

**SUBJECT TO SETTLEMENT PRIVILEGE (Rule 408)  
PRIVILEGED & CONFIDENTIAL**

**Community Investment and Settlement Agreement**

This Agreement is made and entered this \_\_\_\_ day of JUNE, 2022, by and between the City of Davenport, Iowa (“Davenport”) and Canadian Pacific Railway Company (CPRC), for and/or on behalf of CPRC, Dakota, Minnesota & Eastern Railroad Corporation, Delaware and Hudson Railway Company, Inc., and Soo Line Railroad Company (each and together “CP”).

WHEREAS CP is party to a proceeding before the Surface Transportation Board (STB) Docket No. FD 36500, through which it is seeking to acquire Kansas City Southern Railway (KCS) and its operating subsidiaries (CP/KCS Transaction).

AND WHEREAS this Agreement sets out terms and commitments by the parties in resolution of any objections or demands in connection with the proceedings in Docket No. FD 36500.

IN CONSIDERATION of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally binding, the parties agree as follows:

1. **Community Investment.** As a voluntary community investment, CP agrees to contribute EIGHT MILLION DOLLARS (\$ 8,000,000.00 USD) (“Community Investment”) to Davenport. In addition to the Community Investment, CP agrees to contribute TWO MILLION (\$2,000,000.00 USD) (“Additional Investment”) towards the implementation of a grade separated crossing at Concord Avenue, and associated elevated roadway (see Attachment A), in the City of Davenport. The Additional Investment funding must be used specifically for this purpose and Davenport must make all reasonable efforts to apply for a grant within a reasonable time to accomplish the project.
2. CP will provide any and all necessary support to Davenport in its endeavors to secure state or federal grant funding. Once the project funded with the Additional Investment project has been completed, Davenport agrees to close the at-grade crossing at Wapello Avenue. CP agrees to waive flagging fees for the projects associated with the Community Investment and Additional Investment funds. CP will provide as-built documents to Davenport for the previously completed Riverfront ADA Crossing projects. CP will provide a waiver to Davenport for the replacement of the East 13th Street Bridge for a height of 19 feet. Davenport will have a TWO (2) week period approval timeframe over TEN (10) business days.
3. **Community Commitment.** In exchange for this Community Investment, Davenport agrees that it will not seek any mitigation conditions before the STB as part of the proceedings in Docket No. FD 36500. Davenport further agrees that it will not oppose CP’s acquisition of KCS before the STB in Docket No. FD 36500 or in any other forum.
4. **Final Surface Transportation Board approval.** CP’s commitments under this Agreement will not take effect unless and until the STB gives final approval to CP’s acquisition of KCS in Docket No. FD 36500 and CP in fact acquires control of KCS pursuant to that approval.
5. **Confidentiality.** This Agreement and its terms shall be confidential except: (a) to the extent disclosure is necessary for Davenport to approve the agreement; (b) CP may disclose to the

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Surface Transportation Board that it has entered into this settlement agreement, without disclosing the particular terms and conditions; and (c) as otherwise required by law.

6. **Sole remedy.** CP and Davenport intend that the Surface Transportation Board require compliance with this agreement instead of any other mitigation that might be imposed within Davenport as part of the CP/KCS Transaction.
7. **Governing Law.** This Settlement Agreement is governed by, and construed in accordance with, the laws of the state of Minnesota and applicable federal laws, excluding any conflict of laws rules that may apply therein.
8. **Entire Agreement.** This Settlement Agreement constitutes the entire agreement of the parties concerning its subject matter and no other proposals, representations, warranties or other documents or agreements, either oral or written, shall be binding upon the parties. Notwithstanding the foregoing, the parties shall undertake to execute any agreement and take all other actions necessary to give effect to this Agreement. No provision of this Settlement Agreement may be amended, modified, waived or changed unless made in writing and signed by the Parties.
9. **Counterparts.** The parties may execute this Agreement by facsimile or other electronic means and in separate counterparts each of which when so executed and delivered shall be an original, and all such counterparts taken together shall constitute one instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above, by their respective duly authorized representatives.

**CITY OF DAVENPORT**

By: \_\_\_\_\_  
(signature)  
Name: \_\_\_\_\_  
(print name)  
Title: \_\_\_\_\_  
(print title)

**CANADIAN PACIFIC RAILWAY COMPANY**

By: \_\_\_\_\_  
(signature)  
Name: \_\_\_\_\_  
(print name)  
Title: \_\_\_\_\_  
(print title)