

**MEMORANDUM OF UNDERSTANDING  
REGARDING THE TEXAS CENTRAL HIGH-SPEED  
PASSENGER RAIL LINE PROJECT**

THIS MEMORANDUM OF UNDERSTANDING REGARDING THE TEXAS CENTRAL HIGH-SPEED PASSENGER RAIL LINE PROJECT (this “MOU”) is entered into as of the 17th day of August, 2017, by and between the **CITY OF HOUSTON**, a Texas home rule municipal corporation with its principal offices being located at 901 Bagby, Houston, TX 77002 (the “City” or “Houston”), and **TEXAS CENTRAL RAIL HOLDINGS, LLC**, a Delaware limited liability company (“Texas Central”) with its principal offices being located at 1409 South Lamar Street, Suite 1022, Dallas, Texas 75215.

**RECITALS**

WHEREAS, the purpose of this MOU is to set forth certain commitments between the City and Texas Central with respect to Texas Central’s plans to construct and operate a state-of-the-art, 240-mile-long, privately funded high-speed passenger rail line (the “Rail Line”) between Houston and Dallas (the “Project”); and

WHEREAS, this innovative high-speed passenger rail technology is not available anywhere else in the country, and will be constructed and operated on a dedicated, grade separated, secure corridor with bullet trains operating at speeds up to 205 mph, enabling Texas Central to provide passengers safe, convenient, reliable and efficient travel between Houston and Dallas in less than ninety (90) minutes with one stop in the Brazos Valley; and

WHEREAS, the City recognizes that the Project would have a substantial and long-lasting positive impact on the City’s economy, serve as a catalyst for future growth, create jobs, and infuse tax revenue into the state and the local communities, and would provide other highly desired public benefits, namely: (i) innovative transportation solutions; (ii) substantial and positive economic development; (iii) potential reduction of traffic congestion and related air emissions; and (iv) the provision of clean, environmentally sound, fast and comfortable transportation alternatives for the citizens of the City; and

WHEREAS, the Project is currently estimated to cost in excess of \$10 billion, and will consist of the Rail Line, associated corridor, related facilities and three terminal stations, with one terminal station located within the City (the “Houston Terminal Station”), all designed and constructed using world-class, proven technology; and

WHEREAS, the construction of the Project will create 10,000 direct jobs per year, and many of these jobs will involve construction within the City, including building the Rail Line along the Hempstead Highway and building the Houston Terminal Station; and

WHEREAS, upon completion of the Project, up to 1,000 permanent jobs will be created when the Rail Line is fully operational, and at least a third of these jobs will be created within the City; and

WHEREAS, the operation of the Rail Line will generate sales and use taxes and ad valorem taxes and, according to an Insight Research Corporation report from October 2015, is expected to generate more than \$36 billion in economic benefits to the State of Texas and to create thousands of direct and indirect jobs within the City over the next 25 years as development occurs at the Houston Terminal Station; and

WHEREAS, the City desires to ensure that the Rail Line infrastructure is designed, constructed and operated in such a manner that it would provide a public benefit while not unduly impacting existing and future local and regional mobility systems, including high capacity commuter transit, and the City's ecological and recreational resources; and

WHEREAS, the City and Texas Central mutually desire that the City's major activity centers have strong multi-modal connections to the Houston Terminal Station, including transit connections; and

WHEREAS, coordination and collaboration between the City, Texas Central, Harris County, the Texas Department of Transportation ("TxDOT"), the Houston Metropolitan Transit Authority ("METRO"), the Gulf Coast Rail District ("GCRD") and other regional partners is necessary to implement an efficient and connected transportation system with multi-modal access to the Houston Terminal Station; and

WHEREAS, Texas Central has affirmed its support for a shared use transit corridor in accordance with that certain Memorandum of Understanding executed by and between Texas Central and GCRD; and

WHEREAS, Texas Central is committed to following applicable City regulations and ordinances, inclusive of applicable requirements related to minority, women and small business enterprise ("MWSBE") participation goals; and

WHEREAS, Texas Central is committed to educating the City and its communities on the benefits the Project affords, and is therefore committed to participating in community outreach meetings and public hearings in areas of the City which would be potentially affected by the Project; and

WHEREAS, Texas Central is committed to recruiting construction contractors, subcontractors, and employees from the Houston-area job market for the construction of the Project, and Texas Central is committed to recruiting employees, contractors, and subcontractors from the Houston-area job market for the operation and maintenance of the Rail Line; and

WHEREAS, Texas Central intends to begin construction and operation of the Project pending required environmental reviews and necessary regulatory approvals and the negotiation of future development agreements related to the Rail Line and the Houston Terminal Station, and other key ancillary agreements (collectively, the "Definitive Agreements") to be mutually agreed upon by the parties hereto; and

WHEREAS, this MOU outlines the proposed agreements based on each party's present understanding of the preliminary items needed to ensure the success of the Project, in particular,

Texas Central's desire to: (i) locate the Houston Terminal Station within the City; (ii) conduct due diligence related to surveying and environmental testing on certain property located within the incorporated areas of the City and within the City's extraterritorial jurisdiction ("ETJ"); (iii) use a portion of the City's right-of-way located along Hempstead Road between I-610 and Beltway 8 (the "Hempstead Corridor"); and (iv) negotiate the terms of the Definitive Agreements; and

WHEREAS, the City's regulation of the City's rights-of-way is a governmental function necessary for the benefit of the public; and

WHEREAS, the following provisions constitute a general outline of the proposed agreements related to the preliminary items, the Definitive Agreements and other important considerations that shall be included in the Definitive Agreements, but in all instances shall be subject to and contingent upon the parties reaching mutual understandings as it relates to same.

NOW THEREFORE, in consideration of these recitals, the mutual covenants, agreements, and obligations stated below, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

### **AGREEMENT**

1. Term and Termination. This MOU shall become effective on the date hereof and shall remain in full force and effect until the earlier of: (a) the execution of all the Definitive Agreements, or (b) a date certain to be mutually determined by the parties. This MOU may be terminated by either party giving the other party thirty (30) days prior written notice. In the event of termination, each party waives any and all claims for reliance, consequential damages, and any other damages.

2. Due Diligence Testing. Texas Central, at its sole cost and expense, will have the right to prepare environmental surveys, conduct environmental impact testing and civil engineering and utility feasibility studies (collectively, the "Due Diligence Testing") of certain City property and rights-of-way located within the incorporated areas of the City and within the City's ETJ as mutually determined by the parties (the "Target Rail Line Locations"), in a manner that is compliant with applicable City ordinances, regulations, rules, policies and procedures. Texas Central agrees to discuss with the City any and all written reports stating the findings obtained in the Due Diligence Testing and to provide the City with copies of reports containing the Due Diligence Testing findings owned by Texas Central upon request by the City; *provided however*, if the Due Diligence Testing findings contain protected trade secrets, proprietary information, or intellectual property, Texas Central may redact such information before providing the findings to the City. The City shall grant access to, and authorize Texas Central's use of, the Target Rail Line Locations owned or controlled by the City for purposes of Due Diligence Testing, subject to approval by the City, consistent with applicable City ordinances, regulations, rules, policies and procedures.

3. Hempstead Corridor. Texas Central agrees to coordinate with the City, Harris County, METRO, TxDOT, and GCRD to plan and create the design of the Hempstead Corridor. Texas Central agrees that the design of the Hempstead Corridor must preserve feasibility for high capacity commuter transit. Upon the submission of final approved design plans, and the final approved Definitive Agreements, the Mayor may present to City Council for consideration and

approval a resolution or ordinance allowing Texas Central use of the Hempstead Corridor for the purposes contemplated by the Project.

4. Houston Terminal Station Intermodal Connectivity. Texas Central shall ensure the Houston Terminal Station is highly integrated with local transit systems. Texas Central will choose a location for the Houston Terminal Station for which a high level of integration with local transit systems is feasible. Texas Central will coordinate with the City, METRO, TxDOT, GCRD, and other agencies as needed on the location and layout of the Houston Terminal Station and ensure the Houston Terminal Station provides convenient, efficient, and direct access for passengers to and from local transit systems.

5. Houston Terminal Station Location. Texas Central has advised the City and the City acknowledges that Texas Central proposes to locate the Houston Terminal Station in the general area south of U.S. 290, west of Loop 610, and north of I-10. Texas Central will consult with the City prior to finalizing the location of the Houston Terminal Station.

6. Connections to Major Activity Centers. In order to minimize mobility impacts on existing mobility systems and enhance local transportation options, Texas Central will coordinate with the City, METRO, TxDOT, the GCRD, and other agencies as needed for the study, design and construction of connections specifically related to the Project to facilitate efficient multi-modal connections between the Houston Terminal Station and the City's major activity centers. If Texas Central or the City engages a third party to provide services related to such study, design and construction of connections, the allocation of costs and expenses related to such study, design and construction of connections contemplated by this paragraph 6 shall be mutually agreed upon by Texas Central and the City prior to engaging the services for same.

7. Maintenance, Training and Other Supportive Services Facilities. Texas Central and the City agree that one of the preferred locations of the maintenance facility for the bullet trains is within the City. Texas Central and the City agree that Texas Central intends to locate training and other supportive services facilities within the City. The final location of the maintenance facility is subject to the National Environmental Policy Act (NEPA) process. If the NEPA process eliminates the option for locating the maintenance facility within the City, Texas Central will create a proportional number of additional jobs at the training and other supportive services facilities within the City to offset the loss of jobs associated with the proposed maintenance facility. These training and other supportive services facilities may include one or more operational control centers, training centers, and other corporate facilities within the City (*i.e.*, management, finance, IT, accounting, sales/marketing).

8. MWSBE Goals. Texas Central understands that it is the policy of the City to encourage the full participation of MWSBEs in all phases of its procurement activities and to afford such enterprises a full and fair opportunity to compete for City contracts at all levels; to this end, with respect to Rail Line infrastructure and maintenance, training and other supportive services facilities located within the City, Texas Central shall develop a MWSBE participation plan and related agreement (the "MWSBE Participation Plan Agreement") for Texas Central (including, as applicable, its parent companies, subsidiaries, and related entities) to achieve the MWSBE goals of the City in such percentages as mutually determined by Texas Central and the City and as

specified in City ordinances for professional services, development, construction, supplier and other related services, as applicable.

9. Community Outreach. It is hereby recognized that the City has a responsibility to the communities affected by the Project to ensure they understand what the Project means for the future of those communities. Texas Central's leadership, engineers and environmental experts, in furtherance of this responsibility, are committed to participating with City staff to organize and facilitate not less than three (3) community outreach meetings in areas of the City, which will be potentially affected by the Project.

10. Definitive Agreements. The parties shall negotiate the terms and begin preparation of the Definitive Agreements that will govern the planning, design, construction development and location of the Project within the City. The Definitive Agreements, which will be subject to approval by the City Council, are expected to include, without limitation: (a) the Rail Line, Houston Terminal Station and facilities development agreements; and (b) a maintenance and operations agreement.

- a. *Rail Line, Houston Terminal Station and Facilities Development Agreements*. The Rail Line, the Houston Terminal Station and facilities development agreements shall include provisions relating to:
  - i. Continued community outreach and community impact mitigation;
  - ii. Environmental permitting and mitigation;
  - iii. Traffic impact analysis and mitigation;
  - iv. Mobility studies to assess multi-modal connectivity needs between the Houston Terminal Station and the City's major activity centers;
  - v. Level of participation in providing for multi-modal connections between the Houston Terminal Station and the City's major activity centers;
  - vi. Accommodation of existing and future local and regional mobility systems, including high capacity commuter transit systems;
  - vii. Acquisition of rights-of-way, easements, and leases, and abandonment of same, as necessary;
  - viii. The Houston Terminal Station location, utilities, and access, including the vehicular and intermodal linkage and integration plan, design and construction;
  - ix. Location and construction of one or more facilities for maintenance of the bullet trains and/or training and other supportive services;
  - x. MWSBE goals and required percentages of participation;
  - xi. Job creation and wage commitments;
  - xii. Interagency and intergovernmental coordination;
  - xiii. Utility relocation plans;
  - xiv. The permitting process, including fees and construction coordination; and

- xv. Environmental compliance, including noise and vibration mitigation.
- b. *Maintenance and Operations Agreement*. The maintenance and operations agreement will govern the terms of use for shared rights-of-way and easements.

### MISCELLANEOUS

11. Recitals. The recitals set forth above are, by this reference, incorporated into and deemed a part of this MOU.

12. Venue. The obligations of the parties to this MOU are performable in Harris County, Texas, and exclusive venue for any legal action in connection with this MOU shall lie in Harris County, Texas.

13. Governing Law. This MOU shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Texas, without regard to conflicts of law or choice of law principals of Texas or any other state.

14. No Partnership, Joint Venture or Joint Enterprise. It is specifically understood that the relationship described in this MOU between Texas Central and the City is contractual in nature and is not to be construed to create an agency, partnership, joint enterprise or joint venture relationship between Texas Central and the City; nor shall one party be liable for any debts incurred by the other party in the conduct of such other party's business or function.

15. No Waiver of Immunity by City. Notwithstanding any provision of this MOU to the contrary, nothing in this MOU shall constitute a waiver by the City of any provisions of applicable law relating to any immunity or defense as may be available to the City on behalf of itself, its trustees, officers, employees, and agents.

16. Legal Construction. In case any one or more of the provisions contained in this MOU shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this MOU, and this MOU shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this MOU.

17. Captions and Headings. The captions and headings to the various provisions to this MOU are for convenience of reference only and shall not affect the construction of any provisions of this MOU.

18. Assignment. This MOU and the rights, duties, and obligations hereunder may not be transferred or assigned by either of the parties without the prior written consent of the other party.

19. Successors and Assigns. This MOU shall be binding upon and inure to the benefit of the parties and their respective successors and, except as otherwise provided in this MOU, their assigns.



**TEXAS CENTRAL:**

**TEXAS CENTRAL RAIL HOLDINGS, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE CITY:**

**CITY OF HOUSTON, TEXAS,**  
a Texas home rule municipal corporation

By: \_\_\_\_\_  
Sylvester Turner  
Mayor