

BRIDGE FINANCING AND SECURITY AGREEMENT

THIS AGREEMENT is entered into by and between the NORTH COAST RAILROAD AUTHORITY, a public agency (NCRA) and the NORTHWESTERN PACIFIC RAILROAD COMPANY, a California Corporation, its successors and assigns, (NWP) and is effective as of August 8, 2007.

RECITALS

- A NWP is the designated Operator of railroad facilities, including property and easements owned by NCRA under that Agreement for the Resurrection of Operation Upon the Northwestern Pacific Railroad Line and Lease dated September 13, 2006 (Lease);
- B NCRA anticipates it will receive funds under the California Traffic Congestion Relief Program (TCRP), as authorized by the California Transportation Commission and administered by CALTRANS (together, the Funding Agencies) Said funds will be paid to NCRA for the reimbursement of funds expended by NCRA for authorized projects if the Funding Agencies approve such expenditures;
- C NWP agrees to loan NCRA "bridge financing" that will enable NCRA to expend funds subject to reimbursement as set forth above, under the terms and conditions set forth herein.
- D NWP has advanced funds in the amount of \$20,000 per month as "Advance Lease Payments" (Advance Lease Payments) to NCRA, and may continue to so advance funds, and, in addition, has incurred expenses in the amount of \$20,000 more or less for attorneys fees in relation to legal work associated with the proposed County of Sonoma Bridge Loan, said expense to be considered an Advance Lease Payment

IT IS THEREFORE AGREED by and between the parties as follows:

- 1. **Loan Proceeds.** NWP shall from time to time loan NCRA such funds (Loan Proceeds) as are necessary to pay vendors and perform other obligations for the sole purpose of performing work authorized under TCRP, in an amount not to exceed Five Million Dollars outstanding at any one time.
- 2. **Sole Purpose.** NCRA shall expend Loan Proceeds solely for the purposes authorized under TCRP and shall in a timely manner perform all

obligations and requirements necessary to seek reimbursement from the Funding Agencies for such expenditures.

3. **Request for Loan Funds.** No later than the tenth day of each month, NCRA shall forecast and provide to NWP the amount of funds needed to be borrowed during that month. When any invoice is submitted to Caltrans, NCRA shall notify NWP as to the date and amount of such invoice and shall include invoices and such other evidence or confirmation of work performed as reasonably required by NWP. When Caltrans has issued a reimbursement approval letter for an invoice and such letter has been provided to NWP, NCRA shall make a request for the amount of the funds to be borrowed to NWP in writing. NWP shall provide Loan Funds to NCRA in an amount adequate to pay those expenditures deemed by NWP, in its sole discretion, as likely to be reimbursed by the Funding Agencies, and such funds shall immediately be expended by NCRA for such specific purposes.
4. **Repayment of Loan Funds.** NWP's advancement of Loan Funds to NCRA shall create an immediate and unqualified obligation on the part of NCRA to repay such Loan Funds to NWP under the terms and conditions hereof, without regard to whether or not the expenditures for which such Loan Funds were advanced are reimbursed by the Funding Agencies, and NWP's determination on whether or not to advance Loan Funds, as set forth in Section 3, above, shall have no bearing whatsoever on NCRA's obligation to repay such funds once they have been advanced. At such time as the expenditures for which Loan Funds were used by NCRA are reimbursed by the Funding Agencies, NCRA shall immediately repay such funds to NWP.
5. **Interest.** Interest on any Loan Funds advanced by NWP, including funds advanced prior to this Agreement and any Advance Lease Payments subject to the default provisions hereof, shall accrue at the rate paid by NWP for such funds. NWP shall provide NCRA with quarterly invoices of its interest amounts.
6. **Security.** NCRA hereby pledges as collateral security for performance of its obligations hereunder all rolling stock owned by NCRA, including specifically thirty four boxcars now under lease, along with the lease and proceeds therefrom, and all work equipment, listed in Exhibit A, attached hereto. NWP may file and record appropriate liens on said security, and NCRA shall safeguard and protect said security to the reasonable satisfaction of NWP and shall not cause any of the security items to be otherwise collateralized, transferred, disposed of or wasted.

7 **Term.** Principal and interest then outstanding on all Loan Funds extended by NWP to NCRA shall be due and payable no later than three years from the date hereof, with the exception that any Loan Funds expended by NCRA and reimbursed by the Funding Agencies shall be due and payable to NWP immediately upon receipt.

8 **Default.** A default under this Agreement shall occur:

- a) As to the Loan Funds, if NCRA fails to perform any of the terms and conditions of this Agreement, and/or if the Funding Agencies fail to reimburse NCRA for any expenditure by NCRA in an amount in excess of \$100,000. In the event any expenditure by NCRA is disallowed and reimbursement is denied by the Funding Agencies, NCRA shall immediately and in writing notify NWP; and,
- b) As to the Advance Lease Payments, if, within three years of the date hereof, NWP is prevented through no default of its own from operating as a common carrier under the Lease by action or inaction of any public entity or entities, or litigation. At such time and under such conditions, all Advance Lease Payments then made by NWP to NCRA shall be considered a loan by NWP to NCRA and shall be due and owing, together with interest.

Upon Notice of Default being served by NWP upon NCRA, NCRA shall have a period of not more than 180 days to cure the default, after which NWP without further recourse or legal process of any sort may levy against and collect so much of the collateral security as to repay any Loan Funds together with interest outstanding

9 **Status of Agreement.** This Agreement supercedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matters, and each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally, in writing or otherwise, have been made by either party or anyone acting on behalf of either party, which is not embodied herein and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding

10. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successor(s) and assigns of the parties hereto

11 **Severability.** In the event that any provision of this Agreement is held to be invalid, void, or unenforceable, the remainder of the Agreement shall

nonetheless remain in full force and effect and shall not otherwise be affected, impaired or invalidated

- 12 **Notice.** Any notices required herein or any other information passing between the parties shall be addressed to the following:

NWP
John H. Williams
The Woodside Consulting Group
385 Sherman Avenue, Suite 1
Palo Alto, California 94306-1840

NCRA
Mitch Stogner
Executive Director
North Coast Railroad Authority
419 Talmage St., Suite M
Ukiah, California 95482

- 13 **Venue and Attorneys Fees.** In the event legal action is brought by the parties hereto, the venue shall be the Superior Court of the State of California, County of Sonoma. The prevailing party shall be entitled to reasonable attorneys fees and costs as determined by the Court.
- 13 **Counterparts.** This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- 14 **Time of the Essence.** Time is of the essence with regard to performance of all obligations and duties of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first herein above written.