

Vendor#	Name	Invoice #	Description	Date	Budget #	Account Description	Dist Amount
273 101297	JOHN DEERE FINANCIAL	8/1/19	EL-SPRAYER	08/20/19	27021027080	GROUNDS & MAINT - ELLIS G	119.95 119.95*
	ELLIS GROUNDS						119.95*
274 051936	EQUINE VETERINARY PRACTICE LLC	0209433,432	EL - VET CARE	08/20/19	27021107084	VET & FARRIER - ELLIS CAM	138.67 138.67*
275 060304	FIRST NATIONAL BANK OMAHA	08/27/19:MV	EL PROGRAM SUPPLIES	08/20/19	27021107087	PROG SUPPLIES - ELLIS CAM	157.05 157.05*
	ELLIS CAMPS						295.72*
276 060304	FIRST NATIONAL BANK OMAHA	8/27/19:DG	EL-WOOD SHAVINGS	08/20/19	27021117082	ANIMAL CARE & SUPPLIES	542.20
277 130506	MENARDS	57256	EL - ANIMAL SUPPLIES	08/20/19	27021117082	ANIMAL CARE & SUPPLIES	11.94 554.14*
278 051936	EQUINE VETERINARY PRACTICE LLC	0209433,432	EL - VET CARE	08/20/19	27021117084	VET & FARRIER - ELLIS RID	138.67 138.67*
	ELLIS RIDING LESSONS						692.81*
279 051936	EQUINE VETERINARY PRACTICE LLC	0209433,432	EL - VET CARE	08/20/19	27021127084	VET & FARRIER - ELLIS B-D	138.66 138.66*
280 060304	FIRST NATIONAL BANK OMAHA	08/27/19:MV	EL - PROGRAM SUPPLIE	08/20/19	27021127087	PROG SUPPLIES - ELLIS B-D	55.47 55.47*
	ELLIS BIRTHDAY PARTIES						194.13*
281 060304	FIRST NATIONAL BANK OMAHA	08/27/19:MV	EL - VOL SUPPLIES	08/20/19	27021137079	VOLUNTEER EXP - ELLIS PUB	44.58
282 130506	MENARDS	56179	ELLIS-VOL EXPENSES	08/20/19	27021137079	VOLUNTEER EXP - ELLIS PUB	34.94 79.52*
	ELLIS PUBLIC PROGRAMS						79.52*
283 060304	FIRST NATIONAL BANK OMAHA	8/27/19:DG	EL-REFUSE P/U	08/20/19	27021207078	REFUSE PICKUP - ELLIS	102.08 102.08*
284 269197	JOEL RESIDORI	EL:7/27/19	EL SEC DEP RTN	08/20/19	27021207088	ELLIS SECURITY DEPOSIT RE	260.00 260.00*

Vendor#	Name	Invoice #	Description	Date	Budget #	Account Description	Dist Amount
285	KAITLYN DANIELS	EL-7-20-19	EL SEC DEP RTN	08/20/19	27021217088	SECURITY DEPOSIT REFUND	260.00
ELLIS OTHER RENTALS							260.00*
Total ELLIS RENTALS							362.08*
286	COMMONWEALTH EDISON	8/1/19:HOUSE	HOOVER HOUSE	08/20/19	27022006861	HOOVER - ELECTRIC	104.31
287	COMMONWEALTH EDISON	8/1/19:BATHOUS	HOOVER BATHOUSE	08/20/19	27022006861	HOOVER - ELECTRIC	80.58
288	COMMONWEALTH EDISON	8/1/19:MULTIPLE	HOOVER MULTIPLES	08/20/19	27022006861	HOOVER - ELECTRIC	927.76
Total ELLIS OTHER RENTALS							260.00*
289	FOX VALLEY FIRE & SAFETY	282421	HOOVER-FIRE EXT SERV	08/20/19	27022006862	HOOVER - OTHER UTILITIES	89.50
HOOVER							89.50*
290	FOX VALLEY FIRE & SAFETY	282422	HOOVER-FIRE EXT ANNU	08/20/19	27022006864	HOOVER - BUILDING MAINTEN	50.00
291	MENARDS	55800	HOOVER - BLD SUPPLIE	08/20/19	27022006864	HOOVER - BUILDING MAINTEN	100.58
292	YORKVILLE ACE & RADIO SHACK	168943	HOOVER-SCREENS	08/20/19	27022006864	HOOVER - BUILDING MAINTEN	185.00
Total HOOVER							335.58*
293	MENARDS	55504	HOOVER-GROUNDS SUPPL.	08/20/19	27022006865	HOOVER - GROUNDS MAINTENA	242.32
HOOVER							242.32*
294	BUSTED KNUCKLES LANDSCAPING	2428	HOOVER-TREE REMOVAL	08/20/19	27022006866	HOOVER - OTHER EXPENSES	800.00
HOOVER							800.00*
295	TIM TREMAIN	19-00157	ML SEC DEP RTN	08/20/19	27022007088	HOOVER SECURITY DEPOSIT R	197.50
296	SHERI O'CONNOR	19-00112	BUNKHOUSE SEC DEP RT	08/20/19	27022007088	HOOVER SECURITY DEPOSIT R	100.00
297	NANCY ELLEN	19-00133	ML SEC DEP RTN	08/20/19	27022007088	HOOVER SECURITY DEPOSIT R	126.25
Total HOOVER							3,003.80*
298	FIRST NATIONAL BANK OMAHA	8/27/19:ED	CAMP SUPPLIES	08/20/19	27023026849	ENV EDUC - CAMPS EXPENSE	151.82
ENV ED CAMPS							151.82*
299	DEBRA STEINBACH	7/29/19:ED	CAMP REFUND	08/20/19	27023027088	SECURITY DEPOSIT REFUNDS	35.00
ENV ED CAMPS							35.00*
Total ENV ED CAMPS							186.82*
300	FIRST NATIONAL BANK OMAHA	8/27/19:ED	PUBLIC PROGRAM SUPPL	08/20/19	27023046849	ENV EDUC - OTHER PUBLIC P	49.47
ENV ED OTHER PUBLIC PROGRAMS							49.47*

301 060304 ENV ED LAWS OF NATURE 8/27/19:DG PET-TANK FILTER 08/20/19 27023056649 ENV EDUC - LAWS OF NATURE 22.98

302 060304 NATURAL AREA VOLUNTEER 8/27/19:ED NAV-SPRINKLER 08/20/19 27024006835 NATURAL AREA VOLUNTEER SU 32.54

303 060304 GROUND & NATURAL RESOURCES 8/27/19:DG ENV ED-PHONE PROTECT 08/20/19 27025006207 TELEPHONE - GROUNDS & NAT 21.59

304 220626 VERIZON (FOREST PRESERVE) 9834391594 CELL PHONES 08/20/19 27025006207 TELEPHONE - GROUNDS & NAT 918.74

305 012061 ATLAS BOBCAT 689756 HOOVER-BOBCAT 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 478.50

306 01290 AUTOMOTIVE SPECIALTIES INC 23678 '14 FORD - OIL, WASH 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 73.20

307 040538 DEKANE EQUIPMENT CORP IA65452 HOOVER-BELT 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 57.94

308 040538 DEKANE EQUIPMENT CORP RA43257 HOOVER-TRACTOR REPAIR 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 369.36

309 040538 DEKANE EQUIPMENT CORP IA65951 HOOVER-EQUIP COVER 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 35.19

310 060304 FIRST NATIONAL BANK OMAHA 8/27/19:DG TIMER-HOOPER 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 132.86

311 101297 JOHN DEERE FINANCIAL 7/27/19 HARRIS-TRIMMER/MOP 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 279.95

312 130506 MENARDS 55800 HOOPER-SAW 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 299.00

313 130506 MENARDS 56896 HOOPER-HOSE 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 349.86

314 130506 MENARDS 56893 HOOPER-SPRINKLER 08/20/19 27025006216 EQUIP - GROUNDS & NATURAL 309.89

315 110531 KENDALL CO HIGHWAY DEPT JUL 2019 GAS/DIESEL: JULY 201 08/20/19 27025006217 FUEL - GAS & OIL 1,075.32

316 030540 CENTRAL LIMESTONE CO INC 17888 PRESERVE IMPROVEMENT 08/20/19 27025006837 PRESERVE IMPROV - GR & NA 1,406.72

317 030540 CENTRAL LIMESTONE CO INC 18010 PRESERVE IMPROVE-HAR 08/20/19 27025006837 PRESERVE IMPROV - GR & NA 11.27

318 071807 GRAINCO F.S. INC 78017311 PRESERVE IMPROVEMENT 08/20/19 27025006837 PRESERVE IMPROV - GR & NA 191.55

319 060304 FIRST NATIONAL BANK OMAHA 8/27/19:DG HVR-REFUSE P/U 08/20/19 27025006647 REFUSE PICKUP - GROUNDS & 404.32

320 060304 FIRST NATIONAL BANK OMAHA 8/27/19:DG HARRIS-REFUSE P/U 08/20/19 27025006847 REFUSE PICKUP - GROUNDS & 154.09

321 190563 SERVICE SANITATION, INC JUL 2019 PORTABLE RESTROOMS 08/20/19 27025006847 REFUSE PICKUP - GROUNDS & 300.00

322 101297 JOHN DEERE FINANCIAL 7/27/19 HARRIS-SUPPLIES 08/20/19 27025007089 SUPPLIES - SHOP 858.41

32.98*

22.98*

22.98*

32.54*

32.54*

32.54*

21.59

918.74

940.33*

478.50

73.20

57.94

369.36

35.19

132.86

279.95

299.00

349.86

309.89

2,385.75*

1,075.32

1,075.32*

1,406.72

11.27

191.55

1,609.54*

404.32

154.09

300.00

858.41*

59.92

59.92*

Vendor# Name Invoice # Description Date Budget # Account Description Dist Amount

323 031510 COMMONWEALTH EDISON 7/25/19:EL PICKERILL 08/20/19 2702606351 ELECTRIC - PICKERILL PIGO 39.53

Pickerill-Pigott Forest Preserve Total GROUNDS & NATURAL RESOURCES 6,929.27*

Total Pickerill-Pigott Forest Preserve 39.53*

bantrim

Vendor#	Name	Invoice #	Description	Date	Budget #	Account Description	Dist Amount
385	091387		IL 47 & US 34	08/20/19	95020006850	PROJECT FUND EXPENSES	103.95
386	100180	123009	LITTLE ROCK-DRAINAGE	08/20/19	95020006850	PROJECT FUND EXPENSES	300.00
387	100180	8373	LITTLE ROCK-LANE-REG	08/20/19	95020006850	PROJECT FUND EXPENSES	5,850.00
388	110498	8366	HOOVER-BLAUFF EROSION	08/20/19	95020006850	PROJECT FUND EXPENSES	6,225.00
389	110498	19-800	HOOVER-FIRE HYDRANT	08/20/19	95020006850	PROJECT FUND EXPENSES	2,130.00
		19-801					14,608.95*

Total FP BOND PROCEEDS 2007 15,033.95*

GRAND TOTAL \$30,089.14

**KENDALL COUNTY FOREST PRESERVE DISTRICT
FINANCE COMMITTEE MEETING MINUTES**

JULY 25, 2019

I. Call to Order

Committee Chair Kellogg called the Finance Committee meeting to order at 6:05 pm in the Kendall County Board Room.

II. Roll Call

Commissioners Cesich, Gilmour, Kellogg, and Vickers all were present.

III. Approval of Agenda

Commissioner Cesich made a motion to approve the agenda as presented. Seconded by Commissioner Vickers. All, aye. Opposed, none.

IV. Public Comments

There were no public comments offered by citizens in attendance.

V. Motion to Forward Claims to Commission for an Amount Not-to-Exceed \$37,706.72

The Finance Committee reviewed the claims list.

Commissioner Cesich made a motion to forward claims to Commission for an amount not-to-exceed \$37,706.72. Seconded by Commissioner Vickers. Aye, all. Opposed, none.

VI. Review of Financial Statements and Cost Center Reports through June 30, 2019

Director Guritz presented an overview of the financial statements and cost center reports through June 30, 2019. All programs and rentals, excluding Ellis weddings, are increasing in volume. Cost center summaries were reviewed.

VII. FY19 End-of-Year Projections Report

Director Guritz presented updates on the FY19 end-of-year projections report. End-of-year projections are expected to be positive. There is less crop revenue anticipated from fields not planted this year due to record rainfall.

VIII. FY20 Budget Guidelines Discussion

Director Guritz presented a preliminary draft budget, and requested discussion on the FY20 budget guidelines. Within the draft budget, there is a net 1.5% reduction in salaries due to staff changes. The draft budget also does not rely on development or capital fund transfers. Contractual agreements are decreased due to the elimination of the tent rental at Ellis House and Equestrian Center.

The Finance Committee discussed the FY20 operating budget, including the new State of Illinois minimum wage requirements. Director Guritz also reported on anticipated changes in levels of benefits enrollment by District full time staff.

Director Guritz reported that the draft FY20 budget meets the minimum wage threshold for the year.

Director Guritz asked whether the FY20 budget plan should rely exclusively on operating funds available.

The Finance Committee discussed the challenges, and provided direction to rely only on the operating funds available in drafting the FY20 budget.

IX. IDNR Grant Program & Proposal Updates (FY 20 OSLAD, Boat Access Area Development, RTP Program)

Director Guritz presented updates on IDNR grant program applications and proposals. A site inspection of Freeman Forest Preserve was completed by Upland Design, with a site plan forthcoming.

X. Fox River Bluffs – Prairie Seed Specifications; Cover Crop Specifications, IDNR Nursery Stock Order

Director Guritz presented final bid specifications for the purchase of 59-acres of prairie seed-mix. This seed mix will be used in the Fox River Bluffs Forest Preserve cropland conversion project and Hoover Forest Preserve core prairie enhancement.

XI. Pickerill Estate House Lease Agreement – Recommended Changes

Director Guritz presented a revised Pickerill estate lease agreement. The lease agreement's effective dates were updated, and prorated August rent recalculated.

XII. Fall 2019 Project Overview

Director Guritz presented an overview of fall 2019 projects. The Finance Committee discussed the Eagle Scout projects, and Meadowhawk Lodge staining project.

XIII. Executive Session

None.

XIV. Other Items of Business

1. Meadowhawk Lodge Staining – Initial Estimate(s)

Director Guritz reported that he was working to secure comparable estimates from three local companies.

2. Asphalt Repair Quotes – Initial Estimate(s)

Director Guritz reported that he was working to secure comparable estimates from three local companies.

3. Nature Play Space Water Feature Design Proposal – AquaScapes

Director Guritz reported that AquaScapes has been approached to request a proposal for completion of the design of the Hobbit Tunnel feature.

4. Little Rock Creek – Bluff Trail Erosion Control Proposal

Director Guritz reported that he would be seeking a proposal to clean out the existing storm water control infrastructure.

XV. Public Comments

No public comments were offered by citizens in attendance.

XVI. Adjournment

Commissioner Cesich made a motion to adjourn. Seconded by Commissioner Vickers. Aye, all: Opposed; none. Meeting adjourned at 7:07 pm.

Respectfully submitted,

David Guritz
Executive Director, Kendall County Forest Preserve District

**KENDALL COUNTY FOREST PRESERVE DISTRICT
COMMISSION MEETING MINUTES**

AUGUST 6, 2019

I. Call to Order

President Gilmour called the meeting to order at 6:37 pm in the Kendall County Board Room.

II. Pledge of Allegiance

All present recited the Pledge of Allegiance.

III. Invocation

Commissioner Prochaska offered an invocation for the meeting.

IV. Roll Call

X	Cesich	X	Hendrix
X	Flowers		Kellogg
X	Giles	X	Prochaska
X	Gilmour	X	Gengler
X	Gryder	X	Vickers

Commissioners Cesich, Flowers, Giles, Gilmour, Gryder, Hendrix, Prochaska, Gengler, and Vickers all were present.

V. Approval of Agenda

Commissioner Prochaska made a motion to approve the Commission meeting agenda with the amended order for placement of the Executive Session before Old Business. Seconded by Commissioner Gryder. Aye, all. Opposed, none.

VI. Public Comment

Sue Panozzo presented public comments on the Pickerill estate house, citing concerns over Mr. Pickerill's treatment by the District, and the proposed lease agreement.

VII. Approval of Claims for an Amount Not-to-Exceed \$37,706.72

Commissioner Cesich made a motion to approve claims not-to-exceed \$37,706.72. Seconded by Commissioner Flowers.

Motion: Commissioner Cesich					
Second: Commissioner Flowers					
Roll call: Claims Not-to-Exceed \$37,706.72					
Aye	Opposed	Commissioner	Aye	Opposed	Commissioner
X		Cesich	X		Hendrix
X		Flowers			Kellogg
X		Giles	X		Prochaska
X		Gilmour	X		Gengler
X		Gryder	X		Vickers
Motion unanimously approved.					

VIII. Approval of Minutes

- **Kendall County Forest Preserve District Committee of the Whole Meeting of July 9, 2019**
 - **Kendall County Forest Preserve District Commission Meeting of July 16, 2019**
- Commissioner Cesich made a motion to approve the Committee of the Whole meeting minutes of July 9, 2019, and the Operations Committee meeting minutes of July 16, 2019. Seconded by Commissioner Flowers. Aye, all. Opposed, none.

IX. Executive Session

Commissioner Prochaska made a motion to enter executive session under 2(c)1 of the Open Meetings Act to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity. Seconded by Commissioner Cesich.

Roll call: Commission Cesich, Flowers, Gilmour, Giles, Gryder, Hendrix, Prochaska, Gengler, and Vickers, aye. Opposed, none.

Executive Session called to order at 6:37 pm.

Commissioner Gryder made a motion to adjourn from Executive Session. Seconded by Commissioner Prochaska. Aye, all. Opposed, none.

Regular meeting reconvened at 7:38 pm.

Commissioner Hendrix made a motion to forward agenda Items IX, X, and XI to their respective committees. Seconded by Commissioner Flowers.

Commissioner Prochaska suggested that rather than sending the Items back to a District committee for discussion, that the Items be rescheduled for consideration at the upcoming Commission meeting.

The Board of Commissioners discussed the approach to be taken. Commissioner Hendrix amended her motion to have the agenda items deferred to the Committee of the Whole

meeting for further discussion. Commissioner Flowers amended her second in support of the amended motion.

Director Guritz requested clarification on the motion on the table. ASA Johnson stated that the motion on the table was to postpone consideration and defer the agenda items to the Committee of the Whole meeting based on Commissioner Hendrix amending her motion, followed by Commissioner Flowers amending her second to that motion. Aye, Commissioners Cesich, Flowers, Giles, Hendrix, Prochaska, Gengler, Vickers, and Gilmour. Opposed, Commissioner Gryder. Motion carried by a vote of 8:1.

The Board of Commissioners discussed and changed the start time for the Committee of the Whole meeting to 5:15 pm on August 13, 2019.

OLD BUSINESS

- X. **MOTION: Approval of a 12% Annualized Salary Increase for David Guritz, Executive Director of the Kendall County Forest Preserve District from \$85,000.00 to \$95,200.00 Effective August 17, 2019**

Agenda item forwarded to Committee of the Whole.

- XI. **MOTION: Approval of a Two-Year Lease Agreement between the Kendall County Forest Preserve District and David Guritz, Executive Director for Use of the Pickerill Estate House "Maid's Room," Adjoining Washroom, Laundry Room, Kitchen Area, Garage Stall, and Basement Storage Area as a Private Residence at Pickerill-Pigott Forest Preserve for an Initial Monthly Rent Payment Standards Thereafter, Including Payment of a \$1,000.00 Rental Security Deposit**

Agenda item forwarded to Committee of the Whole.

NEW BUSINESS

- XII. **MOTION: Approval of Headcount Reductions for the Kendall County Forest Preserve District, Including the Elimination of the Full Time Superintendent Position, Elimination of the Part Time Rental Venues Coordinator Position, Elimination of the Part Time Environmental Education Coordinator Position, and Elimination of the Part Time Resident and Grounds Maintenance – Pickerill-Pigott Position**

Agenda Item forwarded to Committee of the Whole.

XIII. Other Items of Business

President Gilmour appointed Commissioners Gengler and Prochaska to work with Director Guritz on the review of the Kendall County Forest Preserve District's FY20 budget. Commissioner Kellogg has been assigned to work on the Kendall County budget, and expressed appreciation for their support.

Director Guritz reported that the demolition of the Pigott house at Pickerill-Pigott Forest Preserve is underway, and will be completed in late August by the Bristol-Kendall Fire Department.

Director Guritz reported on excavation of storm water control infrastructure at Little Rock Creek Forest Preserve that can be brought back into use to avoid future washouts of the gravel trail.

Director Guritz reported on an emergency repair completed to a fire hydrant at Hoover, as well as other project efforts in the preserve.

Director Guritz asked, and President Gilmour confirmed that the District's Commission meeting scheduled for August 20, 2019 will be rescheduled to August 27, 2019.

XIV. Public Comments

Jim Wyman with WSPY News asked who had voted no on referring the agenda items back to Committee of the Whole. Commissioner Gryder stated he was the no vote.

XV. Adjournment

Commissioner Gryder made a motion to adjourn. Seconded by Commissioner Flowers. Aye, all. Opposed, none. Meeting adjourned at 7:46 pm.

Respectfully submitted,

David Guritz
Director, Kendall County Forest Preserve District

**KENDALL COUNTY FOREST PRESERVE DISTRICT
OPERATIONS COMMITTEE MEETING MINUTES**

AUGUST 7, 2019

I. Call to Order

Commissioner Flowers called the Operations Committee meeting to order at 6:00 pm in the Kendall County Board Room.

II. Roll Call

Commissioners Flowers, Gengler, and Prochaska all were present.

III. Approval of Agenda

Commissioner Prochaska made a motion to approve the agenda as presented. Seconded by Commissioner Gengler. All, aye. Opposed, none.

IV. Public Comments

No public comments were offered from citizens in attendance.

V. Review of Financial Statement Reports through July 30, 2019

Director Guritz presented a review of financial statement reports through July 30, 2019. Generally, the District is on track with the prior fiscal year. The Environmental Education Division is exceeding projections for the year. Equestrian Center programs area also on track for meeting or exceeding budget projections. The District is also recognizing budget savings from the Superintendent vacancy.

VI. Special Use Permit Requests

No Special Use Permits were presented for consideration.

VII. Operations Updates and Discussions

i. Human Resource, Accounting and Preserve Reservations Manager Final Position Description

Commissioner Prochaska made a motion to forward the Human Resources, Accounting and Preserve Reservations Manager final position description to Committee of the Whole. Seconded by Commissioner Gengler. Aye, all. Opposed, none.

II. Review of a Revised Draft of the District's Organizational Chart

Commissioner Prochaska made a motion to forward the review of a revised draft of the District's Organizational Chart to Committee of the Whole for consideration. Seconded by Commissioner Gengler. Aye, all. Opposed, none.

VIII. Environmental Education Updates

i. Natural Beginnings Market Study

Stefanie Wiencke presented a market study on Natural Beginnings program.

Generally, the District's tuition fees are in line with other early learning programs in the region.

ii. Fall 2019 Public Program Offerings, Fees and Charges

Emily Dombrowski presented the fall 2019 public programs. Highlights were given on increasing enrollments in the District's Toddling Naturalist programs.

Commissioner Prochaska made a motion to forward the fall 2019 public program offerings, fees and charges to Commission for approval. Seconded by Commissioner Gengler. Aye, all. Opposed, none.

iii. Environmental Education Summer Camps and Programs Report

Emily Dombrowski presented participation reports on summer camps and public programs. The District saw more campers this summer with less camps running, which have improved budget performance. Daycare programs and assisted living program offerings were also highlighted.

IX. Grounds, Natural Resources, and Preserve Projects Updates

i. Fall 2019 Projects Overview

Director Guritz presented an overview on the fall 2019 projects.

ii. Henneberry Forest Preserve Erosion Restoration Project

Director Guritz presented updates on the Henneberry Forest Preserve stormwater erosion control project.

iii. Hoover Forest Preserve Bluff Erosion Restoration Project

Director Guritz reported that the project has been completed.

iv. Fox River Bluffs Forest Preserve Restoration Project Updates

Director Guritz reported that the District is working with the Foundation to complete the project this fall, including additional woodland clearing, and planting and seeding core prairie areas.

v. Little Rock Creek Bluff Trail – Trail Erosion Control Project

Director Guritz reported on the results of an initial soil clearing effort which revealed storm water control structures present along the bluff-trail that need to be cleared in order to prevent trail washout events in the future.

vi. Millbrook Bridge Updates – HLR Bid Specifications Updates

Director Guritz reported that the State's Attorney's Office is completing a review of the final bid specifications for the removal of Millbrook Bridge.

vii. Hoover Designated Trails Updates

Director Guritz presented updates on the designated trail project at Hoover. An Eagle Scout candidate is working on installing trail markers and addressing encroachment trail impacts to the preserve's natural areas.

viii. Bright Property Access Easement

Director Guritz reported that a letter will be sent to the Bright family requesting consideration for establishing a limited access easement for Millington Forest Preserve.

ix. 2019 Bow Hunt Pilot Program Discussion

Director Guritz reported that work will begin to design the pilot program later this month with a presentation to the Operations Committee for discussion.

X. Ellis House and Equestrian Center Updates

i. Ellis House and Event Tent – Top Notch Rental Event Tent Sale Offer or License Arrangement

Director Guritz presented a proposal received from Top Notch Rental for the event tent. Direction was received to discuss setting a fee of \$1,000 per event with Top Notch.

XI. Hoover Rail Crossing Updates

ii. Hoover Road Repairs

Director Guritz reported that Midsouth Rail Company will be paying for costs for repairs to Hoover Road, including staff time incurred from construction activity cleanup efforts.

iii. Tri-Party Crossing Agreement (Illinois Railway-OmniTRAX; KCFPD; United City of Yorkville)

Director Guritz reported that OmniTRAX/IL Railway has signed off on the agreement as presented. The final version is under State's Attorney's Office review. The easements have not been filed, as the company likely installed the electric service line outside of the proposed easement area.

XII. Executive Session

There was no need for executive session.

XIII. Other Items of Business

Director Guritz presented updates on the District's iParks insurance application.

XIV. Citizens to be Heard

No public comments were offered by those in attendance.

XV. Adjournment

Commissioner Gengler made a motion to adjourn. Seconded by Commissioner Prochaska. Aye, all. Opposed, none. Meeting adjourned at 7:27 pm.

Respectfully submitted,

David Guritz
Executive Director, Kendall County Forest Preserve District.

PUBLIC ROAD CROSSING LICENSE

THIS PUBLIC ROAD CROSSING LICENSE is made this 1st day of August, 2019 by and between the Illinois Railway, LLC (hereinafter "Licensor"), Kendall County Forest Preserve District (hereinafter "Licensee") and the United City of Yorkville (hereinafter "Co-Licensee"). Licensor and Licensee may sometimes be referred to as a "Party" or collectively as the "Parties". Co-Licensee is made party to this license by way of FHA-IDOT specifications but is not subject to the same terms and conditions as Licensee and is not an included member of Party or Parties as described above.

RECITALS:

Licensee and Co-Licensee desire the construction, maintenance and use of a public road crossing (hereinafter "Road Crossing"), consisting of gravel, asphalt, or concrete roadway approaches, a 32 foot wide asphalt, crossing surface and all appurtenances thereto, including but not limited to any gates, cattle guards, stop signs, identification signs, drainage facilities, on, over and across the Licensor's right of way and tracks at the Kendall County Forest Preserve, located at Mile Post 51.59, at or near the United City of Yorkville, in Kendall County, Illinois, in the location shown on the attached map and legally described in Exhibit A, attached and incorporated herein.

Licensor is willing to grant Licensee a license to use Licensor's right-of-way, subject to the terms and conditions set forth below.

NOW THEREFORE, the Parties, intending to be legally bound, agree as follows:

ARTICLE I. LICENSOR GRANTS LICENSE

A. Licensor grants Licensee a license to use that portion of the Licensor's right-of-way for a roadway and to cross its right of way and tracks at the location shown on Exhibit A, subject to the terms and conditions set forth herein. In consideration of the license and permission granted herein, Licensee agrees to observe and abide by the terms and conditions of this License and to pay to the Licensor, in advance, a license fee of Two Thousand Dollars (\$2,000.00) for each and every year or fractional part thereof during the term of this License or any renewal thereof. Licensor will not execute this license until it receives a signed agreement from Licensee and in no event is entry under this license permitted until Licensor has executed it.

B. The payment by Licensee of any sum(s) in advance shall not create an irrevocable license for the period for which the same is/are paid. Licensor reserves the right to periodically adjust the rent herein at any time, by giving notice at any time, independent of the term of this License of such adjustment to Licensee at least thirty (30) days prior to the effective date of such adjustment. Such adjustments shall not exceed 1.3% per annum and license fee will not exceed Seven Thousand Five Hundred Dollars (\$7,500.00) per annum. Occupation of the Road Crossing by Licensee after such effective date shall be at such adjusted rent.

C. Licensee shall pay to Licensor an additional sum of money equal to one and one half

percent (1.5%) per month (18% per annum) of the total unpaid license fee stated above, any adjusted license fee due pursuant to Article I B, and any additional charges provided for in this License in the event said license fee, adjusted license fee or additional charges is not received by Licensor within thirty (30) days from the date it is due and payable. The finance charge continues to accrue daily until the date payment is received by Licensor, not the date payment is made or the date postmarked on the payment.

ARTICLE II. CONSTRUCTION OF ROAD CROSSING

A. Subject to applicable law and the final ORDER of the State Of Illinois, Illinois Commerce Commission, case T16-0003 attached and incorporated herein as Exhibit B, Licensor shall furnish the materials for and install the portion of the Road Crossing lying between the rails of the tracks and for one (1) foot on the outside of each rail, the active railroad warning devices, and raise, or cause to be raised, any interfering wire line of Licensor. In performing this work, Licensor shall perform such work as is necessary to comply with the final ORDER attached as Exhibit B, and Licensor shall be reimbursed for the Licensor's costs pursuant to the STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION AGREEMENT for Railway-Highway Grade Crossing Improvements Local Public Agency, attached and incorporated herein as Exhibit C, entered into by the Licensor and Co-Licensee. Neither Licensee nor Co-Licensee shall be responsible for assuming or reimbursing Licensor costs associated with scope of work performed under the final ORDER or STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION AGREEMENT.

B. Licensee, at its sole cost and expense, shall furnish all labor and material and perform all grading and surfacing work necessary for the construction, maintenance, repair or renewal of the remaining portion of the Road Crossing and install any and all appurtenant gates, fences, cattle guards, drainage facilities, traffic signs, and traffic devices shown on Exhibit A. Plans for construction shall be approved in advance by Licensor in writing and the construction work shall be done to the satisfaction of Licensor. Prior to entry on Licensor's property to do its work on construction, Licensee shall contact Licensor's Chief Engineer or agent for approval, in writing, of Licensee's plan for construction and to arrange for necessary flaggers and safety supervisors, at Licensee's sole cost and expense.

ARTICLE III. ROADWAY TO SERVE AS PUBLIC CROSSING

The Road Crossing serves as a public crossing pursuant to letter attached as exhibit B.

ARTICLE IV. USE

Licensee shall have no right to use or cross any other portion of Licensor's property, unless by separate agreement, or to use the Road Crossing for any purposes other than as expressly permitted herein, and Licensee, as a further consideration, cause and condition without which this License would not have been granted, agrees to restrict its use to those purposes.

Licensee shall not do or permit to be done any act which will in any manner interfere with, limit, restrict, obstruct, damage, interrupt, or endanger rail operations or facilities.

ARTICLE V. SIGHTING AT CROSSING

Where Licensee's property adjoins Licensor's property, in the vicinity of the Road Crossing, Licensee shall keep its property free of bushes, trees, weeds, vegetation and all other obstructions of any kind that could interfere with a motor vehicle operator sighting an approaching train.

Licensee acknowledges that Licensor has no obligation or duty to reduce the speed of its trains, nor alter its operations in any manner, owing to the presence or existence of the Road Crossing or other use or exercise of the license granted herein. Licensee assumes, at its own risk and expense, sole responsibility for the installation of additional signs, signals or other warning devices as deemed by the Co-licensee as necessary or appropriate for the safety of persons using the Road Crossing and specifically acknowledges that Licensor has no obligation or duty whatever to make any such determination. If the installation of any signs, signals or warning devices on the Road Crossing is hereafter required by law or by competent public authority, or is otherwise requested by Licensee, same shall conform to any then currently applicable practices of Licensor for such devices as to design, material and workmanship and all costs incurred by Licensor related to the installation, operation, maintenance, renewal, alteration and upgrading thereof shall be solely borne by Licensee, with the exception of the materials, equipment, and improvements installed under the STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION AGREEMENT.

ARTICLE VI. INSURANCE

Licensee shall purchase and maintain insurance as specified below covering this Road Crossing, all the work, services, and obligations assumed or performed hereunder, from the Effective Date until termination, unless the duration is stated to be otherwise, with insurance companies assigned a current Financial Strength Rating of at least A and Financial Size Category of X by A. M. Best Company:

A. Commercial General Liability Insurance written on an occurrence basis subject to limit of \$1,000,000 each occurrence for bodily injury, property damage, personal injury, libel and/or slander with an annual aggregate limit of no less than \$2,000,000. Policy coverage is to be based on usual Insurance Services Office policy forms to include, but not be limited to: Operations and Premises Liability, Completed Operations and Products Liability, Personal Injury and Advertising Liability, and Contractual Liability Insurance. Completed Operations coverage is to be maintained for a period of not less than three (3) years after the termination or cancellation of this License. General Liability policies procured by Licensee shall be amended to delete all railroad exclusions including exclusions for working on or within fifty feet (50') of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing (CG 24 17 endorsement or equivalent).

B. Workers' Compensation and Employers' Liability Insurance providing statutory workers' compensation benefits mandated under applicable state law and Employers' Liability Insurance subject to a minimum limit of \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 policy limit for bodily injury by disease. If coverage is provided through a monopolistic state fund, a stop gap

endorsement on either the Commercial General Liability or Workers' Compensation Policy is required to meet the Employers' Liability Insurance requirement.

C. Business Automobile Liability Insurance subject to a minimum limit of \$1,000,000 each accident for bodily injury and property damage. Policy coverage shall be based on Insurance Services Office policy forms referred to as Business Automobile Policy to cover motor vehicles owned, leased, rented, hired or used on behalf of Licensee. If applicable to this License and applicable under federal law, Licensee shall provide an MCS 90 endorsement.

D. Umbrella Liability Insurance written on an occurrence basis subject to a limit of \$4,000,000 each occurrence for bodily injury, property damage, personal injury, libel and/or slander. Policy coverage is to be at least as broad as primary coverages. Umbrella coverage is to be maintained for a period of not less than three (3) years after the termination or cancellation of this License. Umbrella Liability shall apply to Commercial General Liability, Employers' Liability, and Business Automobile Liability Insurances.

The required limits of insurance may be satisfied by a combination of Primary and Umbrella or Excess Liability Insurance.

E. All insurance required of Licensee with the exception of Workers' Compensation and Employers' Liability shall include Licensor and any subsidiary, owner, parent or affiliates of Licensor, and their respective partners, successors, assigns, legal representatives, officers, directors, members, managers, agents, shareholders, and employees ("Required Parties") as additional insured and include wording which states that the insurance shall be primary and not excess over or contributory with any insurance carried by Licensor and its affiliates. With respect to Commercial General Liability Insurance, Required Parties shall be included as additional insured for Ongoing Operations and for Completed Operations to the extent permitted by law.

All insurance shall provide Licensor a minimum of thirty (30) days' advance written notice of insurer's intent to cancel or otherwise terminate policy coverage.

F. If Licensee cannot obtain an occurrence based policy for any required coverage, the policy may be written on a claims-made basis with a retroactive date on or before the Effective Date of this License. Licensee shall maintain such policy on a continuous basis. If there is a change in insurance companies or the policy is canceled or not renewed, Licensee shall purchase an extended reporting period of not less than three (3) years after the License termination date.

G. Licensee shall file with Licensor on or before the Effective Date of this License a valid certificate of insurance for all required insurance policies. Each certificate shall identify the Required Parties as additional insured as required and state that Licensor shall receive a minimum of thirty (30) days' advance written notice of insurer's intent to cancel or otherwise terminate policy coverage. Licensee shall supply updated certificates of insurance that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage as required by this License. All insurance policies required of Licensee shall include a waiver of any right of subrogation written in favor of Required Parties.

H. Notwithstanding the foregoing, Licensee may self-insure for any of the above required insurance coverages subject to the requirements specified in this paragraph. Licensee shall provide Licensor with audited financial statements and Licensor may, at its discretion, which shall not be unreasonably withheld, deem such financial statements acceptable prior to authorizing Licensee to self-insure. Licensee shall provide a letter of self-insurance to Licensor specifically stating which lines of coverage are self-insured and the amount of self-insurance maintained. The amount of any excess insurance that attaches to self-insurance below the required limits of insurance shall be identified in the letter and evidenced on a certificate of insurance. This letter of self-insurance shall be signed by Licensee's Risk Manager or another designated authorized signatory. With respect to Workers' Compensation, Licensee shall also provide state-issued self-insured authorization documents to Licensor, where applicable by state law.

I. Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent or broker who have been instructed by Licensee to procure the insurance coverage required by this License. Upon signature of this License and renewal of insurance, if Licensee fails to maintain or provide evidence to Licensor of any insurance coverage required under this License, Licensor may terminate this License effective immediately.

J. Licensee's compliance with obtaining the required insurance coverage shall in no way limit the indemnification rights and obligations specified in this License.

Licensor, and all subcontractors of the Licensor shall purchase and maintain insurance as specified below covering work requested by the Co-licensee and approved and performed by the Licensor within the Road Crossing, including all the work, services, and obligations assumed or performed hereunder, from the Effective Date until termination, unless the duration is stated to be otherwise, with insurance companies assigned a current Financial Strength Rating of at least A and Financial Size Category of X by A. M. Best Company:

A. **Commercial General Liability Insurance** written on an occurrence basis subject to limit of \$1,000,000 each occurrence for bodily injury, property damage, personal injury, libel and/or slander with an annual aggregate limit of no less than \$2,000,000. Policy coverage is to be based on usual Insurance Services Office policy forms to include, but not be limited to: Operations and Premises Liability, Completed Operations and Products Liability, Personal Injury and Advertising Liability, and Contractual Liability Insurance. Completed Operations coverage is to be maintained for a period of not less than three (3) years after the termination or cancellation of this License. General Liability policies procured by Licensor shall be amended to delete all railroad exclusions including exclusions for working on or within fifty feet (50') of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing (CG 24 17 endorsement or equivalent).

B. **Workers' Compensation and Employers' Liability Insurance** providing

statutory workers' compensation benefits mandated under applicable state law and Employers' Liability Insurance subject to a minimum limit of \$1,000,000 each accident for bodily injury by accident, \$1,000,000 each employee for bodily injury by disease, and \$1,000,000 policy limit for bodily injury by disease. If coverage is provided through a monopolistic state fund, a stop gap endorsement on either the Commercial General Liability or Workers' Compensation Policy is required to meet the Employers' Liability Insurance requirement.

C. Business Automobile Liability Insurance subject to a minimum limit of \$1,000,000 each accident for bodily injury and property damage. Policy coverage shall be based on Insurance Services Office policy forms referred to as Business Automobile Policy to cover motor vehicles owned, leased, rented, hired or used on behalf of Licensee. If applicable to this License and applicable under federal law, Licensor shall provide an MCS 90 endorsement.

D. Umbrella Liability Insurance written on an occurrence basis subject to a limit of \$4,000,000 each occurrence for bodily injury, property damage, personal injury, libel and/or slander. Policy coverage is to be at least as broad as primary coverages. Umbrella coverage is to be maintained for a period of not less than three (3) years after the termination or cancellation of this License. Umbrella Liability shall apply to Commercial General Liability, Employers' Liability, and Business Automobile Liability Insurances.

The required limits of insurance may be satisfied by a combination of Primary and Umbrella or Excess Liability Insurance.

E. All insurance required of Licensor with the exception of Workers' Compensation and Employers' Liability shall include Co-licensee, and their respective partners, successors, assigns, legal representatives, officers, and employees ("Required Parties") as additional insured and include wording which states that the insurance shall be primary and not excess over or contributory with any insurance carried by Co-licensee and its affiliates. With respect to Commercial General Liability Insurance, Required Parties shall be included as additional insured for Ongoing Operations and for Completed Operations to the extent permitted by law.

All insurance shall provide Co-licensee a minimum of thirty (30) days' advance written notice of insurer's intent to cancel or otherwise terminate policy coverage.

F. If Licensor cannot obtain an occurrence based policy for any required coverage, the policy may be written on a claims-made basis with a retroactive date on or before the Effective Date of this License. Licensor shall maintain such policy on a continuous basis. If there is a change in insurance companies or the policy is canceled or not renewed, Licensee shall purchase an extended reporting period of not less than three (3) years after the License termination date.

G. Licensor shall file with Co-licensee on or before the Effective Date of this License a valid certificate of insurance for all required insurance policies. Each certificate shall identify the Required Parties as additional insured as required and state that Co-licensee shall receive a minimum of thirty (30) days' advance written notice of insurer's intent to cancel or otherwise terminate policy coverage. Licensor shall supply updated certificates of insurance that clearly evidence the continuation of all coverage

in the same manner, limits of protection, and scope of coverage as required by this License. All insurance policies required of Licensor shall include a waiver of any right of subrogation written in favor of Required Parties.

H. Notwithstanding the foregoing, Licensor may self-insure for any of the above required insurance coverages subject to the requirements specified in this paragraph. Licensor shall provide Co-licensee with audited financial statements and Licensee may, at its discretion, which shall not be unreasonably withheld, deem such financial statements acceptable prior to authorizing Licensor to self-insure. Licensor shall provide a letter of self-insurance to Co-licensee specifically stating which lines of coverage are self-insured and the amount of self-insurance maintained. The amount of any excess insurance that attaches to self-insurance below the required limits of insurance shall be identified in the letter and evidenced on a certificate of insurance. This letter of self-insurance shall be signed by Licensor's Risk Manager or another designated authorized signatory. With respect to Workers' Compensation, Licensor shall also provide state-issued self-insured authorization documents to Co-licensee, where applicable by state law.

I. Licensor represents that this License has been thoroughly reviewed by Licensor's insurance agent or broker who have been instructed by Licensor to procure the insurance coverage required by this License. Upon signature of this License and renewal of insurance, if Licensor fails to maintain or provide evidence to Co-licensee of any insurance coverage required under this License, Co-licensee may terminate this License effective immediately.

J. Licensor's compliance with obtaining the required insurance coverage shall in no way limit the indemnification rights and obligations specified in this License.

ARTICLE VII. TERM

This License shall take effect as of May 1, 2019 and, unless sooner terminated as hereinafter provided, shall continue in force so long as such use as herein defined continues. Notwithstanding the foregoing, either Party may terminate this Agreement, for any reason, upon giving not less than thirty (30) days written notice to the other Party. Termination of this Agreement shall not affect any liabilities or obligations of the Parties which accrued prior to such termination.

ARTICLE VIII. LICENSEE INDEMNITY

A. Licensee acknowledges that persons and property on or near the Road Crossing, whether during construction, installation, use, maintenance or relocation are in constant danger of injury, death or destruction, incident to the operation of the railroad tracks, whether by Licensor or others, and Licensee accepts this License subject to such dangers.

B. LICENSEE, AS FURTHER CONSIDERATION AND AS A CONDITION WITHOUT WHICH THIS LICENSE WOULD NOT HAVE BEEN GRANTED, AGREES

TO INDEMNIFY AND SAVE HARMLESS LICENSOR AND ANY SUBSIDIARY, MANAGEMENT COMPANY, PARENT, OWNERS AND AFFILIATES OF LICENSOR, AND THEIR RESPECTIVE PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, MEMBERS, MANAGERS, AGENTS, SHAREHOLDERS AND EMPLOYEES (THE "INDEMNITEES") AND TO ASSUME ALL RISK, RESPONSIBILITY AND LIABILITY FOR DEATH OF, OR INJURY TO, ANY PERSONS, INCLUDING, BUT NOT LIMITED TO, OFFICERS, EMPLOYEES, AGENTS, PATRONS AND LICENSEES OF THE PARTIES, AND FOR LOSS, DAMAGE OR INJURY TO ANY PROPERTY, INCLUDING BUT NOT LIMITED TO, THAT BELONGING TO THE PARTIES (TOGETHER WITH ALL LIABILITY FOR ANY EXPENSES, ATTORNEYS' FEES AND COSTS INCURRED OR SUSTAINED BY THE INDEMNITEES, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS HEREBY CONFERRED) ARISING FROM, GROWING OUT OF, OR IN ANY MANNER OR DEGREE DIRECTLY OR INDIRECTLY CAUSED BY, ATTRIBUTABLE TO, OR RESULTING FROM THE GRANT OF THIS LICENSE, OR THE CONSTRUCTION, MAINTENANCE, REPAIR, RENEWAL, ALTERATION, CHANGE, RELOCATION, EXISTENCE, PRESENCE, USE, OPERATION, OR REMOVAL OF ANY STRUCTURE INCIDENT THERETO, OR FROM ANY ACTIVITY CONDUCTED ON OR OCCURRENCE ORIGINATING ON THE AREA COVERED BY THE LICENSE, EXCEPT TO THE EXTENT CAUSED BY THE SOLE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY SEEKING INDEMNIFICATION. LICENSEE FURTHER AGREES TO RELEASE AND INDEMNIFY AND SAVE HARMLESS THE INDEMNITEES FROM ALL LIABILITY TO LICENSEE, ITS OFFICERS, EMPLOYEES, AGENTS OR PATRONS, RESULTING FROM RAILROAD OPERATIONS AT OR NEAR THE AREA IN WHICH THIS LICENSE IS TO BE GRANTED, EXCEPT TO THE EXTENT CAUSED BY THE SOLE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY SEEKING INDEMNIFICATION.

C. THE RISKS OF INJURY TO OR DEATH OF PERSONS AND LOSS OR DAMAGE TO PROPERTY HEREIN ASSUMED BY LICENSEE, SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, CONTRACTORS, EMPLOYEES, OR INVITEES OF EITHER OF THE PARTIES, AND WHETHER OR NOT SUCH INJURY TO OR DEATH OF PERSONS SHALL ARISE UNDER ANY WORKMEN'S COMPENSATION ACT OR FEDERAL EMPLOYERS' LIABILITY ACT.

D. LICENSEE SHALL, AT ITS SOLE COST AND EXPENSE, JOIN IN OR ASSUME, AT THE ELECTION AND DEMAND OF LICENSOR, THE DEFENSE OF ANY CLAIMS, DEMANDS, ACTIONS, AND CAUSES OF ACTION HEREUNDER ARISING. THE WORD "LICENSOR" AS USED IN THIS INDEMNITY SECTION SHALL INCLUDE THE ASSIGNS OF LICENSOR AND ANY OTHER RAILROAD COMPANY THAT MAY BE OPERATING UPON AND OVER THE TRACKS IN THE VICINITY OF THE ROAD CROSSING.

E. AS A PRECONDITION TO LICENSEE'S INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION, THE INDEMNITEES WILL (i) FULLY COOPERATE WITH LICENSEE IN ANY INVESTIGATION AND PROVIDE LICENSEE WITH ALL INFORMATION IN THE POSSESSION OR CONTROL OF THE INDEMNITEES RELATING TO ANY MATTER FOR WHICH THE INDEMNITEES SEEK INDEMNIFICATION, AND (ii) PROVIDE LICENSEE WITH TIMELY NOTICE OF ANY MATTER OR INCIDENT FOR WHICH THE INDEMNITEES MAY MAKE A CLAIM FOR INDEMNIFICATION BY LICENSEE.

ARTICLE IX. LICENSOR INDEMNITY

A. Licensor acknowledges that persons and property on or near the Road Crossing, whether during construction, installation, use, maintenance or relocation are in constant danger of injury, death or destruction, incident to the operation of the railroad tracks, whether by Licensee or others, and Licensor accepts this License subject to such dangers.

B. LICENSOR, AS FURTHER CONSIDERATION AND AS A CONDITION WITHOUT WHICH THIS LICENSE WOULD NOT HAVE BEEN GRANTED, AGREES TO INDEMNIFY AND SAVE HARMLESS LICENSEE AND ANY SUBSIDIARY, MANAGEMENT COMPANY, PARENT, OWNERS AND AFFILIATES OF LICENSEE, AND THEIR RESPECTIVE PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, EMPLOYEES (THE "INDEMNITEES") AND TO ASSUME ALL RISK, RESPONSIBILITY AND LIABILITY FOR DEATH OF, OR INJURY TO, ANY PERSONS, INCLUDING, BUT NOT LIMITED TO, OFFICERS, EMPLOYEES, AGENTS, PATRONS AND LICENSEES OF THE PARTIES, AND FOR LOSS, DAMAGE OR INJURY TO ANY PROPERTY, INCLUDING BUT NOT LIMITED TO, THAT BELONGING TO THE PARTIES (TOGETHER WITH ALL LIABILITY FOR ANY EXPENSES, ATTORNEYS' FEES AND COSTS INCURRED OR SUSTAINED BY THE INDEMNITEES, WHETHER IN DEFENSE OF ANY SUCH CLAIMS, DEMANDS, ACTIONS AND CAUSES OF ACTION OR IN THE ENFORCEMENT OF THE INDEMNIFICATION RIGHTS HEREBY CONFERRED) ARISING FROM, GROWING OUT OF, OR IN ANY MANNER OR DEGREE DIRECTLY OR INDIRECTLY CAUSED BY, ATTRIBUTABLE TO, OR RESULTING FROM THE GRANT OF THIS LICENSE, OR THE CONSTRUCTION, MAINTENANCE, REPAIR, RENEWAL, ALTERATION, CHANGE, RELOCATION, EXISTENCE, PRESENCE, USE, OPERATION, OR REMOVAL OF ANY STRUCTURE INCIDENT THERETO, OR FROM ANY ACTIVITY CONDUCTED ON OR OCCURRENCE ORIGINATING ON THE AREA COVERED BY THE LICENSE, EXCEPT TO THE EXTENT CAUSED BY THE SOLE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY SEEKING INDEMNIFICATION. LICENSOR FURTHER AGREES TO RELEASE AND INDEMNIFY AND SAVE HARMLESS THE INDEMNITEES FROM ALL LIABILITY TO LICENSOR, ITS OFFICERS, EMPLOYEES, AGENTS OR PATRONS, RESULTING FROM RAILROAD OPERATIONS AT OR NEAR THE AREA IN WHICH THIS LICENSE IS TO BE GRANTED, EXCEPT TO THE EXTENT CAUSED BY THE SOLE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE PARTY SEEKING

INDEMNIFICATION.

F. THE RISKS OF INJURY TO OR DEATH OF PERSONS AND LOSS OR DAMAGE TO PROPERTY HEREIN ASSUMED BY LICENSOR, SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, CONTRACTORS, EMPLOYEES, OR INVITEES OF EITHER OF THE PARTIES, AND WHETHER OR NOT SUCH INJURY TO OR DEATH OF PERSONS SHALL ARISE UNDER ANY WORKMEN'S COMPENSATION ACT OR FEDERAL EMPLOYERS' LIABILITY ACT.

G. LICENSOR SHALL, AT ITS SOLE COST AND EXPENSE, JOIN IN OR ASSUME, AT THE ELECTION AND DEMAND OF LICENSEE, THE DEFENSE OF ANY CLAIMS, DEMANDS, ACTIONS, AND CAUSES OF ACTION HEREUNDER ARISING. THE WORD "LICENSEE" AS USED IN THIS INDEMNITY SECTION SHALL INCLUDE THE ASSIGNS OF LICENSEE.

H. AS A PRECONDITION TO LICENSOR'S INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION, THE INDEMNITEES WILL (i) FULLY COOPERATE WITH LICENSOR IN ANY INVESTIGATION AND PROVIDE LICENSOR WITH ALL INFORMATION IN THE POSSESSION OR CONTROL OF THE INDEMNITEES RELATING TO ANY MATTER FOR WHICH THE INDEMNITEES SEEK INDEMNIFICATION, AND (ii) PROVIDE LICENSOR WITH TIMELY NOTICE OF ANY MATTER OR INCIDENT FOR WHICH THE INDEMNITEES MAY MAKE A CLAIM FOR INDEMNIFICATION BY LICENSEE.

ARTICLE X. ADDITIONAL PROVISIONS

A. Crossing Maintenance Subject to the final ORDER attached as Exhibit B Licensor shall be responsible for the cost of any and all maintenance necessary on the Road Crossing and any and all appurtenances thereto.

B. Restoration Upon termination of this License, Licensor shall have the option to promptly remove the Road Crossing from Licensor's property, and restore said property to its prior condition, or a condition satisfactory to Licensor's authorized representative all at the sole cost and expense of Licensee. Licensor acting as the agent of Licensee, may perform such restoration as is necessary in the judgment of Licensor, and Licensee shall, on demand, promptly reimburse Licensor the cost thereof, plus fifteen (15%) percent thereon as a charge for the supervision, accounting, and use of tools.

C. Assignment This License and all of the provisions herein contained shall be binding upon the Parties, their heirs, executors, administrators, successors and assigns, and both Licensee and Licensor agree to supply notice in writing to Licensor and Licensee of any name changes. Licensee and Licensor agree not to assign this License or any interest therein, without the consent of Licensor or Licensee in writing, which consent shall not be unreasonably withheld, and any and every attempted assignment without prior written consent shall be void and of no effect. In the event of any assignment, Licensee and Licensor shall at all times remain fully responsible and

liable for the compliance of all of its obligations under the terms, provisions and covenants of this License.

D. Liens Licensee further indemnifies Licensor against any and all liens that may be placed against Licensor's property in the course of construction, maintenance, repair or renewal of the Road Crossing, and agrees to immediately satisfy any liens so placed.

E. Temporary Closure In the event of an emergency or hazard, at the sole discretion of Licensor, Licensor may temporarily close the Road Crossing to respond to emergency or hazard.

F. Exhibits All exhibits attached hereto are incorporated as if fully set forth herein.

G. Notice required under this License shall be deemed given when deposited in the U.S. Mail, postage prepaid, at the address set forth below:

Licensor: Illinois Railway, LLC
Attn: Director – Real Estate
252 Clayton Street, 4th Floor
Denver, Colorado 80206

Licensee: Kendall County Forest Preserve District
110 West Madison Street
Yorkville, IL 60560
Attn: Executive Director

Co-Licensee: United City of Yorkville
800 Game Farm Road
Yorkville, IL 60560
Attn: City Administrator

I. Venue This License shall be governed under the laws of the State of Illinois, Kendall County, Illinois, and venue shall be proper in the federal or state court of that State for any action arising under the terms of this License or performance thereof.

J. Currency Unless otherwise indicated, all currencies and amounts shown on this Agreement are in U.S. dollars.

IN WITNESS WHEREOF, the Parties have caused this License to be executed in duplicate as of the date of execution as set forth below:

Licensor: Illinois Railway, LLC

By: 
100052012327445...

Printed name: Hubert Gassner

Title: CFO

Date: 02 August 2019

Licensee: Kendall County Forest Preserve District

By: _____

Printed name: _____

Title: _____

Date: _____

Co-Licensee: United City of Yorkville

By: _____

Printed name: _____

Title: _____

Date: _____

Exhibit A

Agreement No 408698

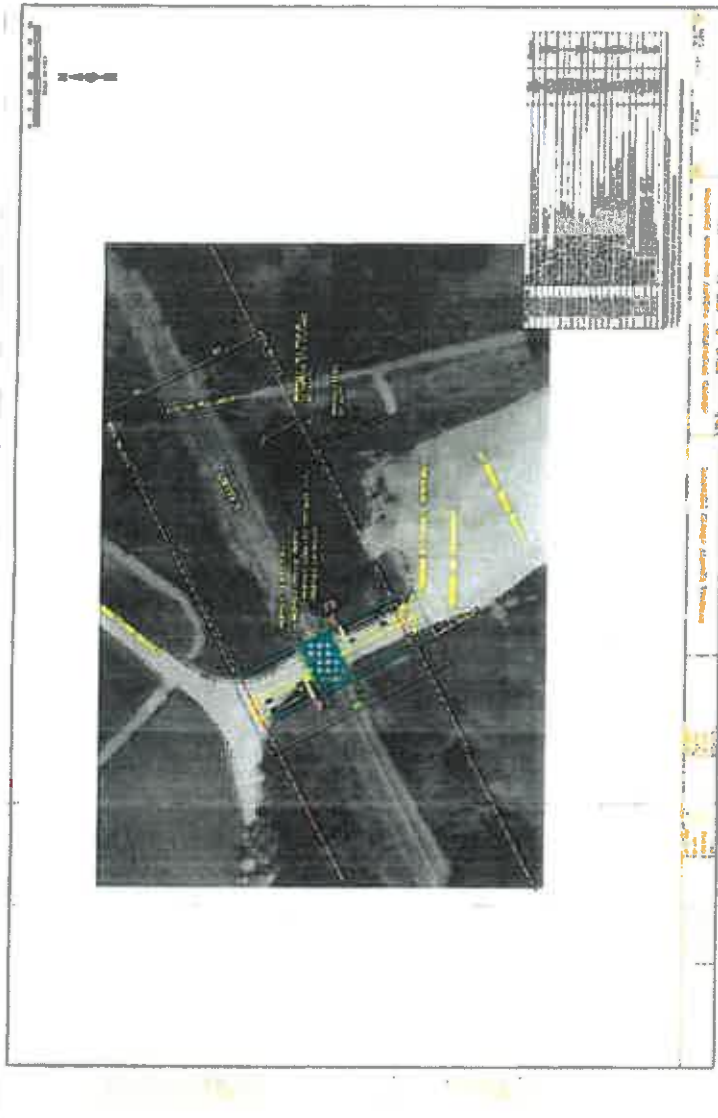


Exhibit A
L080E221296

Exhibit A

Agreement No 408698

Map: Section 36, Township 37 North, Range 6 East of the Third Principal Meridian and that part of Section 31, Township 37 North, Range 7 East of the Third Principal Meridian described as follows: Beginning at the Northeast Corner of Lot 10, in Fox Glen, Kendall Township, Kendall County, Illinois; thence North 81°10'23" East, along the South Line of the former Burlington and Santa Fe Railroad, 1843.32 feet to a point of curvature in said South Line; thence North 2°17' East, along said South Line, being a tangential curve to the left with a radius of 1482.89 feet; an arc distance of 583.80 feet to a concrete monument on the West Line of "River's Edge - Phase Two" in said centerline, thence South 17°25'41" East, along said West Line, 254.0 feet; thence South 72°59'08" West, tangent to the last described course, 873.63 feet, an arc distance of 418.16 feet; thence South 71°14'52" West, along the East Line of said "Fox Glen", 785.41 feet to the point of intersection of the North Line of the former Burlington and Santa Fe Railroad with the West Line of said "Fox Glen" - Phase One; in the City of Yorkville, Kendall County, Illinois; thence North 17°30'25" West, along said West Line, 2783.0 feet to the South Bank of the Fox River; thence South 64°39'44" West, along said West Line, 4668.58 feet to the West Line of a Tract conveyed by Lawrence E. Pope and Helen G. Pope his wife, and described in Warranty Deed recorded in Book 118 of Page 412 on August 21, 1958; thence South 88°29'48" East, along said West Line, 3954.0 feet to said North Line of the former Burlington and Santa Fe Railroad, thence North 51°10'23" East, along said North Line, 4674.10 feet to a point of curvature to the left with a radius of 1302.69 feet, an arc distance of 812.52 feet to the point of beginning in said Kendall Township, Kendall County, Illinois and containing 408.352 acres

Exhibit B

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

United City of Yorkville, Kendall County, Illinois,
a municipal corporation

Petitioner

v.

Illinois Railway, LLC, a subsidiary of OmniTRAX,
And Illinois Department of Transportation

Respondents

Petition for assignment of an Association of American Railroads
(AAR) grade crossing inventory number for Hoover Road, a
dedicated public street, including approval of installing active
warning devices across railroad track at grade.

T16-0003

ORDER

By the Commission:

On December 18, 2015, the United City of Yorkville ("Petitioner" or "City") filed its Petition requesting the assignment of an AAR crossing number for Hoover Road, a public right-of-way, including permission to install active warning devices at the Hoover Road grade crossing of the Illinois Railway's ("IR") track, located in the City of Yorkville, Kendall County, Illinois.

No party contested the requests of the Petition or filings.

PROCEDURAL HISTORY

Pursuant to notice, the matter came on for hearing before a duly authorized Administrative Law Judge ("ALJ") of the Commission at the Commission's Chicago office on July 6, 2016. Petitioner and Respondents were represented by counsel. An appearance was also entered by Brian Verduyse, Senior Railroad Safety Specialist, representing the Commission's Transportation Bureau, Railroad Section ("Staff"). At the hearing the parties indicated that coordination has taken place with all parties, including a meeting on June 16, 2016 with representatives from the IL Railway.

Exhibit B

T18-0003

Transportation (IDOT), utilizing the 23 USC Section 130 Safety Fund. Such devices are, by public convenience and necessity, required to provide safe and efficient access to the Hoover Forest Preserve.

RESPONDENT IL RAILWAY'S POSITION

IL Railway did not appear at the hearing, and has not filed an objection to the City's Petition.

STAFF'S POSITION

Staff has no objection to the City's Petition. Staff concurs that the general public already utilizes the crossing to enter the Hoover Forest Preserve and in the interest of public safety the crossing should have active warning devices consisting of flashing light signals, gates, and bell controlled by constant warning time (CWT) circuitry. Staff notes that the Company must submit warning device plans for Staff approval by filing a Form 3 of Section 1536 of Title 92 of the Illinois Administrative Code. The Company is also required to file an updated USDOT Inventory form.

Staff believes that the IR should provide a cost information to all parties for the installation of the new warning devices within 60 days from the date of this Order. All work should be completed within 12 months from the date of this Order.

PROPOSED ORDER

A Proposed Order was served on the Parties on September 1, 2018. No Briefs on Exceptions were filed.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having given due consideration to the Petition, is of the opinion and finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of fact as set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (3) The United City of Yorkville, Illinois, is an Illinois municipal corporation with jurisdiction over Hoover Road and its designation should be changed from private to public;

Exhibit B

T16-0003

IT IS FURTHER ORDERED that any person making a Request for an Extension of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person making a Request for an Extension of Time that exceeds 30 days must file a Petition for Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders.

IT IS FURTHER ORDERED that Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request for Extension of Time or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that the Commission or its Administrative Law Judge reserves the right to deny Petitions for Supplemental Orders and Requests for Extension of Time, if the reason(s) supporting the request is (are) insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to Administrative Review Law.

By Order of the Commission this 28th day of September 2016.



BRIEN SHEAHAN
CHAIRMAN

JUDGE
SECTION CHIEF
ORDERS SUPERVISOR

Exhibit B

STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

United City of Yorkville, Illinois, a municipal corporation,
Petitioner,

v.

Illinois Railway, LLC
430 West Madison Street
Ottawa, Illinois 61350

And

Illinois Department of Transportation,

And

OmnITRAX
252 Clayton Street
Fourth Floor
Denver, Colorado 80206,
Respondents

T16-0003

**SERVED
ELECTRONICALLY
OR BY MAIL**

Petition for assignment of an Association of American Railroads (AAR) grade crossing inventory number for Hoover Road, a dedicated public street, including approval of installing active warning devices across railroad track at grade.

TO ALL COUNSEL OF RECORD:

ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER

Attached is a copy of the Administrative Law Judge's Proposed Order in the above referenced matter.

The Administrative Law Judge's Proposed Order is being sent to you pursuant to the Commission's Rules of Practice (83 Ill. Adm. Code 200). Your case is a "contested case" or "licensing case" as defined in Section 200.40 of the Rules and, therefore, the Administrative Law Judge is required under Section 200.820 to issue a Proposed Order to all parties.

Under Section 200.830 of the Rules, exceptions to the Proposed Order and replies thereto may be filed by the parties within the time periods established by the rules or such other times as fixed by the Administrative Law Judge. The times for filing Briefs on Exceptions and Briefs in Reply to Exceptions are 14 days and seven days, respectively.

Entered: August 31, 2016

**Latrice Kirkland-Montaque
Chief Administrative Law Judge
Review & Examination Program**

LKM:rc

527 East Capitol Avenue, 6th Floor, Springfield, Illinois 62701

Exhibit B

Docket Number – T16-0003

Service List

Kathleen Field Orr
Kathleen Field Orr & Associates
53 W. Jackson Blvd., Suite 984
Chicago, IL 60604 *
kfo@kfoassoc.com

Omer Osman
Director of Highways - IDOT
2300 South Dirksen Parkway, Room 205
Springfield, IL 62764 *
jason.johnson@illinois.gov

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jsharkey@ctcinc.com

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Assistant Chief Counsel
Illinois Department of Transportation
100 W. Randolph, Ste. 6-600
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Jason Scott
Vice President Signals and Communications
OmniTRAX, Inc., for Illinois Railway, LLC
252 Clayton Street, 4th Floor
Denver, CO 80206 *
jscott@omnitrax.com

David Guritz
Kendall County Forest Preserve District
110 West Madison Street
Yorkville, IL 60580 *

Gary Golinski
Mayor
City of Yorkville
800 Game Farm Road
Yorkville, IL 60580 *
Fax:(630) 553-7575

Brian A. Verduysee
Rail Safety Specialist
Railroad Section
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701 *
bverduy@icc.illinois.gov

Jennifer R. Kuntz
Assistant Chief Counsel
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 313
Springfield, IL 62764 *
jennifer.kuntz@illinois.gov

Tommy Gibson
Divisional General Manger
Illinois Railway, Inc.
430 West Madison
Ottawa, IL 61350 *
tgibson@omnitrax.com

*Active Parties

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Exhibit B

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

United City of Yorkville, Kendall County, Illinois,
a municipal corporation

Petitioner

v.

Illinois Railway, LLC, a subsidiary of OmniTRAX,
and
Illinois Department of Transportation

Respondents

Petition for assignment of an Association of American Railroads
(AAR) grade crossing inventory number for Hoover Road, a
dedicated public street, including approval of installing active
warning devices across railroad track at grade.

.....

T16-0003

PROPOSED ORDER

By the Commission:

On December 18, 2015, the United City of Yorkville ("Petitioner" or "City") filed its Petition requesting the assignment of an AAR crossing number for Hoover Road, a public right-of-way, including permission to install active warning devices at the Hoover Road grade crossing of the Illinois Railway's ("IR") track, located in the City of Yorkville, Kendall County, Illinois.

No party contested the requests of the Petition or filings.

PROCEDURAL HISTORY

Pursuant to notice, the matter came on for hearing before a duly authorized Administrative Law Judge ("ALJ") of the Commission at the Commission's Chicago office on July 6, 2016. Petitioner and Respondents were represented by counsel. An appearance was also entered by Brian Verduyse, Senior Railroad Safety Specialist, representing the Commission's Transportation Bureau, Railroad Section ("Staff"). At the hearing the parties indicated that coordination has taken place with all parties, including a meeting on June 16, 2016 with representatives from the IL Railway.

Exhibit B

T16-0003

On July 25, 2016, the City filed Group Exhibit 1, which included the location map, plat, jurisdictional transfer information, and pictures associated with the Hoover Road grade crossing of the IR. The City also late filed Exhibit 2, a letter to Staff that provided the daily use statistics at the Hoover Forest Preserve site.

On July 28, 2016, Staff filed a draft Proposed Order, the terms of which had been coordinated with all the parties. On August 30, 2016, the record was marked "Heard and Taken."

PETITIONER'S EVIDENCE

Hoover Road crosses at grade one railroad track owned and operated by the IR (a subsidiary of OmniTRAX), which was acquired from the BNSF Railway in 1997. Hoover Road extends in a northeast-southwest direction approximately 1,055 feet north of West Fox Road to the northern boundary of the IR line where there is an existing highway-rail grade crossing identified as a Private Crossing. The existing crossing is a twenty-four feet (24') wide timber crossing equipped with Crossbuck warning signs and separate STOP signs.

On the northwest quadrant crossbuck post there is a USDOT inventory sign identifying the crossing as AAR/DOT #065 039J (milepost 51.45). However, this number is assigned in the Federal Railroad Administration's (FRA) database to a pedestrian tunnel approximately 100 feet east of the Hoover Road crossing.

The property adjacent to the Hoover Road crossing was purchased by the Kendall County Forest Preserve District ("District") from the Boy Scouts of America and became the Hoover Forest Preserve. The District has subsequently improved the property with lodge rentals, outdoor education programs, pre-school, camping facilities and other recreational features and improvements for public use.

The total number of visitors to the Hoover Forest Preserve is estimated at 80,000 per year. Depending upon the activity and time of year, the daily number of visitors to the preserve could range from 50 to over 700.

The right-of-way of Hoover Road from Fox Road to the north right-of-way line of the IR line was transferred by an Intergovernmental Agreement, dated November 24, 2015, between the District and the City, becoming a public right-of-way under the jurisdiction of the City. The City approved the Intergovernmental Agreement by its Resolution Number 2015-22, adopted November 24, 2015

Automatic flashing light signals, bell and gates controlled by appropriate warning control circuitry are proposed to be installed at the Hoover Road crossing. Funding for the

Exhibit B

T16-0003

proposed crossing signals has been secured through the Illinois Department of Transportation (IDOT), utilizing the 23 USC Section 130 Safety Fund. Such devices are, by public convenience and necessity, required to provide safe and efficient access to the Hoover Forest Preserve.

RESPONDENT IL RAILWAY'S POSITION

IL Railway did not appear at the hearing, and has not filed an objection to the City's Petition.

STAFF'S POSITION

Staff has no objection to the City's Petition. Staff concurs that the general public already utilizes the crossing to enter the Hoover Forest Preserve and in the interest of public safety the crossing should have active warning devices consisting of flashing light signals, gates, and bell controlled by constant warning time (CWT) circuitry. Staff notes that the Company must submit warning device plans for Staff approval by filing a Form 3 of Section 1535 of Title 92 of the Illinois Administrative Code. The Company is also required to file an updated USDOT Inventory form.

Staff believes that the IR should provide a cost information to all parties for the installation of the new warning devices within sixty (60) days from the date of this Order. All work should be completed within twelve (12) months from the date of this Order.

PROPOSED ORDER

A Proposed Order was served on the Parties on September 1, 2016.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having given due consideration to the Petition, is of the opinion and finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of fact as set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (3) The United City of Yorkville, Illinois, is an Illinois municipal corporation with jurisdiction over Hoover Road and its designation should be changed from private to public;

Exhibit B

T16-0003

- (4) The Illinois Railway should provide a cost estimate to all parties for the installation of the new warning devices within sixty (60) days from the date of this Order;
- (5) That Illinois Railway should provide warning device plans for approval by filing a Form 3 of Section 1535 of Title 92 of the Illinois Administrative Code;
- (6) All work should be completed within twelve (12) months from the date of this Order;
- (7) The costs associated with the installation of the active railroad warning devices should be the responsibility of the United City of Yorkville via the funding provided from the Illinois Department of Transportation, utilizing the 23 USC Section 130 Safety Fund;
- (8) The maintenance costs associated with the warning devices and crossing surface at the Hoover Road grade crossing should be the responsibility of the Illinois Railway Company;
- (9) 625 ILCS 5/18c-1701 and 1704 require each "person", as defined by Section 18c-1104, to comply with every regulation or order of the Commission. These sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the state not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense. While the Commission expects all parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises that any failure to comply may result in the assessment of such sanctions;

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Hoover Road grade crossing the Illinois Railway's track be designated as a public crossing, with the Illinois Railway Company installing new automatic flashing light signals, gates, and a bell controlled by constant warning time circuitry in accordance with Findings (2) through (9).

IT IS FURTHER ORDERED that Illinois Railway shall file a Form 3 of Section 1535 of Title 92 of the Illinois Administrative Code, and shall receive approval by resolution of the Commission Transportation Bureau Rail Safety Program Administrator.

IT IS FURTHER ORDERED that Illinois Railway shall submit a completely updated United States Department of Transportation Inventory Form (#6180.71) to the Director of Processing and Information, Transportation Bureau of the Commission.

Exhibit B

T16-0003

IT IS FURTHER ORDERED that any person making a Request for an Extension of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person making a Request for an Extension of Time that exceeds 30 days must file a Petition for Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders.

IT IS FURTHER ORDERED that Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request for Extension of Time or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that the Commission or its Administrative Law Judge reserves the right to deny Petitions for Supplemental Orders and Requests for Extension of Time, if the reason(s) supporting the request is (are) insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Commission or Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that, subject to Section 18c-2201 and 18c-2206 of the Law, this is a final decision of the Commission subject to Administrative Review Law.

By Order of the Commission this ____ day of _____ 2016.

BRIAN SHEAHAN
CHAIRMAN

Exhibit C

Exhibit C: IDOT-IL Railway-Yorkville Grant Agreement
Agreement No 408698

Resolution No. 2019-15

A RESOLUTION OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS, APPROVING A RAILWAY-HIGHWAY GRADE CROSSING IMPROVEMENT AGREEMENT FOR HOOVER DRIVE

WHEREAS, the United City of Yorkville, Kendall County, Illinois (the "City") is a duly organized and validly existing non home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of this State; and,

WHEREAS, the City and the Kendall County Forest Preserve District (the "District") have determined that it is in the public interest that Hoover Drive should cross the railroad tracks of Illinois Railway, LLC (the Railroad") for access to the District's Forest Preserve; and,

WHEREAS, for the construction of the warning devices and crossing gates with federal funds the State of Illinois Department of Transportation has created a Railway-Highway Grade Crossing Improvements Local Public Agency Agreement for said funding with the City as the Local Public Agency and the Railroad.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the United City of Yorkville, Kendall County, Illinois, as follows:

Section 1. That the *STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION AGREEMENT for Railway-Highway Grade Crossing Improvements Local Public Agency*, attached hereto and made a part hereof as Exhibit A, between the United City of Yorkville, the State of Illinois acting through its Department of Transportation, and Illinois Railway, LLC, is hereby approved and the Mayor is hereby authorized to execute such agreement.

Section 2. This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

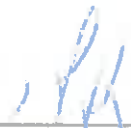
Exhibit C

Passed by the City Council of the United City of Yorkville, Kendall County, Illinois,
this 14th day of May, 2019.


CITY CLERK

KEN KOCH	<u>AYE</u>	DAN TRANSIER	<u>AYE</u>
JACKIE MILSCHEWSKI	<u>AYE</u>	ARDEN JOE PLOCHER	<u>AYE</u>
CHRIS FUNKHOUSER	<u>AYE</u>	JOEL FRIEDERS	<u>AYE</u>
SEAVER TARULIS	<u>AYE</u>	JASON PETERSON	<u>AYE</u>

APPROVED by me, as Mayor of the United City of Yorkville, Kendall County, Illinois,
this 17th day of MAY, 2019.


MAYOR

Attest:


CITY CLERK

Exhibit C

Route: HOOVER DRIVE (MUN 2730)
Section: 13-F3001-00-SP
County: Kendall
Project: 0093(018)
Job No: C-93-036-14
Agreement No: N/A
AAR/DOT NO. 065039J

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION
AGREEMENT
for
Railway-Highway Grade Crossing Improvements
Local Public Agency

This agreement, hereinafter referred to as the "Agreement", made and entered into by and between the STATE OF ILLINOIS, acting by and through its Department of Transportation, hereinafter referred to as the "STATE", and the Local Public Agency, United City of Yorkville (Kendall County), State of Illinois, acting by and through its City Council, hereinafter referred to as the "LPA", and the Illinois Railway, LLC (IR), hereinafter referred to as the "COMPANY", collectively referred to as the "PARTIES" and individually referred to as "PARTY".

WITNESSETH:

WHEREAS, in the interest of public safety the STATE proposes to improve crossing warning signal devices, hereinafter referred to as the "Project", at the location listed on the attached Exhibit A, and as shown on the Exhibit A's location map; and

WHEREAS, the parties mutually agree to accomplish the proposed improvements through the use of Federal funds which are provided under applicable Federal act, law or appropriation.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements as hereinafter contained the parties hereto agree as follows:

SECTION 1. The Project covered under this Agreement shall be subject to all applicable Federal laws, rules, regulations, orders and approvals pertaining to all agreements, specifications, award of contracts, acceptance of work and procedure in general. The STATE and the COMPANY shall be governed by the applicable provisions of the Federal-Aid Policy Guide, Part 646, dated December 9, 1991, and any supplements or amendments thereto hereinafter referred to as the

Exhibit C

shall promptly schedule the work set forth in the Agreement and shall notify in writing the agencies listed on Exhibit A, a minimum of twenty-one (21) days before commencing work. Any work performed prior to this notification will be considered non-reimbursable.

SECTION 6. The COMPANY shall keep an accurate and detailed account of the actual cost and expense as incurred by it, or for its account, in the performance of the work it herein agrees to perform. The COMPANY, for performance of its work as herein specified, shall bill the STATE immediately, for its share of Preliminary Engineering costs incurred to date upon receiving authorization to proceed with construction, and, may bill the STATE monthly for the STATE's share of the cost of materials purchased, delivered and stored on the COMPANY's property but not yet installed. The materials will become the property of the STATE and must be designated for exclusive use on the Project.

In the event the COMPANY fails to install the stored material within one year of the fully executed agreement date, the State may provide a written notice to the COMPANY, requiring the COMPANY to promptly deliver the stored material to a location indicated in writing by the STATE. Upon delivery, the STATE shall then take possession of said material for the STATE's own use. The delivery of the material to the STATE shall in no way serve to terminate this Agreement or affect the other provisions of this Agreement and in addition shall not affect the COMPANY's right to claim payment for stockpiled material to replace that taken by the STATE. In the event of any loss of material after payment, the COMPANY will replace the material at no cost to the STATE. The storage area of such materials shall be available for STATE inspection upon 24-hour notice.

SECTION 7. The COMPANY, for performance of its work as herein specified, may bill the STATE monthly for the STATE's share of its expense as incurred. These progressive invoices may be rendered on the basis of the estimated percentage of the work completed, plus allowable FHWA approved additives. Reimbursement of labor additives will be limited to only the most current direct labor additives, small tools additives, equipment additive rate, if so developed, and public liability/property damage liability insurance rates as audited and approved by a cognizant State agency and FHWA. Indirect overhead or general and administrative expenses, or those
C-93-036-14

Exhibit C

expenses which may be classified as such under generally accepted accounting principles are not eligible for reimbursement on this Project.

The STATE after verifying that the bills are reasonable and proper shall promptly reimburse the COMPANY in accordance with the State Prompt Payment Act (30 ILCS 540/1 et seq.), as currently enacted. Payment under this paragraph shall not be claimed for any progressive invoice totaling less than \$500. The progressive invoices may be rendered on the basis of an estimated percentage of work completed

The COMPANY, upon the completion of the work, shall, within one hundred twenty (120) calendar days, render to the STATE a detailed final invoice of the actual cost and expense as incurred by it or for its account. After the STATE's representatives have checked the progressive invoices and the final invoice and they have agreed with the COMPANY's representatives that the costs are reasonable and proper, insofar as they are able to ascertain, the STATE shall promptly reimburse the COMPANY in accordance with the State Prompt Payment Act (30 ILCS 540/1 et seq.), as currently enacted, for the amount of the final invoice, except that for any portion of the final invoice in excess of the estimated cost of such excess costs as shown in Section 6, the STATE may withhold payment of such excess costs until the COMPANY has provided reasonable backup detail as requested by the STATE to justify the additional cost, and the STATE shall promptly review such backup detail as provided by the COMPANY and shall thereafter promptly pay the costs in excess of the estimated costs unless reasonable exception is taken thereto. If the parties cannot reach agreement on reimbursement of the COMPANY's costs above the estimated costs, each Party retains all legal and equitable remedies regarding the payment of same; such reimbursements, however, are subject to the provisions of Section 13 hereof.

Exhibit C

All invoices shall be clearly marked as "progressive invoice" or "final invoice", as applicable, and should be sent to:

Illinois Department of Transportation
Attn: Fiscal Control Unit
Bureau of Local Roads and Streets
2300 S Dirksen Parkway
Springfield, IL 62764

The COMPANY shall maintain, for a minimum of three (3) years after the date of the final bill, adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with the contract; the contract and all books, records, and supporting documents related to the contract, which may be stored on electronic files, shall be available for review and may be audited by the AUDITOR GENERAL. The COMPANY agrees to cooperate fully with any audit conducted by the AUDITOR GENERAL and to provide full access to all relevant materials. Failure to maintain the books, records, and supporting documents required by this section shall establish a presumption in favor of the STATE for the recovery of any funds paid by the STATE under the contract for which adequate books, records, and supporting documentation are not available to support their purported disbursement.

After the federal or STATE representatives have audited the expenses as incurred by the COMPANY, including such amounts as may have been suspended from any previous payment, the STATE shall promptly reimburse the COMPANY for the suspended amounts, less the deduction of any item(s) of expense as may be found by the federal or STATE representatives as not being eligible for reimbursement. If the total of the item(s) of expense as may be found by the federal or STATE representatives as not being eligible for reimbursement exceeds the retained percentage plus any amounts which may have been suspended, then the COMPANY shall promptly reimburse the STATE for the overpayment.

SECTION 8. The crossing warning signal system should be placed in service immediately after the installation is completed. The COMPANY shall notify the STATE in writing of the date of

Exhibit C

the completed installation. The STATE will perform a final inspection upon receiving the written notification

SECTION 9. When construction of this Project is completed, and so long as State law shall so require, the COMPANY shall maintain at its expense or, by agreement with others, provide for maintenance of the crossing warning signal devices.

SECTION 10. If at any time subsequent to the completion of this improvement, the tracks in the area of the crossing are eliminated for any reason whatsoever, then the said signal system may be removed, relocated and reinstalled at another grade crossing of the COMPANY mutually designated and agreed to by the Parties hereto and subject to the approval of the public authorities having any jurisdiction. The reinstalled signal system shall thereafter be subject to the terms of this Agreement.

SECTION 11. In compliance with the Federal-Aid Policy Guide, dated December 9, 1991 Section 646.210, the railroad work as herein contemplated requires no contribution from the COMPANY, however the COMPANY agrees to contribute zero percent (0%) of the cost of this Project. Per the alternative Federal-State procedure in 23 C.F.R. § 646.220, the STATE will have a representative present at the job site during construction to certify the work and to assure that all work and materials meet the requirements, is complete, acceptable and in accordance with the terms of this Agreement.

SECTION 12. In the event that delays or difficulties arise in securing necessary federal or state approvals, or in acquiring rights-of way, or in settling damage claims, or for any other cause which in the opinion of the STATE render it impracticable to proceed with the construction of the Project, then at any time before construction is started, the STATE may serve formal notice of cancellation upon the COMPANY and this Agreement shall thereupon terminate. In the event of cancellation, the STATE shall reimburse the COMPANY for all eligible cost and expense incurred by the COMPANY prior to receipt of notice of cancellation and payment by the STATE.

Exhibit C

SECTION 13. It is the policy of the U.S. Department of Transportation that disadvantaged business enterprises, as defined in 49 CFR Part 26, shall have maximum opportunity to participate in the performance of agreements financed in whole or in part with federal funds. Consequently, the disadvantaged business enterprise requirements of 49 CFR Part 26 apply to this Agreement. The COMPANY agrees to take all necessary and reasonable steps to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 26, have the maximum opportunity to participate in the performance of this Agreement. The COMPANY, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The COMPANY shall carry out applicable requirements of 49 CFR part 26 in the award and administration of STATE-assisted contracts. Failure by the COMPANY to carry out these requirements is a material breach of this Agreement, which may result in the termination of this contract or such other remedy as deemed appropriate.

In the event any work is performed by other than COMPANY forces, the provisions of "an act regulating wages of laborers, mechanics and other workers employed in public works by the State, County, City or any public body or any political subdivision or by anyone under contract for public works" (Illinois Compiled Statutes, 820 ILCS 130/1 et seq.) shall apply. Pursuant to 820 ILCS 130/4, COMPANY is hereby notified "the prevailing rate of wages are revised by the Department of Labor and are available on the Department's official website".

SECTION 14. This Agreement shall be binding upon the Parties hereto, their successors or assigns.

SECTION 15. The COMPANY shall complete all work or shall be responsible that all work is completed by other forces within one year of the date of the fully executed agreement. In the event that all work cannot be completed within one year, the COMPANY shall notify the STATE in writing the cause for the delay before the one-year deadline has expired. Otherwise, the STATE will consider petitioning the Illinois Commerce Commission to order the work to be completed.

SECTION 16. At the time this Agreement was executed, there were funds available for the Project; however, obligations assumed by the STATE under this Agreement shall cease
C-93-036-14 7 Revision 12/3/2018

Exhibit C

immediately, without penalty or payment beyond that which the COMPANY has already accumulated, should the Illinois General Assembly or the Federal Highway Administration fail to appropriate or otherwise make available funds for the Project.

SECTION 17. The COMPANY was hereby requested and authorized to accrue costs by the STATE, to perform the necessary preliminary engineering to develop an estimate of cost for the proposed work described on Exhibit A, on March 8, 2014. The COMPANY hereby agrees to not invoice the STATE until such time this Agreement is fully executed

SECTION 18. The COMPANY certifies its correct Federal Taxpayer Identification Number, as indicated on the attached Exhibit C.

SECTION 19. This Agreement shall be construed and interpreted according to the laws of the State of Illinois.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate counterparts, each of which shall be considered as an original, by their duly authorized officers as of the dates below indicated.

Exhibit C

COMPANY: Illinois Railway LLC

Accepted By: _____

Typed name: Hubert Cassner

Typed title: Manager

Date: 3/26/2019

LPA: United City of Yorkville

Accepted By: _____

Typed name: JOHN PURCELL

Typed title: MAYOR

Date: 5/17/19

STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION

Matt Magalis
Acting Secretary

Date

Joanne Woodworth
Chief Fiscal Officer

Date

Paul A. Loets, P.E.
Director, Highways Project Implementation

Date

Philip C Kaufmann
Chief Counsel

Date

Exhibit C

EXHIBIT A

CROSSING IDENTIFICATION:

Railroad: Illinois Railway, LLC
AAR/DOT No: 065039J
RR M.P.: 51.45
Roadway: Hoover Drive (MUN 2730)
Location: At the Illinois Railway Tracks

EXISTING CONDITIONS:

Crossbucks

DESCRIPTION OF WORK TO BE DONE BY RAILROAD FORCE ACCOUNT:

1. Install Automatic flashing LED light signals with bells and gates controlled by constant warning time circuitry with event recorder and remote monitor system.
2. Incidental work necessary to complete the items hereinabove specified.
3. CFDA Number: 20.205 (Information is available at <http://www.cfda.gov/>)

DESCRIPTION OF WORK TO BE DONE BY THE LPA:

Local Public Agency (LPA) agrees to provide at its expense any necessary advance warning signs and pavement markings as required by the most current edition of the following documents: IDOT Standard Specifications for Road and Bridge Construction, Supplemental Specifications and Recurring Special Provisions, Highway Standards for Temporary Traffic Control, National Manual on Uniform Traffic Control Devices ("MUTCD") and the Illinois Supplement to the MUTCD. When a marked traffic detour is required, the LPA at its expense shall furnish, erect, maintain and remove the traffic control devices necessary to detour highway traffic.

- No additional work to be performed by the LPA. Additional work will be performed by the LPA and funded by the Federal Railway-Highway Crossing Program (Section 130) will be under a separate agreement with the STATE.

ATTACHMENTS:

1. Location Map (consisting of one page)
2. COMPANY's Estimate (consisting of _____ pages)
3. General Plan Layout (consisting of _____ pages)

PROGRAM COST ESTIMATE:

\$ 250,000

Exhibit C

COMPANY COST ESTIMATE:

Total (100.0%) \$ _____
(To be filled in by the RAILROAD)

Federal Participation (100.0%) \$ _____
(To be completed by the STATE)

COMPANY Participation (0.0%) \$ _____
(To be completed by the STATE)

LPA Participation (0.0%) \$ _____
(To be completed by the STATE)

AGENCIES TO BE NOTIFIED BEFORE COMMENCING WORK:

Illinois Department of Transportation
Bill Bearsall, Highway-Railway Safety Engineer
2300 South Dirksen Parkway, Room 005
Springfield, Illinois 62704
(217) 785-2986
william.pearall@illinois.gov

Illinois Railway, LLC
Jason Scott, Vice President of Signals & Communications
252 Clayton Street, 4th Floor
Denver, CO 80206
(303) 398-4528
jscott@omnitrax.com

Ken Rose, Director of Engineering & Environmental Services
252 Clayton Street, 4th Floor
Denver, CO 80206
(303) 398-4549
krose@omnitrax.com

United City of Yorkville
Eric Dhuse, Director of Public Works
800 Game Farm Road
Yorkville, Illinois 60580
(630) 553-4349
edhuse@yorkville.il.us

SUBMIT ALL BILLS FOR THE STATE'S SHARE TO:

Illinois Department of Transportation
Attn: Fiscal Control Unit
Bureau of Local Roads and Streets
2300 S. Dirksen Parkway
Springfield, IL 62764

Exhibit C

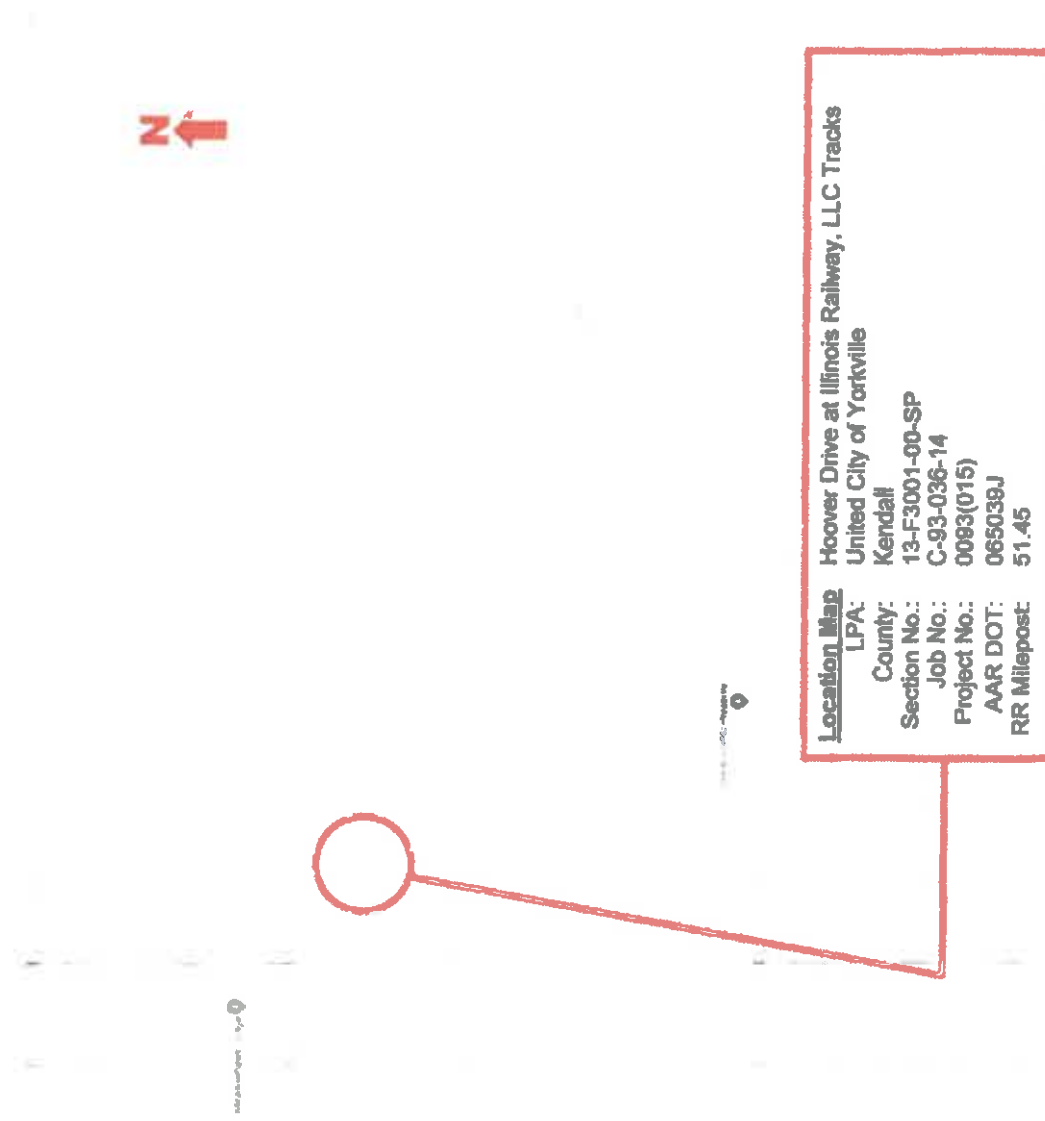


Exhibit C

EXHIBIT B

**ILLINOIS DEPARTMENT OF TRANSPORTATION
BUY AMERICA
CERTIFICATE OF COMPLIANCE**

Agreement No.
Job No. C-93-036-14

WE, Illinois Railway, LLC
(UTILITY/RAILROAD OWNER)

Address: 430 West Madison Street, Ottawa, Illinois 61350

Hereby certify that we are in compliance with the "Buy America" requirements of this project.

As required, we will maintain all records and documents pertinent to the Buy America requirement, at the address given above, for not less than 3 years from the date of project completion and acceptance. These file will be available for inspection and verification by the Department and/or FHWA.

We further certify that the total value of foreign steel as described in the Buy America requirements for this project does not exceed one-tenth of one percent (0.1%) of the total contract price or \$2,500.00, whichever is greater.

Signed by _____ Title Manager
Printed Name Aubrey Cassner

26th day of March 2019

Exhibit C

**EXHIBIT C
TIN CERTIFICATION**

The COMPANY certifies that:

1. The number shown on this form is the COMPANY's correct taxpayer identification number (or the COMPANY is waiting for a number to be issued to them), and
2. The COMPANY is not subject to backup withholding because: (a) the COMPANY is exempt from backup withholding, or (b) the COMPANY has not been notified by the Internal Revenue Service (IRS) that the COMPANY is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified the COMPANY, that the COMPANY is no longer subject to back-up withholding, and
3. The COMPANY's person with signatory authority for this Agreement is a U.S. person (including a U.S. resident alien).

Taxpayer Identification Number: 75-2731257

Legal Status

- | | |
|---|---|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Government |
| <input type="checkbox"/> Sole Proprietor | <input type="checkbox"/> Nonresident Alien |
| <input type="checkbox"/> Partnership/Legal Corporation | <input type="checkbox"/> Estate or Trust |
| <input type="checkbox"/> Tax-exempt | <input type="checkbox"/> Pharmacy (Non Corp.) |
| <input type="checkbox"/> Corporation providing or billing medical and/or health care services | <input type="checkbox"/> Pharmacy/Funeral home /Cemetery |
| <input type="checkbox"/> Corporation NOT providing or billing medical and/or health care services | <input checked="" type="checkbox"/> Limited Liability Company (select applicable tax classification) |
| <input type="checkbox"/> Other _____ | <input type="checkbox"/> D= Disregarded entity |
| | <input type="checkbox"/> C= Corporation |
| | <input type="checkbox"/> P= Partnership |