

DRAFT AGREEMENT- UKIAH DEPOT

This agreement is made this ___ day of March 2013 by and between NORTH COAST RAILROAD AUTHORITY, a public agency created by the California Legislature pursuant to Government Code Sections 93000 et seq., hereinafter referred to as "NCRA;" and GUILLON Inc, a California Corporation, hereinafter referred to as "GUILLON."

RECITALS

A. NCRA is the owner of that certain property commonly referred to as the Ukiah Depot Property and hereafter referred to as such, which property is located south of East Perkins Street and west of Leslie Street in Ukiah, California, and more particularly described in that certain Preliminary Title Report issued by Fidelity National Title Company of California dated June 11, 2010, a true copy of which is attached hereto as Exhibit "A" and incorporated by this reference;

B. NCRA desires to return the Ukiah Depot Property to its maximum utility to support the operations of the NCRA in meeting its duties as established by the California Legislature; including, but not limited to, possible utilization of a portion of the Ukiah Depot Property for a county courthouse for the County of Mendocino;

C. The Ukiah Depot Property was utilized for conducting railroad operations including but not limited to passenger and freight locomotive service facilities, turntable, two stall roundhouse and fueling area all located south of Gibson Creek dating back to at least 1893 and continuing in a declining intensity to approximately 1995;

D. As a result of such railroad operations soils south of Gibson Creek were contaminated with petroleum hydrocarbons and polynuclear aromatic hydrocarbons, the extent of which have been defined by investigations between 1995 and 2011, which contamination poses a threat to groundwater, and the remediation of which has been planned and designed by a Remedial Action Plan prepared by Weston Solutions, Inc., attached hereto as Exhibit B and hereinafter referred to as "the RAP;"

E. The RAP calling for the excavation of approximately 0.5 acre ranging from 1.5 to 6 feet below ground surface and transportation of such excavated soils to an appropriately licensed off-site waste disposal facility for disposal of same was approved for eventual use for

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commercial purposes by the North Coast Regional Water Quality Control Board on July 29, 2011, reference to which may be found at the State Water Resources Control Board Geotracker website found at http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0604593439&mytab=sitedocuments#sitedocuments;

F. Upon completion of the remedial work it is anticipated that the Administrative Office of the Courts will purchase approximately 4.5 acres of the property for use as a site for a county courthouse for the County of Mendocino;

G. NCRA does not have sufficient cash to perform such environmental work estimated to cost approximately \$250,000, which work will enable the sale to the Office of the Administrative Courts, and recordation of a deed in fee from Union Pacific Railroad in furtherance of the Surface Easement described in the aforementioned Preliminary Report;

H. GUILLON is desirous of developing a relationship as defined herein with the NCRA for development of the Ukiah Depot Site to its eventual and appropriate use for commercial development as determined by the North Coast Regional Water Quality Control Board, and GUILLON has the resources and skill necessary to accomplish the work defined and required by the Remedial Action Plan to accomplish environmental remediation of the Ukiah Depot Site and removal of the threat to potential contamination of the groundwater;

IT IS THEREFORE AGREED BY AND BETWEEN THE PARTIES as follows:

1. Performance of work called for by the Remedial Action Plan

Immediately upon execution of this agreement and the delivery of the Promissory Note and Deed of trust described in paragraph numbered 2 herein GUILLON shall commence work on the remediation of the Ukiah Depot Site in accordance with the requirements of the Remedial Action Plan and pursue such work diligently until completed, which promissory note and deed of trust is hereinafter referred to as the "Guillon Obligation."

2. Note and Deed of Trust for cost of remedial action work.

Immediately upon execution of this agreement NCRA shall issue in favor of GUILLON a promissory note in the amount of \$250,000 bearing interest at ___per ___%) per cent, all due and payable on the earlier date of either the sale of any portion of the Ukiah Depot Site, or 365 days following the execution of this agreement, which note shall be secured a first deed of trust to satisfy the Guillon Obligation all in such form as GUILLON might reasonably require, insured by such title company as GUILLON shall designate disclosing and conditioned upon the property encumbered by no exceptions other than those disclosed on the attached Preliminary Title Report.

3. Condition precedent to obligations.

The obligations of the parties as stated above shall be conditioned upon the willingness of the Savings Bank of Mendocino County, or other financial institution acceptable to the respective parties hereto, to issue a Letter of Credit, or other written commitment in a form satisfactory to the respective parties hereto to fund the payment of of the promissory note payable to Guillon as described above on its due date; and if necessary, the written agreement of Northwestern Pacific Railroad Company, Inc., a California corporation, hereinafter referred to as "NWPCo," to the subordination its interest in NCRA's inchoate obligation to secure its indebtedness to it as of February 2011 approximating \$2,165,879 to both the contemplated deed of trust to Guillon and such deed of trust as may eventuate from the commitment of the Savings Bank as above described;

4. NCRA right to further encumber the Ukiah Depot Property.

NCRA intends to encumber further the Ukiah Depot Property with a promissory note secured by a deed of trust upon the Ukiah Depot in favor of NWPCo in the amount of the amount owed to NWPCo. as of February 2011 in the amount of [approximately \$2.3 million] subject to the agreement of NWPCo to subordinate such obligation to: (1) the Guillon obligation; and (2) any deed of trust which might result from the commitment of the Savings Bank and the agreement by NCRA to compensate the California Transportation Commission as represented by the California Department of Transportation in an amount of ten per cent of the proceeds of any sale after the satisfaction of the Guillon Obligation.

5. Right of Exclusive Right to Negotiate and Right of First Refusal to Guillon for remainder of the property.

As and for consideration for the obligation undertaken herein and the payment of SIXTY THOUSAND (\$60,000) Dollars to the City of Ukiah in reimbursement for advancement of such amount from its General Fund in furtherance of the environmental characterization resulting in the approval of the Remedial Action Plan GUILLOON is granted (1) an exclusive right to bargain for the purchase such portions of the Ukiah Depot Property which is not purchased by the Judicial Council of California, Administrative Office of the Courts, ("AOC") before December 31, 2013 which exclusive right shall extend through December 31, 2014, and (2) in addition to the exclusive right granted herein GULLON is hereby granted an irrevocable right to purchase such portions of the Ukiah Depot Property not purchased by the AOC before December 31, 2013 if and when the NCRA has decided to sell such property and the NCRA has received a bona fide offer for its purchase from any person or entity, such right continuing for a period commencing January 1, 2014 and ending on December 31, 2015 with the purchase price and terms for any such transaction being as offered by any third party.

As to such Right of First Refusal, the NCRA agrees that on receipt of such an offer it will notify GULLION of any offer it has received which it is willing to conditionally accept subject to the Right of First Refusal described herein, by the means provided in Section 10 below for giving notice,, including a full copy of the offer. Thereafter GUILLON shall have fifteen (15) days after receipt of such notice, not counting the day of receipt within which to notify the NCRA that GUILLON to exercise the right to step into the shoes of the offeror whereupon NCRA and GUILLON shall enter into an agreement of purchase and sale upon identical terms, or such other terms as may be mutually agreed, no later than twenty (20) days after receipt of the notice by GUILLON, with time expressly being of the essence.

6. Amendments.

The parties may amend this Agreement only by a written agreement of the parties that identifies itself as an amendment to this Agreement.

7. Severability.

If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement will remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable.

8. Merger.

This Agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. In entering into this Agreement, neither party has relied upon any statement, representation, warranty or agreement of the other party except for those expressly contained in this Agreement. There is no conditions precedent to the effectiveness of this Agreement, other than those expressly stated in this Agreement.

9. Third Party Beneficiaries.

This Agreement does not and is not intended to confer any rights or remedies upon any Person other than the signatories, and the City of Ukiah as to the right to receive the sum of \$60,000 on or before _____; and Northwestern Pacific Railroad Company, a California Corporation as to the right to receive a deed of trust junior only to the deed of trusts contemplated herein to secure the cleanup costs in an aggregate amount not to exceed TWO HUNDRED FIFTY THOUSAND (\$250,000).

10. Notices

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Each Party giving notice or making any request, demand or other communication pursuant to this Agreement shall give the Notice in writing and shall use one of the following methods of delivery: (1) personal delivery; (2) Certified Mail, Return Receipt Requested and postage prepaid; or (3) Nationally recognized overnight courier, with all fees prepaid. Each party giving a Notice shall address the notice to the appropriate person at the receiving party at the address provided below:

NCRA: [address]

With Copy to C. J. Neary, 110 South Main Street, Suite C, Willits, Ca. 95490

GUILLON : [address]

With Copy to _____

11. Time is of the Essence.

Time is of the essence of this agreement.

NCRA:

GUILLON:

By _____
Paul Kelley, President Board of Directors

By _____

Attest: _____
Mitch Stogner, Clerk of the Board of Directors

Attest: _____

Approved as to Form:

Christopher J. Neary

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