; and

WHEREAS, Union Pacific has agreed to pay such fees as are set forth hereinafter to TRE for such temporary access and right to operate.

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements set forth below, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows.

AGREEMENT

1. Attached hereto, marked "Exhibits A and A-1" and by this reference incorporated herein, is a print, which depicts the portion of line of TRE railroad over which UP will be granted temporary joint use hereinafter referred to as the "Temporary Joint Trackage."

2. Subject to the terms and conditions contained herein, UPRR shall have nonexclusive right to use the Temporary Joint Trackage for operation of its freight trains, locomotives, cabooses, and cars and equipment owned, leased, furnished by UPRR or otherwise in the care, custody and control of UPRR ("Trains"), with its own employees and equipment on its account, in common with TRE and such other entity or entities as may currently have the joint use of all or part of the Temporary Joint Trackage now or as TRE may hereinafter allow during the term of this Agreement. UPRR shall coordinate its schedules to accommodate TRE uses of the track. TRE does not guarantee that UPRR Trains will be accommodated with any approved UPRR schedules. UPRR shall provide qualified crews to operate UPRR Trains.

3. The term of this temporary use shall begin on the effective date of this Agreement and end on December 30, 2014.

4. Nothing in this Agreement nor the movement of UPRR's Trains on the Temporary Joint Trackage shall vest in UPRR any right, title or interest in or to the Temporary Joint Trackage or any right-of-way or trackage of TRE other than as specifically set forth herein. UPRR shall not have the right to grant use of the TRE's property to any third-party whatsoever other than as provided in this Agreement. TRE hereby reserves the right to use its right-of-way and trackage at any time for any purpose. The rights granted to UPRR herein are subject and subordinate to such rights and do not include the right to use any property of TRE whatsoever, whether for the loading or unloading of freight, the storing and maintaining of Trains or otherwise. UPRR shall abide by all applicable regulations, rules, restrictions and orders of TRE. UPRR shall obtain from the TRE dispatcher authorization to operate over the Temporary Joint Trackage prior to each movement of a Train thereover. Supervisory personnel of TRE may accompany the Trains and ride aboard to monitor compliance with the terms of this Agreement.

All employees of UPRR engaged in or connected with the operations of UPRR on or along the Temporary Joint Trackage shall be required to pass periodic examination on the rules of TRE related to the Joint Trackage, provided, with respect to such examinations that, upon request of UPRR, TRE shall qualify one or more of UPRR's supervisory officers on said rules and such supervisory officer or officers so qualified shall examine all employees of UPRR engaged in or

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connected with UPRR's operations on or along the Joint Trackage. Pending qualification of train and engine crews of UPRR, TRE shall furnish a pilot or pilots, at the expense of UPRR, as deemed necessary by TRE to assist in operating trains of UPRR over the Temporary Joint Trackage.

5. TRE, at its expense, shall maintain the Temporary Joint Trackage in a manner permitting operation at no less than the track standard designated in the timetable in effect on the date of this Agreement.

6. UPRR Construction.

7. Removal and Replacement of Existing Switch.

8. Modifications Required by Temporary Use.

9. TRE Approval Prior to Construction and Prior to Use of Facilities.

10. Contractor Rights of Entry.

Prior to access to TRE property or facilities or the Temporary Joint Trackage for construction or preconstruction activities, UPRR and UPRR's contractor(s) shall sign a TRE Construction Agreement and Contractor's Right of Entry, and shall provide the required plans, schedules, insurance and indemnification to TRE in accordance with such agreement. The form of such agreement for UPRR is attached hereto as Exhibit D (and incorporated herein for all purposes).

11. Access and Use.

- a. TRE shall not be required to provide access if TRE determines that such access would interfere with TRE's use or operations.
- b. Union Pacific will be required to operate on TRE's main track when Trains are routed past the Fort Worth Intermodal Transportation Center ("ITC").

12. Payment

13. TRE Control and Management.

TRE shall have the exclusive right and responsibility to manage, direct, signal, operate, and control the Temporary Joint Trackage and all access into, on, over or across the Temporary Joint Trackage. TRE or a its designee shall perform all dispatching onto and over the Temporary Joint Trackage and shall order and direct the movement of all trains, rail cars, locomotives, equipment and rolling stock using the Temporary Joint Trackage. TRE shall have the right to change the dispatch, direction, and control on and over the Temporary Joint Trackage as in its reasonable judgment may be necessary, expedient, or proper for the operation thereof. Rail passenger service and TRE's usage of the Temporary Joint Trackage shall have priority over freight or other uses, at the discretion of the TRE. Should any UPRR Train use cause any interruption of TRE use of the Temporary Joint Trackage at any time, TRE shall have the right to cease dispatch of UPRR Trains upon notification of UPRR. In such event UPRR shall cease movement of any

Trains on the Temporary Joint Trackage until the condition causing the interruption is resolved to TRE's satisfaction. TRE may make any changes, repairs, and improvements to the Temporary Joint Trackage that TRE deems desirable during the term of this Agreement. UPRR shall not have or make against TRE or its contractor any claim or demand for any loss, damage, destruction, injury or death whatsoever resulting from TRE's performing or failing or neglecting to perform any operation, maintenance, repair, renewal or management of the Temporary Joint Trackage. If the use of the Temporary Joint Trackage shall at any time be interrupted or traffic thereon or thereover be delayed for any cause, UPRR shall not have or make any claim against TRE or its contractor for loss, damage, or expense of any kind caused by or resulting from such interruption or delay.

14. Regulatory Requirements,

During the effective term of this Agreement, each party shall be responsible for compliance with all governmental statutes, ordinances, rules, regulations and laws to the extent applicable to the services and operations of each party.

15. Conduct of Operations.

UPRR hereby agrees, in the conduct of its operations hereunder, to abide by and comply with the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and all other applicable laws, statues, rules and regulations of any Federal, State, or Municipal authority, or any other public body having jurisdiction, including, without limitation, laws, ordinances and governmental regulations controlling air, water, noise, solid wastes and other pollution, and environmental damages, and to file all reports or statements required in connection with the operation of its Trains or the conduct of its business.

UPRR shall comply in all respects with safety rules, operating rules and other regulations of TRE and its designee, and movements of UPRR Trains over the Temporary Joint Trackage shall at all times be subject to the orders of the transportation officers of TRE. Each UPRR Train shall comply with size and weight and other restrictions and capacities, and shall comply with TRE maximum speed and all other applicable requirements.

UPRR shall be responsible for the procurement and expense of obtaining any and all fuel, water, oil, propane, ice, or disposal of trash or waste, or other items or services used in conjunction with operation of the Trains. UPRR shall also be responsible for arranging and paying for any and all switching of the Trains and other incidental services related to the movement of the Trains hereunder.

In the event of any accident, derailment or wreck involving a UPRR Train carrying hazardous materials substances or wastes as defined pursuant to federal or state law ("Hazardous Materials") on the Temporary Joint Trackage, UPRR shall make all required reports to federal, state or local authorities and immediately advise TRE and any owner/shipper of such materials involved in the event. UPRR shall assume responsibility for cleaning up any release of such Hazardous Materials in accordance with all federal, state or local regulatory requirements. TRE may have representatives at the scene to observe and make recommendations. All costs related to or arising out of such event shall be borne by UPRR.

If any UPRR Trains or equipment becomes derailed or otherwise disabled on the Temporary Joint Trackage, such that wrecking service is required to clear the trackage, UPRR shall arrange for the service immediately and clear and make ready the Temporary Joint Trackage immediately. Wrecking Service shall mean a service requiring use of motorized on and off track equipment. The total cost of clearing any UPRR derailment, cleaning up any hazardous materials released, and/or repairing the Temporary Joint Trackage or any other property damaged by the event, shall be borne by UPRR. In addition to any other damages, should UPRR use of the Temporary Joint Trackage cause interruption or delay of TRE passenger service, UPRR shall be responsible for any costs associated with mitigation of such interruption or delay, for example, bus bridges to continue passenger service.

16. Inspection/Condition of Trains

TRE or its designee shall have the right, but not the duty, to inspect and reject any Trains. TRE shall not be responsible for making any arrangements for the use or operation of said Trains. Any and all Trains furnished by UPRR shall be in good repair and be in compliance with all applicable safety regulations and rules, including, by example and not limitation, the AAR Interchange Rules.

If, by reason of any mechanical failure or for any other cause not resulting from a collision or derailment, a Train becomes inoperative and unable to proceed, or fails to maintain the speed required by TRE on its tracks, or, if in emergencies, crippled or otherwise defective Train is set out along TRE's tracks, TRE may, at UPRR's sole cost and expense, furnish repair personnel, motive power or such other assistance as may be necessary to repair, haul, help or push such Train or to move it off TRE's tracks and UPRR shall reimburse TRE for such services as provided in Section 12, "Payment."

17. Liability and Indemnity. Such requirements are set forth in Exhibit B., attached hereto.

18. Insurance. Such requirements are set forth in Exhibits C and C-1 attached hereto.

19. Notices.

Any notices given by either party shall be in writing and deemed to have been delivered three days following deposit of such notice in United States Mail, sent certified mail, return receipt requested, in a postage paid envelope addressed to the party at the address set out below.

Simon Hjelm
Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179

Vice President, Commuter Rail & Railroad Management
Trinity Railway Express
P.O. Box 660163
Dallas, Texas 75266-7210

20. Termination and Default.

The right to use the Temporary Joint Trackage shall terminate upon:

- a. The earlier of: (i) December 30, 2014, or (ii) the date of completion of the construction of the Tower 55 improvements such that UPRR has availability to restore its service generally as it was prior to this Agreement. Upon completion of such construction, either party may terminate this Agreement with 10 days prior written notice; or
- b. TRE may terminate this Agreement immediately upon unsafe or unlawful operation or action of UPRR, or action that threatens the safety of TRE, its employees, agents or passengers or the public. Should UPRR fail to make any payment, or fail in any other respect to perform any material obligation or covenant pursuant to this Agreement, and such default shall continue for a period of thirty days after notice in writing of such default given to UPRR by TRE, TRE may, at its election, exclude UPRR from the use of the Temporary Joint Trackage. Thereupon, UPRR shall surrender to TRE all Temporary Joint Trackage and shall have no claim or demand related to or arising out of such exclusion. TRE may waive any default, but no action of the TRE in waiving any default shall affect any other default of UP or impair any rights of TRE resulting therefrom.

21. Federal Review.

UPRR will submit the terms of the Temporary Joint Use Agreement to the Surface Transportation Board ("STB") for written approval, and use of the Temporary Joint Trackage shall be only in accordance with action or approval of the STB. UPRR shall provide TRE with copies of all correspondence with the STB relating to this approval.

22. This Temporary Joint Use Agreement may require approval by the Boards of Directors of DART and the T.

23. Other Agreements.

The Temporary Joint Use Agreement will not modify any existing agreements between the parties, including by example and not limitation, relating to trackage rights, or to the Joint Use Agreement dated June 25, 2004 between DART, The T and the UPRR, except as expressly stated herein.

24. The rights granted herein may not be assigned in whole or in part without written consent of the TRE in advance which may be withheld for any reason.

25. The failure of either party to this Agreement, in any one or more than one instance, to insist upon the performance of any of the terms or conditions of this Agreement, or to exercise any rights or privileges under this Agreement, or the waiver by either party to this Agreement of any breach of the terms or conditions of this Agreement, shall not be construed thereafter as waiving any such terms, covenants, rights, privileges or obligations, but the same

shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

26. This Agreement constitutes the entire understanding of the parties with respect to the temporary joint use granted herein. No amendment, change or modification of this Agreement shall be valid unless in writing and signed by the parties hereto.

27. No Joint Enterprise.

The Parties do not intend that this Agreement be construed as finding that the Parties have formed a joint enterprise. The purposes for which each Party has entered into this Agreement are separate and distinct. It is not the intent of any of the Parties that a joint enterprise relationship is being entered into and the Parties hereto specifically disclaim such relationship. No fiduciary or other special relationship exists between the Parties. This Agreement does not constitute a joint enterprise, as there are no common pecuniary interests, no common purpose and no equal right of control among the Parties hereto.

28. Nothing in this Agreement shall be construed as creating any benefits in favor of any third party against any Party. Additionally, this Agreement shall not ever be construed as relieving any third party from any liability to any Party to this Agreement.

29. Each of the individuals signing this Agreement on behalf of the Parties warrants that he or she is duly and properly authorized to execute this Agreement on behalf of the entity represented.

List of Exhibits:

- A First diagram of relevant locations referenced in the Agreement
- A-1 Second diagram of relevant locations referenced in the Agreement
- B Liability and Indemnity
- C Insurance – general terms
- C-1 Insurance – specific coverage requirements
- D Construction Agreement and Contractor's Right of Entry for UPRR

IN WITNESS WHEREOF, the Parties hereto have executed this Temporary Joint Use Agreement.

Dallas Area Rapid Transit
~~UNION PACIFIC RAILROAD COMPANY~~

By: Gary C. Thomas
Name: Gary C. Thomas
Title: President / Executive Director

FORT WORTH TRANSPORTATION AUTHORITY

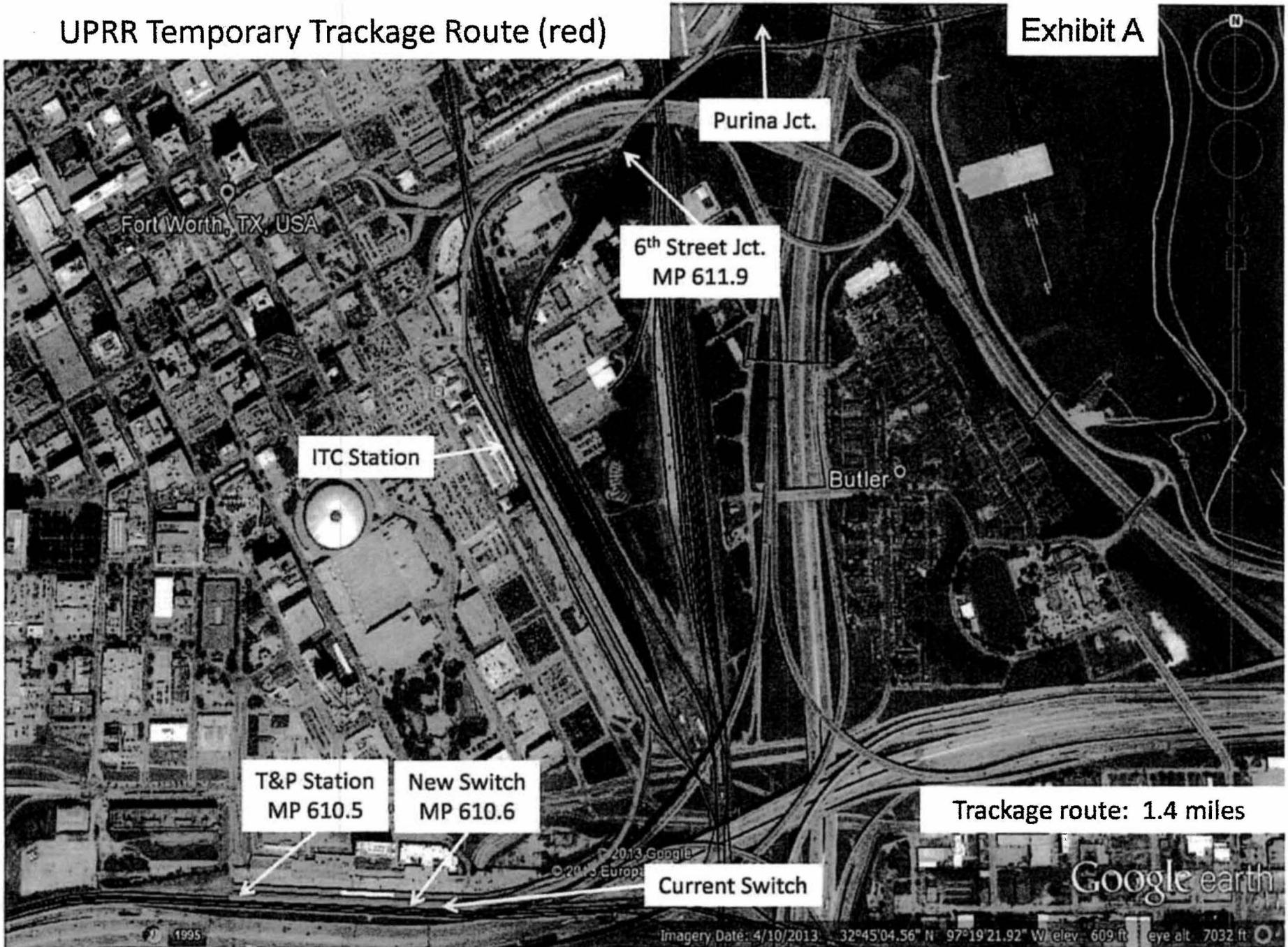
By: Paul J Ballard
Name: Paul J Ballard
Title: President/CEO 4/24/14

~~UNION PACIFIC RAILROAD COMPANY~~
~~DALLAS AREA RAPID TRANSIT~~

By: Cameron A. Scott
Name: Cameron A. Scott
Title: EVPO

UPRR Temporary Trackage Route (red)

Exhibit A



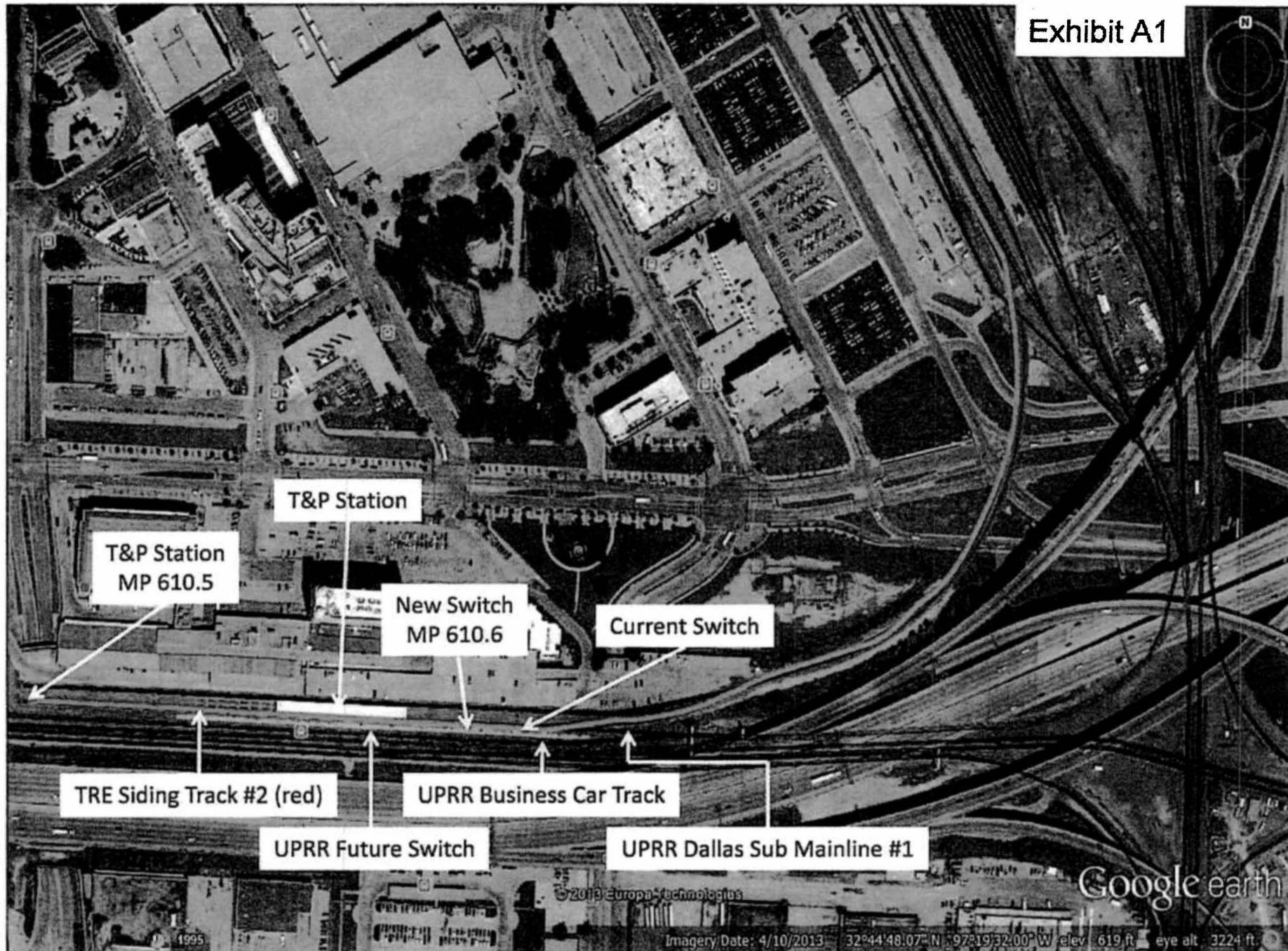


EXHIBIT B

LIABILITY AND INDEMNITY

EXHIBIT C

INSURANCE

EXHIBIT C-1

UPRR INSURANCE DURING CONSTRUCTION AND OPERATIONS

EXHIBIT D

AGREEMENT NO. _____

**CONSTRUCTION AGREEMENT
AND CONTRACTOR'S RIGHT OF ENTRY**

THIS AGREEMENT ("Agreement") is made by and between TRINITY RAILWAY EXPRESS ("TRE"), and UNION PACIFIC RAILROAD COMPANY, hereinafter called "Contractor," whose mailing address is 1400 Douglas Street, Omaha, NE 68179.

WITNESSETH:

WHEREAS, Trinity Railway Express is the assumed name under which commuter rail operations are being conducted by DALLAS AREA RAPID TRANSIT ("DART") and the FORT WORTH TRANSPORTATION AUTHORITY (the "T"), both regional transportation authorities created pursuant to Chapter 452, Texas Transportation Code, as amended (the "Act"); and

WHEREAS, pursuant to agreements between TRE and Burlington Northern Santa Fe Railway Company, Union Pacific Railroad Company, and Dallas, Garland and Northeastern Railroad Company, and Amtrak (individually or collectively herein the "Railroad") freight railroad and/or passenger operations exist on the railroad corridor between Dallas and Fort Worth, Texas, now owned by DART and the T; NOW THEREFORE,

WITNESSETH:

1. For the period not to extend beyond December 30, 2014, TRE hereby permits Contractor to enter upon the property of DART and the T on a tract of right of way located in Fort Worth, Texas at and between Mile Post 610.5 (T&P Station) and Mile Post 611.4 (ITC Station), Tarrant County, Texas, as may be necessary in connection with work to be performed on TRE premises by Contractor under the **Temporary Joint Use Agreement**, dated ^{May} ~~April~~ 2, 2014, (the "Contract"), and for no other purpose.
2. As consideration for the right of entry granted herein, Contractor agrees to:
 - (a) Perform the work required of it under the Contract on TRE premises in accordance with plans and specifications approved by TRE, in such manner and at such times as shall not endanger or interfere with TRE's or Railroad's representatives. Contractor shall submit to TRE, for approval, all construction details, falsework and other incidentals not detailed in plans, insofar as they affect TRE and Railroad.
 - (b) Maintain, at Contractor's expense, flagger(s) who are representatives of the Railroad, qualified on the Railroad's operating and safety rules to protect the Railroad's interest while upon TRE premises. Contractor will not perform any work activity within 25 feet of any TRE track (also referred to as "the foul zone") or perform any work in which a catastrophic event could cause equipment, people or materials to enter into the foul zone

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unless the above mentioned flagger(s) are present.

- (c) Ensure, at Contractor's expense, that all personnel working under their control that are engaged in any activity that requires flagger(s), as described in Item 2 above, have within the last 365 days from the date the work is to be performed, attended a creditable Roadway Worker Protection course and have successfully passed all required examinations associated with that course and will provide proof of course completion upon request from TRE or their representative. Whether or not the above mentioned Roadway Worker Protection course is creditable is at the sole discretion of TRE.
 - (d) Contractor is required to (a) notify TRE contractor, Herzog Transit Services, Inc. at least fifteen (15) days in advance to arrange for flagging, (b) notify Herzog Transit Services, Inc. at least seven (7) working days before commencing work on TRE premises and (c) notify TRE and Herzog Transit Services, Inc. within five (5) working days after such work is completed. Notification shall be in accordance with Paragraph 11 of this Agreement.
 - (e) Keep all equipment, tools and materials stored at least twenty-five (25) feet from the center line of any operable track. Explosives or other highly inflammable substances or any hazardous materials regulated pursuant to federal or state regulation will not be stored on TRE premises without the prior approval of TRE's representative.
 - (f) Remove all of Contractor's tools, equipment and materials from TRE premises promptly upon completion of work, restoring TRE premises to the same state and condition as when Contractor entered thereon.
 - (g) Reimburse TRE for all costs and expense incurred by TRE in connection with said work, including without limitation the expense of furnishing such inspectors, watchmen and flagmen as TRE deem necessary, the installation and removal of falsework beneath tracks, and restoration of TRE's property to the same condition as when Contractor entered thereon, or to a condition satisfactory to TRE's representative.
 - (h) Remove any lien against TRE's property arising from performance of work hereunder by Contractor or any subcontractor.
3. The parties agree that Exhibit B to the Contract shall govern liability and indemnity arising out of or connected with work performed under this Agreement.
 4. The parties agree that Exhibits C and C-1 to the Contract shall govern insurance requirements connected with the work performed under this Agreement.
 5. The permission herein given shall not be assigned by Contractor without the prior written consent of TRE except in the case of subcontractors who shall be deemed agents of Contractor subject to the terms of this Agreement.
 7. No vehicular crossing over TRE's track shall be installed or used by Contractor without prior written permission of TRE.
 8. All work contemplated hereunder shall be performed as follows, subject to Herzog Transit Services, Inc. written approval:

9. At the request of TRE, Herzog or the Railroad, Contractor shall remove from TRE premises any employee of Contractor or any subcontractor who fails to conform to the instructions of representatives of TRE, Herzog or Railroad in connection with work on TRE premises, and any right of Contractor to enter upon TRE premises shall be suspended until such request of TRE, Herzog or Railroad is met. Contractor shall indemnify TRE, Herzog and Railroad against any claim arising from the removal of any such employee from TRE premises.
10. Company-issued photo identification is required of all contractors and subcontractors working on the TRE premises.
11. Notification of TRE for purposes of Paragraph 2 (b), 2 (c) and 2 (d), shall be:

Herzog Transit Services, Inc.
Mr. Sammy Fry
Transportation Supervisor
214.794.0027 (cell)

Notification of TRE for all other purposes, shall be:

Trinity Railway Express
c/o Dallas Area Rapid Transit
Attn: Thomas Neville 214 - 749-2917 (office)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate originals this 2nd day of May, 2014.

UNION PACIFIC RAILROAD COMPANY
(CONTRACTOR)

By Cameron A Scott

Printed Name: Cameron A Scott

Title: EVPO

TRINITY RAILWAY EXPRESS
BY: DALLAS AREA RAPID TRANSIT

By Norma D Navarro
NORMA DE LA GARZA-NAVARRO
Vice President
Commuter Rail & Railroad Management

SURFACE TRANSPORTATION BOARD

**NOTICE OF EXEMPTION
DOCKET NO. FD 35827**

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION --
DALLAS AREA RAPID TRANSIT AND
FORT WORTH TRANSPORTATION AUTHORITY**

Dallas Area Rapid Transit and the Fort Worth Transportation Authority, collectively referred to as Trinity Railway Express ("TRE"), have agreed to grant temporary overhead trackage rights to Union Pacific Railroad Company ("UP") between T&P Station (TRE Milepost 610.5) and the 6th Street Junction (TRE Milepost 611.9) in Fort Worth, Texas, a distance of 1.4 miles.

The temporary trackage rights will become effective on or after June __, 2014. The trackage rights are temporary in nature and will expire at midnight on December 30, 2014.

This Notice is filed under 49 C.F.R. § 1180.2(d)(8). Petitions to revoke the exemption under 49 U.S.C. § 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: May __, 2013

By the Board,

Rachael D. Campbell
Director, Office of Proceedings

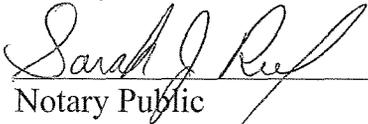
VERIFICATION

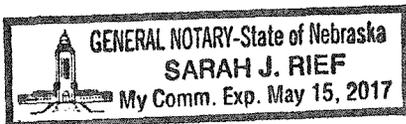
I, Simon J. Hjelm, General Director Network and Business Development for Union Pacific Railroad Company, under penalty of perjury, declare and verify that I am authorized to make this verification and I have read the foregoing Notice of Exemption, know the facts stated therein, and believe that said facts are true as stated to the best of my knowledge, information and belief.

Dated: May 6, 2014


Simon J. Hjelm

SUBSCRIBED AND SWORN TO
before me this 7th day
of May, 2014.


Notary Public



My Commission expires: *May 15, 2017*