

United City of Yorkville

800 Game Farm Road Yorkville, Illinois 60560 Telephone: 630-553-4350

www.yorkville.il.us

AGENDA

PUBLIC WORKS COMMITTEE MEETING

Tuesday, February 21, 2017 6:00 p.m.

City Hall Conference Room 800 Game Farm Road, Yorkville, IL

Citizen Comments:

Minutes for Correction/Approval: January 17, 2017

New Business:

- 1. PW 2017-10 Snow Operations Report
- 2. PW 2017-11 Caledonia Phases 1 and 2 Acceptance of Improvements
- 3. PW 2017-12 Blackberry Woods Phase A Acceptance of Improvements
- 4. PW 2017-13 Hot Mix and Cold Patch RFP Results
- 5. PW 2017-14 Fox Hill and Sunflower Estates SSA Mowing and Maintenance RFP
- 6. PW 2017-15 Budget Amendment for Pedestrian Signage
- 7. PW 2017-16 Kennedy Road Shared Use Path BNSF Agreement
- 8. PW 2017-17 Intergovernmental Agreement for Kennedy Road Resurfacing
- 9. PW 2017-18 Kennedy Road Engineering Agreement
- 10. PW 2017-19 Route 34 Improvements (Center Parkway to Eldamain)
- 11. PW 2017-20 NPDES MS4 Stormwater Permit

Old Business:

1. PW 2014-74 Railroad Quiet Zones

Additional Business:

2016/2017 City Council Goals – Public Works Committee		
Goal	Priority	Staff
"Municipal Building Needs and Planning"	3	Bart Olson & Eric Dhuse
"Capital Improvement Plan"	4	Bart Olson & Eric Dhuse
"Vehicle Replacement"	5	Bart Olson & Eric Dhuse
"Sidewalks and Trails Funding and Planning"	15	Bart Olson, Eric Dhuse, Brad Sanderson & Rob Fredrickson

UNITED CITY OF YORKVILLE

WORKSHEET

PUBLIC WORKS COMMITTEE

Tuesday, February 21, 2017 6:00 PM

CITY HALL CONFERENCE ROOM

<u>CITIZEN COMMENTS</u> :	
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MINUTES FOR CORRECTION/APPROVA	
1. January 17, 2017	
Approved	
☐ As presented	
☐ With corrections	
NEW BUSINESS:	
1. PW 2017-10 Snow Operations Report	
☐ Moved forward to CC	consent agenda? Y N
☐ Approved by Committee	
☐ Bring back to Committee	
☐ Informational Item	
□ Notes	

 PW 2017-11 Caledonia Phases 1 and 2 ☐ Moved forward to CC ☐ Approved by Committee ☐ Bring back to Committee 	consent agenda? Y N
☐ Informational Item ☐ Notes	
□ Approved by Committee□ Bring back to Committee□ Informational Item	
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 PW 2017-13 Hot Mix and Cold Patch Moved forward to CC Approved by Committee Bring back to Committee 	_ consent agenda? Y N

5. PW 2017-14 Fox Hill and Sunflower Es Moved forward to CC Approved by Committee Bring back to Committee Informational Item Notes	consent agenda?	Y	N
6. PW 2017-15 Budget Amendment for Pe Moved forward to CC Approved by Committee Bring back to Committee Informational Item Notes	cdestrian Signage consent agenda?	Y	N
7. PW 2017-16 Kennedy Road Shared Use Moved forward to CC Approved by Committee Bring back to Committee Informational Item Notes	consent agenda?	Y	

 ☐ Moved forward to CC ☐ Approved by Committee ☐ Bring back to Committee ☐ Informational Item ☐ Notes 	
9. PW 2017-18 Kennedy Road Enginee Moved forward to CC Approved by Committee Bring back to Committee Informational Item	consent agenda? Y N
Notes	
10. PW 2017-19 Route 34 Improvements Moved forward to CC Approved by Committee Bring back to Committee Informational Item	consent agenda? Y N

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	Bring back to Committee			
	nformational Item			
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1. PW 2	2014-74 Railroad Quiet Zones			
	Moved forward to CC	consent agenda?	Y	N
	Approved by Committee			
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Legal	
Finance	
Engineer	
City Administrator	
Human Resources	
Community Development	
Police	
Public Works	
Parks and Recreation	

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Agenda	Item	Numbe	1

Minutes

Tracking Number

Title: Minutes of the	e Public Works Comm	ittee – January 17, 2017
Meeting and Date:	Public Works Commi	ittee – February 21, 2017
Synopsis:		
Council Action Prev	viously Taken:	
Date of Action:	Action	n Taken:
Item Number:		
Type of Vote Requi	red: Majority	
Council Action Req	uested: Committee A	pproval
	-	
Submitted by:		
	Name	Department
	Agen	da Item Notes:

DRAFT

UNITED CITY OF YORKVILLE PUBLIC WORKS COMMITTEE Tuesday, January 17, 2017, 6:00pm Yorkville City Hall, Conference Room 800 Game Farm Road

IN ATTENDANCE:

Committee Members

Chairman Chris Funkhouser Alderman Ken Koch

Alderman Jackie Milschewski

Other City Officials

Mayor Gary Golinski (6:25-7:03pm) Engineer Brad Sanderson, EEI

City Administrator Bart Olson Administrative Intern Nicole Kathman

Public Works Director Eric Dhuse

Interim Assistant City Administrator Erin Willrett

Other Guests:

Don & Donna Peterson, White Oak Estates
Mike & Carol Pfeiffer, White Oak Estates
Elizabeth Kolar, White Oak Estates
John Albrecht, Leopardo Energy
Deborah Horaz, White Oak Estates

Ray & Barb Wolson, White Oak Estates
Carol & Don Hirsch, White Oak Estates
Rob Vollrath, Leopardo Energy
Tim Weidner, Engineering Enterprises

The meeting was called to order at 6:00pm by Chairman Chris Funkhouser.

Citizen Comments:

Mr. Don Hirsch said the train horn situation has not improved and since track improvements were made last fall, the situation has worsened. He said others have signed petitions, sent emails etc. against the loud train horns. He encouraged the City to do Phase I of the quiet zone study.

Mr. Don Peterson asked if there was any further update of the train situation and Chairman Funkhouser replied it would be discussed at tonight's meeting.

Also commenting was Ms. Carol Hirsch, who said she had circulated a petition to the neighbors. She said a neighbor had a concern about the speed of the trains during festivals downtown Yorkville and as it relates to future development there. It was noted by staff later in the meeting, that trains greatly reduce their speed during festivals and orange fencing is put up for additional safety.

Previous Meeting Minutes: December 20, 2016

The minutes were approved as presented.

New Business:

1. PW 2017-01 Snow Operations Report

Mr. Dhuse said snow had fallen at night on the day he turned in the report and those removal efforts will be shown on the next quarterly report. Chairman Funkhouser asked if signs indicating "liquid salt" could be placed on the rear of the brine trucks. Mr. Dhuse said he would research signs that warn drivers to stay back a certain number of feet. The brine is working very well, but the anti-icing system is still being refined. Information only.

2. PW 2017-02 Water Department Reports for October-December 2016

This is the quarterly water report with a few watermain breaks reported. Since the EPA requires these reports, it moves to the City Council consent agenda on February 21.

3. PW 2017-03 Stagecoach Crossing Acceptance of Public Improvements

Engineer Sanderson said the City had an agreement with Midwest Bank for completion of improvements. The water and sewer work has now been finished and the bank is asking for acceptance which he is recommending. He is also recommending release of the maintenance agreement. This moves to the February 21 Council consent agenda.

4. PW 2017-04 Bristol Bay Unit 3 Acceptance of Public Improvements

All punchlist items have been completed by Pulte and approval is recommended. Watermain, sanitary and storm sewer work was done. Mr. Sanderson said he felt the 10% maintenance agreement should be held at this time. This moves to the February 21 Council consent agenda.

5. PW 2017-05 Bond/LOC Reduction Summary

This is for information at this time, no discussion or comments.

6. PW 2017-06 Capital Improvement Project Update

This is the quarterly update and Mr. Sanderson highlighted some of the projects. The watermain and binder course are done in Countryside and work will resume in April with a completion date set for June. The Wrigley project was delayed due to ComEd issues which are being addressed. There were some delivery issues for the lighting and the work should be done in 2-4 weeks from this date. The Kennedy Road project has been approved and an agreement is needed between the City and the railroad. Bid-letting is anticipated in April. Other projects are in various stages at this time and some bid-lettings are coming soon. For information at this time.

7. PW 2017-07 MFT Resolution for 2017 Road to Better Roads Program

MFT and City funds have been used for these projects and will continue to be used. The proposed budget is \$300,000 using MFT funds and a resolution must be passed before project submittal to IDOT. This moves to the February 21 consent agenda.

8. PW 2017-08 Downtown Sidewalk and Fencing Replacement RFP

Ms. Kathman said an RFP has been drafted to replace fencing and sidewalk by the Law Office. There was further discussion of the type and design of fencing and the height. Some sidewalk on W. Van Emmon by the Groner residence will also be replaced. No fence is required due to the slope and drop, however, it was suggested that a row of hedges could be replaced there. This moves to the Council consent agenda for February 21.

9. PW 2017-09 Riverfront Park Testing Results

Mr. Olson reported on the additional soil testing and said there was more contamination on the east side of the park, than on the west side. Some contamination was removed and the environmental engineer said remediation rather than encapsulation should be done in the playground area. Three optional spots were chosen for the playground location pending additional testing. Alderman Milschewski asked if the playground could change to a former location depending on the results. Park personnel would prefer the location be farther west if necessary, to better accommodate festivals. Testing will continue.

Old Business:

1. PW 2016-84 Well No. 3 Abandonment - Layne Proposal

At the December meeting, staff recommended a formal request from Layne which has been received. Mr. Sanderson said the proposal is for \$37,450 and if the City turns over the pump and motor to them, they will cancel the decommissioning cost. Layne would also credit \$1,894 for salvageable material. Mr. Sanderson recommended approval of the proposal. These costs do not include building removal. This moves to the February 21 consent agenda.

2. PW 2014-74 Railroad Quiet Zones

Alderman Milschewski asked if the staff could research how many trains go through the other towns per day, compared to the City. Mr. Olson said the number of trains has increased, however, railroads are not required to provide the exact numbers or schedules.

The quiet zone study would cost the City \$200,000 per crossing and there are about 16 crossings. Alderman Koch asked if the first part of the study would give an indication of the funds available if crossings were closed. It is thought there would be some idea of financial help. Businesses and future downtown development could be impacted greatly due to closures. Alderman Funkhouser questioned the cost of closing crossings vs. the lesser amount of money that has been spent on road improvements. He asked if closures would improve quality of life and if the amount of money spent is worth it.

Alderman Milschewski said she is opposed to spending the money for a study and people who purchase houses know where the train tracks are located. She said the number of trains could potentially decrease someday. She feels if this moves forward, it would be undertaken for a limited number of residents. Alderman Koch said he also did not favor the study.

Resident Ray Wolson noted a difference in the horns depending on the train/engineer. He asked what criteria/guidelines are followed and suggested that it be researched before money is spent. Aldermen said that some engineers keep sounding the horn when crossings are close together and that speed and distance affect the length of the horn-sounding. Ms. Milschewski also suggested some engineers may sound the horn longer/louder based on a bad experience or for objects on the tracks.

Carol Hirsch commented that Silica Sand has just purchased 350 more acres for sand and believes there could be an increase in the number of trains. Another resident asked why the cost is so great per crossing for a quiet zone. Tim Weidner replied that current equipment has to be replaced with gates and other security equipment.

Ms. Milschewski questioned liability in a quiet zone in the event of an accident. It was thought all responsibility would fall on the City in such a case since the City would be changing the railroad policies.

In conclusion, Chairman Funkhouser said this issue has been discussed several years with much careful thought. The committee felt the matter should be tabled, largely due to costs. Ms. Milschewski asked staff to research horn-sounding regulations for information for the public.

3. PW 2016-21 Leopardo Energy Update

Mr. Olson said the RFP document has been submitted. Oswego has identified possible partnerships on a couple projects and interviews are proceeding next week on a shared purchasing manager. A shared antenna tower for reading water meters, water plant and fueling station were other potential ventures. Chairman Funkhouser suggested that some of the joint projects would not be feasible. He cited a need for solutions for some of the issues that have been pending such as Beecher Center and fleet problems and wants to start facilitating some of these issues.

Mr. Funkhouser said in discussions last month, department head input was requested, however, that was not made available due to time constraints. If this program can save the City money, he feels it is worth the time spent. He said the contractor has an obligation to perform to save the City money.

Mr. Olson said he had big concerns about this program. He found that other communities had issues with the time spent on vendor contact. The communities are saying it's a good process and possibly saves money, but other items could happen with a simple change in-house. He feels that much time has already been put into this project and wants to delay future time investments to the new Purchasing Manager. Aldermen Koch and Funkhouser asked to have the full Council consider this proposal. Alderman Milschewski asked about delaying any further decisions until the Purchasing Manager is on board sometime in March. Mr. Funkhouser said this project could involve policy decisions and budget discussions.

The cost was also considered. Savings are determined on a project- by- project basis. The savings is the funding mechanism of the project and the guarantee of the savings comes from the contractor. Water meters and lighting were two projects cited for potential savings. It was noted that the City could take on these projects internally and still save money.

This item will come back to committee on March 21st and a shorter presentation will be scheduled for an upcoming Council meeting. It was recommended to have the future Purchasing Manager write a new RFQ.

Additional Business:

Alderman Koch said the potholes fixed on Greenbriar and N. Walsh need to be re-filled. Mr. Dhuse said it was likely re-done today. Mr. Koch asked about getting these streets on the schedule for future improvements.

There was no further business and the meeting was adjourned at 7:43pm.

Minutes respectfully transcribed by Marlys Young, Minute Taker



Reviewed By:	
Legal	
Finance	
Engineer	
City Administrator	
Human Resources	
Community Development	
Police	
Public Works	
Parks and Recreation	

Agenda Item Number
New Business #1
Tracking Number
PW 2017-10

Title: Snow Operations Repo	ort	
Meeting and Date: Public	Works Committee – February 21, 20)17
Synopsis: Monthly update o	f snow removal operations.	
Council Action Previously T	Taken:	
Date of Action:	Action Taken:	_
Item Number:		
Type of Vote Required: No.	ne – Informational only.	
Council Action Requested:		
Submitted by:	Eric Dhuse	Public Works
	Name	Department
	Agenda Item Notes:	



Memorandum

To: Public Works Committee

From: Eric Dhuse, Director of Public Works

CC: Bart Olson, Administrator

Date:

Subject: Snow removal update

Summary

Snow removal events since January 9, 2017 are as follows:

- 1. Jan 9th 6:00-9:00 pm. Full crew salting. Minor snowfall led to slick roads, no need to plow, salt only.
- 2. Jan 11th 3:30-5:30pm. Full crew salting. Minor icing on roadways, no plowing needed.
- 3. Jan 12th 7:00am- 3:30pm. Full crew salting. Temps cold enough to freeze rain to the roadway. Icing sporadic but enough to have the full crew salt all roadways. We also wanted to be prepared for the overnight hours when temps fall and any non-treated areas would freeze.
- 4. Jan 16th one employee called in to salt for an accident on Baseline Rd. Checked and salted where needed throughout town. 4 hour call in.
- 5. Jan. 26th 7:00am-11:00am street department (5 trucks) spot salted areas such as intersections and hills to prevent icing.
- 6. February 8th two trucks 7:00-11:00am, south side only. 6 trucks 2:00-3:30 as precaution due to snow during the day and falling temps forecast for overnight.

We have taken our full allotment of salt for the year through the state bid purchase. We currently have approximately 300 tons on hand and 1000 tons in storage through Kendall County.



Reviewed By:		
Legal		
Finance	Ш	
Engineer		
City Administrator		
Human Resources		
Community Development		
Police		
Public Works		
Parks and Recreation		

Agenda Item Number	
New Business #2	
Tracking Number	
PW 2017-11	

n – Phase 1 and 2		
Works Committee – February	21, 2017	
ptance Consideration		
Γaken:		
Action Taken:		
Consideration of Approval		
D 10 1	Б	
Name	Department	
Agenda Item Notes:		
	Works Committee – February Patence Consideration Faken: Action Taken: Consideration of Approval Brad Sanderson Name	Works Committee – February 21, 2017 Peptance Consideration Faken: Action Taken: Consideration of Approval Brad Sanderson Engineering



Memorandum

To: Bart Olson, City Administrator

From: Brad Sanderson, EEI

CC: Eric Dhuse, Director of Public Works

Krysti Barksdale-Noble, Community Dev. Dir.

Lisa Pickering, Deputy City Clerk

Date: February 3, 2017

Subject: Caledonia Phase 1 and 2

The developer has requested that the City accept the public improvements for ownership and maintenance.

All work related to the public improvements, including punch list work has been completed. We recommend that the public improvements (water main, sanitary sewer, storm sewer, paving, sidewalk, street lighting and parkway trees) as described in the attached Bill of Sale be accepted for ownership and maintenance by the City.

As required by City Code, the developer will be responsible to provide a performance guarantee to cover the one year maintenance period. This period starts after the City formally accepts the improvements.

Along with final acceptance, there is a letter of credit reduction to 10% of the value of the public improvements (Maintenance Guarantee).

The existing and new letter of credit amounts are as follows:

Current Phase 1 Letters of Credit

Old Second Bank No. 2912		\$615,430.05
Old Second Bank No. 2927		\$57,151.80
	Total Value	\$672,581.85

Original Approved EOPC \$4,233,856.88 **Required Letter of Credit Value (10% of Original)** \$423,385.69

Net Allowable Reduction \$249,196.16

Current Phase 2 Letters of Credit

Old Second Bank No. 2968		\$231,177.75
Old Second Bank No. 309000356		\$69,866.50
	Total Value	\$301,044.25

Original Approved EOPC \$1,342,298.92 **Required Letter of Credit Value (10% of Original)** \$134,229.89

Net Allowable Reduction \$166,814.36

Upon City Council approval of the acceptance and the receipt of the executed Bill of Sale and new letters of credit, the existing securities may then be released. If you have any questions or require additional information, please call.

BILL OF SALE

Seller,, in c hereby acknowledged, does hereby sell of Yorkville, an Illinois municipal co 60560, the following personal propert development know as Caledonia – Phas	, assign, transfer and orporation, at 800 G by to wit described it	convey to the <i>Buye</i> ame Farm Road, n Exhibit A attack	er, the United City Yorkville, Illinois ned hereto for the
Seller hereby represents and w property, that said property is free an Seller has full right, power, and authoric	d clear of all liens,	charges and encum	nbrances, and that
IN WITNESS WHEREOF,			
Subscribed and Sworn to before me this day of, 20			
Notary Public			

EXHIBIT A CALEDONIA - PHASE 1 UNITED CITY OF YORKVILLE

UTILITIES	UNIT	QUANTITY
STORM SEWER CONSTRUCTION		
STORM SEWERS, RCP, CL IV, 12"	FOOT	1,848
STORM SEWERS, RCP, CL IV, 15"	FOOT	2,880
STORM SEWERS, RCP, CL IV, 18"	FOOT	1,910
STORM SEWERS, RCP, CL IV, 21"	FOOT	806
STORM SEWERS, RCP, CL IV, 24"	FOOT	418
STORM SEWERS, RCP, CL IV, 27"	FOOT	601
STORM SEWERS, RCP, CL IV, 30"	FOOT	1,247
STORM SEWERS, RCP, CL IV, 36"	FOOT	601
STORM SEWERS, RCP, CL IV, 42"	FOOT	418
STORM SEWERS, RCP, CL IV, 48"	FOOT	346
STORM SEWERS, RCP, CL IV, 54"	FOOT	785
STORM TRENCH BACKFILL > 18" DIA	FOOT	290
STORM TRENCH BACKFILL < 18" DIA	FOOT	945
STORM MANHOLE, 120" DIA	EACH	1
STORM MANHOLE, 108" DIA	EACH	3
STORM MANHOLE, 96" DIA	EACH	1
STORM MANHOLE, 84" DIA	EACH	2
STORM MANHOLE, 72" DIA	EACH	11
STORM MANHOLE, 60" DIA	EACH	15
STORM MANHOLE, 48" DIA	EACH	4
CATCH BASIN, 84" DIA	EACH	1
CATCH BASIN, 72" DIA	EACH	1
CATCH BASIN, 60" DIA	EACH	29
CATCH BASIN, 48" DIA	EACH	54
INLETS, 24" DIA	EACH	30
FLARED END SECTION, W/ GRATE, 42"	EACH	2
FLARED END SECTION, W/ GRATE, 36"	EACH	1
FLARED END SECTION, W/ GRATE, 30"	EACH	1
FLARED END SECTION, W/ GRATE, 18"	EACH	1
FLARED END SECTION, W/ GRATE, 15"	EACH	1
STORM SERVICE, PVC SDR 26, 6"	EACH	73
CONNECT TO EX, CB/MH	EACH	2
HEADWALLS, WHEATON AVE	EACH	2

ROADWAY	UNIT	QUANTITY
CALEDONIA DRIVE	FOOT	840
RYAN DRIVE	FOOT	1278
RYAN CIRCLE	FOOT	332
BOOMBAH BOULEVARD	FOOT	440
FONTANA DRIVE	FOOT	470
LONGVIEW DRIVE	FOOT	800
SHADOWN WOOD DRIVE	FOOT	352
PINEWOOD DRIVE	FOOT	880

EXHIBIT A CALEDONIA - PHASE 1 UNITED CITY OF YORKVILLE

WATER MAIN CONSTRUCTION		
FIRE HYDRANTS WITH AUXILIARY VALVE & BOX	EACH	30
WATER MAIN, DI CL 52 W/ FITTINGS, 16"	FOOT	880
WATER MAIN, DI CL 52 W/ FITTINGS, 12"	FOOT	1,800
WATER MAIN, DI CL 52 W/ FITTINGS, 8"	FOOT	6,040
WATER SERVICE W/ B-BOX (LONG)	EACH	25
WATER SERVICE W/ B-BOX (SHORT)	EACH	48
VALVE, 16" IN 60" VAULT	EACH	2
VALVE, 12" IN 60" VAULT	EACH	3
VALVE, 8" IN BOX	EACH	18
PLUG AND BLOCK STUB	EACH	2
CONNECT TO EXISTING STUB	EACH	2
TRENCH BACKFILL	FOOT	800
SANITARY SEWER CONSTRUCTION		
SANITARY SEWER, PVC SDR 26, 10", (10'-15' DEEP)	FOOT	433
SANITARY SEWER, PVC SDR 26, 8", (15'-20' DEEP)	FOOT	256
SANITARY SEWER, PVC SDR 28, 8", (10'-15' DEEP)	FOOT	4,590
SANITARY SEWER, PVC SDR 28, 8", (<10' DEEP)	FOOT	1,971
SANITARY MANHOLE, TYPE A, 48" DIA (15'-20' DEEF	EACH	1
SANITARY MANHOLE, TYPE A, 48" DIA (10'-15' DEEF	EACH	25
SANITARY MANHOLE, TYPE A, 48" DIA (<10' DEEP)	EACH	10
SANITARY SEWER SERVICE (LONG)	EACH	46
SANITARY SEWER SERVICE (SHORT)	EACH	27
SANITARY TRENCH BACKFILL (> 15' DEEP)	FOOT	45
SANITARY TRENCH BACKFILL (10'-15' DEEP)	FOOT	264
SANITARY TRENCH BACKFILL (<10' DEEP)	FOOT	240
CONNECT TO EX MANHOLE	EACH	1
MISCELLANOUS UNDERGROUND CONSTRUCTION		
STREETLIGHTS COMPLETE WITH CABLE	EACH	23
ROADWAY CONSTRUCTION		=0 = 10
PCC SIDEWALK	SQ FT	53,710
PCC SIDEWALK ACROSS DRIVEWAY	SQ FT	7,440

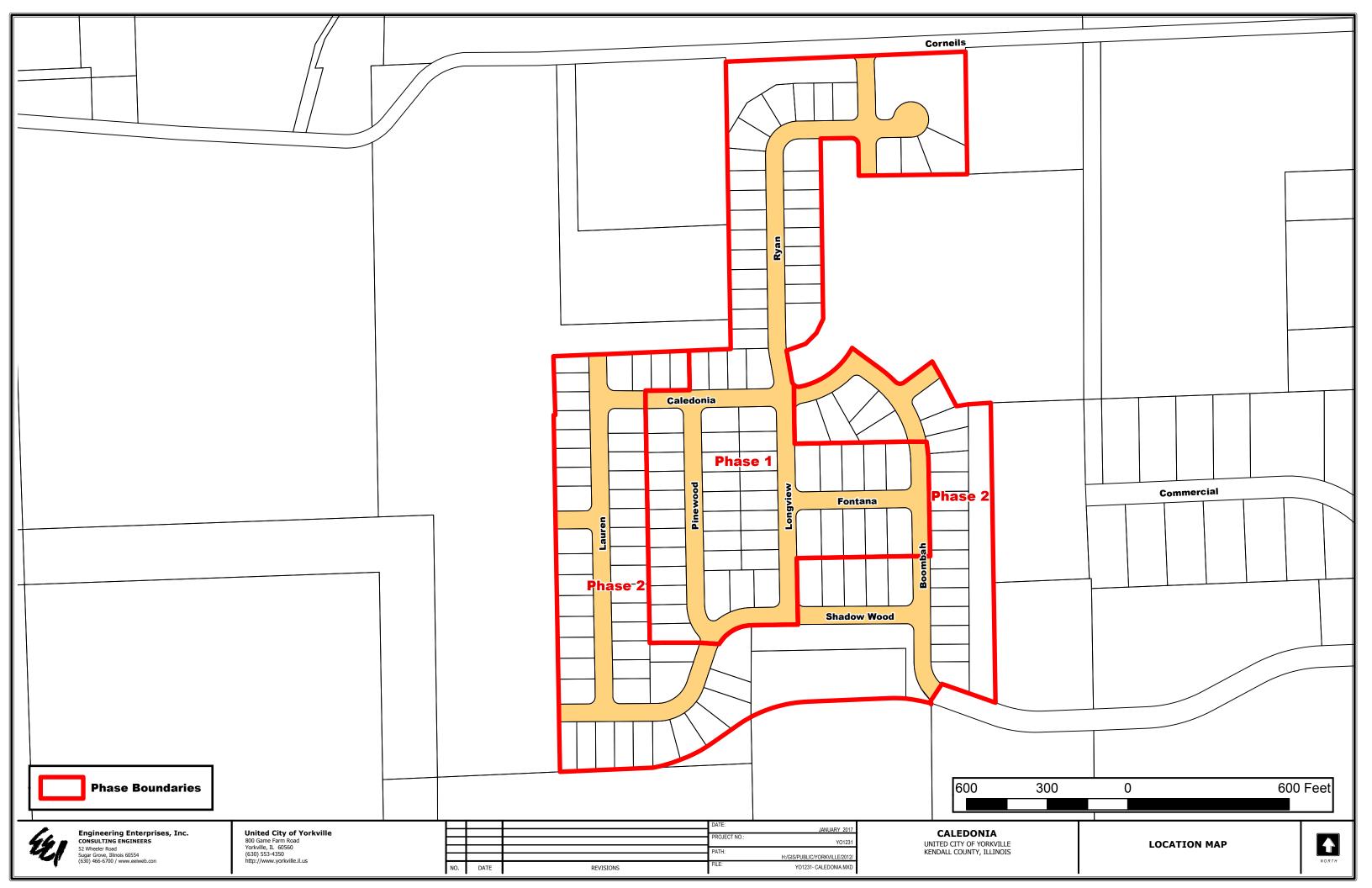
EXHIBIT A CALEDONIA - PHASE 2 UNITED CITY OF YORKVILLE

UTILITIES	UNIT	QUANTITY
STORM SEWER CONSTRUCTION		
STORM SEWERS, RCP, CL IV, 12"	FOOT	1,282
STORM SEWERS, RCP, CL IV, 15"	FOOT	561
STORM SEWERS, RCP, CL IV, 18"	FOOT	748
STORM SEWERS, RCP, CL IV, 21"	FOOT	75
STORM SEWERS, RCP, CL IV, 24"	FOOT	550
STORM SEWERS, RCP, CL IV, 27"	FOOT	241
STORM SEWERS, RCP, CL IV, 36"	FOOT	659
STORM SEWERS, RCP, CL IV, 42"	FOOT	198
STORM TRENCH BACKFILL > 18" DIA	FOOT	148
STORM TRENCH BACKFILL < 18" DIA	FOOT	619
STORM MANHOLE, 96" DIA	EACH	1
STORM MANHOLE, 84" DIA	EACH	1
STORM MANHOLE, 72" DIA	EACH	3
STORM MANHOLE, 60" DIA	EACH	4
STORM MANHOLE, 48" DIA	EACH	2
CATCH BASIN, 60" DIA	EACH	5
CATCH BASIN, 48" DIA	EACH	19
INLETS, 24" DIA	EACH	20
FLARED END SECTION, W/ GRATE, 42"	EACH	1
STORM SERVICE, PVC SDR 26, 6"	EACH	49
WATER MAIN CONSTRUCTION		
FIRE HYDRANTS WITH AUXILIARY VALVE & BOX	EACH	15
WATER MAIN, DI CL 52 W/ FITTINGS, 12"	FOOT	1,385
WATER MAIN, DI CL 52 W/ FITTINGS, 8"	FOOT	2,475
WATER SERVICE W/ B-BOX (LONG)	EACH	43
WATER SERVICE W/ B-BOX (SHORT)	EACH	29
VALVE, 12" IN 60" VAULT	EACH	4
VALVE, 8" IN BOX	EACH	4
PLUG AND BLOCK STUB	EACH	3
CONNECT TO EXISTING STUB TRENCH BACKFILL	EACH FOOT	1 290
SANITARY SEWER CONSTRUCTION	1001	230
SANITARY SEWER, PVC SDR 26, 8", (10'-15' DEEP)	FOOT	778
SANITARY SEWER, PVC SDR 26, 8", (<10' DEEP)	FOOT	1,610
SANITARY MANHOLE, TYPE A, 48" DIA (10'-15' DEE	EACH	5
SANITARY MANHOLE, TYPE A, 48" DIA (<10' DEEP)	EACH	6
SANITARY SEWER SERVICE (LONG)	EACH	29
SANITARY SEWER SERVICE (SHORT)	EACH	43
SANITARY TRENCH BACKFILL (<10' DEEP)	FOOT	85

ROADWAY	UNIT	QUANTITY
CALEDONIA DRIVE	FOOT	474
LAUREN DRIVE	FOOT	1465
BOOMBAH BOULEVARD	FOOT	954
SHADOWN WOOD DRIVE	FOOT	1165

EXHIBIT A CALEDONIA - PHASE 2 UNITED CITY OF YORKVILLE

MISCELLANOUS UNDERGROUND CONSTRUCTION					
STREETLIGHTS COMPLETE WITH CABLE	EACH	11			
ROADWAY CONSTRUCTION					
PCC SIDEWALK	SQ FT	30,470			
PCC SIDEWALK ACROSS DRIVEWAY	SQ FT	4,800			





Reviewed By:				
Legal				
Finance				
Engineer				
City Administrator				
Human Resources				
Community Development				
Police				
Public Works				
Parks and Recreation				

Title: Blackberry Woods Su	odivision – Phase A				
Meeting and Date: Public	Works Committee – February 2	1, 2017			
Synopsis: Subdivision Acce	ptance Consideration				
Council Action Previously	Saken:				
Date of Action:	Action Taken:				
Item Number:	<u></u>				
Type of Vote Required:					
Council Action Requested:					
•					
Submitted by:	Brad Sanderson Name	Engineering Department			
Agenda Item Notes:					



Memorandum

To: Bart Olson, City Administrator

From: Brad Sanderson, EEI

CC: Eric Dhuse, Director of Public Works

Krysti Barksdale-Noble, Community Dev. Dir.

Lisa Pickering, Deputy City Clerk

Date: February 3, 2017

Subject: Blackberry Woods Subdivision - Phase A

All work related to the public improvements (except for storm water management basins), including any punchlist items is complete. If you recall, the City contracted for the remaining punchlist work while utilizing developer funds to complete.

Attached is the draft Bill of Sale for the development. We recommend that the improvements (storm sewer, sanitary sewer, water main, street lights and sidewalk) as described in the attached Bill of Sale be accepted for ownership and maintenance by the City.

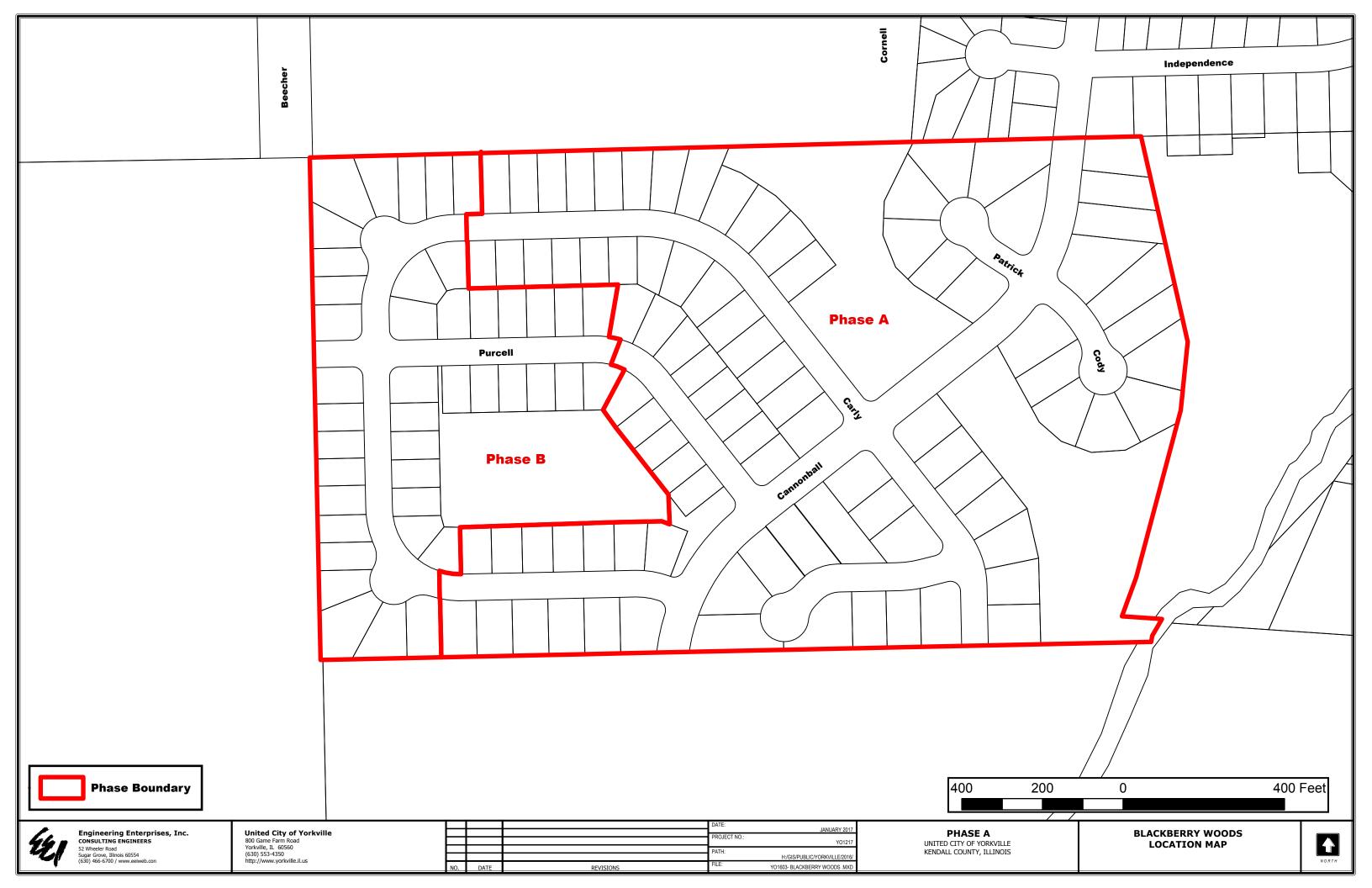
Since the City utilized developer funds to complete the work, there will not be a one year maintenance period. If you have any questions or require additional information, please call.

BILL OF SALE

Seller,, in c hereby acknowledged, does hereby sell of Yorkville, an Illinois municipal co 60560, the following personal proper development know as Blackberry Woo	, assign, transfer and orporation, at 800 C ty to wit described	I convey to the <i>Buye</i> Same Farm Road, in Exhibit A attack	er, the United City Yorkville, Illinois ned hereto for the
Seller hereby represents and w property, that said property is free an Seller has full right, power, and authorical	d clear of all liens,	charges and encum	nbrances, and that
IN WITNESS WHEREOF,			
Subscribed and Sworn to before me this day of, 20			
Notary Public			

UTILITIES	UNITS	QUANTITY
SANITARY SEWER IMPROVEMENTS		
SAN SEWER, 8" PVC SDR 26, 4-8' DEEP	FOOT	483
SAN SEWER, 8" PVC SDR 26, 8-12' DEEP	FOOT	4,521
SAN SEWER, 8" PVC SDR 26, 12-16' DEEP	FOOT	729
SAN SEWER, 8" PVC SDR 21, 12-16' DEEP	FOOT	230
SAN SEWER, 8" PVC DR 18, 4-8' DEEP	FOOT	349
SAN SEWER, 8" PVC DR 18, 20-24' DEEP	FOOT	600
SAN SEWER, 8" PVC DR 18, 24-28' DEEP	FOOT	460
SAN SEWER, 10" PVC DR 18, 12-16' DEEP	FOOT	10
SAN MH 4', TY A W/ TY 1 FR & SS LID, 4-8' DEEP	EACH	3
SAN MH 4', TY A W/ TY 1 FR & SS LID, 8-12' DEEP	EACH	24
SAN MH 4', TY A W/ TY 1 FR & SS LID, 12-16' DEEP	EACH	7
SAN MH 4', TY A W/ TY 1 FR & SS LID, 16-20' DEEP	EACH	1
SAN MH 4', TY A W/ TY 1 FR & SS LID, 24-28' DEEP	EACH	3
SAN MH 4', TY A W/ TY 1 FR & SS LID, 20-24' DEEP W/ DROP S	_	1
SAN MH 4', TY A W/ TY 1 FR & SS LID, 28-32' DEEP W/ DROP S		1
SANITARY SERVICE, 6" PVC SDR 26 (COMPLETE)	EACH	132
TRENCH BACKFILL	CU YD	4,085
WATERMAIN IMPROVEMENTS	33.2	.,000
DIWM 8", CL 52 W/ POLYETHYLENE WRAP	FOOT	8,449
HYDRANT W/ AUX VALVE	EACH	27
8" VALVE IN 4' VAULT	EACH	19
WATER SERVICE 1 1/4", TY K W/ BOX	EACH	132
WATER TIGHT PLUG & BLOCKING	EACH	3
TRENCH BACKFILL	CU YD	1,622
STORM SEWER IMPROVEMENTS	00.15	1,022
STORM SEWER, 12" RCP, CL I	FOOT	5,614
STORM SEWER, 15" RCP, CL I	FOOT	1,556
STORM SEWER, 18" RCP, CL I	FOOT	1,057
STORM SEWER, 21" RCP, CL I	FOOT	772
STORM SEWER, 24" RCP, CL I	FOOT	1,216
STORM SEWER, 27" RCP, CL I	FOOT	273
INLET TY A 2' DIA W/ TY 3 FR & GRATE	EACH	13
INLET TY A 2' DIA W/ R-2502 FR & GRATE	EACH	30
INLET TY A 2' DIA W/ TY 8 GRATE	EACH	30
CATCH BASIN, TY C 2' DIA W/ TY 3 FR & GRATE	EACH	1
CATCH BASIN, TY A 4' DIA W/ TY 3 FR & GRATE	EACH	22
CATCH BASIN, TY A 5' DIA W/ TY 3 FR & GRATE	EACH	3
STORM MH, TY A 4' DIA W/ TY 1 FR & CL	EACH	5
STORM MH, TY A 4' DIA W/ TY 3 FR & GRATE	EACH	5
STORM MH, TY A 4' DIA W/ TY 8 GRATE	EACH	2
STORM MH, TY A 4' DIA W/ TY 3 FR & CL	EACH	3
STORM MH, TY A 4' DIA W/ TT 3 FR & CL STORM MH, TY A 4' DIA W/ R-2502 FR & GRATE	EACH	3 18
STORM MH, TY A 5' DIA W/ TY 1 FR & CL	EACH	7

STORM MH, TY A 5' DIA W/ TY 3 FR & GRATE	EACH	6
STORM MH, TY A 5' DIA W/ TY 8 GRATE	EACH	1
STORM MH, TY A 5' DIA W/ R-2502 FR & GRATE	EACH	4
STORM MH, TY A 6' DIA W/ TY 1 FR & CL	EACH	2
FLARED END SECTION, 12" RCP W/ GRATE	EACH	4
FLARED END SECTION, 15" RCP W/ GRATE	EACH	2
FLARED END SECTION, 24" RCP W/ GRATE	EACH	1
FLARED END SECTION, 27" RCP W/ GRATE	EACH	2
SUMP PUMP CONNECT 6" PVC	EACH	100
TRENCH BACKFILL	CU YD	1,086
MASS-GRADING STORM SEWER IMPROVEMENTS		
STORM SEWER, 6" PVC, SDR 26	FOOT	190
STORM SEWER, 12" RCP, CL I	FOOT	1,092
STORM SEWER, 18" RCP, CL I	FOOT	140
STORM SEWER, 24" RCP, CL I	FOOT	26
STORM SEWER, 30" RCP, CL I	FOOT	138
STORM SEWER, 36" RCP, CL I	FOOT	128
INLET TY A 2' DIA W/ R-2502 FR & GRATE	EACH	2
CATCH BASIN, SPECIAL 5' DIA W/ TY A FR & CL	EACH	2
STORM MH, TY A 4' DIA W/ TY 1 FR & CL	EACH	5
STORM MH, TY A 4' DIA W/ TY 3 FR & CL	EACH	1
STORM MH, TY A 5' DIA W/ TY 1 FR & CL	EACH	3
STORM MH, TY A 6' DIA W/ TY 1 FR & CL	EACH	1
FLARED END SECTION, 36" RCP W/ GRATE	EACH	1
SLOPE INLET BOX (24" RCP) - TY 600 W/ GRATE	EACH	1
SLOPE INLET BOX (30" RCP) - TY 600 W/ GRATE	EACH	1
TRENCH BACKFILL	CU YD	70
STREET LIGHTING IMPROVEMENTS		
150 WATT HPS (CLEAR) LUMIN STD 19'-9" MOUNTING HEIGH	EACH	20
150 WATT HPS (CLEAR) LUMIN STD 19'-9" MOUNTING	EACH	5
HEIGHT W/ SIGN	2,1011	
SIDEWALK IMPROVEMENTS		
PCC SIDEWALK, 5 THICK - 5' WIDTH	SQ FT	78,848





Agenda Item Number
New Business #4
Tracking Number
PW 2017-13

	5	•
Title: RFP for hot	mix and cold patch	
Meeting and Date:	Public Works Committee – Feb	oruary 21, 2017
Synopsis: RFP res	ults for yearly purchase of hot mix	x and cold patch as required by IDOT.
Council Action Pro	eviously Taken:	
Date of Action:	Action Taken:	
Item Number:		
Type of Vote Requ	ired: Majority	
Council Action Re	quested: Approval	
Submitted by:	Eric Dhuse Name	Public Works Department
	Agenda Item I	-
	Agenda Item I	voies.



Memorandum

To: Public Works Committee

From: Eric Dhuse, Director of Public Works

CC: Bart Olson, Administrator

Date: February 15, 2017

Subject: Hot mix and cold patch bid results

Summary

Bids for Hot mix asphalt (HMA) and Bituminous premix for maintenance use (cold patch) were opened and read aloud on Wednesday February 15, 2017 at 11:00am.

Background

This is the second year that the city has gone to an RFP process to procure hot mix asphalt and cold patch due to the fact that we plan on spending more than \$20,000 with one company on materials even though they are technically different products. I believe this is a good process to ensure fair pricing for everyone.

We had three (3) bidders this year which were D Construction, Geneva Construction, and Builders Asphalt. We have worked with all three companies for many years and have good relationships with all of them. This year, the winning bidder was Geneva Construction Company of Aurora, Illinois. I have attached the bid tabulation for your review.

Recommendation

I recommend that we approve the bid from Geneva Construction Co. for fiscal year 18 in our supplemental general maintenance resolution 18-00000-00 GM. The rates for the material are:

Hot Mix Asphalt - \$54.00 /ton

Cold Patch - \$105.00/ton

The aggregate price difference between last year and this year was an increase of \$900.00. I believe this shows that all the bidders were very competitive and we are getting the most for our dollar.

I would ask that this be placed on the February 21, 2017 public works committee for discussion. If you have any questions or need further information, please let me know.

BID TABULATION RESULT Hot mix asphalt and Bituminous premix for maintenance use

2/15/2017 11:00 AM ED, JS

Geneva Construction Co.

P.O.Box 998 Aurora, IL 60507						
Approx						
Item	Quantity	Unit	Price	Approximate Cost		
Hot Mix Asphalt	200	TON	\$54.00	\$10,800.00		
Bit. Premix (cold Patch)	150	TON	\$105.00	\$15,750.00		
			VENDOR TOTAL	\$26,550.00		
Builders Asphalt, LLC 4413 Roosevelt Rd Suite 108 Hillside, IL 60162						
	Approx					
Item	Quantity	Unit	Price	Approximate Cost		
Hot Mix Asphalt	200	TON	\$46.00	\$9,200.00		
Bit. Premix (cold Patch)	150	TON	\$125.00	\$18,750.00		
			VENDOR TOTAL	\$27,950.00		
D Construction 1488 S. Broadway Coal City, IL 60416						
	A		,, . = = .			
	Approx			A		
ltem	Approx Quantity	Unit	Price	Approximate Cost		
Item Hot Mix Asphalt				Approximate Cost \$10,000.00		

VENDOR TOTAL

\$28,000.00

United City of Yorkville, Illinois

Request for Proposal

Hot Mix Asphalt and

Bituminous Premix for Maintenance Use

February 2017

Request for Proposals

- 1. The United City of Yorkville, Illinois (the "City") is issuing this Request for Proposal ("RFP") for the purpose of soliciting vendor proposals for Hot Mix Asphalt (HMA) and Bituminous premix for maintenance use proprietary mixes (Cold Patch)
- 2. The City intends to seek the most cost-effective solution, based on the Criteria contained in this RFP, for its needs.
- 3. One original and one copy of the proposal will be accepted until 11:00 am Wednesday February 15, 2017. Proposals submitted must be binding for not less than ninety (90) days after the date received. The City will select the proposal, or combination of proposals, that, in its opinion, is in the best interest of the City. The City reserves the right to reject any and all proposals or portions of a proposal. The City also reserves the right to waive minor technicalities in the proposal. The City not only reserves the right at the sole discretion of the City to reject any and all proposals and to waive technicalities, but also reserves the right of evaluation and the right to determine the methodology for evaluation of the proposals to determine which is the best proposal and to accept the proposal (or proposals) deemed to be in the best interest of the City, *i.e.*, the most qualified proposal will not necessarily be the proposals) for any or all items separately or together.
- 4. Proposals may also be hand-delivered to the following address by the date and time specified. It is the responsibility of the bidder to deliver the proposal in accordance with these instructions contained above and/or elsewhere in the RFP. Proposals dispatched, but not received by the City by proposal closing time, will be returned, after receipt, unopened to the bidder. All proposals should be addressed to:

United City of Yorkville Re: (vendor name) Proposal for HMA and Cold Patch Attention: Eric Dhuse 800 Game Farm Rd. Yorkville, Illinois 60560

Proposal packets are available online at www.yorkville.il.us or at the United City of Yorkville city hall which is located at 800 Game Farm Rd., Yorkville, Illinois.

- 5. Award of Contract. The United City of Yorkville City Council will make the final award of the proposal or contract.
- 6. Contract. In addition to the completed proposal, a resulting contract shall be required by the City, and may require product literature. All agreements between the United City of Yorkville and the vendor will be handled through our legal counsel. In addition, any legal restrictions or provisions, enforced by the vendor or its parent company, which are not in line with the industry's standard, should be pointed out.
- 7. Confidentiality of Documents. Proposals shall be unopened so as to avoid disclosure of contents to competing bidders and kept secret during the process of negotiation. However, all proposals that have been submitted shall be open for public inspection after contract award. Trade secrets and confidential information, as specified by the vendor, contained in the proposals shall not be open for public inspection.
- 8. Contact with City Employees. In order to ensure fair and objective evaluation, all questions related to this RFP should be addressed only to Eric Dhuse, Director of Public works. His contact information is as follows:

Email - edhuse@yorkville.il.us

Cell - 1-630-878-7102

Conditions

- 1. Cold patch shall be made available at all times throughout the year with 72 hour notification.
- 2. There will be no charge to the City for dumping used clean asphalt at winning vendor's site. The vendor will have the right to reject the load if there is too much foreign matter or debris mixed in with the asphalt.

Criteria

1. All mixes shall be IDOT approved and verification must be provided by the winner bidder.

2.	Please see	attached	sheets for	basic	IDOT	mix	designs	and	criteria.
	I ICUBC BCC	accarrie	DIICOUD IOI	Cabie				ullu	orrection.

BID SHEET

Price per ton for Hot Mix Asph asphalt at winning vendor's place of that they will purchase approximate it is strictly an estimate garnered from	of distribution during normal ely 200 tons of this mix. Tom past usage.	al working hours. The City etchere is NO guarantee of this of	estimates
HOT M	IX ASPHALT \$	/1ON	
Price per ton for Bituminous Yorkville will pick up said cold working hours. The City estimates NO guarantee of the quantity, it is s	patch at winning vendor's they will purchase approx	s place of distribution during imately 150 tons of this mix.	normal
BITUMINOUS PREMIX FOR M	AINTENANCE USE (COI	LD PATCH) \$	/TON
Signature of Authorized Agent		Date	



Reviewed By:			
Legal			
Finance	l ∐		
Engineer			
City Administrator			
Human Resources			
Community Development			
Police			
Public Works			
Parks and Recreation			

Agenda Item Number		
New Business #5		
Tracking Number		
PW 2017-14		
_		

Title: Fox Hill and	Sunflower SSA mowing and ma	intenance RFP contract proposal		
Title: Fox Hill and Sunflower SSA mowing and maintenance RFP contract proposal				
Meeting and Date: Public Works Committee – February 21, 2017				
Synopsis: Proposed 3 year contract to maintain the SSA areas of Fox Hill and Sunflower				
Estates subdivisions				
Council Action Pre	viously Taken:			
Date of Action:	Action Taken:	_		
Item Number:				
Type of Vote Required: Majority				
Council Action Requested: Approval				
Submitted by:		Public Works		
	Name	Department		
Agenda Item Notes:				



Memorandum

To: Public Works Committee

From: Eric Dhuse, Director of Public Works

CC: Bart Olson, Administrator

Date: February 7, 2017

Subject: Fox Hill and Sunflower SSA mowing and maintenance RFP

Summary

The three (3) year contract for mowing and maintenance of the SSA areas of Fox Hill and Sunflower Estates expired in November of 2016. I am proposing to solicit new proposals for another three (3) year contract. If approved, this contract would be in effect from April 1, 2017-November 30, 2019.

Background

Fox Hill chose not to form their HOA in 2004 and Sunflower Estates chose not to form their HOA in 2007 for varying reasons. When that happened, the backup SSA was activated by the city and we became the responsible party for the maintenance of all common areas in these subdivisions. Since those respective times, we have solicited and accepted many proposals for mowing and maintenance of the common areas of these subdivisions.

In addition to selecting a vendor, I would also recommend that the committee discuss the possibility of using a professional property management company to administer the contract and provide the necessary oversight to the contractor along with detailed weekly documentation to the city that will ensure a quality product for the residents of these subdivisions. As of now the city has always performed these duties and absorbed the cost, in time spent, to administer these contracts. Below, please find a list of items and a brief description along with an estimate of time spent each year to administer the contract.

- 1. RFP preparation for years these were single year contracts that written, edited, proof read by legal and put forward for votes every year. It wasn't until 2014 that we extended the contract to a term of 3 years. On average, I would estimate that I spent 4 hours and our attorney spent 1 hour preparing the document.
- 2. Administration of RFP documents Each year I would have to advertise in the local newspapers, answer bid questions, distribute addendums if necessary, hold bidder's meetings for questions, collect and open bids, prepare bid tabulation sheets, compose recommendation letters for council approval, mail bid tabulation sheets to all bidders and meet with winning contractor to go over the specifications to make sure that all aspects of the contract are agreed upon. My estimated time for that would be a minimum of 2 hours per year. If there were any questions that I needed legal advice on, that would add an hour of my time and our attorney's time as well.
- 3. Preparing a budget for the SSA areas- each year I work with the finance department and administrator to complete a budget estimate for both SSA areas. In recent years, this has

become more complicated with multiyear planning to pay for large projects such as pond naturalization and trail patching and sealing. I would estimate that this takes 4 hours of my time every year and an additional 2 hours for the Finance Director and 2 hours for the City Administrator.

- 4. Preparing and filing the levy each year a formal levy is prepared and filed with Kendall County per the law. The time estimated to do this is 1 hour for the Finance Director and 1 hour for the Deputy City Clerk.
- 5. Contractor interaction each year I try to interact with the contractor on a bi-weekly basis by email, phone or text. It may be as short as "is everything going ok?" or we have met on site to discuss different items. I would estimate that this would be 4 hours total time throughout the year.
- 6. Resident calls this has varied from an hour a day when things aren't going well to an hour a week when we had new contractors every year to an hour a month when things are going well. I would estimate that it averages ½ hour per week over the course of a season which equates to 16 hours. This past year, I spent at least that amount of time on the Fox Hill entry sign when dealing with IDOT on the purchase of said sign.
- 7. Service level oversight each week I drive through each SSA area and assess the quality of work that the contractor is providing, look for possible problems (weeds, lack of mulch, trees that need trimming, sign maintenance, etc.) and try to maintain a sense of what is happening each week. I would estimate 28 hours to accomplish this task.
- 8. Special projects I estimate that I spend an average of 8 hours per year on special projects such as trail patching and sealing and pond naturalization.

In total, I spend approximately 88 hours per year to administer these contracts. In addition to my time, there is time spent by our City Attorney, Finance Director and Deputy Clerk.

Recommendation

My recommendation is to solicit requests for proposals and choose a vendor to mow and maintain these areas for the next three (3) mowing seasons. In addition, it would be my recommendation to solicit proposals to have a professional management company administer the contract for its duration on a day to day basis. The city would still be responsible for assessing and levying for the program and would have final say in decisions regarding any additional expenditures that are not outlined in the contract we would draft with the winning vendor.

I would ask that this be placed on the February 21, 2017 public works committee meeting for discussion. If you have questions or need further documentation, please let me know.

United City of Yorkville, Illinois

Request for Proposal

Mowing and Maintenance of the Sunflower Estates and Fox Hill Subdivisions Special Service Areas

February 2017

Request for Proposals

- 1. The United City of Yorkville, Illinois (the "City") is issuing this Request for Proposal ("RFP") for the purpose of soliciting vendor proposals for the mowing and maintenance of certain areas in the Sunflower Estates and Fox Hill subdivisions Special Service Areas to serve the current and projected needs of the City.
- 2. The City intends to seek the most cost-effective solution, based on the Criteria contained in this RFP, for its needs.
- 3. One original and one copy of the proposal will be accepted until 12:00 p.m., on Friday, March 10, 2017. Proposals submitted must be binding for not less than ninety (90) days after the date received. The City will select the proposal, or combination of proposals, that, in its opinion, is in the best interest of the City. The City reserves the right to reject any and all proposals or portions of a proposal. The City also reserves the right to waive minor technicalities in the proposal. The City not only reserves the right at the sole discretion of the City to reject any and all proposals and to waive technicalities, but also reserves the right of evaluation and the right to determine the methodology for evaluation of the proposals to determine which is the best proposal and to accept the proposal (or proposals) deemed to be in the best interest of the City, *i.e.*, the most qualified proposal will not necessarily be the proposals) for any or all items separately or together.
- 4. All inquiries shall *only* be addressed at a meeting open to all potential bidders with Eric Dhuse, Director of Public Works of the United City of Yorkville to be held Monday, March 3, 2017 at 10:00 AM at the United City of Yorkville City Council chambers, 800 Game Farm Road Yorkville, Illinois.
- 5. Proposals may also be hand-delivered to the following address by the date and time specified. It is the responsibility of the bidder to deliver the proposal in accordance with these instructions contained above and/or elsewhere in the RFP. Proposals dispatched, but not received by the City by proposal closing time, will be returned, after receipt, unopened to the bidder. All proposals should be addressed to:

United City of Yorkville Re: (vendor name)

Proposal for Fox Hill and Sunflower Estates subdivisions Special Service Areas Mowing and Maintenance

Attention: Eric Dhuse, Director of Public Works 800 Game Farm Rd. Yorkville, Illinois 60560 Proposal packets are available online at www.yorkville.il.us or at the United City of Yorkville city hall which is located at 800 Game Farm Rd., Yorkville, Illinois.

- 6. Award of Contract. The United City of Yorkville City Council will make the final award of the proposal or contract.
- 7. Contract. In addition to the completed proposal, a resulting contract shall be required by the City, and may require product literature. All agreements between the United City of Yorkville and the vendor will be handled through our legal counsel. In addition, any legal restrictions or provisions, enforced by the vendor or its parent company, which are not in line with the industry's standard, should be pointed out.
- 8. Confidentiality of Documents. Proposals shall be unopened so as to avoid disclosure of contents to competing bidders and kept secret during the process of negotiation. However, all proposals that have been submitted shall be open for public inspection after contract award. Trade secrets and confidential information, as specified by the vendor, contained in the proposals shall not be open for public inspection.
- 9. Contact with City Employees. In order to ensure fair and objective evaluation, all questions related to this RFP should be addressed only to the person (s) in attendance at the potential bidders meeting on March 3, 2017. Contact with any other City employee is expressly prohibited without prior consent of the persons so named herein. Vendors directly contacting other City employees will risk elimination of their proposal from further consideration.

Conditions

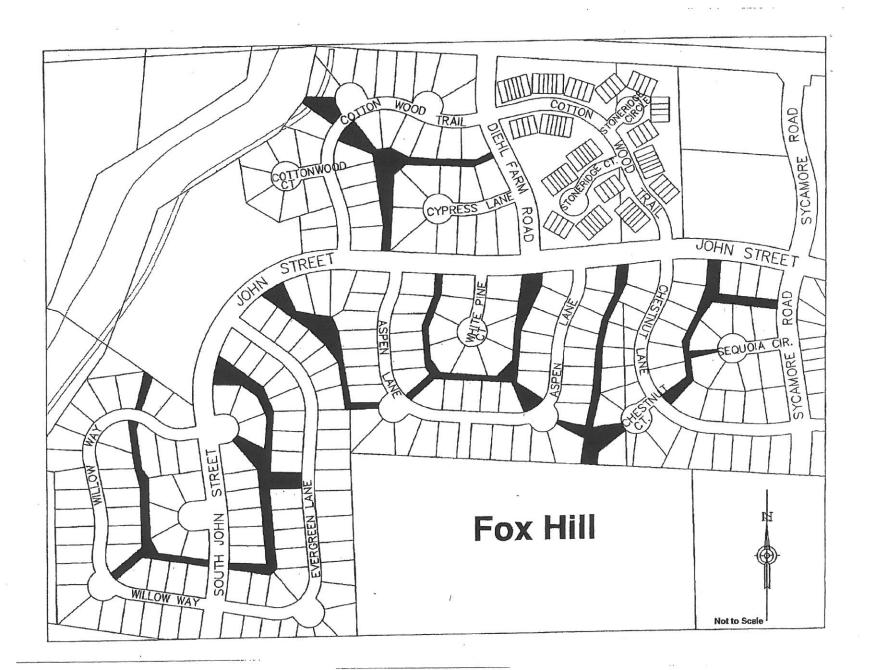
- 1. Contractor shall perform the maintenance and furnish all labor, equipment, and services and supplies for the mowing and string trimming and other maintenance and services for the Fox Hill and Sunflower Estates subdivisions Special Service Areas (see attached maps) for the approximate period of April 1, 2017 through November 1, 2020.
- 2. Contractor will furnish upon request the following certificates of insurance with provision that insurance policies may not be cancelled or endorsed in any way which would reduce or limit coverage within (10) days prior written notice to the United City of Yorkville.
- A. Workman's Compensation Insurance covering employees performing the services outlined in the contract.
- B. Comprehensive General Liability Insurance on an occurrence basis in an insurance company licensed to do business in this state. \$1,000,00.00/\$2,000,000.00
- 3. Work completed under the contract shall be subject to the approval of the United City of Yorkville. For the practical implementation of the contract, the contractor agrees to meet with the City as often as necessary to discuss any and all aspects of the contract.

- 4. If in the opinion of the United City of Yorkville Public Works Department, the contractor has not or is not satisfactorily performing the work covered by this specification, and within two (2) weeks (14 calendar days) of receipt of a written demand from the United City of Yorkville, for performance, has not cured any defect in performance specifically itemized in such demand, the United City of Yorkville may, at its option:
 - 1) Consider all or any part of this contract breached and terminate the contract, and hire another contractor to cure any defects in performance or complete all work covered by this specification for the remaining term of the contract.
- 5. Any demand for performance shall be specifically delivered to contractor by registered mail.
- 6. Neither the contractor nor the United City of Yorkville shall be held liable in damages caused beyond its control and without its fault or negligence including but not limited to, acts of God or the public enemy, acts of the government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather.

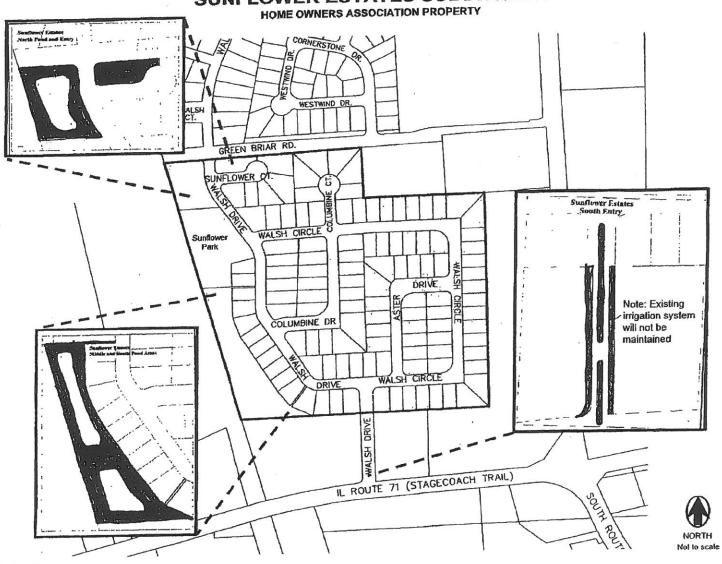
Criteria

- 1. MOWING all mowable areas will be maintained at a height of 2 ½" or 3" in hot and dry conditions. Grass shall be cut weekly or when it is 1" higher than specified height. Grass next to light poles, trees, trails, etc., shall be mechanically trimmed to the same height as specified above at the time of each mowing. All grass clippings and debris, shall be removed from the sidewalks, trails, and streets at the time cutting takes place.
- 2. MULCHING shredded hardwood mulch shall be placed around trees, flower beds, and other landscape areas to a depth of 3" up to two times per year at the request of the City. All pricing to be cubic yard price installed.
- 3. WEEDING All landscaped areas will be hand weeded as requested by the City. All weeding to be performed within seven (7) days of request. All pricing to be hourly rate for labor.
- 4. GENERAL MAINTENANCE This includes but is not limited to the following: erosion repair, tree and shrub removal, reseeding including the use of erosion control blanket, or other essential maintenance repairs not covered under any specific line item. All pricing will use the labor rate specified by the detailed bid price.

- 5. BEAUTIFICATION Planting of annual or perennial flowers, various size bushes or 3" diameter trees as needed for replacement or new installation. All pricing will be labor only to install. All tree/plant/shrub pricing will be negotiated separately.
- 6. TRIMMING Any trees and/or shrubs shall be trimmed/pruned as requested by the City. All pricing will use the labor rate specified by the detailed bid price.
- 7. BILLING/INVOICING- All billing and invoicing will be done on a monthly basis with detailed itemized billing for each work item performed for each SSA subdivision area. Billing will include the date the work item was performed, the cost per work item and the total cost for the month.
- 8. FERTILIZING AND WEED CONTROL The winning bidder will enter into a contract with a qualified contractor to provide fertilizing and weed control for the SSA areas. The fertilization and weed control shall consist of 5-7 applications per year, not including any grub, mold or any other types of applications. Any other types of proposed applications shall be clearly stated on the proposal with the cost of each proposed application. This contractor shall have to abide by the same insurance requirements as the winning bidder and a copy of the contract shall be given to the city for review and consent.
- 9. REPORTING The winning bidder shall provide written documentation to the city on a weekly basis outlining all work performed, using the attached form or approved equal.



SUNFLOWER ESTATES SUBDIVISION



Fox Hill and Sunflower Estates SSA area Bid Form

Company Name:

Date:

Fox Hill	Acreage	Cost/Acre	Price/Cutting
2017-2018	5.29	\$45.00	\$238.05
2018-2019	5.29	\$47.25	\$249.95
2019-2020	5.29	\$49.61	\$262.45

Sunflower Estates	Acreage	Cost/Acre	Price/Cutting
2017-2018	5.00	\$45.00	\$225.00
2018-2019	5.00	\$47.25	\$236.25
2019-2020	5.00	\$49.61	\$248.06

Material and Labor Rates

Mulch	Per/yd in place
20107-2018	\$46.00
2018-2019	\$48.30
2019-2020	\$50.72
Labor Rates	Per Hour
2017-2018	\$30.00
2018-2019	\$31.50
2019-2020	\$33.08

THIS IS THE CITY ESTIMATE ONLY, BID FORMS ATTACHED ON NEXT PAGE

Fox Hill and Sunflower Estates SSA area Bid Form

Company Name:

2018-2019 2019-2020

Date:

Fox Hill	Acreage	Cost/Acre	Price/Cutting
2017-2018	5.29		
2018-2019	5.29		
2019-2020	5.29		
Sunflower Estates	Acreage	Cost/Acre	Price/Cutting
2017-2018	5.00		
2018-2019	5.00		
2019-2020	5.00		
	Material and	Labor Rates	
Mulch 2017-2018 2018-2019 2019-2020	Per/yd in place		
Labor Rates 2017-2018	Per Hour		

Fox Hill and Sunflower Estates SSA area Mowing and Maintenance WEEKLY REPORT

Date		
Time In	Time Out	
Employee (s) initials		
	Work Items I	Performed
Mowing	YES	NO
String trim edge of trails	YES	NO
String trim trees, bushes, etc.	YES	NO
String trim electric boxes, lightpoles, etc.	YES	NO
Blow grass from trails	YES	NO
Weed landscape beds	YES	NO
Trim trees	YES	NO
Plant trees	YES	NO
Plant bushes or flowers	YES	NO
Remove landscaping	YES	NO
Place mulch	YES	NO
Repair erosion damage	YES	NO
Please	e describe any additio	onal work in detai
1.035	account any addition	mar Work in detail
Facility of Charles		
Employee Signature :		



Reviewed By:	
Legal Finance Engineer	
City Administrator Human Resources	10080000
Community Development	
Police Public Works	
Parks and Recreation	

Agenda Item Number
New Business #6
Tracking Number
PW 2017-15

Agenda Item Summary Memo

Title: Budget Ame	ndment for School	l Crossing Signage
Meeting and Date:	Public Works C	Committee – February 21, 2017
Synopsis: Discuss	the budget amend	ment for school crossing signs at 3 locations.
Council Action Pre	eviously Taken:	
Date of Action: N/A	<u> </u>	Action Taken:
Item Number:		
Type of Vote Requ	ired: Majority	
Council Action Rec	quested: Approva	.1
Submitted by:		Administration
	Name	Department
		Agenda Item Notes:



Memorandum

To: Public Works Committee

From: Rob Fredrickson, Finance Director

Date: February 2, 2017

Subject: FY 2017 Budget Amendment – Signage for School Crossing

Summary

Amend the Fiscal Year 2017 General Fund Streets Department budget to appropriate funds in the amount of \$27,400 in order to install school crossing signs at several locations across the City.

Background

The school district has met with staff to discuss public safety concerns at the following crosswalk areas and has verbally committed to cost sharing for the signage. In order to enhance public safety, it is the recommendation of staff that pedestrian crossing signs be erected at three school crossings located at Bristol Bay Elementary School, the south entrance to Yorkville High School and the corner of Hydraulic Street & IL Route 47. Each crossing will require two pedestrian signs, at a total cost of \$27,400. The school crossing signs at Bristol Bay and Yorkville High School will cost approximately \$7,800 per crossing (\$15,600 total - please see Schedule B for a quote from Tapco Co.). The signage at the Hydraulic & Route 47 crossing is estimated at \$11,800, due to additional engineering work that would need to be done in order to comply with IDOT regulations. This proposed budget amendment would increase the Operating Supplies line item in the Streets Department from \$11,025 to \$38,425, as highlighted on page 3 of Schedule A (attached).

Recommendation

Staff recommends approval of the budget amendment in order to appropriate the funds necessary to install school crossing signs at Bristol Bay Elementary School, the south entrance to Yorkville High School and the corner of Hydraulic Street & IL Route 47.

Ordinance No. 2017-____

AN ORDINANCE AUTHORIZING THE FIFTH AMENDMENT TO THE ANNUAL BUDGET OF THE UNITED CITY OF YORKVILLE, FOR THE FISCAL YEAR COMMENCING ON MAY 1, 2016 AND ENDING ON APRIL 30, 2017

WHEREAS, the United City of Yorkville (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 the State; and,

WHEREAS, pursuant to 65 ILCS 5/8-2-9.4, the City adopted Ordinance No. 2016-30 on April 12, 2016 adopting an annual budget for the fiscal year commencing on May 1, 2016 and ending on April 30, 2017; and,

WHEREAS, pursuant to 65 ILCS 5/8-2-9.6, by a vote of two-thirds of the members of the corporate authorities then holding office, the annual budget of the United City of Yorkville may be revised by deleting, adding to, changing or creating sub-classes within object classes and object classes themselves. No revision of the budget shall be made increasing the budget in the event funds are not available to effectuate the purpose of the revision; and,

WHEREAS, funds are available to effectuate the purpose of this revision.

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

Section 1: That the amounts shown in Schedule A, attached hereto and made a part hereof by reference, increasing and/or decreasing certain object classes and decreasing certain fund balances in the General Fund with respect to the United City of Yorkville's 2016-2017 Budget are hereby approved.

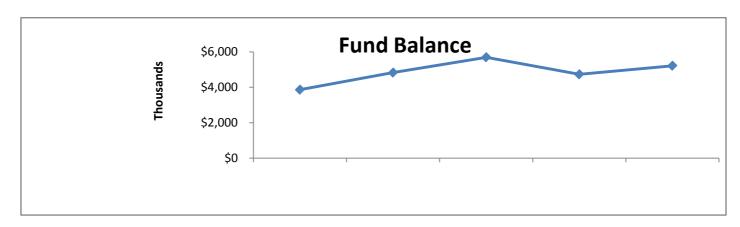
Section 2: This ordinance shall be in full force and effect from and after its passage and approval according to law.

Passed by the City Coun	cil of the United C	City of Yorkville, Kendall	County, Illinois this
day of	, 2017.		
		CITY CLERK	
CARLO COLOSIMO		KEN KOCH	
JACKIE MILSCHEWSKI _		DIANE TEELING	
CHRIS FUNKHOUSER		JOEL FRIEDERS	
SEAVER TARULIS			
Approved by me, as Ma	yor of the United	City of Yorkville, Kendall	County, Illinois, this
day of	, 2017.		
		MAYOR	

GENERAL FUND (01)

The General Fund is the City's primary operating fund. It accounts for major tax revenue used to support administrative and public safety functions.

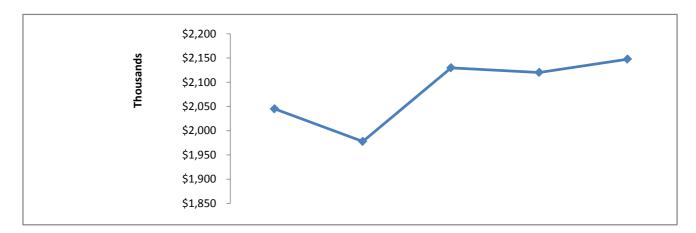
	FY 2014 Actual	FY 2015 Actual	<u>Unaudited</u> FY 2016 Actual	FY 2017 Adopted Budget	FY 2017 Amended Budget
	7 Ctuar	Actual	Actual	Duaget	Duaget
Revenue					
Taxes	9,607,999	10,052,792	10,330,920	10,384,836	10,384,836
Intergovernmental	2,120,327	2,295,134	2,311,978	2,313,586	2,313,586
Licenses & Permits	168,119	173,126	213,451	178,000	178,000
Fines & Forfeits	173,954	137,252	123,639	130,225	130,225
Charges for Service	1,175,166	1,290,493	1,401,384	1,423,175	1,423,175
Investment Earnings	8,792	8,909	6,394	5,000	5,000
Reimbursements	168,974	168,182	113,024	55,000	55,000
Miscellaneous	19,335	22,813	21,919	24,000	24,000
Other Financing Sources	2,479	2,209	7,077	3,000	3,000
Total Revenue	13,445,145	14,150,910	14,529,786	14,516,822	14,516,822
Expenditures					
Salaries	3,437,661	3,721,840	3,958,489	4,362,017	4,362,017
Benefits	2,052,895	2,334,546	2,447,779	2,798,284	2,798,284
Contractual Services	4,267,482	4,387,516	4,593,459	4,904,133	4,904,133
Supplies	247,990	254,650	216,288	271,761	299,161
Contingencies	11,676	-	-	-	-
Other Financing Uses	3,790,688	2,486,885	2,448,123	2,631,459	2,631,459
Total Expenditures	13,808,392	13,185,437	13,664,138	14,967,654	14,995,054
Surplus (Deficit)	(363,247)	965,473	865,648	(450,832)	(478,232)
Ending Fund Balance	3,860,581	4,826,059	5,691,706	4,727,411	5,213,474
	28.0%	36.6%	41.7%	31.6%	34.8%



PUBLIC WORKS DEPARTMENT - STREETS & SANITATION

The Public Works Department is an integral part of the United City of Yorkville. The Street Department maintains a comprehensive road and storm sewer network to ensure the safety and quality of life for the citizens of Yorkville. Disposal of refuse is contracted out to Advanced Disposal.

				FY 2017	FY 2017
	FY 2014	FY 2015	FY 2016	Adopted	Amended
	Actual	Actual	Projected	Budget	Budget
Expenditures					
•	220 126	220 574	245 777	266.075	266.075
Salaries	328,126	328,574	345,777	366,975	366,975
Benefits	162,447	169,806	178,885	202,031	202,031
Contractual Services	1,460,448	1,395,672	1,537,504	1,458,377	1,458,377
Supplies	94,029	83,640	67,617	92,836	120,236
Total Public Works Department	2,045,050	1,977,692	2,129,783	2,120,219	2,147,619



United City of Yorkville General Fund

410
PUBLIC WORKS - STREET OPERATIONS

Account	Description	FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Adopted	FY 2017 Amended
Salaries						
01-410-50-00-5010	SALARIES & WAGES	305,901	315,540	329,967	343,875	343,875
01-410-50-00-5015	PART-TIME SALARIES	-	3,456	7,709	8,100	8,100
	One Seasonal Worker					
01-410-50-00-5020	OVERTIME	22,225	9,578	8,101	15,000	15,000
	Total: Salaries	\$328,126	\$328,574	\$345,777	\$366,975	\$366,975
Benefits						
01-410-52-00-5212	RETIREMENT PLAN CONTRIBUTION	36,445	36,867	36,546	38,759	38,759
01-410-52-00-5214	FICA CONTRIBUTION	24,235	24,184	25,567	27,245	27,245
01-410-52-00-5216	GROUP HEALTH INSURANCE	94,536	100,266	106,676	124,755	124,755
01-410-52-00-5222	GROUP LIFE INSURANCE	543	564	645	594	594
01-410-52-00-5223	DENTAL INSURANCE	5,949	7,186	8,406	9,611	9,611
01-410-52-00-5224	VISION INSURANCE	739	739	1,045	1,067	1,067
	Total: Benefits	\$162,447	\$169,806	\$178,885	\$202,031	\$202,031
Contractual Services						
01-410-54-00-5412	TRAINING & CONFERENCES	-	1,236	6,514	3,000	3,000
01-410-54-00-5415	TRAVEL & LODGING	-	240	-	2,000	2,000
01-410-54-00-5422	VEHICLE & EQUIPMENT CHARGEBACK	144,650	125,000	194,379	45,000	45,000
	Street Ops Chargeback to Veh & Equip Fund					
01-410-54-00-5435	TRAFFIC SIGNAL MAINTENANCE	8,390	16,824	23,108	25,000	25,000
01-410-54-00-5440	TELECOMMUNICATIONS	2,520	2,073	2,449	3,000	3,000
01-410-54-00-5446	PROPERTY & BLDG MAINT SERVICES Moved to City-Wide Capital	23,836	-	-	-	-
01-410-54-00-5455	MOSQUITO CONTROL	6,865	6,865	7,002	7,352	7,352
01-410-54-00-5458	TREE & STUMP REMOVAL	20,000	-	8,225	20,000	20,000
01-410-54-00-5462	PROFESSIONAL SERVICES	2,052	3,740	3,906	3,500	3,500
01-410-54-00-5482	STREET LIGHTING	67,815	-	3,296	4,750	4,750
	Municipal Taxes only (non-MFT eligible)					
01-410-54-00-5485	RENTAL & LEASE PURCHASE	984	512	793	1,100	1,100
01-410-54-00-5490	VEHICLE MAINTENANCE SERVICES	53,541	57,838	48,132	50,000	50,000
	Total: Contractual Services	\$330,653	\$214,328	\$297,804	\$164,702	\$164,702
Supplies						
01-410-56-00-5600	WEARING APPAREL	3,263	4,132	5,043	4,631	4,631
01-410-56-00-5620	OPERATING SUPPLIES	10,378	10,846	8,828	11,025	38,425
	School Crossing Signage - \$27,400					
01-410-56-00-5626	HANGING BASKETS	-	-	-	2,000	2,000
01-410-56-00-5628	VEHICLE MAINTENACE SUPPLIES	20,578	17,035	15,265	27,500	27,500
		3				

United City of Yorkville General Fund

410
PUBLIC WORKS - STREET OPERATIONS

		FY 2014	FY 2015	FY 2016	FY 2017	FY 2017
Account	Description	Actual	Actual	Actual	Adopted	Amended
01-410-56-00-5630	SMALL TOOLS & EQUIPMENT	1,006	2,105	3,415	2,000	2,000
01-410-56-00-5640	REPAIR & MAINTENANCE	21,235	26,791	20,580	20,000	20,000
01-410-56-00-5656 PROPERTY & BUILDING MAINTENANCE		5,877	-	-	-	-
	Moved to City-Wide Capital					
01-410-56-00-5695	GASOLINE	31,692	22,731	14,486	25,680	25,680
	Total: Supplies	\$94,029	\$83,640	\$67,617	\$92,836	\$120,236
	Total: STREET OPERATIONS	<u>\$915,255</u>	<u>\$796,348</u>	\$890,083	<u>\$826,544</u>	<u>\$853,944</u>

United City of Yorkville General Fund

540
PUBLIC WORKS - HEALTH AND SANITATION

		FY 2014	FY 2015	FY 2016	FY 2017	FY 2017
Account	Description	Actual	Actual	Actual	Adopted	Amended
Contractual Services						
01-540-54-00-5441	GARBAGE SERVICES - SENIOR SUBSIDY	142,762	76,958	33,486	36,000	36,000
01-540-54-00-5442	GARBAGE SERVICES	981,513	1,100,546	1,201,414	1,251,675	1,251,675
01-540-54-00-5443	LEAF PICKUP	5,520	3,840	4,800	6,000	6,000
	Total: Contractual Services	\$1,129,795	\$1,181,344	\$1,239,700	\$1,293,675	\$1,293,675
	Total: HEALTH AND SANITATION	<u>\$1,129,795</u>	<u>\$1,181,344</u>	<u>\$1,239,700</u>	\$1,293,675	\$1,293,675

ETAPCO° Safe travels.™

SALES QUOTE

Customer Copy				
Number	ETO16-05337			
Date	12/9/2016			
Page	1			

5100 West Brown Deer Road • Brown Deer, WI 53223 Phone (800) 236-0112 • tapconet.com • Fax (800) 444-0331

Sell To
Cust.
C7854

Yorkville Public Works
Erin Willrett
610 Tower Lane
Yorkville, IL 60560
USA

Ship To Cust.

Yorkville Public Works 610 Tower Lane Yorkville, IL 60560 USA

Customer P	PO #	Expires	Slsp	Terms	Freight	Ship Via
RRFB/BLINKER COMBO	RSIGN	2/13/2017	Deidre Jones	Net 30 DAYS	QUOTED	BEST RATE

<u>ltem</u>	<u>Description</u>	Quantity	<u>UM</u>	<u>Price</u>	<u>Extension</u>
RRFB-	RRFB Controller Kit, 55W/48Ah, 4.5" OD Round,	2	EA	1,760.00	\$3,520.00
1DERABWNSAA	Wireless, No Modem, BlinkerSign Output				
RRFBXL2-NA1	RRFB XL2 Light Bar, One Ped Indicator Banding	2	EA	450.00	\$900.00
0400 00050 401/	Mount w Snap Locks, for 2.375+ Inch OD	0	_^	000.00	#4.700.00
2180-00258-12V	Blinkersign, W11-2, 30", Ped Xing, DG3, FYG,	2	EA	880.00	\$1,760.00
101620	12VDC, 8 Amber LEDs Push Button Bulldog Add-On Option Kit Yellow,	2	KT	160.00	\$320.00
101020	With LED: Includes R10-25 Sign	۷	KI	100.00	φ320.00
373-01759	W16-7PL,24"x12" DG3 FYG,Down Diagonal Left	2	EA	19.00	\$38.00
0.00.00	Arrow (Fed Spec) Sign	_		. 0.00	φσσ.σσ
101919	Pole Package, 13', 4.5" OD, 42" J-Bolts Includes:	2	EA	480.00	\$960.00
	Pole, Base, J-Bolts & Sign Brackets				
1116-00004	Sign Mounting Kit, Z-4.5 Pair For Mounting One	2	PR	35.00	\$70.00
	Static Sign to 4-1/2" OD Pole				
	Furnish only quote. Installation is not included.				
	Solar powered equipment requires no shading				
	or obstructions				
	Current lead time: 4 weeks				

Shipment within	
Acceptance By	
Date	
Bv	

Merchandise	Freight	Tax	Total
\$7,568.00	\$200.00	\$0.00	\$7,768.00
		-	

Thank you! Deidre Jones

Phone: 262-649-5227

Email: Deidre.jones@tapconet.com



Reviewed By:	
Legal	
Finance	
Engineer	
City Administrator	
Human Resources	
Community Development	
Police	
Public Works	
Parks and Recreation	

Agenda Item Number	
New Business #7	
Tracking Number	
PW 2017-16	

Agenda Item Summary Memo

Title: Kennedy Road Shared-Use Path - ITEP					
Meeting and Date:	Public Works Committee – Februa	ary 21, 2017			
Synopsis: Consider	ation of BNSF Agreement				
Council Action Prev	viously Taken:				
Date of Action:	Action Taken:		_		
Item Number:					
Type of Vote Requi	red:				
	uested: Consideration of Approval				
			_		
			_		
Submitted by:	Brad Sanderson	Engineering			
	Name	Department			
	Agenda Item Not	tes:			



Memorandum

To: Bart Olson, City Administrator

From: Brad Sanderson, EEI

CC: Eric Dhuse, Director of Public Works

Krysti Barksdale-Noble, Community Dev. Dir.

Lisa Pickering, Deputy City Clerk

Date: February 14, 2017

Subject: Kennedy Road Shared-Use Path (ITEP) – BNSF Agreement

The purpose of this memo is to present the BNSF Grade Crossing Construction and Maintenance Agreement.

Background:

The City has identified the need for a multi-use path on the east side of Kennedy Road which will link the multi-use path currently under construction along Rt 47 and Steven G. Bridge Park. The construction of the path will connect the Kennedy Road path with other regional trails throughout the Fox Valley and beyond. Within the limits of the proposed Kennedy Road multi-use path is a railroad crossing at the tracks belonging to the Burlington Northern Santa Fe Railroad Company (BNSF). Improvements to the crossing, including widening of the crossing surface at the tracks and the construction of pedestrian gates are necessary to promote the safety of path patrons. These improvements will be constructed by BNSF and the City will be responsible for the expense of the improvements as well as future inspection and maintenance costs. The construction expense projections are as follows:

Construction Expense Projections

 Crossing Surface
 \$40,000 to \$60,000

 Pedestrian Gates
 \$260,000 to \$340,000

 Total
 \$300,000 to \$400,000

The Illinois Commerce Commission (ICC) has approved the order (see attached). The last remaining item to be completed prior to letting the project is the approval of the BNSF Agreement. The agreement needs to be executed by both parties by March 10, 2017 in order for the City to make the April 2017 IDOT letting.

Questions Presented:

Should the City approve the agreement with BNSF?

Discussion:

The crossing improvements are necessary to the implementation of the City's plan to link to the City's multi-use path to other regional paths and promote the safety of its residents.

The construction of the crossing and pedestrian gates will have an anticipated cost of \$300,000 - \$400,000. These costs were part of the original project budget.

The City Attorney has reviewed the draft agreement and has provided comments. We are working with the BNSF to update the agreement. We are recommending that the City consider approving the agreement once the City Attorney's comments have been fully satisfied.

Action Required:

Consideration of approval of the BNSF Agreement.

Docket No.: Bench Date: Deadline: T15-0141 1/11/2017 N/A

MEMORANDUM

TO: The Commission

FROM: Timothy Duggan, Administrative Law Judge

DATE: December 6, 2016

SUBJECT: United City of Yorkville, a municipal corporation,

Petitioner,

٧.

BNSF Railway Company,

Respondents.

Petition for an Order from the Illinois Commerce Commission to construct a bicycle and pedestrian crossing on the east side of Kennedy Road (AAR/DOT 079 579V) in the City of

Yorkville, Kendall County, Illinois.

RECOMMENDATION: Enter Order authorizing construction of pedestrian crossing.

Yorkville filed a Petition to install a pedestrian path across two east-west BNSF tracks adjacent to the vehicular crossing at Kennedy Road. The road runs north south, and the path would be built parallel to and approximately 12 feet east of the road. BNSF will extend the concrete panels of the crossing east to align with and serve as the path over the tracks. Gates with a flashing light will be installed on both approaches to the path and will activate with the vehicular crossing gates. The path will be constructed of asphalt except for the concrete panels of the crossing.

Yorkville will pay all costs of the project. Yorkville will maintain the path from a point two feet out from the outer rails. BNSF will maintain the rest of the path. Each will pay the costs of their own maintenance except that Yorkville will pay for repair of any damage to the pedestrian gates which is due to conditions other than weather or wear and tear.

BNSF does not object to the project. Staff does not object to the project.

I recommend entry of the attached order authorizing installation of the path.

STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

January 11, 2017

United City of Yorkville, a municipal corporation,
Petitioner,

٧.

BNSF Railway Company, Respondent.

Petition for an Order from the Illinois Commerce Commission to construct a bicycle and pedestrian crossing on the east side of Kennedy Road (AAR/DOT 079 579V) in the City of Yorkville, Kendall County, Illinois. T15-0141

SERVED ELECTRONICALLY OR BY MAIL

TO ALL PARTIES OF RECORD:

Enclosed please find a copy of the Order entered by the Commission in the above-entitled matter on January 11, 2017.

Please read this Order carefully as it may contain provisions for penalties for failure to complete the work by the ordered completion date. Requests for extensions of time must be filed with the Director of Processing and Information of the Illinois Commerce Commission at the address shown below, no later than 14 days prior to the ordered completion date.

Service List

Orest R. Dachniwsky
Esquire
BNSF Railway
P.O. Box 961039
Fort Worth, TX 76161-0039
*tina.obermiller@bnsf.com

Calvin G. Nutt
BSNF Railway
80 44th Avenue NE
Minneapolis, MN 55421 *
calvin.nutt@bnsf.com

Robert J. Prendergast Daley Mohan Groble, P.C. 55 West Monroe Street, Suite 1600 Chicago, IL 60603 * rprendergast@daleymohan.com

James W. Binninger Attorney Kathleen Field Orr & Associates 53 W. Jackson Blvd., Suite 964 Chicago, IL 60604 * jwb@kfoassoc.com William A. Hobbs BNSF Railway 419 Marion City Rd. Palmyra, MO 63461 * william.hobbs@bnsf.com

Gary Golinski Mayor City of Yorkville 800 Game Farm Road Yorkville, IL 60560 * Fax:(630) 553-7575

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

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

United City of Yorkville, a municipal corporation, Petitioner.

V.

BNSF Railway Company, Respondents.

Petition for an Order from the Illinois Commerce Commission to construct a bicycle and pedestrian crossing on the east side of Kennedy Road (AAR/DOT 079 579V) in the City of Yorkville, Kendall County, Illinois.

to :

T15-0141

ORDER

By Order of the Commission:

On December 10, 2015, the United City of Yorkville (City, Yorkville or Petitioner) filed the above-captioned Petition with the Illinois Commerce Commission ("Commission") naming as Respondent the BNSF Railway Company (BNSF or Respondent), to enter an order pursuant to the authority in Section 18c 7401(3) of the Illinois Commercial Transportation Law (625 ILCS 5/18c 7401(3) to permit the construction and maintenance of a multi-use path on the east side of Kennedy Road at its intersection with the BNSF tracks, designated as AAR/DOT #079579V, railroad mile post 44.51.

Pursuant to agreement and waiver of notice, a hearing on the Petition was held on December 6, 2016 before a duly authorized Administrative Law Judge of the Commission at the Commission's offices in Springfield, Illinois and Chicago via telephonic conference. Appearances were entered on behalf of Petitioner, BNSF, and by Staff of the Railroad Section of the Transportation Division of the Commission (Staff). At the conclusion of the hearing, the case was marked "Heard and Taken."

THE EVIDENCE

The City requests authorization to install an at-grade multi-use path across the BNSF right of way and double mainline tracks east of Kennedy Road at Kennedy Road's intersection with the BNSF tracks. The BNSF tracks run generally east-west in the area of the crossing. Kennedy is a north-south road. The intersection is designated as

AAR/DOT #079579V, at railroad mile post 44.51. Kennedy Road is a public roadway under the jurisdiction of Yorkville at the crossing. The crossing surface is comprised of concrete panels. The vehicular crossing is protected by automatic flashing lights and gates, with a bell located on the northwest signal mast. Current rail traffic is approximately thirty-four (34) trains per day, consisting of twenty-six (26) freight trains and eight (8) Amtrak passenger trains.

As part of this Project's development, engineering representatives from the City, BNSF, and ICC staff, have been on-site to assess the physical aspects of the crossing, including the geometry of the intersection, train movements, anticipated traffic volume, sight distances, existing warning devices, and other pertinent data relating to the crossing. Based on this assessment, licensed professional engineers developed design plans for the proposed pedestrian path crossing, including warning and protective devices. It is proposed that the path and warning and protective devices will be installed in substantial compliance with the design plans in evidence.

It is submitted by the parties that this assessment constitutes a proper investigation, as required by statute, upon which the Commission may base an order approving the proposed recommended warning and protective devices as adequate and proper.

The Kennedy Road vehicular crossing surface is comprised of concrete panels. It is protected by automatic flashing lights and gates, with a bell located on the northwest signal mast.

To accommodate the pedestrian path crossing, BNSF agrees to add sufficient concrete panels to the east side of the crossing at both tracks to extend to an alignment with the path and serve as the path over the crossing and the tracks. The proposed path will be ten feet wide and made of asphalt outside of the tracks and between the tracks, up to the concrete panels extending out from each rail. The path will connect to existing and proposed pedestrian facilities on the north and south side of the crossing and serve pedestrian traffic generators on both sides.

The parties propose that the path crossing be protected on each approach by pedestrian gates with flashing lights mounted on the pedestrian gates for each approach. BNSF will also add a bell to the vehicular crossing southeast signal mast. The protective devices at the path will activate in conjunction with the activation of the vehicular crossing warning devices. The mounting structure for the gates will be between the road and the path. The parties submit that such protective devices are adequate and appropriate based upon the investigation noted above.

BNSF will install the additional concrete panels to extend through the alignment of the path. The City will install the asphalt for the path up to the concrete panels at all points, including between the concrete panels extending from the inner rails.

BNSF will design and install all warning devices, including the bell at the vehicular crossing, the pedestrian gates with a flashing light on the gate arm for each approach to

the pedestrian path crossing, and the circuitry which activates the pedestrian path devices with the vehicular crossing protective devices.

The City of Yorkville has agreed to pay for all costs of the project, which includes, without limitation, labor for BNSF's design work for the installations and activation circuitry consistent with the design plans in evidence, the additional warning devices at the vehicular and pedestrian path crossings, the materials and labor for the installation of the additional concrete panels to align with the path and the asphalt portions of the path.

BNSF has agreed to be responsible for the maintenance of all warning devices at the vehicular crossing and the pedestrian path, and the costs thereof, except that the city shall be responsible to reimburse BNSF for repair of damage to the pedestrian gates, and the bells, mounting structures and wiring for the pedestrian gates, when such damage is other than normal or weather related wear and tear and is caused by an entity or person other than BNSF.

BNSF has agreed to be responsible for the maintenance of the crossing including the area between the tracks and the asphalt path between the tracks and for the crossing surface to a point two feet out from each rail, or to the extent of the concrete panel, whichever is greater, and the costs of such maintenance.

When the service life of the pedestrian gates is reached, BNSF may submit an application seeking a Commission Order for funding assistance from the Grade Crossing Protection Fund to replace the gates.

Yorkville has agreed to be responsible for the maintenance of all portions of the path which are not the responsibility of BNSF, and the costs thereof.

RESPONDENT BNSF RAILWAY COMPANY'S POSITION

The Respondent has no objection to Yorkville's Petition.

STAFF'S POSITION

Staff supports the Project, and recommends that pedestrian gates with flashing lights, and bell on the southeast signal mast, be installed for the multi-use path crossing.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record, finds that:

- (1) The recitals of fact in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (2) Petitioner, United City of Yorkville, Illinois, is an Illinois municipal corporation existing under and by virtue of the laws of the State of Illinois;

- (3) Respondent, BNSF Railway Company, is a rail carrier engaged in the transportation of property by rail in the State of Illinois;
- (4) The Petitioner has filed a Petition to permit the construction and maintenance of a multi-use path on the east side of Kennedy Road at its intersection with the BNSF track, designated as AAR/DOT #079 579V, railroad mile post 44.51;
- (5) The Commission has jurisdiction over the Petitioner and the Respondent and the subject-matter of this proceeding;
- (6) The multi-use path is necessary to promote safety and the convenience of the public, in accordance with the Illinois Commercial Transportation Law, 625 ILCS 5/18c-7401(3);
- (7) The recitals of fact, stipulations and conclusions of law contained in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and conclusions of law;
- (8) The BNSF Railway Company, at the United City of Yorkville's sole cost and expense, shall widen the crossing surface by the installation of additional concrete panels to align with and serve as the pedestrian path over the crossing and the tracks and shall design and install a bell on the southeast signal mast for the vehicular crossing and pedestrian gates with a flashing light on each gate arm for the approaches of the path to the crossing which should activate with the vehicular crossing warning devices, all to serve as adequate and appropriate warning devices for the path crossing.
- (9) The United City of Yorkville shall, at its sole cost and expense, construct the multi-use path in accordance with the specifications set out in the prefatory portion of this order and the plans introduced into evidence, which includes construction to the outer crossing surface panels and up to the concrete panels between the tracks;
- (10) Responsibility for maintenance of the crossing, path and warning devices, and the costs thereof should be as set out in the prefatory portion of this order;
- (11) The parties should proceed immediately to take the actions they are directed to perform by this Order. All work required of the parties under this Order should be completed by December 31, 2017;
- (12) 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;

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- (13) 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;
- (14) 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; and
- (15) 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 THEREFORE ORDERED by the Illinois Commerce Commission that the United City of Yorkville is authorized, to install a multi-use path on the east side of the Kennedy Road highway-rail grade crossing of the BNSF Railway Company's tracks, designated as AAR/DOT #079579V, railroad mile post 44.51, in the United City of Yorkville, Kendall County, Illinois, with pedestrian gates with flashing light on gate arm on each approach to the crossing, and a bell on the southeast mast of the vehicular crossing, all in accordance with the prefatory portion of this order and the plans introduced into evidence. All work shall be completed by or on behalf of the City of Yorkville and BNSF Railway Company in accordance with Findings (7) through (9).

IT IS FURTHER ORDERED the responsibility for maintenance of the crossing, the path, and the warning devices, and the costs thereof, shall be as set out in the prefatory portion of the order and Finding (10).

IT IS FURTHER ORDERED that prior to construction, the BNSF Railway Company shall file Form 3 of Section 1535 of Title 92 of the Illinois Administrative Code showing details of the automatic warning devices required under this order, and shall receive approval by resolution of the Commission's Transportation Bureau Rail Safety Program Administrator before installing the devices.

IT IS FURTHER ORDERED that the United City of Yorkville shall, at six-month intervals from the date of this order until the Project has been completed, submit written reports to the Director of Processing in the Commission's Transportation Bureau (Director of Processing), describing the progress that has been made toward completing the Project. If the Project is behind schedule, the report shall include a brief explanation of the reason for the delay. Each progress report shall include the Commission Order number; the date the Order was entered; the deadline for completion of the Project

established by the Order; the type of improvement; and Project manager information (name, title, mailing address, telephone number, and facsimile number) of the employee responsible for the management of the Project.

IT IS FURTHER ORDERED that the United City of Yorkville shall, within five days of the completion of the Project, file with the Director of Processing a letter advising the Commission of the completion date, along with an updated USDOT Crossing Inventory form completed in coordination with the BNSF Railway Company.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any Supplemental Order or Orders as it may deem necessary.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final Order subject to the Administrative Review Law.

By Order of the Commission this 11th day of January 2016.

BRIEN SHEAHAN

CHAIRMAN



GRADE CROSSING CONSTRUCTION AND MAINTENANCE AGREEMENT

BNSF File No.: BF10010862
Mile Post 44.54
Line Segment 0001
U.S. DOT Number 079579V
Mendota Subdivision

This Agreement ("Agreement"), is executed to be effective as of this _____ day of _____, 20__ ("Effective Date"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("BNSF"), and the United City of Yorkville, a political subdivision of the State of Illinois ("Agency").

RECITALS:

WHEREAS, BNSF owns and operates a line of railroad in and through the United City of Yorkville, State of Illinois;

WHEREAS, in the interest of aiding vehicular travel and public safety, the Agency is undertaking a project to improve the existing Kennedy Road at-grade crossing, located at BNSF Line Segment 0001 and Milepost 44.54, and designated by D.O.T. No. 079579V, by constructing a multi-use path crossing protected by pedestrian gates within the existing roadway easement across the BNSF right-of-way as indicated on the Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the parties agree that the RAILROAD will receive no ascertainable benefit from the installation of advance warning signs, pavement marking stop bars or crossing signal equipment (hereinafter collectively called, "Crossing Signal Equipment"); and

WHEREAS, the Agency also desires BNSF to install a new pedestrian crossing surface at Kennedy Road with a new concrete and rubber crossing surface;

WHEREAS, the Agency is paying for the acquisition and installation of crossing signal equipment and the new pedestrian crossing surface at Kennedy Road

WHEREAS, the BNSF agrees to purchase and install, at AGENCY'S sole expense, the crossing signal equipment and the new pedestrian crossing surface described in the scope of work herein, and upon the terms and conditions set forth below.



NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I) SCOPE OF WORK

1. The term "Project" as used herein includes any and all work related to the construction of a multi-use path of the Kennedy Road by Agency and installation of crossing signals and new pedestrian crossing surfaces at U.S. D.O.T No. 079579V, (hereinafter referred to as the "Crossing") by BNSF, more particularly described on the Exhibit A, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation.

ARTICLE II) RAILROAD OBLIGATIONS

In consideration of the covenants of Agency set forth herein and the faithful performance thereof, BNSF agrees as follows:

- 1. Upon Agency's payment to BNSF of an administrative fee in the sum of Two Thousand and No/100 Dollars (\$2,000), together with the Temporary Construction License Fee in the sum of \$_____ and No/100 Dollars (\$_____), BNSF hereby grants to Agency, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Crossing across or upon the portion of BNSF's right-of-way described further on Exhibit A-1, attached hereto and incorporated herein, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:
 - (a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said right-of-way;
 - (b) Construct, operate, maintain, renew and/or relocate upon said right-ofway, without limitation, such facilities as the BNSF may from time to time deem appropriate;
 - (c) Otherwise use or operate the right-of-way as BNSF may from time to time deem appropriate.

The term of the Temporary Construction License begins on the Effective Date and ends on the earlier of (i) substantial completion of the Structure, or (ii) twelve (12) months following the Effective Date. The Temporary Construction License and related rights given by BNSF to Agency in this provision are without warranty of title of any kind,



express or implied, and no covenant of warranty of title will be implied from the use of any word or words herein contained. The Temporary Construction License is for construction of the Crossing only and shall not be used by Agency for any other purpose. Agency acknowledges and agrees that Agency shall not have the right, under the Temporary Construction License, to use the Crossing for any other purpose than construction. In the event Agency is evicted by anyone owning, or claiming title to or any interest in said right-of-way, BNSF will not be liable to Agency for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to Agency herein.

Upon Agency's payment to BNSF of the additional sum of \$_____ and No/100 Dollars (\$_____), such payment to be made within thirty (30) days of issuing the Notice to Proceed pursuant to Article III, Section 16 of this Agreement, and provided further that Agency is in compliance with the term and conditions of this Agreement, BNSF will grant to Agency, its successors and assigns, an easement (hereinafter called, the "Easement") to enter upon and use that portion of BNSF's right-of-way as is necessary to use and maintain the Crossing, substantially in the form of Exhibit B attached to this Agreement. If Agency fails to pay BNSF within the thirty day time period set forth in the preceding sentence, BNSF may stop construction of the Project until full payment is received by BNSF.

- 2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the Project, such railroad work and the estimated cost thereof being as shown on Exhibit D attached hereto and made a part hereof. In the event construction on the Project has not commenced within six (6) months following the Effective Date, BNSF may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit D. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit D not specifically mentioned therein may be included as a part of this Agreement upon written approval of Agency, which approval will not be unreasonably withheld. Construction of the Project must include the following railroad work by BNSF:
 - (a) Procurement of materials, equipment and supplies necessary for the railroad work;
 - (b) Preliminary engineering, design, and contract preparation;
 - (c) Furnishing of flagging services during construction of the Project as required and set forth in further detail on Exhibit C, attached to this Agreement and made a part hereof;
 - (c) Furnishing engineering and inspection as required in connection with the construction of the Project;



- (b) Installation of two 24-foot concrete crossing surface extensions for the two tracks complete with new rail, ties, ballast, fasteners, along with appropriate surfacing, to carry the improved roadway and sidewalks
- (c) Installation of Crossing Signal Equipment and Crossing Signal Control House as shown on Exhibit A
- (d) Make such changes in the alignment, location and elevation of its telephone, telegraph, signal and/or wire lines and appurtenances along, over or under the tracks, both temporary and permanent, as may become necessary by reason of the construction of the Project.
- 3. BNSF will do all railroad work set forth in Article II, Section 2 above on an actual cost basis, when BNSF, in its sole discretion, determines it is required by its labor agreements to perform such work with its own employees working under applicable collective bargaining agreements.
- 4. Agency agrees to reimburse BNSF for work of an emergency nature caused by Agency or Agency's contractor in connection with the Project which BNSF deems is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF without prior approval of Agency and Agency agrees to fully reimburse BNSF for all such emergency work.
- 5. BNSF may charge Agency for insurance expenses, including self-insurance expenses, when such expenses cover the cost of Employer's Liability (including, without limitation, liability under the Federal Employer's Liability Act) in connection with the construction of the Project. Such charges will be considered part of the actual cost of the Project, regardless of the nature or amount of ultimate liability for injury, loss or death to BNSF's employees, if any.
- 6. During the construction of the Project, BNSF will send Agency progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. Agency must reimburse BNSF for completed force-account work within thirty (30) days of the date of the invoice for such work. Upon completion of the Project, BNSF will send Agency a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. Pursuant to this section and Article IV, Section 7 herein, Agency must pay the final invoice within ninety (90) days of the date of the final invoice. BNSF will assess a finance charge of .033% per day (12% per annum) on any unpaid sums or other charges due under this Agreement which are past its credit terms. The finance charge continues to accrue daily until the date payment is received by BNSF, not the date payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in



dispute and any unposted payments received by the month's end. Finance charges will be noted on invoices sent to Agency under this section.

ARTICLE III) AGENCY OBLIGATIONS

In consideration of the covenants of BNSF set forth herein and the faithful performance thereof, Agency agrees as follows:

- 1. Agency must furnish to BNSF plans and specifications for the Project. Said plans (reduced size 11" x 17"), showing the plan and profile of the roadway work on BNSF right-of-way and marked as <u>Exhibit A</u>, attached hereto and made a part hereof, must be submitted to BNSF for the development of railroad cost estimates.
- 2. Agency must make any required application and obtain all required permits and approvals for the construction of the Project.
- 3. Agency must acquire all rights of way necessary for the construction of the Project.
- 4. Agency must make any and all arrangements, in compliance with BNSF's Utility Accommodation Manual (http://www.bnsf.com/communities/faqs/pdf/utility.pdf), for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than BNSF which may be necessary for the construction of the Project.
- 5. Agency must construct the Project as shown on the attached <u>Exhibit A</u> and do all work ("Agency's Work") provided for in the plans and specifications for the Project, except railroad work that will be performed by BNSF hereunder. Agency must furnish all labor, materials, tools and equipment for the performance of Agency's Work. The principal elements of Agency's Work are as follows:
 - (a) Design and Reconstruction/Construction of Kennedy Road:
 - b) Construct the Kennedy Road multi-use path crossing in accordance with plans approved by the Illinois Commerce Commission pursuant to order issued in case no. T15-0141 and as approved by Railroad
 - (b) Installation of advance warning signs in accordance with the MUTCD
 - (c) Perform all necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's right-of-way;
 - (d) Provide suitable drainage, both temporary and permanent;



- (e) Provide all barricades, lights, flagmen or traffic control devices necessary for preventing vehicular traffic from using a portion of the Crossing, during the installation of the concrete crossing surfaces, and also during the installation of the Crossing Signal Equipment.
- (f) Construct asphalt path surface on approaches to each track. Path surface will match elevation of the Main Track crossing surfaces and remain level to a point at least thirty (30) feet from nearest rail. Any concrete headers will be constructed no closer than 5'-6" (preferably 6'-0") from centerline of each track to provide for a minimum of 11'-0" (preferably 12'-0") opening for track and railroad crossing surface;
- (g) Provide and place six (6) to twelve (12) inch wide section of asphalt between roadway concrete headers (and sidewalks) and the new concrete crossing surfaces, including that portion of the multi-use path located between the Main Tracks.
- (h) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF;
- 6. The Agency will approve the location of the signals and signal bungalow prior to the installation by BNSF.
- 7. The Agency must have advanced railroad crossing signs and standard pavement markings in place at the crossing shown on <u>Exhibit A</u> (if the same are required by the MUTCD) prior to the acceptance of this Project by the Agency.
- 8. The Agency must give BNSF's Manager Public Projects written notice to proceed ("**Notice to Proceed**") with the railroad portion of the work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written Notice to Proceed is received from Agency.
- 9. The Agency's Work must be performed by Agency or Agency's contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.
- 10. For any future inspection or maintenance, either routine or otherwise, performed by subcontractors on behalf of the Agency, Agency shall require the subcontractors to comply with the provisions of the attached Exhibit C and execute the agreement attached hereto as Exhibit C-1. Prior to performing any future maintenance with its own personnel, Agency shall: comply with all of BNSF's applicable safety rules and regulations; require any Agency employee performing maintenance to complete the safety training program at the BNSF's Internet Website www.BNSFContractor.com"; notify BNSF when, pursuant to the requirements of Exhibit C, a flagger is required to be



present; procure, and have approved by BNSF's Risk Management Department, Railroad Protective Liability insurance.

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- 11. Agency must require its contractor(s) to notify BNSF's Roadmaster at least thirty (30) calendar days prior to requesting a BNSF flagman in accordance with the requirements of Exhibit C attached hereto. Additionally, Agency must require its contractor(s) to notify BNSF's Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.
- 12. Agency must include the following provisions in any contract with its contractor(s) performing work on said Project:
 - The Contractor is placed on notice that fiber optic, communication and (a) other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or right-of-way. The locations of these Lines have been based information included on the plans on telecommunications companies. The contractor will be responsible for contacting BNSF and the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The contractor must also use all reasonable methods when working in the BNSF right-of-way or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.
 - (b) Failure to mark or identify these Lines will be sufficient cause for BNSF's engineering representative _____ at (___) ____ to stop construction at no cost to the Agency or BNSF until these items are completed.
 - (c) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.
 - (d) In addition to the liability terms contained elsewhere in this Agreement, the contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or



employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's right-of-way, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's right-of-way, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies). THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH. CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF BNSF.

- 13. Agency must require compliance with the obligations set forth in this agreement, including Exhibit C and Exhibit C-1, and incorporate in each prime contract for construction of the Project, or the specifications therefor (i) the provisions set forth in Article III and IV; and (ii) the provisions set forth in Exhibit C and Exhibit C-I, attached hereto and by reference made a part hereof.
- 14. Except as otherwise provided below in this Section 13, all construction work performed hereunder by Agency for the Project will be pursuant to a contract or contracts to be let by Agency, and all such contracts must include the following:
 - (a) All work performed under such contract or contracts within the limits of BNSF's right-of-way must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;
 - (b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;
 - (c) No work will be commenced within BNSF's right-of-way until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF an agreement in the form of <u>Exhibit C-I</u>, and (ii) delivered to and secured BNSF's approval of the required insurance; and
 - (d) If it is in Agency's best interest, Agency may direct that the construction of the Project be done by day labor under the direction and control of Agency, or if at any time, in the opinion of Agency, the contractor has failed to prosecute with diligence the work specified in and by the terms of said contract, Agency may terminate its contract with the contractor and



take control over the work and proceed to complete the same by day labor or by employing another contractor(s) provided; however, that any contractor(s) replacing the original contractor(s) must comply with the obligations in favor of BNSF set forth above and, provided further, that if such construction is performed by day labor, Agency will, at its expense, procure and maintain on behalf of BNSF the insurance required by Exhibit C-1.

- (e) To facilitate scheduling for the Project, Agency shall have its contractor give BNSF's Roadmaster 30 days advance notice of the proposed times and dates for work windows. BNSF and Agency's contractor will establish mutually agreeable work windows for the Project. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Project.
- 15. Agency must advise the appropriate BNSF Manager Public Projects, in writing, of the completion date of the Project within thirty (30) days after such completion date. Additionally, Agency must notify BNSF's Manager Public Projects, in writing, of the date on which Agency and/or its Contractor will meet with BNSF for the purpose of making final inspection of the Project.
- 16. TO THE FULLEST EXTENT PERMITTED BY LAW, AGENCY HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR **CONTRIBUTING ACTS** OR **OMISSIONS** OF AGENCY. CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) AGENCY'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT GRANTED TO AGENCY PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO AGENCY PURSUANT TO THE TEMPORARY



CONSTRUCTION LICENSE OR EASEMENT DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) AGENCY'S OCCUPATION AND USE OF BNSF'S PROPERTY RIGHT-OF-WAY, INCLUDING, WITHOUT LIMITATION, **SUBSEQUENT** MAINTENANCE OF THE STRUCTURE BY AGENCY, OR (VII) AN ACT OR OMISSION OF AGENCY OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY AGENCY WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF BNSF. JOINT OBLIGATIONS

IN CONSIDERATION of the premises, the parties hereto mutually agree to the following:

- 1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's approval prior to the commencement of any such changes or modifications.
- 2. The work hereunder must be done in accordance with the <u>Exhibit A</u> and the detailed plans and specifications approved by BNSF.
- 3. Agency must require its contractor(s) to reasonably adhere to the Project's construction schedule for all Project work. The parties hereto mutually agree that BNSF's failure to complete the railroad work in accordance with the construction schedule due to inclement weather or unforeseen railroad emergencies will not constitute a breach of this Agreement by BNSF and will not subject BNSF to any liability. Regardless of the requirements of the construction schedule, BNSF reserves the right to reallocate the labor forces assigned to complete the railroad work in the event of an emergency to provide for the immediate restoration of railroad operations of either BNSF or its related railroads, or to protect persons or property on or near any BNSF owned property. BNSF will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. The parties mutually agree that any reallocation of labor forces by BNSF pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this Agreement by BNSF.
- 4. BNSF will have the right to stop construction work on the Project if any of the following events take place: (i) Agency (or any of its contractors) performs the Project work in a manner contrary to the plans and specifications approved by BNSF; (ii) Agency (or any of its contractors), in BNSF's opinion, prosecutes the Project work in a



manner that is hazardous to BNSF property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) Agency fails to pay BNSF for the Temporary Construction License or the Easement pursuant to Article II, Section 1 of this Agreement. The work stoppage will continue until all necessary actions are taken by Agency or its contractor to rectify the situation to the satisfaction of BNSF's Division Engineer or until proof of additional insurance has been delivered to and accepted by BNSF. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, BNSF may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of BNSF. BNSF's right to stop the work is in addition to any other rights BNSF may have including, but not limited to, actions or suits for damages or lost profits. In the event that BNSF desires to stop construction work on the Project, BNSF agrees to immediately notify the following individual in writing:

Bart Olson
City Administrator, United City of Yorkville
800 Game Farm Road
Yorkville, IL 60560
630-553-8537
bolson@yorkville.il.us

- 5. Agency must supervise and inspect the operations of all Agency contractors to ensure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of BNSF. If BNSF determines that proper supervision and inspection are not being performed by Agency personnel at any time during construction of the Project, BNSF has the right to stop construction (within or adjacent to its operating right-of-way). Construction of the Project will not proceed until Agency corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify Bart Olson] for appropriate corrective action.
- 6. Pursuant to this section and Article II, Section 6 herein, Agency must, reimburse BNSF in full for the **actual costs** of all work performed by BNSF under this Agreement (including taxes, such as applicable sales and use taxes, business and occupation taxes, and similar taxes).
- 7. All expenses detailed in statements sent to Agency pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Title 23 U.S. Code, Title 23 Code of Federal Regulations, and the Federal-Aid Policy Guide, U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The parties mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Project even though such work may have preceded the date of this Agreement.



- 8. The construction of the Project will not commence until Agency gives BNSF's Manager Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference BNSF's file number BF10010862 and D.O.T. Crossing No. 079579V and must state the time that construction activities will begin.
- 9. In addition to the terms and conditions set forth elsewhere in this Agreement, BNSF and the Agency agree to the following terms upon completion of construction of the Project:
 - (a) Agency will own and be fully responsible for repairs, maintenance, future construction or reconstruction of the Kennedy Road multi-use path, including the portion of roadway located between the tracks.
 - (b) Agency will maintain the elevation of the Kennedy Road roadway approaches to match the elevation on the railroad track crossing surfaces and to be no more than three (3) inches above or six (6) inches below top-of-rail elevation at a distance measured thirty (30) feet from the nearest rail..
 - (c) Agency will maintain the advanced railroad crossing warning signs and pavement markings and agrees to hold harmless and indemnify BNSF for any claims, damages or losses, in whole or in part, caused by or due to the Agency's failure to maintain the advanced warning signs and markings or other requirements of the MUTCD.
 - (d) Agency will do nothing and permit nothing to be done in the maintenance of the Kennedy Road roadway, which will interfere with or endanger facilities of BNSF.
 - (e) It is expressly understood by Agency and BNSF that any right to install utilities will be governed by a separate permit or license agreement between the parties hereto.
 - (f) BNSF will, at its sole cost and expense, operate and maintain the Crossing Signal Equipment, Crossing Signal Control House, and the new crossing surfaces, from end-of-tie to end-of-tie, in proper condition
 - (g) Notwithstanding the preceding provision, if any regulations, ordinances, acts, rules or other laws subsequently passed or amended by the Agency or any other governmental or legislative authority increase the Agency's portion of maintenance cost under this Agreement, BNSF will receive the benefit of any such regulations, ordinances, acts, rules or other laws and the Agency's increased portion of maintenance costs will be incorporated into and made a part of this Agreement.



- (h) If a railway or highway improvement project necessitates rearrangement, relocation, or alteration of the Crossing Signal Equipment, Crossing Signal House, or the new crossing surface installed hereunder, the costs for such rearrangement, relocation or alteration will be the responsibility of the party requesting such changes.
- (i) If any of the Crossing Signal Equipment is partially or wholly destroyed, then such repair and/or replacement costs must be distributed among the parties as follows:
- (j) In the event the BNSF's sole negligence destroys or damages the Crossing Signal Equipment and/or the Crossing Signal House, BNSF must, at its sole cost and expense, replace or repair such Crossing Signal Equipment and/or Crossing Signal House.
- (k) In the event the Crossing Signal Equipment is damaged or destroyed by any other cause, Agency must reimburse BNSF for the costs to replace or repair such Crossing Signal Equipment and/or Crossing Signal House.
- (I) If the Crossing Signal Equipment and/or Crossing Signal House installed hereunder cannot, through age, be maintained, or by virtue of its obsolescence, requires replacement, the cost of installation of the new crossing signal equipment and/or new crossing signal house will be negotiated by the parties hereto on the basis of the current Federal Aid Railroad Signal Program participation and applicable Agency and, if not applicable, by Illinois Commerce Commission determination, at the time of such replacement is warranted.
- 10. Agency must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's right-of-way for **Inspection and Maintenance** purposes and the BNSF Manager of Public Projects will determine if flagging is required. If the construction work hereunder is contracted, Agency must require its prime contractor(s) to comply with the obligations set forth in <u>Exhibit C</u> and <u>Exhibit C-1</u>, as the same may be revised from time to time. Agency will be responsible for its contractor(s) compliance with such obligations.
- 11. Any books, papers, records and accounts of the parties hereto relating to the work hereunder or the costs or expenses for labor and material connected with the construction will at all reasonable times be open to inspection and audit by the agents and authorized representatives of the parties hereto, as well as the State of Illinois and the Federal Highway Administration, for a period of one (1) year from the date of the final BNSF invoice under this Agreement.
- 12. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the parties hereto. Notwithstanding the



preceding sentence, neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party.

- 13. In the event construction of the Project does not commence within twenty-four months of the Effective Date, this Agreement will become null and void.
- 14. Neither termination nor expiration of this Agreement will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.
- 15. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.
- 16. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein) is the full and complete agreement between BNSF and Agency with respect to the subject matter herein and supersedes any and all other prior agreements between the parties hereto.
- 17. Any notice provided for herein or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the parties at the following addresses:

BNSF:	BNSF's Manager Public Projects			
Agency:				



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first above written.

	BNSF RAILWAY COMPANY
	By:
	Printed Name:
	Title:
WITNESS:	
	AGENCY United City of Yorkville
WITNESS:	
	By:
	Printed Name:
	Title



Exhibit A-1

[Insert cross-hatched drawing of the Temporary Construction License and Structure]

[BARTLETT AND WEST TO PREPARE EXHIBIT A]



EXHIBIT "B"

EASEMENT AGREEMENT

FOR
(C&M Agreement)
THIS EASEMENT AGREEMENT FOR ("Easement Agreement") is made and entered into as of the day of 20 ("Effective Date"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("Grantor"), and, a ("Grantee").
A. Grantor owns or controls certain real property situated at or near the vicinity of, County of, State of, at Mile Post, [Project #], as described or depicted on Exhibit "A-1" attached hereto and made a part hereof (the "Premises").
B. Grantor and Grantee have entered into that certain C&M Agreement dated as of concerning improvements on or near the Premises (the "C&MAgreement").
C. Grantee has requested that Grantor grant to Grantee an easement over the Premises for the Easement Purpose (as defined below).
D. Grantor has agreed to grant Grantee such easement, subject to the terms and conditions set forth in this Easement Agreement.
NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein, the mutual promises contained herein, and other good and

Section 1 Granting of Easement.

acknowledged, the parties agree as follows:

1.1 <u>Easement Purpose</u>. The "**Easement Purpose**" shall be for the purposes set forth in the C&M Agreement. Any improvements to be constructed in connection with the Easement Purpose are referred to herein as "**Improvements**" and shall be constructed, located, configured and maintained by Grantee in strict accordance with the terms of this Easement Agreement and the C&M Agreement.

valuable consideration, the receipt and sufficiency of which are hereby

1.2 <u>Grant</u>. Grantor does hereby grant unto Grantee a non-exclusive easement ("**Easement**") over the Premises for the Easement Purpose and for no other purpose. The Easement is granted subject to any and all restrictions, covenants, easements, licenses, permits, leases and other encumbrances of whatsoever nature whether or not of record, if any,



relating to the Premises and subject to all with all applicable federal, state and local laws, regulations, ordinances, restrictions, covenants and court or administrative decisions and orders, including Environmental Laws (defined below) and zoning laws (collectively, "Laws"). Grantor may not make any alterations or improvements or perform any maintenance or repair activities within the Premises except in accordance with the terms and conditions of the C&M Agreement.

- 1.3 <u>Reservations by Grantor</u>. Grantor excepts and reserves the right, to be exercised by Grantor and any other parties who may obtain written permission or authority from Grantor:
 - (a) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any existing pipe, power, communication, cable, or utility lines and appurtenances and other facilities or structures of like character (collectively, "Lines") upon, over, under or across the Premises;
 - (b) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; and
 - (c) to use the Premises in any manner as the Grantor in its sole discretion deems appropriate, provided Grantor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Grantee for the Easement Purpose.

Section 3 No Warranty of Any Conditions of the Premises. Grantee acknowledges that Grantor has made no representation whatsoever to Grantee concerning the state or condition of the Premises, or any personal property located thereon, or the nature or extent of Grantor's ownership interest in the Premises. Grantee has not relied on any statement or declaration of Grantor, oral or in writing, as an inducement to entering into this Easement Agreement, other than as set forth herein. GRANTOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF ANY CONSTITUTING PREMISES. PROPERTY PRESENT ON OR THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF ANY SUCH PROPERTY, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES.



GRANTOR SHALL NOT BE RESPONSIBLE TO GRANTEE OR ANY OF GRANTEE'S CONTRACTORS FOR ANY DAMAGES RELATING TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTEE ACCEPTS ALL RIGHTS GRANTED UNDER THIS EASEMENT AGREEMENT IN THE PREMISES IN AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" CONDITION, AND SUBJECT TO ALL LIMITATIONS ON GRANTOR'S RIGHTS, INTERESTS AND TITLE TO THE PREMISES. Grantee has inspected or will inspect the Premises, and enters upon Grantor's rail corridor and property with knowledge of its physical condition and the danger inherent in Grantor's rail operations on or near the Premises. Grantee acknowledges that this Easement Agreement does not contain any implied warranties that Grantee or Grantee's Contractors (as hereinafter defined) can successfully construct or operate the Improvements.

Section 4 Nature of Grantor's Interest in the Premises. GRANTOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND GRANTEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE. In case of the eviction of Grantee by anyone owning or claiming title to or any interest in the Premises, or by the abandonment by Grantor of the affected rail corridor, Grantor shall not be liable to refund Grantee any compensation paid hereunder.

Section 5 Grantee shall take, in a timely manner, all actions Improvements. necessary and proper to the lawful establishment, construction, operation, and maintenance of the Improvements, including such actions as may be necessary to obtain any required permits, approvals or authorizations from applicable governmental authorities. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of the Improvements shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing. In the event any construction, repair, maintenance, work or other use of the Premises by Grantee will affect any Lines, fences, buildings, improvements or other facilities (collectively, "Other Improvements"), Grantee will be responsible at Grantee's sole risk to locate and make any adjustments necessary to such Other Improvements. Grantee must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and obtain the owner's written approval prior to so affecting the Other Improvements. Grantee must mark all Other Improvements on the Plans and Specifications and mark such



Other Improvements in the field in order to verify their locations. Grantee must also use all reasonable methods when working on or near Grantor property to determine if any Other Improvements (fiber optic, cable, communication or otherwise) may exist. The Grantee agrees to keep the above-described premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on said premises, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

Section 6 Taxes and Recording Fees. Grantee shall pay when due any taxes, assessments or other charges (collectively, "Taxes") levied or assessed upon the Improvements by any governmental or quasi-governmental body or any Taxes levied or assessed against Grantor or the Premises that are attributable to the Improvements. Grantee agrees to purchase, affix and cancel any and all documentary stamps in the amount prescribed by statute, and to pay any and all required transfer taxes, excise taxes and any and all fees incidental to recordation of the Memorandum of Easement. In the event of Grantee's failure to do so, if Grantor shall become obligated to do so, Grantee shall be liable for all costs, expenses and judgments to or against Grantor, including all of Grantor's legal fees and expenses.

Section 7 <u>Environmental</u>.

- 7.1 Compliance with Environmental Laws. Grantee shall strictly comply with all federal, state and local environmental Laws in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Toxic Substances Control Act (collectively referred to as the "Environmental Laws"). Grantee shall not maintain a "treatment," "storage," "transfer" or "disposal" facility, or "underground storage tank," as those terms are defined by Environmental Laws, on the Premises. Grantee shall not handle, transport, release or suffer the release of "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any Environmental Laws.
- 7.2 <u>Notice of Release</u>. Grantee shall give Grantor immediate notice to Grantor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Grantee's use of the Premises. Grantee shall use its best efforts to promptly respond to any release on or from the Premises. Grantee also shall give Grantor immediate notice of all measures undertaken on behalf of Grantee to investigate, remediate, respond to or otherwise cure such release or violation.
- 7.3 <u>Remediation of Release</u>. In the event that Grantor has notice from Grantee or otherwise of a release or violation of Environmental Laws which occurred or



may occur during the term of this Easement Agreement, Grantor may require Grantee, at Grantee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises. If during the construction or subsequent maintenance of the Improvements, soils or other materials considered to be environmentally contaminated are exposed, Grantee will remove and safely dispose of said contaminated soils. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination.

- 7.4 Preventative Measures. Grantee shall promptly report to Grantor in writing any conditions or activities upon the Premises known to Grantee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Grantee's reporting to Grantor shall not relieve Grantee of any obligation whatsoever imposed on it by this Easement Agreement. Grantee shall promptly respond to Grantor's request for information regarding said conditions or activities.
- 7.5 <u>Evidence of Compliance</u>. Grantee agrees periodically to furnish Grantor with proof satisfactory to Grantor that Grantee is in compliance with this **Section 7**. Should Grantee not comply fully with the above-stated obligations of this **Section 7**, notwithstanding anything contained in any other provision hereof, Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice of termination upon Grantee. Upon termination, Grantee shall remove the Improvements and restore the Premises as provided in **Section 9**.

Section 8 Default and Termination.

- 8.1 <u>Grantor's Performance Rights</u>. If at any time Grantee, or Grantee's Contractors, fails to properly perform its obligations under this Easement Agreement, Grantor, in its sole discretion, may: (i) seek specific performance of the unperformed obligations, or (ii) at Grantee's sole cost, may arrange for the performance of such work as Grantor deems necessary for the safety of its rail operations, activities and property, or to avoid or remove any interference with the activities or property of Grantor, or anyone or anything present on the rail corridor or property with the authority or permission of Grantor. Grantee shall promptly reimburse Grantor for all costs of work performed on Grantee's behalf upon receipt of an invoice for such costs. Grantor's failure to perform any obligations of Grantee or Grantee's Contractors shall not alter the liability allocation set forth in this Easement Agreement.
- 8.2 <u>Abandonment</u>. Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice in writing upon Grantee if Grantee should abandon or cease to use the Premises for the Easement Purpose. Any waiver by Grantor of any default or defaults shall not constitute a waiver of the right to terminate this Easement Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Grantor's ability to enforce any section of this Easement



Agreement.

- 8.3 <u>Effect of Termination or Expiration</u>. Neither termination nor expiration will release Grantee from any liability or obligation under this Easement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date the Premises are restored as required by **Section 9**.
- 8.4 <u>Non-exclusive Remedies</u>. The remedies set forth in this **Section 8** shall be in addition to, and not in limitation of, any other remedies that Grantor may have under the C&M Agreement, at law or in equity.

Section 9 Surrender of Premises.

- 9.1 <u>Removal of Improvements and Restoration</u>. Upon termination of this Easement Agreement, whether by abandonment of the Easement or by the exercise of Grantor's termination rights hereunder, Grantee shall, at its sole cost and expense, immediately perform **the following:**
 - (a) remove all or such portion of Grantee's Improvements and all appurtenances thereto from the Premises, as Grantor directs at Grantor's sole discretion;
 - (b) repair and restore any damage to the Premises arising from, growing out of, or connected with Grantee's use of the Premises:
 - (c) remedy any unsafe conditions on the Premises created or aggravated by Grantee; and
 - (d) leave the Premises in the condition which existed as of the Effective Date.
- 9.2 <u>Limited License for Entry.</u> If this Easement Agreement is terminated, Grantor may direct Grantee to undertake one or more of the actions set forth above, at Grantee's sole cost, in which case Grantee shall have a limited license to enter upon the Premises to the extent necessary to undertake the actions directed by Grantor. The terms of this limited license include all of Grantee's obligations under this Easement Agreement. Termination will not release Grantee from any liability or obligation under this Easement Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Grantee's Improvements are removed and the Premises are restored to the condition that existed as of the Effective Date. If Grantee fails to surrender the Premises to Grantor upon any termination of the Easement, all liabilities and obligations of Grantee hereunder shall continue in effect until the Premises are surrendered.



Section 10 <u>Liens</u>. Grantee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Grantee on the Premises or attributable to Taxes that are the responsibility of Grantee pursuant to **Section 6**. Grantor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by Law to prevent the attachment of any such liens to any portion of the Premises; provided, however, that failure of Grantor to take any such action shall not relieve Grantee of any obligation or liability under this **Section 10** or any other section of this Easement Agreement.

Section 11 <u>Tax Exchange</u>. Grantor may assign its rights (but not its obligations) under this Easement Agreement to Goldfinch Exchange Company LLC, an exchange intermediary, in order for Grantor to effect an exchange under Section 1031 of the Internal Revenue Code. In such event, Grantor shall provide Grantee with a Notice of Assignment, attached as <u>Exhibit C</u>, and Grantee shall execute an acknowledgement of receipt of such notice.

Section 12 <u>Notices</u>. Any notice required or permitted to be given hereunder by one party to the other shall be delivered in the manner set forth in the C&M Agreement. Notices to Grantor under this Easement shall be delivered to the following address: BNSF Railway Company, Real Estate Department, 2500 Lou Menk Drive, Ft. Worth, TX 76131, Attn: Permits, or such other address as Grantor may from time to time direct by notice to Grantee.

Section 13 Recordation. It is understood and agreed that this Easement Agreement shall not be in recordable form and shall not be placed on public record and any such recording shall be a breach of this Easement Agreement. Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as Exhibit "B-1" (the "Memorandum of Easement") subject to changes required, if any, to conform such form to local recording requirements. [IF LEGAL DESCRIPTION IS NOT AVAILABLE USE THE FOLLOWING IN PLACE OF THE PRIOR SENTENCE: As of the Effective Date, a legal description of the Premises is not available. Grantee and Grantor shall work together in good faith to establish the legal description for the Premises. Once Grantor and Grantee have approved the legal description, Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as Exhibit "B-1" (the "Memorandum of Easement").] The Memorandum of Easement shall be recorded in the real estate records in the county where the Premises are located. If a Memorandum of Easement is not executed by the parties and recorded as described above within days of the Effective Date, Grantor shall have the right to terminate this Easement Agreement upon notice to Grantee.

Section 14 Miscellaneous.

14.1 All questions concerning the interpretation or application of provisions of this Easement Agreement shall be decided according to the substantive Laws of the



State of [Texas] without regard to conflicts of law provisions.

- 14.2 In the event that Grantee consists of two or more parties, all the covenants and agreements of Grantee herein contained shall be the joint and several covenants and agreements of such parties. This instrument and all of the terms, covenants and provisions hereof shall inure to the benefit of and be binding upon each of the parties hereto and their respective legal representatives, successors and assigns and shall run with and be binding upon the Premises.
- 14.3 If any action at law or in equity is necessary to enforce or interpret the terms of this Easement Agreement, the prevailing party or parties shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party or parties may be entitled.
- 14.4 If any provision of this Easement Agreement is held to be illegal, invalid or unenforceable under present or future Laws, such provision will be fully severable and this Easement Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof will remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there will be added automatically as a part of this Easement Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- 14.5 This Easement Agreement is the full and complete agreement between Grantor and Grantee with respect to all matters relating to Grantee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Grantee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Grantee or Grantee's obligation to defend and hold Grantor harmless in any prior written agreement between the parties.
 - 14.6 Time is of the essence for the performance of this Easement Agreement.

Section 15 Administrative Fee.

15.1 Grantee acknowledges that a material consideration for this agreement, without which it would not be made, is the agreement between Grantee and Grantor, that the Grantee shall pay upon return of this Agreement signed by Grantee to Grantor's Broker a processing fee in the amount of \$2,000.00 over and above the agreed upon Acquisition Price. Said fee shall be made payable to BNSF Railway Company by a separate check.

C&M

[Signature page follows]



Witness the execution of this Easement Agreement as of the date first set forth above.

(GRANTOR:	
	BNSF RAILWAY COMPANY, a Delaward corporation	Э
	By: Name: Title:	
(GRANTEE:	
-		
-	_	
	By: Name:	
	Title:	



EXHIBIT "C"

CONTRACTOR REQUIREMENTS

1.01 General:

		•		er on or adjacent to "Railway Property"
during	the		construction	0

- 1.01.02 The Contractor must execute and deliver to the Railway duplicate copies
 of the Exhibit "C-1" Agreement, in the form attached hereto, obligating the Contractor
 to provide and maintain in full force and effect the insurance called for under Section
 3 of said Exhibit "C-1". Questions regarding procurement of the Railroad Protective
 Liability Insurance should be directed to Rosa Martinez at Marsh, USA, 214-3038519.
- 1.01.03 The Contractor must plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Railway Property.
- 1.01.04 The Contractor's right to enter Railway's Property is subject to the absolute right of Railway to cause the Contractor's work on Railway's Property to cease if, in the opinion of Railway, Contractor's activities create a hazard to Railway's Property, employees, and/or operations. Railway will have the right to stop construction work on the Project if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the Project work in a manner contrary to the plans and specifications approved by Railway; (ii) Contractor (or any of its subcontractors), in Railway's opinion, prosecutes the Project work in a manner which is hazardous to Railway property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) Contractor fails to pay Railway for the Temporary Construction License or the Easement. The work stoppage will continue until all necessary actions are taken by Contractor or its subcontractor to rectify the situation to the satisfaction of Railway's Division Engineer or until additional insurance has been delivered to and accepted by Railway. In the event of



a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, Railway may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of Railway. Railway's right to stop the work is in addition to any other rights Railway may have including, but not limited to, actions or suits for damages or lost profits. In the event that Railway desires to stop construction work on the Project, Railway agrees to immediately notify the following individual in writing:

- 1.01.05 The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to environmental laws and regulations (including but not limited to the Resource Conservation and Recovery Act, as amended; the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA), and health and safety laws and regulations. The Contractor hereby indemnifies, defends and holds harmless Railway for, from and against all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railway which arise out of Contractor's work under this Agreement.
- 1.01.06 The Contractor must notify (Agency) at ______ and Railway's Manager Public Projects, telephone number (______ at least thirty (30) calendar days before commencing any work on Railway Property. Contractor's notification to Railway must refer to Railway's file ______.
- 1.01.07 For any bridge demolition and/or falsework above any tracks or any excavations located with any part of the excavations located within, whichever is greater, twenty-five (25) feet of the nearest track or intersecting a slope from the plane of the top of rail on a 2 horizontal to 1 vertical slope beginning at eleven (11) feet from centerline of the nearest track, both measured perpendicular to center line of track, the Contractor must furnish the Railway five sets of working drawings showing details of construction affecting Railway Property and tracks. The working drawing must include the proposed method of installation and removal of falsework, shoring or cribbing, not included in the contract plans and two sets of structural calculations of any falsework, shoring or cribbing. For all excavation and shoring submittal plans, the current "BNSF-UPRR Guidelines for Temporary Shoring" must be used for determining the design loading conditions to be used in shoring design, and all calculations and submittals must be in accordance with the current "BNSF-UPRR Guidelines for Temporary Shoring". All submittal drawings and calculations must be stamped by a registered professional engineer licensed to practice in the



state the project is located. All calculations must take into consideration railway surcharge loading and must be designed to meet American Railway Engineering and Maintenance-of-Way Association (previously known as American Railway Engineering Association) Coopers E-80 live loading standard. All drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. The Contractor must not begin work until notified by the Railway that plans have been approved. The Contractor will be required to use lifting devices such as, cranes and/or winches to place or to remove any falsework over Railway's tracks. In no case will the Contractor be relieved of responsibility for results obtained by the implementation of said approved plans.

• 1.01.08 Subject to the movement of Railway's trains, Railway will cooperate with the Contractor such that the work may be handled and performed in an efficient manner. The Contractor will have no claim whatsoever for any type of damages or for extra or additional compensation in the event his work is delayed by the Railway.

1.02 Contractor Safety Orientation

1.02.01 No employee of the Contractor, its subcontractors, agents or invitees may enter Railway Property without first having completed Railway's Engineering Contractor Safety Orientation, found on the web site www.BNSFContractor.com. The Contractor must ensure that each of its employees. subcontractors. agents or invitees completes Engineering Contractor Safety Orientation through internet sessions before any work is performed on the Project. Additionally, the Contractor must ensure that each and every one of its employees, subcontractors, agents or invitees possesses a card certifying completion of the Railway Contractor Safety Orientation before entering Railway Property. The Contractor is responsible for the cost of the Railway Contractor Safety Orientation. The Contractor must renew the Railway Contractor Safety Orientation annually. Further clarification can be found on the web site or from the Railway's Representative.

1.03 Railway Requirements

 1.03.01 The Contractor must take protective measures as are necessary to keep railway facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by the Agency.

•	1.03.02	The	Contractor	must	notify	the	Railway's	Division	Engineer
				_ at ()			and provid	le blasting



plans to the Railway for review seven (7) calendar days prior to conducting any blasting operations adjacent to or on Railway's Property.

- 1.03.03 The Contractor must abide by the following temporary clearances during construction:
 - 15'-0" Horizontally from centerline of nearest track
 - 21'-6" Vertically above top of rail
 - 27'-0" Vertically above top of rail for electric wires carrying less than 750 volts
 - 28'-0" Vertically above top of rail for electric wires carrying 750 volts to 15,000 volts
 - 30'-0" Vertically above top of rail for electric wires carrying 15,000 volts to 20,000 volts
 - 34'-0" Vertically above top of rail for electric wires carrying more than 20,000 volts
- 1.03.04 Upon completion of construction, the following clearances shall be maintained:
 - 25' Horizontally from centerline of nearest track
 - 23' 6" Vertically above top of rail
- 1.03.05 Any infringement within State statutory clearances due to the Contractor's operations must be submitted to the Railway and to the (Agency) and must not be undertaken until approved in writing by the Railway, and until the (Agency) has obtained any necessary authorization from the State Regulatory Authority for the infringement. No extra compensation will be allowed in the event the Contractor's work is delayed pending Railway approval, and/or the State Regulatory Authority's approval.
- 1.03.06 In the case of impaired vertical clearance above top of rail, Railway will
 have the option of installing tell-tales or other protective devices Railway deems
 necessary for protection of Railway operations. The cost of tell-tales or protective
 devices will be borne by the Agency.
- 1.03.07 The details of construction affecting the Railway's Property and tracks not included in the contract plans must be submitted to the Railway by (Agency) for approval before work is undertaken and this work must not be undertaken until approved by the Railway.
- 1.03.08 At other than public road crossings, the Contractor must not move any
 equipment or materials across Railway's tracks until permission has been obtained
 from the Railway. The Contractor must obtain a "Temporary Construction Crossing
 Agreement" from the Railway prior to moving his equipment or materials across the
 Railways tracks. The temporary crossing must be gated and locked at all times when
 not required for use by the Contractor. The temporary crossing for use of the



Contractor will be constructed and, at the completion of the project, removed at the expense of the Contractor.

- 1.03.09 Discharge, release or spill on the Railway Property of any hazardous substances, oil, petroleum, constituents, pollutants, contaminants, or any hazardous waste is prohibited and Contractor must immediately notify the Railway's Resource Operations Center at 1(800) 832-5452, of any discharge, release or spills in excess of a reportable quantity. Contractor must not allow Railway Property to become a treatment, storage or transfer facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.
- 1.03.10 The Contractor upon completion of the work covered by this contract, must promptly remove from the Railway's Property all of Contractor's tools, equipment, implements and other materials, whether brought upon said property by said Contractor or any Subcontractor, employee or agent of Contractor or of any Subcontractor, and must cause Railway's Property to be left in a condition acceptable to the Railway's representative.

1.04 Contractor Roadway Worker on Track Safety Program and Safety Action Plan:

- Each Contractor that will perform work within 25 feet of the 1.04.01 centerline of a track must develop and implement a Roadway Worker Protection/On Track Safety Program and work with Railway Project Representative to develop an on track safety strategy as described in the guidelines listed in the on track safety portion of the Safety Orientation. This Program must provide Roadway Worker protection/on track training for all employees of the Contractor, its subcontractors, agents or invitees. This training is reinforced at the job site through job safety briefings. Additionally, each Contractor must develop and implement the Safety Action Plan, as provided for on the web site www.BNSFContractor.com, which will be made available to Railway prior to commencement of any work on Railway Property. During the performance of work, the Contractor must audit its work activities. The Contractor must designate an on-site Project Supervisor who will serve as the contact person for the Railway and who will maintain a copy of the Safety Action Plan, safety audits, and Material Safety Datasheets (MSDS), at the job site.
- 1.04.02 Contractor shall have a background investigation performed on all of its employees, subcontractors and agents who will be performing any services for Railroad under this Agreement which are determined by Railroad in its sole discretion a) to be on Railroad's property, or b) that require access to Railroad Critical Infrastructure, Railroad Critical Information Systems, Railroad's Employees, Hazardous Materials on Railroad's property or is being transported by or otherwise in the custody of Railroad, or Freight in Transit involving Railroad.



The required background screening shall at a minimum meet the rail industry background screening criteria defined by the e-RAILSAFE Program as outlined at www.eVerifile.com, in addition to any other applicable regulatory requirements.

Contractor shall obtain written consent from all its employees, subcontractors or agents screened in compliance with the e-RAILSAFE Program to participate in the Program on their behalf and to release completed background information to Railroad's designee. Contractor shall be subject to periodic audit to ensure compliance.

Contractor subject to the e-RAILSAFE Program hereunder shall not permit any of its employees, subcontractors or agents to perform services hereunder who are not first approved under e-RAILSAFE Program standards. Railroad shall have the right to deny entry onto its premises or access as described in this section above to any of Contractor's employees, subcontractors or agents who do not display the authorized identification badge issued by a background screening service meeting the standards set forth in the e-RAILSAFE Program, or who in Railroad's opinion, which may not be unreasonable, may pose a threat to the safety or security of Railroad's operations, assets or personnel.

Contractors shall be responsible for ensuring that its employees, subcontractors and agents are United States citizens or legally working in the United States under a lawful and appropriate work VISA or other work authorization.

1.05 Railway Flagger Services:

- 1.05.01 The Contractor must give Railway's Roadmaster (telephone ______)
 a minimum of thirty (30) calendar days advance notice when flagging services will be
 required so that the Roadmaster can make appropriate arrangements (i.e., bulletin
 the flagger's position). If flagging services are scheduled in advance by the
 Contractor and it is subsequently determined by the parties hereto that such
 services are no longer necessary, the Contractor must give the Roadmaster five (5)
 working days advance notice so that appropriate arrangements can be made to
 abolish the position pursuant to union requirements.
- 1.05.02 Unless determined otherwise by Railway's Project Representative,
 Railway flagger will be required and furnished when Contractor's work activities are
 located over, under and/or within twenty-five (25) feet measured horizontally from
 centerline of the nearest track and when cranes or similar equipment positioned
 beyond 25-feet from the track centerline could foul the track in the event of tip over
 or other catastrophic occurrence, but not limited thereto for the following conditions:
 - 1.05.02a When, upon inspection by Railway's Representative, other conditions



warrant.

- 1.05.02b When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's representative, track or other Railway facilities may be subject to movement or settlement.
- **1.05.02c** When work in any way interferes with the safe operation of trains at timetable speeds.
- 1.05.02d When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.
- 1.05.02e Special permission must be obtained from the Railway before moving heavy or cumbersome objects or equipment which might result in making the track impassable.
- 1.05.03 Flagging services will be performed by qualified Railway flaggers.
 - 1.05.03a Flagging crew generally consists of one employee. However, additional personnel may be required to protect Railway Property and operations, if deemed necessary by the Railways Representative.
 - 1.05.03b Each time a flagger is called, the minimum period for billing will be the eight (8) hour basic day.
 - 1.05.03c The cost of flagger services provided by the Railway will be borne by (Agency). The estimated cost for one (1) flagger is approximately between \$800.00-\$1,600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, vehicle, transportation, meals, lodging, radio, equipment, supervision and other costs incidental to performing flagging services. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. THE FLAGGING RATE IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF FLAGGING PURSUANT TO THIS PARAGRAPH.

•	1.05.03d	The	average	train	traffic	on	this	route	is	freight trains	pe
		24-h	our perio	od at	a tir	neta	ble	speed		MPH and	
		pass	enger tra	ins at	a time	etable	e spe	eed of ₋		MPH.	



1.06 Contractor General Safety Requirements

- 1.06.01 Work in the proximity of railway track(s) is potentially hazardous where
 movement of trains and equipment can occur at any time and in any direction. All
 work performed by contractors within 25 feet of any track must be in compliance with
 FRA Roadway Worker Protection Regulations.
- 1.06.02 Before beginning any task on Railway Property, a thorough job safety briefing must be conducted with all personnel involved with the task and repeated when the personnel or task changes. If the task is within 25 feet of any track, the job briefing must include the Railway's flagger, as applicable, and include the procedures the Contractor will use to protect its employees, subcontractors, agents or invitees from moving any equipment adjacent to or across any Railway track(s).
- 1.06.03 Workers must not work within 25 feet of the centerline of any track without an on track safety strategy approved by the Railway's Project Representative. When authority is provided, every contractor employee must know: (1) who the Railway flagger is, and how to contact the flagger, (2) limits of the authority, (3) the method of communication to stop and resume work, and (4) location of the designated places of safety. Persons or equipment entering flag/work limits that were not previously job briefed, must notify the flagger immediately, and be given a job briefing when working within 25 feet of the center line of track.
- 1.06.04 When Contractor employees are required to work on the Railway Property
 after normal working hours or on weekends, the Railway's representative in charge
 of the project must be notified. A minimum of two employees must be present at all
 times.
- 1.06.05 Any employees, agents or invitees of Contractor or its subcontractors under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railway's Property and subsequently released to the custody of a representative of Contractor management. Future access to the Railway's Property by that employee will be denied.
- 1.06.06 Any damage to Railway Property, or any hazard noticed on passing trains must be reported immediately to the Railway's representative in charge of the project. Any vehicle or machine which may come in contact with track, signal equipment, or structure (bridge) and could result in a train derailment must be reported immediately to the Railway representative in charge of the project and to the Railway's Resource Operations Center at 1(800) 832-5452. Local emergency numbers are to be obtained from the Railway representative in charge of the project prior to the start of any work and must be posted at the job site.
- **1.06.07** For safety reasons, all persons are prohibited from having pocket knives, firearms or other deadly weapons in their possession while working on Railway's



Property.

- All personnel protective equipment (PPE) used on Railway Property must 1.06.08 meet applicable OSHA and ANSI specifications. Current Railway personnel protective equipment requirements web are listed on the site. www.BNSFContractor.com, however, a partial list of the requirements include: a) safety glasses with permanently affixed side shields (no yellow lenses); b) hard hats; c) safety shoe with: hardened toes, above-the-ankle lace-up and a defined heel; and d) high visibility retro-reflective work wear. The Railway's representative in charge of the project is to be contacted regarding local specifications for meeting requirements relating to hi-visibility work wear. Hearing protection, fall protection, gloves, and respirators must be worn as required by State and Federal regulations. (NOTE -Should there be a discrepancy between the information contained on the web site and the information in this paragraph, the web site will govern.)
- 1.06.09 THE CONTRACTOR MUST NOT PILE OR STORE ANY MATERIALS, MACHINERY OR EQUIPMENT CLOSER THAN 25'-0" TO THE CENTER LINE OF THE NEAREST RAILWAY TRACK. MATERIALS, MACHINERY OR EQUIPMENT MUST NOT BE STORED OR LEFT WITHIN 250 FEET OF ANY HIGHWAY/RAIL AT-GRADE CROSSINGS OR TEMPORARY CONSTRUCTION CROSSING, WHERE STORAGE OF THE SAME WILL OBSTRUCT THE VIEW OF A TRAIN APPROACHING THE CROSSING. PRIOR TO BEGINNING WORK, THE CONTRACTOR MUST ESTABLISH A STORAGE AREA WITH CONCURRENCE OF THE RAILWAY'S REPRESENTATIVE.
- 1.06.10 Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railway's Property must be left inoperable and secured against movement. (See internet Engineering Contractor Safety Orientation program for more detailed specifications)
- 1.06.11 Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water must meet all Federal, State and Local regulations.
- 1.06.12 All power line wires must be considered dangerous and of high voltage unless informed to the contrary by proper authority. For all power lines the minimum clearance between the lines and any part of the equipment or load must be; 200 KV or below 15 feet; 200 to 350 KV 20 feet; 350 to 500 KV 25 feet; 500 to 750 KV 35 feet; and 750 to 1000 KV 45 feet. If capacity of the line is not known, a minimum clearance of 45 feet must be maintained. A person must be designated to observe clearance of the equipment and give a timely warning for all operations where it is difficult for an operator to maintain the desired clearance by visual means.



1.07 Excavation:

- 1.07.01 Before excavating, the Contractor must determine whether any underground pipe lines, electric wires, or cables, including fiber optic cable systems are present and located within the Project work area. The Contractor must determine whether excavation on Railway's Property could cause damage to buried cables resulting in delay to Railway traffic and disruption of service to users. Delays and disruptions to service may cause business interruptions involving loss of revenue and profits. Before commencing excavation, the Contractor must contact BNSF's Field Engineering Representative (). All underground and overhead wires will be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line. It is the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.
- 1.07.02 The Contractor must cease all work and notify the Railway immediately before continuing excavation in the area if obstructions are encountered which do not appear on drawings. If the obstruction is a utility and the owner of the utility can be identified, then the Contractor must also notify the owner immediately. If there is any doubt about the location of underground cables or lines of any kind, no work must be performed until the exact location has been determined. There will be no exceptions to these instructions.
- 1.07.03 All excavations must be conducted in compliance with applicable OSHA regulations and, regardless of depth, must be shored where there is any danger to tracks, structures or personnel.
- 1.07.04 Any excavations, holes or trenches on the Railway's Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, the areas must be secured and left in a condition that will ensure that Railway employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

1.08 Hazardous Waste, Substances and Material Reporting:

• 1.08.01 If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to Railway's Property, in or near any surface water, swamp, wetlands or waterways, while performing any work under this Agreement, Contractor must immediately: (a) notify the Railway's Resource Operations Center at 1(800) 832-5452, of such discovery: (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties: and (c) exercise due care with respect to the release, including the taking of



any appropriate measure to minimize the impact of such release.

1.09 Personal Injury Reporting

• 1.09.01 The Railway is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invitees while on the Railway's Property must be reported immediately (by phone mail if unable to contact in person) to the Railway's representative in charge of the project. The Non-Employee Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railway at 1(817) 352-7595 and to the Railway's Project Representative no later than the close of shift on the date of the injury.





NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

(If injuries are in connection with rail equipment accident/incident, highway rail grade crossing accident or automobile accident, ensure that appropriate information is obtained, forms completed and that data entry personnel are aware that injuries relate to that specific event.)

Injured Pe	erson Type:		
	Passenger on train (C)	Non-employee (N) (i.e., emp of another railroad, or, non- company vehicles)	BNSF emp involved in vehicle accident, including
	Contractor/safety sensitive (F)	Contractor/non-safety sens	itive (G)
	Volunteer/safety sensitive (H)	Volunteer/other non-safety	sensitive (I)
	Non-trespasser (D) - to include h go around or through gates	ighway users involved in highway ra	ail grade crossing accidents who did not
	Trespasser (E) - to include hig around or through gates	hway users involved in highway ra	ail grade crossing accidents who went
	Non-trespasser (J) - Off railroad	property	
	If train involved, Train ID:		
Transmit (Fax 1-817-	attached information to Accident/ 352-7595 or by Phone 1-8	,	Accident-Reporting.Center@BNSF.com
Officer Pr	oviding Information:		
(Name)		(Employee No.)	(Phone #)

REPORT PREPARED TO COMPLY WITH FEDERAL ACCIDENT REPORTING REQUIREMENTS AND PROTECTED FROM DISCLOSURE PURSUANT TO 49 U.S.C. 20903 AND 83 U.S.C. 490

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IT IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY.

I. Accident City/St:	2. Date:		Time:	
County:	3. Temperature	:	4. Weather:	
(if non BNSF location)				
Mile Post / Line Segment:				
5. Driver's License No (and state) or other ID:		SSN (required):	
6. Name (last, first, mi):				
7. Address:	City:	St:	Zip:	
8. Date of Birth:	and/or Age: (if available)	Gender:		
³ hone Number: En	nployer:			
9. Injury:	10	3. Body Part:		
(i.e., Laceration, etc.)		(i.e	., Hand, etc.)	
II. Description of Accident (To include location, action, result, etc.):				
12. Treatment:				
First Aid Only				
Required Medical Treatment				
Other Medical Treatment				
13. Dr. Name:		Date:		
14. Dr. Address:				
Street: City:		St:	Zip:	
15. Hospital Name:				
16. Hospital Address:				
Street: City:		St:	Zip:	
17. Diagnosis:				

EXHIBIT "C-1"

Agreement Between BNSF RAILWAY COMPANY and the CONTRACTOR

Railway File:
Agency Project:
Insert contractor's legal name here (hereinafter called "Contractor"), has entered in agreement (hereinafter called "Agreement") dated, 201_, with Th
Inited City of Yorkville for the performance of certain work in connection with the
ollowing project: Performance of such work will necessar
equire Contractor to enter BNSF RAILWAY COMPANY (hereinafter called "Railway
ight of way and property (hereinafter called "Railway Property"). The Agreeme
rovides that no work will be commenced within Railway Property until the Contract
employed in connection with said work for The United City of Yorkville (i) executes ar
lelivers to Railway an Agreement in the form hereof, and (ii) provides insurance of the
overage and limits specified in such Agreement and Section 3 herein. If the
agreement is executed by a party who is not the Owner, General Partner, President
ice President of Contractor, Contractor must furnish evidence to Railway certifying th
ne signatory is empowered to execute this Agreement on behalf of Contractor.

Accordingly, in consideration of Railway granting permission to Contractor to enter upon Railway Property and as an inducement for such entry, Contractor, effective on the date of the Agreement, has agreed and does hereby agree with Railway as follows:

1) RELEASE OF LIABILITY AND INDEMNITY

Contractor hereby waives, releases, indemnifies, defends and holds harmless Railway for all judgments, awards, claims, demands, and expenses (including attorneys' fees), for injury or death to all persons, including Railway's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or any work performed on or about Railway's property or right-of-way. THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILWAY, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY

CAUSED BY THE INTENSIONAL MISCONDUCT OR GROSS NEGLIGENCE OF RAILWAY.

THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR INCLUDES ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILWAY UNDER THE FEDERAL EMPLOYEE'S LIABILITY ACT, INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE LOCOMOTIVE INSPECTION ACT, WHENEVER SO CLAIMED.

Contractor further agrees, at its expense, in the name and on behalf of Railway, that it will adjust and settle all claims made against Railway, and will, at Railway's discretion, appear and defend any suits or actions of law or in equity brought against Railway on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railway is liable or is alleged to be liable. Railway will give notice to Contractor, in writing, of the receipt or dependency of such claims and thereupon Contractor must proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against Railway, Railway may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railway's discretion, must defend, adjust, or settle such suits and protect, indemnify, and save harmless Railway from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from or incident to any such claims or suits.

In addition to any other provision of this Agreement, in the event that all or any portion of this Article shall be deemed to be inapplicable for any reason, including without limitation as a result of a decision of an applicable court, legislative enactment or regulatory order, the parties agree that this Article shall be interpreted as requiring Contractor to indemnify Railway to the fullest extent permitted by applicable law. THROUGH THIS AGREEMENT THE PARTIES EXPRESSLY INTEND FOR CONTRACTOR TO INDEMNIFY RAILWAY FOR RAILWAY'S ACTS OF NEGLIGENCE.

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement survive any termination of this Agreement.

2) TERM

This Agreement is effective from the date of the Agreement until (i) the completion of the project set forth herein, and (ii) full and complete payment to Railway of any and all sums or other amounts owing and due hereunder.

3) **INSURANCE**

Contractor shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. Commercial General Liability insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$2,000,000 each occurrence and an aggregate limit of at least \$4,000,000 but in no event less than the amount otherwise carried by the Contractor. Coverage must be purchased on a post 2004 ISO occurrence form or equivalent and include coverage for, but not limit to the following:
 - ♦ Bodily Injury and Property Damage
 - Personal Injury and Advertising Injury
 - ♦ Fire legal liability
 - Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- Waver of subrogation in favor of and acceptable to Railway.
- ◆ Additional insured endorsement in favor of and acceptable to Railway.
- Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by Railway.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to *Railway* employees.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy with regard to the work being performed under this agreement.

- B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
 - ♦ Bodily injury and property damage
 - ♦ Any and all vehicles owned, used or hired

The policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Railway.
- ♦ Additional insured endorsement in favor of and acceptable to Railway.
- Separation of insureds.
- ♦ The policy shall be primary and non-contributing with respect to any insurance carried by Railway.
- C. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:
 - ♦ Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to Railway.
- D. Railroad Protective Liability insurance naming only the *Railway* as the Insured with coverage of at least \$2,000,000 per occurrence and \$6,000,000 in the aggregate. The policy Must be issued on a standard ISO form CG 00 35 12 04 and include the following:
 - ♦ Endorsed to include the Pollution Exclusion Amendment
 - ♦ Endorsed to include the Limited Seepage and Pollution Endorsement.
 - Endorsed to remove any exclusion for punitive damages.
 - No other endorsements restricting coverage may be added.
 - ◆ The original policy must be provided to the *Railway* prior to performing any work or services under this Agreement
 - ◆ Definition of "Physical Damage to Property" shall be endorsed to read: "means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured' care, custody, and control arising out of the acts or omissions of the contractor named on the Declarations.

In lieu of providing a Railroad Protective Liability Policy, Licensee may participate (if available) in Railway's Blanket Railroad Protective Liability Insurance Policy.

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages.

Contractor agrees to waive its right of recovery against *Railway* for all claims and suits against *Railway*. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against *Railway* for all claims and suits. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against *Railway* for loss of its owned or leased property or property under Contractor's care, custody or control.

Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Contractor is not allowed to self-insure without the prior written consent of *Railway*. If granted by *Railway*, any self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all *Railway* liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing services, Contractor shall furnish to *Railway* an acceptable certificate(s) of insurance from an authorized representative evidencing the required coverage(s), endorsements, and amendments. The certificate should be directed to the following address:

BNSF Railway Company
c/o CertFocus
P.O. Box 140528
Kansas City, MO 64114
Toll Free: 877-576-2378
Fax number: 817-840-7487
Email: BNSF@certfocus.com
www.certfocus.com

Contractor shall notify *Railway* in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration.

Any insurance policy shall be written by a reputable insurance company acceptable to *Railway* or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Contractor hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this Agreement. Annually Contractor agrees to provide evidence of such coverage as required hereunder.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement.

Not more frequently than once every five years, *Railway* may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Contractor, Contractor shall require that the subcontractor shall provide and maintain insurance coverage(s) as set forth herein, naming *Railway* as an additional insured, and shall require that the subcontractor shall release, defend and indemnify *Railway* to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify *Railway* herein.

Failure to provide evidence as required by this section shall entitle, but not require, *Railway* to terminate this Agreement immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by *Railway* shall not be limited by the amount of the required insurance coverage.

In the event of a claim or lawsuit involving *Railway* arising out of this agreement, Contractor will make available any required policy covering such claim or lawsuit.

These insurance provisions are intended to be a separate and distinct obligation on the part of the Contractor. Therefore, these provisions shall be enforceable and Contractor shall be bound thereby regardless of whether or not indemnity provisions are determined to be enforceable in the jurisdiction in which the work covered hereunder is performed.

For purposes of this section, *Railway* shall mean "Burlington Northern Santa Fe LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

4) SALES AND OTHER TAXES

In the event applicable sales taxes of a state or political subdivision of a state of the United States are levied or assessed in connection with and directly related

to any amounts invoiced by Contractor to Railway ("Sales Taxes"), Railway shall be responsible for paying only the Sales Taxes that Contractor separately states on the invoice or other billing documents provided to Railway; provided, however, that (i) nothing herein shall preclude Railway from claiming whatever Sales Tax exemptions are applicable to amounts Contractor bills Railway, (ii) Contractor shall be responsible for all sales, use, excise, consumption, services and other taxes which may accrue on all services, materials, equipment, supplies or fixtures that Contractor and its subcontractors use or consume in the performance of this Agreement, (iii) Contractor shall be responsible for Sales Taxes (together with any penalties, fines or interest thereon) that Contractor fails to separately state on the invoice or other billing documents provided to Railway or fails to collect at the time of payment by Railway of invoiced amounts (except where Railway claims a Sales Tax exemption), and (iv) Contractor shall be responsible for Sales Taxes (together with any penalties, fines or interest thereon) if Contractor fails to issue separate invoices for each state in which Contractor delivers goods, provides services or, if applicable, transfers intangible rights to Railway.

Upon request, Contractor shall provide Railway satisfactory evidence that all taxes (together with any penalties, fines or interest thereon) that Contractor is responsible to pay under this Agreement have been paid. If a written claim is made against Contractor for Sales Taxes with respect to which Railway may be liable for under this Agreement, Contractor shall promptly notify Railway of such claim and provide Railway copies of all correspondence received from the taxing authority. Railway shall have the right to contest, protest, or claim a refund, in Railway's own name, any Sales Taxes paid by Railway to Contractor or for which Railway might otherwise be responsible for under this Agreement; provided, however, that if Railway is not permitted by law to contest any such Sales Tax in its own name, Contractor shall, if requested by Railway at Railway's sole cost and expense, contest in Contractor's own name the validity, applicability or amount of such Sales Tax and allow Railway to control and conduct such contest.

Railway retains the right to withhold from payments made under this Agreement amounts required to be withheld under tax laws of any jurisdiction. If Contractor is claiming a withholding exemption or a reduction in the withholding rate of any jurisdiction on any payments under this Agreement, before any payments are made (and in each succeeding period or year as required by law), Contractor agrees to furnish to Railway a properly completed exemption form prescribed by such jurisdiction. Contractor shall be responsible for any taxes, interest or penalties assessed against Railway with respect to withholding taxes that Railway does not withhold from payments to Contractor.

5) EXHIBIT "C" CONTRACTOR REQUIREMENTS

The Contractor must observe and comply with all provisions, obligations, requirements and limitations contained in the Agreement, and the Contractor Requirements set forth on Exhibit "C" attached to the Agreement and this Agreement, including, but not be limited to, payment of all costs incurred for any damages to Railway roadbed, tracks, and/or appurtenances thereto, resulting from use, occupancy, or presence of its employees, representatives, or agents or subcontractors on or about the construction site. Contractor shall execute a Temporary Construction Crossing Agreement or Private Crossing Agreement (http://www.bnsf.com/communities/faqs/permits-real-estate/), for any temporary crossing requested to aid in the construction of this Project, if approved by BNSF.

6) TRAIN DELAY

Contractor is responsible for and hereby indemnifies and holds harmless Railway (including its affiliated railway companies, and its tenants) for, from and against all damages arising from any unscheduled delay to a freight or passenger train which affects Railway's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be billed, as further provided below, for the economic losses arising from loss of use of equipment, contractual loss of incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, or subcontractors, or by the Railway performing work under this Agreement. Railway agrees that it will not perform any act to unnecessarily cause train delay.

For loss of use of equipment, Contractor will be billed the current freight train hour rate per train as determined from Railway's records. Any disruption to train traffic may cause delays to multiple trains at the same time for the same period.

Additionally, the parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts between Railway and its customer(s). Under these arrangements, if Railway does not meet its contract service commitments, Railway may suffer loss of performance or incentive pay and/or be subject to penalty payments. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railway which are attributable to a train delay caused by Contractor or its subcontractors.

The contractual relationship between Railway and its customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railway will share information relevant to any train delay to the extent consistent with Railway confidentiality obligations. The rate then in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of train delay pursuant to this agreement.

and its	subcontra	ctors must	give	Railway's	representa	ıtive
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ange the	work window	s due to trai	n opera	tions or serv	rice obligation	ons.
not be i	responsible f	or any addi	tional c	osts or expe	enses resul	ting
ge in wo	rk windows.	Additional of	costs or	expenses r	esulting from	m a
ork windo	ows shall be	accounted for	or in Co	ontractor's ex	kpenses for	the
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Contractor and subcontractors must plan, schedule, coordinate and conduct all Contractor's work so as to not cause any delays to any trains.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized officer the day and year first above written.

Contractor.LegalName	BNSF Railway Company
Ву:	By:
Printed Name:	Manager Public Projects
Title:	Accepted and effective thisday of 20
Contact Person:	-
Address:	
City:	
State: Zip:	
Fax:	
Phone:	
E-mail:	



Reviewed By:		
Legal		
Finance	l ∐	
Engineer		
City Administrator		
Human Resources		
Community Development		
Police		
Public Works		
Parks and Recreation		

Agenda Item Number
New Business #8
Tracking Number
PW 2017-17

Agenda Item Summary Memo

Title: Kennedy Road IGA			
Meeting and Date: Public	Works Committee – February	21, 2017	
Synopsis: Intergovernmenta	l Agreement for Resurfacing	of Kennedy Road	
			_
Council Action Previously	Γaken:		
Date of Action: n/a	Action Taken:		
Item Number:			
Type of Vote Required: Ma	ijority		
Council Action Requested:	Approval		
Submitted by:	Erin Willrett	Administration	
Submitted by:	Name	Department	_
	Agenda Item Notes	:	



Memorandum

To: Public Works Committee

From: Erin Willrett, Assistant City Administrator

CC:

Date: February 21, 2017

Subject: Kennedy Road Intergovernmental Agreement

Summary

Kendall County Highway Department has requested to use Kennedy Road as a detour route during the upcoming Galena Road Bridge Project. In order to use the roadway as a detour route, Kennedy Road must first be improved.

Background

The County approached the City in December 2016 regarding the use of a portion of Kennedy Road and Bristol Ridge Road as a possible detour route during the upcoming Galena Road Bridge reconstruction project. Galena Road will be closed for approximately 6 months to do the bridge reconstruction work that will be done by the County. The portion of Kennedy Road to be utilized by the Subject Detour Route would begin at Bristol Ridge Road and extend northerly to Galena Road for a distance of approximately 7,400 feet. Prior to using Kennedy Road as the detour route, it is recommended that the roadway be re-surfaced. The County is requesting a ½ acre of right-of-way from the City that is located on the South side of Galena Road to complete the Galena Road Bridge Project.

The attached Intergovernmental Agreement, outlining the project and responsibilities in larger detail, was put together between the City, County and Bristol. The City is planning to put 2 1/2 inches of overlay, including patching, shoulders and striping, on Kennedy Road this coming fiscal year. The engineers cost estimate of this work is approximately \$601,500.00. If the Intergovernmental Agreement is approved, Kendall County will be reimbursing the City of Yorkville with partial funding for the resurfacing of the roadway, in the amount of \$160,000.00. This amount was determined based on the cost estimate for 1 ½ inches of overlay, which would be a reasonable offset of the additional traffic for the duration of the project, but is less thick than the City prefers. If the project comes in less than that amount, the County would be responsible for the lesser amount. The resurfacing project must be completed by the City no later than May 15, 2018. The City has budgeted a net \$441,500.00 for the Kennedy Road improvements in the proposed FY18 budget within the City-Wide Capital expenditure fund. If approved, in order to meet the completion deadline of May 2018, the project will go out for bid letting on approximately May 8th and be ready for construction in June. This resurfacing work will extend the lifespan of the roadway by approximately 10 years. The Agreement also outlines the City conveyance of the ½ acre of right-of-way on the South side of Galena Road that is needed for the Galena Road Bridge Project, at no cost. Kendall County will prepare all necessary plats, legal descriptions and title work to enable such donation to take place.

The attached document is going before the Kendall County Highway Committee on February 14th for discussion. And then, if recommended, it will go to the County Board on February 21st.

Recommendation

Staff recommends City Council approval of the Intergovernmental Agreement as attached.

Resolution No. 2017-	Resol	lution	No.	2017	-
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A RESOLUTION OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN KENDALL COUNTY, ILLINOIS, BRISTOL TOWNSHIP ROAD DISTRICT, ILLINOIS AND THE UNITED CITY OF YORKVILLE, ILLINOIS RELATING TO THE GALENA ROAD BRIDGE PROJECT AND ASSOCIATED DETOUR ROUTES

WHEREAS, the United City of Yorkville, Kendall County, Illinois ("City"), the County of Kendall, Illinois ("Kendall County"), and the Bristol Township Road District ("Township") are duly organized and validly existing units of local government created in accordance with the Constitution of the State of Illinois of 1970 and the laws of this State; and,

WHEREAS, the Constitution of the State of Illinois of 1970, Article VII, Section 10, provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibit by law or by ordinance and may use their credit, revenues, and other resources to pay costs related to intergovernmental activities; and,

WHEREAS, pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, the City, Kendall County, and the Township are authorized to enter into an agreement for the joint performance of any powers, privileges, functions or authority which may be exercised by a public agency of the State of Illinois; and,

WHEREAS, a portion of Galena road will necessarily be closed when Kendall County replaces the Galena Road Bridge and a need for a safe detour route for the motoring public will be required; and,

WHEREAS, the proposed detour route, as is represented on Exhibit A, includes roads within the Jurisdiction of the City and the Township (the "Subject Detour Route"); and,

WHEREAS, a portion of Kennedy Road within the Subject Detour Route beginning at Bristol Ridge Road and extending northerly to Galena Road for a distance of approximately 7,400 feet (the "Subject Road") is in need of resurfacing in order to promote the public's safety for its use in the Subject Detour Route; and,

WHEREAS, the City, Kendall County, and the Township believe it to be in each of their respective best interests and the best interests of the citizens and taxpayers each serves to enter into an agreement to cooperate in establishing the Subject Detour Route and the resurfacing of

the Subject Road in accordance with the terms and conditions as set forth an intergovernmental agreement.

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 Intergovernmental Agreement Between Kendall County, Illinois, Bristol Township Road District, Illinois and the United City of Yorkville, Illinois Relating to the Galena Road Bridge Project and Associated Detour Routes, attached hereto and made a part hereof, is hereby approved and the Mayor and City Clerk are hereby authorized to execute and deliver said Agreement on behalf of the United City of Yorkville.

Section 2. The Mayor and City clerk are hereby authorized and directed to undertake any and all actions as may be required to implement the terms of said Agreement.

Section 3. This Resolution shall be in full force and effect from and after its passage and approval as provided by law.

Passed by the City Council of	of the United City of Yorkville, Kendall C	County, Illinois this
day of	, 2017.	
	CITY CLERK	
CARLO COLOSIMO	KEN KOCH	
JACKIE MILSCHEWSKI	JOEL FRIEDERS	
CHRIS FUNKHOUSER	DIANE TEELING	
SEAVER TARULIS		
Approved by me, as Mayor o	of the United City of Yorkville, Kendall C	County, Illinois, this
day of	, 2017.	
	MAYOR	
Attest:		
City Clerk		

INTERGOVERNMENTAL AGREEMENT BETWEEN KENDALL COUNTY, ILLINOIS, BRISTOL TOWNSHIP ROAD DISTRICT, ILLINOIS AND THE UNITED CITY OF YORKVILLE, ILLINOIS RELATING TO THE GALENA ROAD BRIDGE PROJECT AND ASSOCIATED DETOUR ROUTES

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement") is by and between the County of Kendall, a unit of local government of the State of Illinois ("Kendall County"), the Bristol Township Road District, a unit of local government of the State of Illinois (the "Township") and the United City of Yorkville (the "City") a municipal corporation of the State of Illinois.

WITNESSETH:

WHEREAS, the City, Township and Kendall County (the "parties") are units of local government within the meaning of Article VII, Section 1 of the Illinois Constitution of 1970 who are authorized to enter into intergovernmental agreements pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.; and

WHEREAS, the Constitution of the State of Illinois of 1970, Article VII, Section 10, provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance and may use their credit, revenues, and other resources to pay costs related to intergovernmental activities; and

WHEREAS, the Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq., provides that any county may participate in an intergovernmental agreement under this Act notwithstanding the absence of specific authority under the State law to perform the service involved, provided that the unit of local government contracting with Kendall County has authority to perform the service; and

WHEREAS, Galena Road Bridge crosses over Blackberry Creek about three-tenths of a mile west of Kennedy Road, and it has been determined that it is in need of replacement; and

WHEREAS, in order to efficiently and safely replace the Galena Road Bridge (the "Galena Road Bridge Project"), it will be necessary for Kendall County to close Galena Road in its entirely at said bridge for approximately six months. Such closure will result in the need for a safe detour route for the motoring public during such construction period; and

WHEREAS, Kendall County has determined that the most proper signed detour route for Galena Road, as is represented on Exhibit A, would involve traffic being redirected onto Cannonball Trail, Bristol Ridge Road and Kennedy Road (the "Subject Detour Route"); and

WHEREAS, certain parts of Bristol Ridge Road and Kennedy Road are municipal roads within the jurisdiction of the City; and

WHEREAS, Bristol Ridge Road north of Blackberry Creek Road is a township road; and WHEREAS, the portion of Bristol Ridge Road to be utilized by the Subject Detour Route would begin at Kennedy Road and extend northerly to a point just north of Blackberry Creek Bridge, a distance of approximately 1,300 feet; and

WHEREAS, the portion of Kennedy Road to be utilized by the Subject Detour Route would begin at Bristol Ridge Road and extend northerly to Galena Road for a distance of approximately 7,400 feet (the "Subject Road"); and

WHEREAS, it is deemed to be in the best interest of Kendall County and the motoring public to improve and maintain the various roadways throughout Kendall County, including those within the municipalities of the County; and

WHEREAS, it has been determined that the Subject Road is currently in need of resurfacing prior to being utilized as a detour route for the general motoring public and that

Kendall County will provide the City with partial funding for such resurfacing for the public's safety; and

WHEREAS, it is the understanding of the parties that upon completion of the Galena Road Bridge Project, the City alone will maintain, repair and otherwise care for the Subject Road and that Kendall County will have no duties to maintain, repair or otherwise care for the Subject Road at any time in the future; and

WHEREAS, Kendall County, the Township and the City wish to enter into an agreement wherein they will cooperate in the establishment of the Subject Detour Route for use by the public during the Galena Road Bridge Project's construction and Kendall County and the City seek to cooperate in the resurfacing of the Subject Road as is herein laid out.

NOW, THEREFORE, in consideration of the foregoing preambles, the mutual covenants contained herein and for good and valuable consideration, the sufficiency of which is agreed to by the Parties hereto, Kendall County, the Township and the City covenant, agree and bind themselves as follows, to wit:

- 1. The foregoing preambles are hereby incorporated into this Agreement as if fully restated in this paragraph 1.
- 2. The City shall perform all related project bidding, awarding, engineering, inspection, documentation and payment in regard to the resurfacing of certain parts of the Subject Road no later than May 15, 2018 (the "Kennedy Road Project"). The City shall perform all services as specified herein in compliance with state and federal laws and regulations. The City shall comply with all competitive bidding and selection requirements necessary for construction and completion of the Project pursuant to applicable state and federal laws.

- 3. Kendall County shall be responsible for reimbursing the City an amount not to exceed one hundred and sixty thousand dollars (\$160,000.00) for the costs, which are budgeted for use on the Kennedy Road Project. Following completion of the Kennedy Road Project, Kendall County shall remit payment of one hundred and sixty thousand dollars (\$160,000.00), or such lesser amount as described below, to the City within thirty (30) calendar days of written request of the funds. Should the project costs not rise above one hundred and sixty thousand dollars (\$160,000.00), the County shall only be responsible for reimbursement of the lesser amount incurred by the City on said project.
- 4. During the course of construction of the Kennedy Road Project, the City shall ensure that each contractor and/or subcontractor performing work on the Project shall obtain and continue in force during the term of the Project, all insurance necessary and appropriate and that each contractor and/or subcontractor contracted with to perform work on the Kennedy Road Project shall name Kendall County and the City as an Additional Insured on a Primary and Non-Contributory basis with respect to all liability coverage. Further, all contractor and/or subcontractor liability and workers' compensation policies must include a waiver of subrogation in favor of Kendall County and the City.
- 5. In consideration for the above services, the City will permit Kendall County to utilize the Subject Road, as well as Bristol Ridge Road as a signed detour route for the Galena Road Bridge Project, which is expected to last six months and take place within the next five (5) years. Further, the City shall donate to Kendall County an approximately ½ acre right-of-way on the South side of Galena Road for use in the Galena Road Bridge Project. Kendall county shall prepare all necessary plats, legal descriptions and title work to enable such donation to take place.

- 6. The Township shall also permit Kendall County to utilize the portion of Bristol Ridge Road under its jurisdiction as a signed detour route for the Galena Road Bridge Project, which is expected to last six months and take place within the next five (5) years.
- 7. The parties hereby understand and agree that this Intergovernmental Agreement shall not require, nor confer, any additional responsibility on any of the parties to undertake maintenance, repairs or improvements to the Subject Detour Route roadways, except as are already provided by law or otherwise described in this Agreement.
- 8. Each Party shall hold harmless, indemnify and defend the other parties, including such party's past, present, and future board members, elected officials, insurers, employees, and agents from and against all liability, claims, suits, demands, proceedings and actions, including costs, reasonable fees and expense of defense, arising from, to, any loss, damage, injury, death, or loss or damage to property (collectively, the "Claims"), to the extent such Claims result from either 1) intentional, willful, wanton, reckless or negligent conduct by such indemnifying party in the use, maintenance, repair, and/or resurfacing of the Subject Road or 2) such indemnifying party's failure to adequately perform its obligations pursuant to this Agreement. However, no Party shall be indemnified hereunder for any loss, liability, damage, or expense resulting from its own intentional, willful, wanton, reckless or negligent misconduct.

Nothing contained herein shall be construed as prohibiting The City, Township or Kendall County, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. The City, Township and/or Kendall County's participation in their own defense shall not remove the other party's and/or Contractors and

Subcontractors' duty to indemnify, defend, and hold the other party harmless, as set forth

herein. The City, Township and Kendall County do not waive their defenses or immunities

under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS

10/1 et seq.) or other such Acts by reason of indemnification or insurance.

9. Nothing in this agreement shall be interpreted to alter the parties' jurisdiction over any of the

Subject Detour Route roadways.

10. Nothing in this Agreement shall be construed as to create a duty or responsibility on behalf of

Kendall County to maintain, repair, replace, or otherwise control the Subject Road or the

improvements completed thereon.

11. This Agreement and the rights of the parties hereunder may not be assigned (except by

operation of law), and the terms and conditions of this Agreement shall inure to the benefit of

and be binding upon the respective successors and assigns of the parties hereto. Nothing in

this Agreement, express or implied, is intended to confer upon any party, other than the

parties and their respective successors and assigns, any rights, remedies, obligations or

liabilities under or by reason of such agreements.

12. Any notice required or permitted to be given pursuant to this Agreement shall be duly given

if sent by fax, certified mail, or courier service and received. As such, all notices required or

permitted hereunder shall be in writing and may be given by either (a) depositing the same in

the United States mail, addressed to the party to be notified, postage prepaid and certified

with the return receipt requested, (b) delivering the same in person, or (c) telecopying the

same with electronic confirmation of receipt.

If to the County:

County Engineer

Kendall County Highway Department

6780 Route 47

Yorkville, Illinois 60560

6

With copy to: Kendall County State's Attorney

807 John Street,

Yorkville, Illinois, 60560

If to the City: City Administrator

United City of Yorkville 800 Game Farm Road Yorkville, Illinois 60560

If to the Township: Jeff Corneils

Bristol Township Highway Commissioner

P.O. Box 165 Bristol, IL 60512

Or such address or counsel as any party hereto shall specify in writing pursuant to this Section from time to time.

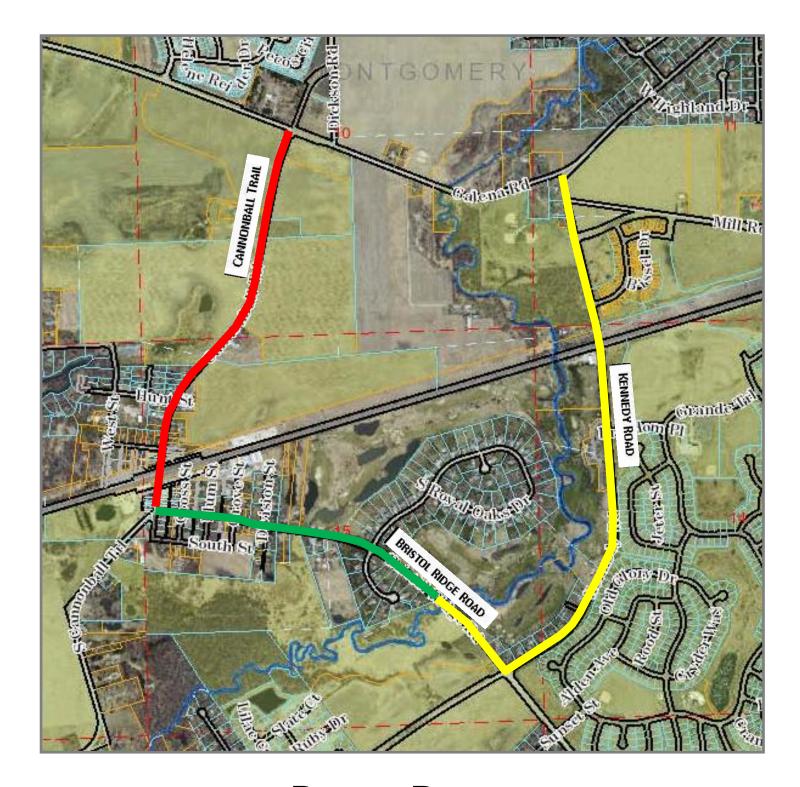
- 13. This Agreement shall be interpreted and enforced under the laws of the State of Illinois. Any legal proceeding related to enforcement of this Agreement shall be brought in the Circuit Court of Kendall County, Illinois. In case any provision of this Agreement shall be declared and/or found invalid, illegal or unenforceable by a court of competent jurisdiction, such provision shall, to the extent possible, be modified by the court in such manner as to be valid, legal and enforceable so as to most nearly retain the intent of the parties, and, if such modification is not possible, such provision shall be severed from this Agreement, and in either case the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.
- 14. This Agreement may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Agreement.
- 15. This Agreement represents the entire agreement between the parties and there are no other promises or conditions in any other agreement whether oral or written. Except as stated

- herein, this agreement supersedes any other prior written or oral agreements between the parties about the subject projects and may not be further modified except in writing acknowledged by all parties;
- 16. This Agreement may be terminated by any party by providing thirty (30) days advance written notice to the other party. However, the parties shall not be permitted to cancel the agreement once the City has begun the process of improving the subject portion of Kennedy Road. Further, neither the Township nor the City shall be permitted to terminate the Agreement once the Galena Road Bridge Project begins construction. Once construction has begun, any obligations assumed by the City and Township herein shall survive any termination of this Agreement
- 17. Nothing contained in this Agreement, nor any act of Kendall County, the Township or the City pursuant to this Agreement, shall be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the County, Township and the City.
- 18. This Agreement shall be in full force and effect for a period of ninety-nine (99) years from the date of the last signature below unless: 1) it is agreed to terminate this Agreement in writing signed by all parties, or 2) it is cancelled pursuant to paragraph 18 above, or 3) the Galena Road Bridge Project is completed, at which time the Agreement shall be terminated.
- 19. This Agreement shall be effective upon approval by the respective legislative bodies of Kendall County, the Township and the City and the date of this Agreement shall be deemed as the last date of acceptance of this as provided herein below.

20. Kendall County, the Township and the City each hereby warrant and represent that their respective signatures set forth below have been, and are on the date of this Agreement, duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Intergovernmental Agreement to be executed by their duly authorized officers on the above date.

	aty of Kendall, a unit of local government e State of Illinois	United City of Yorkville, Kendall County Illinois a municipal corporation	
By:	Chair, Kendall County Board By:	Mayor	
	Date:	Date:	
	Attest:	Attest:	
	County Clerk	City Clerk	
	ol Township Road District, a unit of local rnment of Illinois		
By:	Commissioner, Bristol Township Road D	- istrict	
	Date:	-	
	Attest:		
	Township Clerk		



DETOUR ROUTE

for

Galena Road Bridge over Blackberry Creek



Bristol Road District Jurisdiction

City of Yorkville Jurisdiction



Reviewed By:	
Legal	
Finance	
Engineer	
City Administrator	
Human Resources	
Community Development	
Police	
Public Works	
Parks and Recreation	

Agenda Item Number
New Business #9
Tracking Number
PW 2017-18
· · · · · · · · · · · · · · · · · · ·

Agenda Item Summary Memo

Title: Kennedy Road	d Improvements – Design and Cor	nstruction Engineering Services Agreement
Meeting and Date:	Public Works Committee – Febr	ruary 21, 2017
Synopsis:		
Council Action Prev	viously Taken:	
Date of Action:	Action Taken:	
Item Number:		
Type of Vote Requi	red: Majority	
Council Action Req	uested: Approval	
Submitted by:	Bart Olson	Administration
	Name	Department
	Agenda Item N	otes:

THIS AGREEMENT, by and between the United City of Yorkville, hereinafter referred to as the "City" or "OWNER" and Engineering Enterprises, Inc. hereinafter referred to as the "Contractor" or "ENGINEER" agrees as follows:

A. Services:

ENGINEER agrees to furnish to the City the following services: The ENGINEER shall provide any and all necessary engineering services to the City as indicated on the included Attachment A. Design engineering for Kennedy Road as indicated on Attachment D will be provided; additionally construction engineering will be provided. All Engineering will be in accordance with all City and Illinois Department of Transportation requirements.

B. Term:

Services will be provided beginning on the date of execution of this agreement and continuing, until terminated by either party upon 7 days written notice to the non-terminating party or upon completion of the Services. Upon termination the ENGINEER shall be compensated for all work performed for the City prior to termination.

C. Compensation and maximum amounts due to ENGINEER:

ENGINEER shall receive as compensation for all work and services to be performed herein, an amount based on the Estimate of Level of Effort and Associated Cost included in Attachment B. Design Engineering will be paid for as a Lump Sum in the amount of \$24,100.00 and Construction Engineering will be paid for hourly at the actual rates for services to be performed, currently estimated at \$35,300.00. The hourly rates for this project are shown in the attached 2016 Standard Schedule of Charges. All payments will be made according to the Illinois State Prompt Payment Act and not less than once every thirty days.

For outside services provided by other firms or subconsultants, the City shall pay the ENGINEER the invoiced fee to the ENGINEER, plus 0%. Such outside services include, but are not limited to services to be provided by Rubino Engineering, currently estimated at \$5,000.00

D. Changes in Rates of Compensation:

In the event that this contract is designated in Section B hereof as an Ongoing Contract, ENGINEER, on or before February 1st of any given year, shall provide written notice of

any change in the rates specified in Section C hereof (or on any attachments hereto) and said changes shall only be effective on and after May 1st of that same year.

E. Ownership of Records and Documents:

ENGINEER agrees that all books and records and other recorded information developed specifically in connection with this agreement shall remain the property of the City. ENGINEER agrees to keep such information confidential and not to disclose or disseminate the information to third parties without the consent of the City. This confidentiality shall not apply to material or information, which would otherwise be subject to public disclosure through the freedom of information act or if already previously disclosed by a third party. Upon termination of this agreement, ENGINEER agrees to return all such materials to the City. The City agrees not to modify any original documents produced by ENGINEER without contractors consent. Modifications of any signed duplicate original document not authorized by ENGINEER will be at OWNER's sole risk and without legal liability to the ENGINEER. Use of any incomplete, unsigned document will, likewise, be at the OWNER's sole risk and without legal liability to the ENGINEER.

F. Governing Law:

This contract shall be governed and construed in accordance with the laws of the State of Illinois. Venue shall be in Kendall County, Illinois.

G. Independent Contractor:

ENGINEER shall have sole control over the manner and means of providing the work and services performed under this agreement. The City's relationship to the ENGINEER under this agreement shall be that of an independent contractor. ENGINEER will not be considered an employee to the City for any purpose.

H. Certifications:

Employment Status: The Contractor certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

Anti-Bribery: The Contractor certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Loan Default: If the Contractor is an individual, the Contractor certifies that he/she is not in default for a period of six months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship

Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

Felony Certification: The Contractor certifies that it is not barred pursuant to 30 Illinois Compiled Statutes 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

Barred from Contracting: The Contractor certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 Illinois Compiled Statutes 5/33E or similar law of another state.

Drug Free Workplace: The Contractor certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Contractors, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

Non-Discrimination, Certification, and Equal Employment Opportunity: The Contractor agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Contractor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Contractor agrees to incorporate this clause into all subcontracts under this Contract.

International Boycott: The Contractor certifies that neither it nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act (30 ILCS 582).

Record Retention and Audits: If 30 Illinois Compiled Statutes 500/20-65 requires the Contractor (and any subcontractors) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the

U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials.

United States Resident Certification: (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Contractor certifies that he/she is a: <u>x</u> United States Citizen ___ Resident Alien ___ Non-Resident Alien The Internal Revenue Service requires that taxes be withheld on payments made to non resident aliens for the performance of personal services at the rate of 30%.

Tax Payer Certification: Under penalties of perjury, the Contractor certifies that its
Federal Tax Payer Identification Number or Social Security Number is (provided
separately) and is doing business as a (check one): Individual Real Estate
Agent Sole Proprietorship Government Entity Partnership Tax
Exempt Organization (IRC 501(a) only) <u>x</u> Corporation Not for Profit Corporation
Trust or Estate Medical and Health Care Services Provider Corp.

I. Indemnification:

ENGINEER shall indemnify and hold harmless the City and City's agents, servants, and employees against all loss, damage, and expense which it may sustain or for which it will become liable on account of injury to or death of persons, or on account of damage to or destruction of property resulting from the performance of work under this agreement by ENGINEER or its Subcontractors, or due to or arising in any manner from the wrongful act or negligence of ENGINEER or its Subcontractors of any employee of any of them. In the event that the either party shall bring any suit, cause of action or counterclaim against the other party, the non-prevailing party shall pay to the prevailing party the cost and expenses incurred to answer and/or defend such action, including reasonable attorney fees and court costs. In no event shall the either party indemnify any other party for the consequences of that party's negligence, including failure to follow the ENGINEER's recommendations.

J. Insurance:

The ENGINEER agrees that it has either attached a copy of all required insurance certificates or that said insurance is not required due to the nature and extent of the types of services rendered hereunder. (Not applicable as having been previously supplied)

K. Additional Terms or Modification:

The terms of this agreement shall be further modified as provided on the attachments. Except for those terms included on the attachments, no additional terms are included as a

part of this agreement. All prior understandings and agreements between the parties are merged into this agreement, and this agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties. In the event that any provisions of this agreement shall be held to be invalid or unenforceable, the remaining provisions shall be valid and binding on the parties. The list of attachments are as follows:

Attachment A: Scope of Services

Attachment B: Estimated Level of Effort and Associated Cost

Attachment C: Anticipated Project Schedule

Attachment D: Location Map

Attachment E: 2016 Standard Schedule of Charges

L. Notices:

All notices required to be given under the terms of this agreement shall be given mail, addressed to the parties as follows:

For the City: For the ENGINEER:

City Administrator and City Clerk United City of Yorkville 800 Game Farm Road Yorkville, IL 60560 Engineering Enterprises, Inc. 52 Wheeler Road

Sugar Grove Illinois 60554

Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

Agreed to thisday of	, 2017.
United City of Yorkville:	Engineering Enterprises, Inc.:
Gary Golinski Mayor	Brad Sanderson, P.E. Vice President
Beth Warren City Clerk	Angie Smith Executive Assistant

Kennedy Road Improvements United City of Yorkville Kendall County, IL

Professional Services Agreement - Design and Construction Engineering

Attachment A – Scope of Services

Design Engineering:

- Coordinate and develop with City Staff the final scope of improvements
- Obtain, review and inventory existing utility, roadway, right-of-way, ownership, soil data, etc.
- Obtain geotechnical site data, consisting of pavement cores taken every 300-500 feet, as necessary. Confirm pavement design and rehabilitation methodology.
- Prepare Local bid package, and ancillary documents, including:
 - o BLR12200 Local Public Agency Formal Contract Proposal
 - o BLR12200 A Schedule of Prices
 - o BLR12230 Bid Bond Form
 - o BC57 Affidavit of Availability
 - o BLR11310 Special Provisions
 - o Index for Supplemental Specifications and Recurring Special Provisions
 - o Check Sheet for Recurring Special Provisions
 - o Special Provisions
 - o Bureau of Design and Environment Special Provisions/Check sheets
 - Local Roads Special Provisions
 - o District Special Provisions
 - Location Map
 - o City Provisions & Details
 - o Existing/Proposed Typical Sections
 - o Highway Standards
 - o Prevailing Wage
 - o BLR14232 Municipal Maintenance Operations
- Coordinate City review, including revisions and approval
- Prepare preliminary and final cost estimates
- Assist in bidding, contractor/bid evaluations, contract preparation and additional contract administration as required; facilitate City approval of Contract
- Attend meetings with Staff to review design progress
- Provide all bid packages in 8 ½" x 11½" format
- Provide planning/design/construction schedule and updates regarding any potential items affecting the schedule

Construction Engineering:

- Attend the Pre-Construction Conference with the Contractor
- Provide resident engineering for on-site observation
- Daily documentation of work tasks and calculation of installed pay items
- Monitor adherence to specifications
- Gather material inspection and coordinate any required testing on behalf of the City
- Provide guidance to the contractor when questions arise during construction
- Prepare/verify payment estimates and gather certified payrolls and waivers of lien
- Provide information to residents as required
- Perform punch list inspections, provide follow up inspections and recommend acceptance when appropriate
- Communicate activities with City weekly, or as required based on onsite activities
- Prepare necessary closeout paperwork.



ATTACHMENT B - ESTIMATE OF LEVEL OF EFFORT AND ASSOCIATED COST PROFESSIONAL ENGINEERING SERVICES

KENNEDY ROAD IMPROVEMENTS United City of Yorkville, IL

		ENTITY:		ENGIN	ERING			SURVEYING		DRA	AFTING	ADMIN.	WORK	
			PRINCIPAL		SENIOR			SENIOR			SENIOR		ITEM	COST
WORK		PROJECT ROLE:	IN	PROJECT	PROJECT	PROJECT	PROJECT	PROJECT	PROJECT	CAD	PROJECT		HOUR	PER
ITEM			CHARGE	MANAGER	ENGINEER	ENGINEER	MANAGER	SURVEYORI	TECHNICIAN	MANAGER	TECHNICIAN	ADMIN.	SUMM.	ITEM
NO.	WORK ITEM	HOURLY RATE:	\$185	\$163	\$141	\$129	\$163	\$141	\$117	\$163	\$129	\$78		
FINAL EN	IGINEERING													
2.1	Project Management and Administration		6	20									26	\$ 4,370
2.2	Project Meetings		2	2	2								6	\$ 978
2.3	Geotechnical Investigation (Coordination, Field Work,	Review Report)		2	4								6	\$ 890
2.4	Analyze/Finalize Roadway Rehabilitation Methods			2	4								6	\$ 890
2.5	Site Review, Identification of Required Improvements			2	16							2	20	\$ 2,738
2.6	Prepare Pre-Final Bid Package/Exhibits- 50%			4	20						8		32	\$ 4,504
2.7	Prepare Pre-Final Bid Package/Exhibits- 100%		1	8	32						8		49	\$ 7,033
2.8	Prepare Engineer's Opinion of Probable Construction	Cost - 100%		2	4								6	\$ 890
2.9	Bidding and Contracting		1	2	8							2	13	\$ 1,795
		Final Engineering Subtotal:	10	44	90	-	-	-	-	-	16	4	164	\$ 24,088
CONSTR	UCTION ENGINEERING													
3.1	Contract Administration		4	16		16							36	\$ 5,412
3.2	Construction Layout			4		20	•						24	\$ 3,232
3.3	Observation and Documentation		8	12		180							200	\$ 26,656
	Construc	tion Engineering Subtotal:	12	32	-	216		-	-	-	-	-	260	\$ 35,300
		PROJECT TOTAL:	22	76	90	216	-	-		-	16	4	424	59,388

DIRECT EXPENS	ES	
Printing =	\$	-
Supplies & Misc. =	\$	
Geotechnical (Rubino) =	\$	-
Material Testing (Rubino) =	\$	5,000
DIRECT EXPENSES =	\$	5,000

LABOR SUMMARY	
Engineering Expenses =	\$ 57,012
Surveying Expenses =	\$ -
Drafting Expenses =	\$ 2,064
Administrative Expenses =	\$ 312
TOTAL LABOR EXPENSES =	\$ 59,388

TOTAL EXPENSES = \$ 64,388



Legend

Preliminary

Construction

Design Work Item

Project Management & QC/QA

Bidding and Contracting

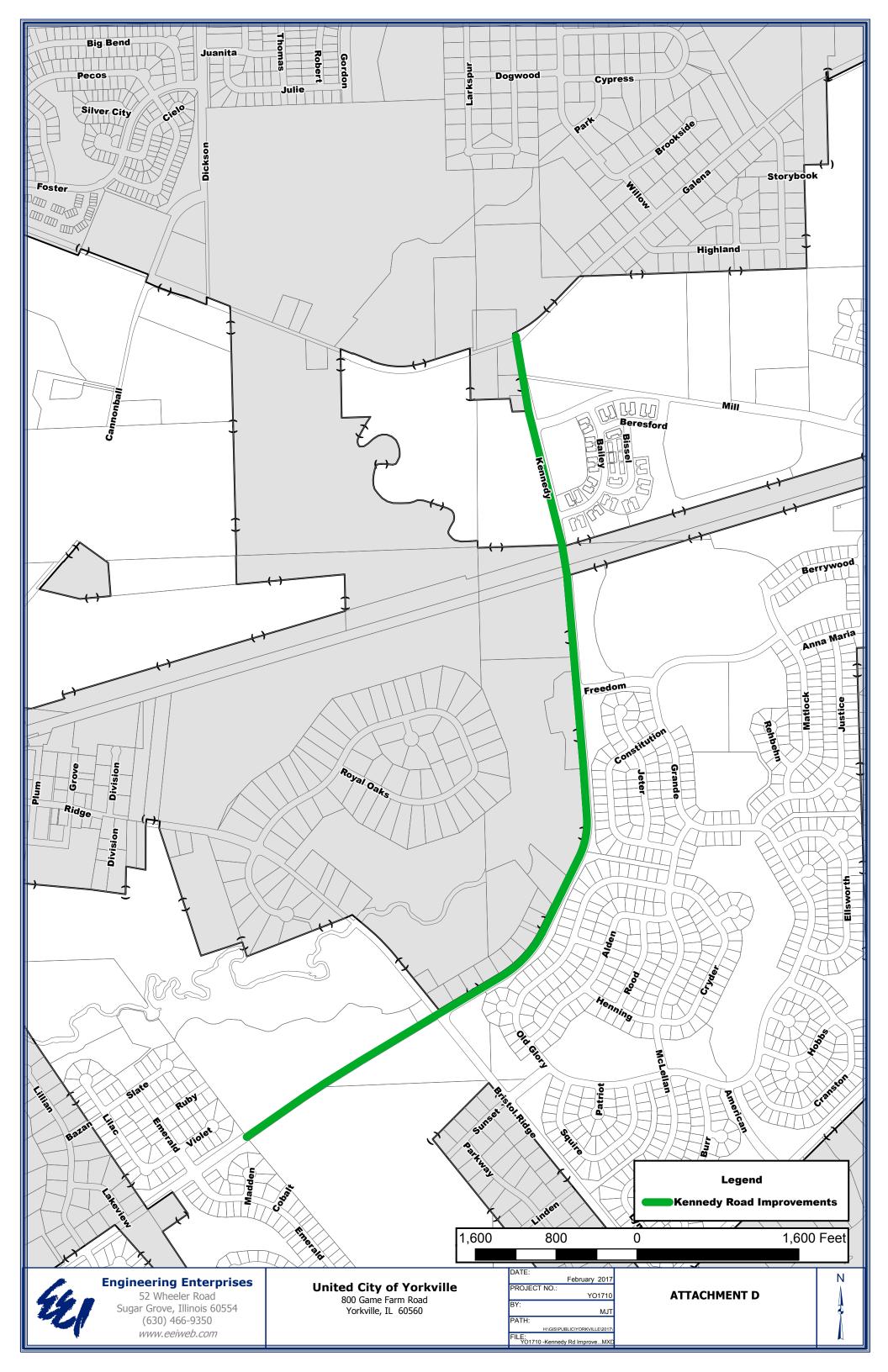
Meeting(s)

ATTACHMENT C: ANTICIPATED PROJECT SCHEDULE

KENNEDY ROAD IMPROVEMENTS UNITED CITY OF YORKVILLE

WORK		Year:																	201	7															
ITEM		Month:		Janu	ary	Т	Fe	brua	ary	Т	N	March		Т	Α	pril			Ma	T	June July						,	August				Se	mber		
NO.	WORK ITEM	Week Starting:	1	2	3	4	1 2	2 ;	3	4 1	1 2	2 3	4	1	2	3	4	1	2	3	4	1	2	3 4	4	1 2	2 ;	3 4	1	2	3	4	1	2	3 4
FINAL DI	ESIGN ENGINEERING																																		
2.1	Project Management and Administration																																		
2.2	Project Meetings																																		
2.3	Geotechnical Investigation (Coordination, Field Work, Re	eview Report)																																	
2.4	Analyze/Finalize Roadway Rehabilitation Methods																																		
2.5	Site Review, Identification of Required Improvements																																		
2.6	Prepare Pre-Final Bid Package/Exhibits- 50%																																		
2.7	Prepare Pre-Final Bid Package/Exhibits- 100%																																		
2.8	Prepare Engineer's Opinion of Probable Construction Co	st - 100%																																	
2.9	Bidding and Contracting																																		
CONSTR	UCTION ENGINEERING																																		
3.1	Contract Administration																																\Box		
3.2	Constructing Layout																																		
3.3	Observation and Documentation													I																			ı		

\\Milkyway\EEI_Storage\Docs\Public\Yorkville\2017\[Attachment C - Schedule.xls]Schedule







January 1, 2016

EMPLOYEE DESIGNATION	CLASSIFICATION	HOURLY RATE
Senior Principal	E-4	\$190.00
Principal	E-3	\$185.00
Senior Project Manager	E-2	\$180.00
Project Manager	E-1	\$163.00
Senior Project Engineer/Planner/Surveyor II	P-6	\$150.00
Senior Project Engineer/Planner/Surveyor I	P-5	\$141.00
Project Engineer/Planner/Surveyor	P-4	\$129.00
Senior Engineer/Planner/Surveyor	P-3	\$117.00
Engineer/Planner/Surveyor	P-2	\$108.00
Associate Engineer/Planner/Surveyor	P-1	\$ 97.00
Senior Project Technician II	T-6	\$141.00
Senior Project Technician I	T-5	\$129.00
Project Technician	T-4	\$117.00
Senior Technician	T-3	\$108.00
Technician	T-2	\$ 97.00
Associate Technician	T-1	\$ 84.00
Engineering/Land Surveying Intern	I-1	\$ 80.00
GIS Technician	G-1	\$ 65.00
Administrative Assistant	A-3	\$ 78.00
CREW RATES, VEHICLES AND REPROGRAPHICS		
1 Man Field Crew with Standard Survey Equipment		\$153.00
2 Man Field Crew with Standard Survey Equipment		\$240.00
1 Man Field Crew with RTS or GPS *		\$190.00
2 Man Field Crew with RTS or GPS *		\$276.00
Vehicle for Construction Observation		\$15.00
In-House Scanning and Reproduction	\$0.25/Sq. Ft. (Black & White) \$1.00/Sq. Ft. (Color)	

*RTS = Robotic Total Station / GPS = Global Positioning System



Reviewed By:	
Legal	
Finance	l ⊔
Engineer	
City Administrator	
Human Resources	
Community Development	
Police	
Public Works	
Parks and Recreation	

Agenda Item Number
New Business #10
Tracking Number
PW 2017-19

Agenda Item Summary Memo

Title: Route 34 Impr	rovements (Center to Eldamain)	
Meeting and Date:	Public Works Committee – Februa	ry 21, 2017
Synopsis: Considera	ntion of Agreement	
Council Action Prev	iously Taken:	
Date of Action:	Action Taken:	
Item Number:		
Type of Vote Requir	red:	
Council Action Requ	uested: Consideration of Approval	
Submitted by:	Brad Sanderson	Engineering
	Name	Department
	Agenda Item Note	es:



Memorandum

To: Bart Olson, City Administrator

From: Brad Sanderson, EEI

CC: Eric Dhuse, Director of Public Works

Krysti Barksdale-Noble, Community Dev. Dir.

Lisa Pickering, Deputy City Clerk

Date: February 15, 2017

Subject: Rt 34 Improvements (Eldamain to Center)

Attached is the draft City-State Agreement from IDOT in regards to the above referenced project. The intent of the agreement is to summarize the anticipated costs and outline the maintenance responsibilities to the City for the project. Currently, IDOT is projecting a Spring 2018 construction start.

The total local share is anticipated to be \$407,882 as noted below and described in detail in the agreement.

Cost Share Item	Es	t. Const. Cost	Est. Local Share of Const. Cost	Est. Local Share of Eng. Cost	Total Est. .ocal Cost Share
Public Traffic Signals	\$	1,040,000	\$ 87,680	\$ 13,152	\$ 100,832
Isabel Dr. Traffic Signals	\$	165,000	\$ 165,000	\$ 24,750	\$ 189,750
Emergency Pre-Emption	\$	15,000	\$ 15,000	\$ 2,250	\$ 17,250
Combination Highway Lighting	\$	45,000	\$ 45,000	\$ 6,750	\$ 51,750
Shared Use Path & Sidewalk	\$	275,000	\$ 55,000	\$ 8,250	\$ 63,250
Credit for Existing Sidewalk	\$	65,000	\$ (13,000)	\$ (1,950)	\$ (14,950)
Total:			\$ 354,680	\$ 53,202	\$ 407,882

After construction, the Cities maintenance responsibilities will be as described on pages 6 and 7 of the agreement.

At this time, IDOT is requesting approval of the City-State Agreement. The Agreement is consistent with the previously approved Letter of Understanding (attached).

If you have any questions or require additional information, please let us know.

March 6, 2015

MAR - 9 2015

Honorable Gary Golinski Mayor of Yorkville 800 Game Farm Rd. Yorkville, IL 60560

Telephone 815/434-6131

ENGINEERING ENTERPRISES, INC.

FAP 591 (US 34) Section (13)R-2&BY Reconstruction of US 34 from Eldamain Road to Center Parkway in Yorkville Kendall County Job No. P-93-035-07 Contract No. 66993 File No. 1825-100

Dear Mayor Golinski:

The Illinois Department of Transportation, District 3 office in Ottawa, is continuing engineering studies for reconstructing US 34 from Eldamain Road to Center Parkway in Yorkville. Proposed improvements include pavement reconstruction to provide two lanes in each direction with a two-way left turn lane median, curb and gutter, pedestrian and bicycle accommodations, and intersection and safety improvements as needed.

Based on previous meetings and correspondence, the United City of Yorkville and the District have jointly developed the proposed improvements. Items identified that require a local cost share include: traffic signal installation/modernization including Accessible Pedestrian Signals (APS), traffic signal pre-emption devices, water and sewer relocations, shared use path, and sidewalk. A description, estimated total cost, and estimated cost share for each item are listed in the paragraphs and table below:

Traffic signals will be replaced and/or modernized at Sycamore Road, Beecher Road, Cannonball Trail, Game Farm Road, and Center Parkway. Proposed signals will include Accessible Pedestrian Signals (APS) as requested by the United City of Yorkville. Traffic signal installation/modernization costs are estimated at \$190,000 for 3-legged intersections and \$240,000 for 4-legged intersections. It is also estimated that traffic signal interconnect installation will cost approximately \$20,000 per intersection. Traffic signal costs are assumed to be 80% federal money with the remaining 20% divided by jurisdiction of the legs of the intersection. The State has jurisdiction of two legs of each intersection on the project so the 20% is proportioned between the State and City accordingly. The total construction cost for traffic signals and interconnect is estimated to be approximately \$1,200,000. The estimated local cost share (fraction of 20% depending on number of local legs) is approximately \$106,000 for construction and \$16,000 (15% of construction cost share) for engineering. After construction, the maintenance costs of traffic signals will be shared based on the number of local legs.

Honorable Gary Golinski Page Two March 6, 2015

Traffic signal adjustments and controller upgrades will be required at the intersection of US 34 with Isabel Drive (full replacement or modernization is not anticipated to be necessary). The total construction cost for adjustments, upgrades, installation of APS, and signal interconnect is estimated to be approximately \$70,000. Initially installed by permit to serve a retail development, this location is identified as a private benefit traffic signal. Subsequently, the signal work will be at 100% City cost. The estimated local cost share (100% of construction cost by policy) is approximately \$70,000 estimated construction cost along with approximately \$11,000 (15% of construction cost share) for engineering. After construction, maintenance of the traffic signals at US 34 and Isabel Drive will continue to be 100% City responsibility.

Traffic signal emergency pre-emption devices will be installed on all mast arms at the intersections of US 34 with Sycamore Road (3 arms), Beecher Road (4 arms), Isabel Drive (3 arms), Cannonball Trail (4 arms), Game Farm Road (3 arms), and Center Parkway (4 arms). The total estimated construction cost for light detectors and amplifiers is approximately \$38,000. Estimated local cost share (100% of construction cost by policy) is approximately \$38,000 estimated construction cost along with \$6,000 (15% of construction cost share) for engineering. After construction, maintenance of pre-emption devices will be 100% City responsibility.

Highway lighting will be provided in combination with traffic signals at Sycamore Road, Beecher Road, Isabel Drive, Cannonball Trail, Game Farm Road and Center Parkway. The total estimated construction cost for highway lighting is approximately \$43,000. Estimated local cost share (100% of construction cost by policy) is \$43,000 estimated construction cost along with \$6,000 (15% of construction cost share) for engineering. After construction, maintenance of combination highway lighting and all appurtenances will be 100% City responsibility.

Impacts to City water and sewer facilities are anticipated to be minimal but will likely involve adjustments of manholes and valve boxes. The total preliminary estimated construction cost for adjustment of City utilities is approximately \$40,000. Estimated local cost share (100% of construction by policy) is \$40,000 estimated construction cost along with \$6,000 (15% of construction cost share) for engineering. After construction, maintenance of City utilities will be 100% City responsibility.

Installation of new shared use path is proposed along the north side of US 34 from Eldamain Road to Cannonball Trail and along the south side of US 34 from Cannonball Trail to Center Parkway. The path will consist of a 10 foot wide hot-mix asphalt surface on an aggregate base. The total estimated construction cost for new shared use path is approximately \$341,000. Estimated local cost share (20% of construction by policy) is \$68,000 and \$10,000 (15% of construction cost share) for engineering. After construction, maintenance of the shared use path will be 100% City responsibility.

Installation of new sidewalk is proposed along the south side of US 34 from Eldamain Road to just west of Beecher Road and along the north side of US 34 from Game Farm Road to Center Parkway. Proposed sidewalk will consist of a 5

Honorable Gary Golinski Page Three March 6, 2015

foot wide concrete surface 4 inches thick. The total estimated construction cost for new sidewalk is approximately \$220,000. Estimated local cost share (20% of construction by policy) is \$44,000 and \$7,000 (15% of construction cost share) for engineering. After construction, maintenance of the sidewalk will be 100% City responsibility.

Existing sidewalk along the north side of US 34 between Beecher Road and Cannonball Trail will be removed due to the project. Replacement of sidewalk removed due to the project is 100% State cost. Sidewalk along the north side of US 34 between Beecher Road and Cannonball Trail will be replaced with shared use path with a City cost share as noted above. However, the City will be credited for the estimated construction cost share of replacement with a policy sidewalk. The total estimated construction cost for sidewalk replacement is approximately \$73,000. The local cost credit is estimated at approximately \$15,000 for construction (20% by policy) and \$2,000 (15% of construction cost) for engineering that will be credited to the City as part of the agreement. The City's credit will be applied against the overall cost participation for the project.

The total estimated local cost share for all items is approximately \$454,000 including engineering costs and credits detailed above. See the table below for a summary of costs and credits.

Cost share item	Est. Const. Cost	Est. Local Share of Const. Cost	Est. Local Share of Eng. Cost	Total Est. Local Cost Share
Public Traffic Signals	\$1,200,000	\$106,000	\$16,000	\$122,000
Isabel Dr. Traffic Signals	\$70,000	\$70,000	\$11,000	\$81,000
Emergency Pre-Emption	\$38,000	\$38,000	\$6,000	\$44,000
Comb. Highway Lighting	\$43,000	\$43,000	\$6,000	\$49,000
City Owned Utilities	\$40,000	\$40,000	\$6,000	\$46,000
Shared Use Path	\$341,000	\$68,000	\$10,000	\$78,000
Sidewalk	\$220,000	\$44,000	\$7,000	\$51,000
Credit for Existing	\$73,000	-\$15,000	-\$2,000	-\$17,000
Sidewalk				
Total:	*\$1,952,000	\$394,000	\$60,000	\$454,000

*Note: Total for Est. Const. Cost does not include existing sidewalk credit estimated construction cost.

Please mark the appropriate box and sign below to indicate if you concur or not with the proposed improvements and estimated local cost share. If you do not concur with any or all of the proposed improvements, please provide any comments explaining the reasons and any changes you recommend. Return one copy of the letter and retain the second for your files.

The City will be included in review of contract plans during detailed design. Please note that additional enhancements or scope changes requested by the City could incur additional cost participation and/or charges for additional engineering effort. Final participation will be based on final plan quantities

Honorable Gary Golinski Page Four March 6, 2015

multiplied by awarded unit prices and cost share percentages based on the policy in place at the time the City/State agreement is written prior to construction. This work is tentatively scheduled in the Fiscal Year 2015-2020 Proposed Highway Improvement Program subject to project readiness and funding availability.

Ø	The United City of Yorkville concurs with the preliminary I stated above and hereby agrees to participate in the funding a responsibilities as stated above.				
	The United City of Yorkville does not concur with the participation as stated above. (Please provide comments below		local	cost	
Comm	ents:			-	
	Jay John Sable Gary Golinski United City of Yorkville	-6-15 Date			

If you have any questions or need further information, please contact Mr. Dave Alexander, Studies and Plans Senior Unit Chief, at (815) 434-8468.

Sincerely,

Paul A. Loete, P.E.

Deputy Director of Highways,

Region Two Engineer

By: Dave Broviak, P.E.

Acting Program Development Engineer

cc: Ms. Lisa Pickering, Deputy Clerk Mr. Bart Olson, City Administrator Mr. Brad Sanderson, City Engineer FAP 591 (US 34)
Section (13)R-2[(13BR)C,(13BR-1)BR]
Kendall County
Reconstruction to a 5-lane section
bridge replacement (SN 047-0049) and culvert replacement (SN 047-2014)
Job No. C-93-095-15
Contract No. 66993
Agreement JN 317001

AGREEMENT

This agreement is entered into by and between the State of Illinois, through its Department of Transportation, hereinafter called the STATE, and the United City of Yorkville of Kendall County, Illinois, hereinafter called the CITY.

WHEREAS, the STATE is an agency of the state government and the CITY is a unit of local government authorized to enter into intergovernmental agreements pursuant to the Intergovernmental Cooperation Act 5ILCS 220, et seq, and the Illinois Constitution Article VII, Sec. 10.

WHEREAS, to facilitate the free flow of traffic and ensure safety to the traveling public, the STATE and CITY are desirous of reconstructing US Route 34 (identified as Veterans Parkway within the CITY) from Eldamain Road east to Center Parkway. Work will include removal of the existing pavement and construction of new pavement to provide two lanes in each direction with a flush median, curb and gutter, drainage improvements, bicycle and pedestrian accommodations, and safety improvements. The culvert (SN 047-2014) carrying Rob Roy Creek under US 34 will be replaced with a double 12'X9' box culvert and the bridge (SN 047-0049) carrying US 34 over Blackberry Creek will be replaced with a two span bridge.

Termini of the subject project are approximately from the intersection of Eldamain Road with US 34 to the intersection of Center Parkway with US 34. The gross length of the project is 10,854 feet. The subject project is hereby identified under FAP 591 (US 34), State Section (13)R-2[(13BR)C,(13BR-1)BR], Job No. C-93-095-15 and Contract No. 66993 (see project location map attached hereto as Exhibit # 1).

WHEREAS, some work contained within this contract will take place outside the corporate limits or highway jurisdiction of the CITY. The content of this agreement shall be limited to address only work which is located within the United City of Yorkville. Traffic signal upgrades at Eldamain Road and any work within the intersection or west of the intersection is outside the limits of the CITY and is not addressed herein.

WHEREAS, the STATE is to apply Federal National Corridor Infrastructure Improvement Program (NCII) and National Highway Performance Program (NHPP) funds toward financing this project. Application is at an 80 percent federal and 20 percent STATE matching formula.

WHEREAS, the existing subject portion of US 34 consists of a variety of roadway cross sections. Existing pavement sections vary from two to five lane widths, some areas having curb

and gutter while many areas retain a rural cross section with a combination of paved and aggregate shoulders and open roadside drainage ditches.

WHEREAS, the purpose of this agreement is to provide a general description to the scope of work proposed with the subject project. All desired specific details of type of work, locations, design dimensions, elevations, item quantities and materials are to be obtained from the related project design plan sheets which serve as a supplement to this agreement. The said plans have been provided to the CITY for its review, comment and concurrence. Additional purposes of this agreement are to provide estimated costs, cite cost sharing participation between the STATE and CITY, determine responsibilities of funding, commitments to payments, and define jurisdictional and maintenance responsibilities of various roadways, utilities and appurtenances relating to the subject project.

WHEREAS, the proposed scope of work for the subject project is as follows:

A. Mainline US 34 Reconstruction - (80% FEDERAL/20% STATE Cost): Proposed is the removal of existing pavement and construction of new Portland cement concrete pavement to provide a 67 to 69 foot wide section (face to face of curb) with continuous shared use path and sidewalk through most of the project. Two through lanes in each direction will be provided throughout with 12 foot inside lanes and 13 to 14 foot outside lanes. A 13 foot center lane will serve as a flush median, two-way left turn lane, or dedicated turn lane as appropriate and right turn lanes are proposed in addition where they are warranted. Storm sewer and barrier curb and gutter will be constructed along the edge of pavement throughout the project limits.

The culvert (SN 047-2014) carrying Rob Roy Creek under US 34 will be replaced with a double 12'X9' box culvert and the bridge (SN 047-0049) carrying US 34 over Blackberry Creek will be replaced with a two span bridge.

Retaining walls will be constructed along the south side of US 34 from Blackberry Creek to Game Farm Road and from Game Farm Road east to approximate Station 379+00.

Noise abatement walls will be constructed along the south side of US 34 at two locations. One location includes two separate walls and extends from approximate Station 289+25 to 304+46 with approximate 100 foot extensions along Diehl Farm Road within that section. The second location is east of Game Farm Road from approximate Station 375+24 to 379+00. This wall will be located on top of the proposed retaining wall.

- B. Reconstrucion of Local Roads Intersecting US 34 (80% FEDERAL/ 20% STATE

 Cost): Improvements are required on the adjoining local roads to match width and profile changes proposed on US 34. The local road intersections to be included are as follows:
 - a. <u>US 34 at Diehl Farm Road</u> Diehl Farm Road will retain the existing lane configuration and will remain unsignalized but the pavement at the intersection will be reconstructed. A noise abatement wall will be constructed along the south side of US 34 on both sides of the intersection and will extend approximately one hundred feet along each side of Diehl Farm Road.
 - **b.** <u>US 34 at Sycamore Road</u> The intersection pavement will be reconstructed to provide a lane configuration similar to the existing.

- c. <u>US 34 at Beecher Road</u> A minimal amount of the local road pavement north and south of US 34 will need to be reconstructed. Radii and lane configurations will closely match the existing.
- **d.** <u>US 34 at Cannonball Trail</u> Approximately 50 feet of pavement north of US 34 and 100 feet south of US 34 will be reconstructed. Radii and lane configurations will be similar to the existing.
- e. <u>US 34 at Game Farm Road</u> Approximately 100 feet of pavement will be reconstructed south of US 34. Lane configuration will remain as existing and radii will be widened. Retaining walls will be constructed along the south side of US 34 and the wall east of the intersection will connect to the existing wall along the east side of Game Farm Road.
- f. <u>US 34 at Center Parkway</u> Approximately 100 feet of pavement south of US 34 and 120 feet of pavement north of US 34 will be reconstructed. Lane configurations will remain as existing but the island nose adjacent to and north of US 34 will be modified and radii will be widened in the northwest and southwest quadrants.

C. <u>Upgrade or Replace Existing Traffic Signals - (Variable Cost Share Participation):</u>

- a. Traffic signals will be upgraded at four intersections along US 34 within the CITY. The CITY's cost share participation percentage will vary based on the number of legs and jurisdiction of each leg. The CITY's cost share percentage will be 10 percent at the four legged intersection with Beecher Road, Cannonball Trail, and Center Parkway. The CITY's cost share percentage will be 100 percent at Isabel Drive because it is a private benefit traffic signal. Cost estimates are included in the cost estimate table in provision 3 of this agreement.
- b. Traffic signals will be replaced at two intersections along US 34 within the CITY. The CITY's cost share participation percentage will be 6.6 percent at the three legged intersections with Sycamore Road and Game Farm Road. Cost estimates are included in the cost estimate table in provision 3 of this agreement.
- D. <u>Traffic Signal Interconnect (80% FEDERAL/20% STATE Cost)</u>: The STATE will assume all costs for interconnect of the newly replaced or upgraded traffic signals.
- E. <u>Combination Roadway Lighting (100% CITY Cost)</u>: Within the CITY, an estimated 14 luminaires will be installed in combination with traffic signal improvements at 100 percent CITY cost.
- F. <u>Emergency Pre-emption Units (100% CITY Cost)</u>: Emergency pre-emption detectors and amplifiers will be installed as needed to serve all traffic signals within the project limits.
- G. Shared Use Path (80% FEDERAL/20% CITY): A 10 foot wide asphalt surfaced path for shared bicycle and pedestrian use will be constructed along the north side of US 34 from

Eldamain Road to Cannonball Trail and along the south side of US 34 from Cannonball Trail to Center Parkway at 20 percent CITY cost participation.

H. Sidewalk - (Variable Cost):

- a. Removal and Replacement of Existing Sidewalk Approximately 13,740 square feet of existing sidewalk will be removed at 100 percent STATE cost. The majority will be replaced with shared use path but a credit for the city cost share of replacement sidewalk will be given to the CITY as shown in the table below.
- b. **Proposed new sidewalk** Approximately 34,513 square feet of proposed sidewalk will be constructed at 20 percent CITY cost participation.
- I. <u>Land Acquisition (100% STATE Cost):</u> The STATE will pay 100 percent of all costs for land acquisition required for the project, including costs for shared use path and sidewalk.
- J. All other work necessary to complete the project will be performed in accordance with the approved plans and specifications.

WHEREAS, the CITY is desirous of the said US 34 project in that same will be of immediate benefit to CITY residents and permanent in nature.

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

- 1. The above stated recitals are incorporated herein by reference, as if full set out herein.
- The STATE agrees to make the surveys, prepare the plans and specifications, obtain right of ways, receive bids and award the contract, furnish engineering inspection during construction and cause the improvement to be built in accordance with the plans, specifications, and contract.
- 3. The STATE agrees to pay all land acquisition, construction and engineering costs subject to reimbursement by the VILLAGE as hereinafter stipulated below.

Work Item Mainline US 34 and intersecting local road reconstruction (Includes all Structures, noise abatement walls and retaining w	Construction Cost \$20,500,000 alls)	Federal Cost 16,400,000	80.0%	State Cost 4,100,000		City Cost 0	0.0%
Traffic Signals (Sycamore Road & Game Farm Ro	\$480,000 pad)	384,000	80.0%	64,320	13.4%	31,680	6.6%
Traffic Signals (Beecher Road, Cannonball Trail, & Center Parkw	\$560,000 ray)	448,000	80.0%	56,000	10.0%	56,000	10.0%
Traffic Signals (Isabel Drive, Private Benefit)	\$165,000	0	0.0%	0	0.0%	165,000	100.0%
Traffic Signal Interconnect	\$145,000	116,000	80.0%	29,000	20.0%	0	0.0%
Combination Roadway Lighting	\$45,000	0	0.0%	0	0.0%	45,000	100.0%
Emergency Pre-emption Units	\$15,000	0	0.0%	0	0.0%	15,000	100.0%
Shared Use Path and new sidewalk	\$275,000	220,000	80.0%	0	0.0%	55,000	20.0%
Sidewalk Removal	\$30,000	24,000	80.0%	6,000	20.0%	0	0.0%
Credit for replacement of sidewaremoved for the project	\$65,000					-13,000	-20.0%
subtotal		17,592,000		4,255,320		354,680	
Engineering (15%)						53,202	
Totals	\$22,280,000	17,592,000		4,255,320		407,882	

^{4.} The CITY's participation shall be predicated on the percentages shown above for the specified work. CITY cost shall be determined by multiplying the final quantities times bid unit prices of the awarded contract, plus an additional 15 percent for preliminary and construction engineering. Participation toward the traffic signal upgrades at all intersections except Isabel Drive shall not exceed a total of \$126,000 which represents 125 percent of their estimated construction and engineering cost.

- 5. The CITY agrees to pass and approve a resolution appropriating \$410,000 to reimburse the STATE for the work as described in this agreement. A copy of the ordinance is attached hereto as Exhibit #2.
- 6. The CITY agrees to pass a supplemental resolution to provide necessary funds for its share of the cost of this improvement if the amount appropriated in Exhibit #2 proves to be insufficient to cover said cost.
- 7. The CITY agrees that upon receipt of the first and subsequent progress payments made to the CONTRACTOR, the CITY will pay to the STATE from any funds allotted to the CITY, an amount equal to the CITY share \$410,000 divided by the estimated construction costs, \$22,215,000 multiplied by the actual progress payment made to the CONTRACTOR until the entire obligation incurred under this AGREEMENT has been paid. The CITY's actual monetary reimbursement obligation to the STATE will be based upon the final quantities and bid unit prices of the awarded contract.
- 8. Upon final inspection of the improvement and so long as US 34 (Veterans Parkway) remains and is used as a state highway, the STATE agrees to retain jurisdiction and will maintain or cause to be maintained all traffic lanes, including turn lanes, and curb and gutter that adjoins these traffic lanes and any stabilized shoulders and/or roadside drainage ditches that serve the state highway. This includes the proposed box culvert, bridge, shared use path on the bridge, and retaining walls within STATE right of way.
- 9. It is mutually agreed by the STATE and the CITY that all CITY owned streets that intersect US 34 and are impacted and thereby reconstructed by the STATE due to the highway project, will remain under the jurisdiction of the CITY at all times.
- 10. The CITY agrees to maintain the entire right of way outside of that maintained by the STATE. This includes but is not limited to, CITY utilities, landscaping, sidewalks, shared use paths, parkways, crosswalks and stop line/stop bar markings. Maintenance includes, but is not limited to, all cost of material and labor for repair and/or replacement of surfaces, path or sidewalk signing and marking, mowing, landscaping, drainage, snow and ice removal, clearing of debris and trash, and removal of graffiti.
- 11. The CITY agrees, upon completion of the project, to maintain all storm sewers and appurtenances by performing those functions necessary to keep the sewer in serviceable condition, including cleaning sewer lines, inlets, manholes, and catch basins along with repair and/or replacement of inlet, manhole, and catch basin frames, grates, or lids. The CITY further agrees to repair and/or reconstruct structural failures to a maximum of 12 feet between adjacent inlets, manholes, or catch basins.
- 12. The STATE agrees to assume responsibility for repairs and/or reconstruction of the storm sewer system that exceeds the routine maintenance requirements of the CITY, as cited in the above paragraph.
- 13. The CITY agrees that no future storm sewer connection or additional water discharge will be added to the storm sewer system that is being constructed as part of this project. The CITY

- agrees to obtain a permit from the STATE prior to routing any additional discharge to storm sewer system constructed as part of this contract.
- 14. Upon acceptance by the STATE of the traffic signal work included herein the responsibility for maintenance and energy for signals and preemption devices shall continue to be as outlined in the Master Agreement executed by the STATE and the CITY on April 25, 2011. All existing traffic signals are being replaced or upgraded. No additional traffic signals are being installed at new locations under this contract.
- 15. The CITY agrees to assume all maintenance and energy costs for all roadway lighting that is to be constructed as part of this project.
- 16. The CITY agrees to provide all routine maintenance of the noise abatement walls and retaining walls, including but not limited to, mowing, landscaping, drainage, clearing of debris and trash, and removal of graffiti. The STATE assumes responsibility for repairs, structural failures, and/or replacement of the noise abatement walls and retaining walls.
- 17. It is mutually agreed that by the execution of this agreement and under the penalty of perjury, the CITY, doing business as a governmental entity, certifies that its correct federal identification number (FEIN) is 36-6006169. The CITY agrees to assume full responsibility for providing or causing to provide all funds required to pay the local share of cost participation in the subject project.
- 18. The CITY agrees to provide, prior to the STATE's advertising for the work to be performed hereunder, a letter, resolution, or signed plan approval indicating its review and approval of the STATE's plans and specifications for the subject project.
- 19. The CITY agrees not to permit driveway entrance openings to be made in the curb, as constructed, or the construction of additional entrances, private or commercial, along US Route 34 from Eldamain Road to Center Parkway without the consent of the STATE.
- 20. The CITY agrees to exercise its franchise right to cause private utilities to be relocated at no expense to the STATE.
- 21. The CITY agrees to cause its utilities installed on right of way after said right of way was acquired by the STATE or installed iwthin the limits of a roadway after the said roadway's jurisdiction was assumed by the STATE, to be relocated and/or adjusted, if required, at no expense to the STATE.
- 22. The CITY will continue to enforce the existing ordinance requiring that parking along US 34 be prohibited within the limits of this improvement, a copy of which is attached hereto as Exhibit #3.
- 23. The CITY has adopted and will put into effect an appropriate ordinance, prior to the STATE's advertising for the work to be performed hereunder, regulating encroachment along the state highway. A copy of the ordinance is attached hereto as Exhibit #4.

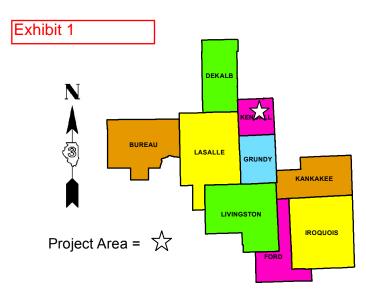
- 24. Prior to the STATE's advertising for the work to be performed hereunder, the disposition of encroachments will be cooperatively resolved with representatives from the CITY and the STATE.
- 25. The CITY will continue to enforce an existing ordinance prohibiting the discharge of sanitary sewage and industrial waste water into any storm sewers along the state highway, a copy of which is attached hereto as Exhibit #5.
- 26. The STATE agrees to invite representatives of the CITY to mutually inspect the completed project prior to the STATE's final approval of the work.
- 27. It is mutually agreed that obligations for the STATE and CITY will cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly or federal funding sources fail to appropriate or otherwise make available funds for this contract.
- 28. The STATE and CITY mutually agree that any work to be performed by other than CITY and/or STATE forces is are subject to the Prevailing Wage Act, 820 ILCS 130/1 et seq. ("Prevailing Wage Act"). The STATE agrees to fully comply with all applicable requirements of the Prevailing Wage Act, and the STATE agrees to notify all contractors and subcontractors that the work performed pursuant to this Agreement shall be subject to the Prevailing Wage Act. In the event the STATE fails to comply with the notice requirements set forth in this paragraph, the STATE shall solely be responsible for any and all penalties, fines and liabilities incurred for contractors and/or subcontractors' violations of the "Prevailing Wage Act".
- 29. The STATE and CITY mutually agree that the STATE's contractors and/or subcontractors shall not discriminate on the basis of race, color, national origin or sex in performance of this agreement. The STATE agrees to carry out applicable requirements of 49 CFR Part 26 in the award and administration of the STATE assisted contracts. Failure by the STATE to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such remedy as the STATE deems appropriate.
- 30. This Agreement represents the entire Agreement between the parties and supersedes any prior written or oral agreements between the parties regarding these specific components of this section of US Route 34 as constructed under Contract 66993. Previous agreements pertaining to other aspects of this section of highway, such as the referenced Master Traffic Signal Agreement, shall remain in full force and effect. This agreement may not be modified except in writing acknowledged by both parties.
- 31. Neither party shall assign, sublet, sell or transfer its interest in this Agreement without the prior written consent of the other.
- 32. This Agreement shall be construed in accordance with the law and Constitution of the State of Illinois and if any provision is invalid for any reason, such invalidations shall not render invalid other provisions which can be given in effect without the invalid provision.
- 33. This Agreement is executed in duplicate and each party shall retain one (1) completely executed copy, each of which is deemed as an original.

- 34. This agreement and the covenants contained herein shall be null and void in the event the contract covering the construction work, contemplated herein, is not awarded by February 1, 2020.
- 35. This agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.
- 36. This agreement is passed and approved by the Mayor and City Council of The United City of Yorkville of Kendall County, Illinois and the State of Illinois, through its Department of Transportation.

Executed on Behalf of the United City of Yorkvil	le of Kendall County, Illinois, on this
day of	, 2017.
APPROVED:	ATTEST:
Gary Golinski, Mayor of United City of Yorkville	Beth Warren, City Clerk
Date	Date
Executed on Behalf of the State of Illinois, Department of Transportation	
Kevin F. Marchek, P.E. Region Two Engineer	
Date	

Project Location Map

FAP Route 591 (US 34)
Section (13)R-2 & BY
Kendall County
Add Lanes, Curb and Gutter,
Bridge Replacement (SN 047-0049)
Culvert Replacement (SN 027-2014)
P-93-035-07
Contract No. 66993



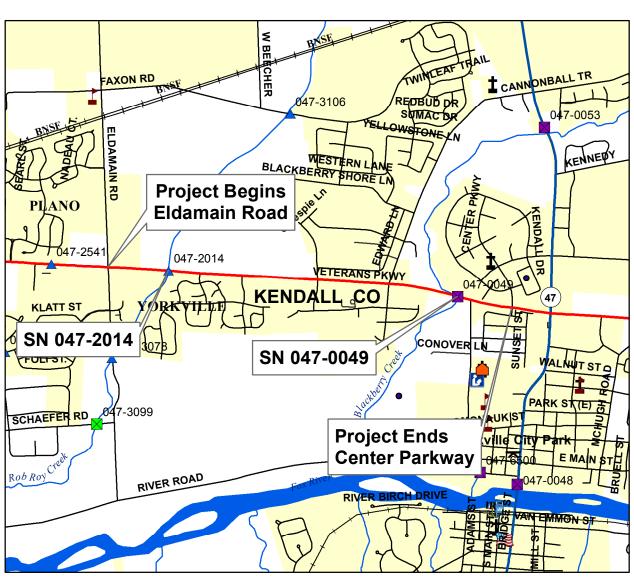


Exhibit 2

Poco	lution	Nο	
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A RESOLUTION OF THE UNITED CITY OF YORKVILLE, KENDALL, ILLINOIS, ESTABLISHING FUNDING FOR THE STATE OF ILLINOIS INTERGOVERNMENTAL AGREEMENT

WHEREAS, the United City of Yorkville (the "City") has entered into an AGREEMENT with the State of Illinois for the improvement of US Route 34, from Eldamain Road to Center Parkway, known as State Section (13)R-2[(13BR)C,(13BR-1)BR]; and,

WHEREAS, in compliance with the aforementioned AGREEMENT, it is necessary for the City to appropriate sufficient funds to pay its share of the cost of said improvement.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the United City of Yorkville, Kendall County, Illinois, that there is hereby appropriated the sum of Four Hundred and Ten Thousand Dollars (\$410,000.00) or so much thereof as may be necessary, from any money now or hereinafter allotted to the City to pay its share of the cost of this improvement as provided in the AGREEMENT.

BE IT FURTHER RESOLVED, that upon receipt of the first and subsequent progress payments made to the CONTRACTOR, the CITY will pay to the DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS from any funds allotted to the CITY, an amount equal to the CITY share (\$410,000), divided by the estimated construction costs (\$22,280,000), multiplied by the actual progress payment made to the CONTRACTOR until the entire obligation incurred under this AGREEMENT has been paid.

The CITY'S actual monetary reimbursement obligation to the DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS will be based upon final quantities and bid unit prices of the awarded contract.

BE IT FURTHER RESOLVED, that the City agrees to pass a supplemental resolution to provide any necessary funds for its share of the cost of this improvement if the amount appropriated herein proves to be insufficient, to cover said cost.

Passed by the City Council of	the United	City of Yorkville, Kendal	l County, Illinois this
day of	, 2017.		
			CITY CLERK
CARLO COLOSIMO JACKIE MILSCHEWSKI CHRIS FUNKHOUSER		KEN KOCH DIANE TEELING JOEL FRIEDERS	
SEAVER TARULIS			
Approved by me, as Mayor o		l City of Yorkville, Kenda	all County, Illinois, this
STATE OF ILLINOIS COUNTY OF KENDALL			
	of this Re	solution adopted by the	hereby certify the foregoing to Mayor and City Council at a
IN TESTIMONY WHEREO, 2017.	OF, I have	e hereunto set my hanc	l and seal this day of
Beth Warren, City Clerk			
(SEAL)			

ORDINANCE NO. 1986-12

EXHIBIT #3

REGULATING PARKING ON U.S. ROUTE 34

WHEREAS, the CITY OF YORKYILLE has entered into an agreement with the STATE OF ILLINOIS for the improvement of U.S. Route 34 (FAP 591), State Section 13R-1 and 13BR-1, from +230 feet west of Illinois Route 47 and extending westward to a point +725 feet west of Cannonball Trail Road, a distance of 5,100 feet (0.98 miles).

NOW, THEREFORE, BE IT ORDAINED by the City Council of the CITY OF YORKYILLE, Kendall County, Illinois:

That in order to promote the health, safety and welfare of its citizens, parking will be prohibited on both sides of U.S. Route 34 from Ill. Route 47 to the west corporate limits of Yorkville; and

The Yorkville City Council will enact further ordinances requiring parking restrictions at locations immediately adjacent to the improvement as may be determined to be necessary by the STATE from traffic capacity studies, when construction on the above described STATE and CITY section has been completed and is functional.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Passed and adopted by the City Council of the CITY OF YORKVILLE, Kendall County, Illinois this 11th day of September , 1986.

September 11 , 1986

ATTEST:

By: Octorch Sphorton, Deputy Cork
City Clerk

September 11

, 1986

EXHIBIT 4

Ordinance No. 2017-____

AN ORDINANCE OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS PROHIBITING ENCROACHMENTS WITHIN THE STATE OF ILLINOIS RIGHT OF WAY ALONG U.S. ROUTE 34

WHEREAS, the State of Illinois acting by and through its Department of Transportation, is desirous of improving US Route 34 from Eldamain Road to Center Parkway, known as State Section (13)R-2[(13BR)C,(13BR-1)BR]. Work will include removal of the existing pavement and construction of new pavement to provide two lanes in each direction with a flush median, curb and gutter, drainage improvements, bicycle and pedestrian accommodations, and safety improvements. The culvert (SN 047-2014) carrying Rob Roy Creek under US 34 will be replaced with a double 12'X9' box culvert and the bridge (SN 047-0049) carrying US 34 over Blackberry Creek will be replaced with a two span bridge.; and,

WHEREAS, said project is being constructed in order to facilitate the free flow of traffic and ensure safety to the motoring public; and

WHEREAS, the project passes through the United City of Yorkville; and

WHEREAS, in order to facilitate said improvement, it is necessary for the CITY to adopt an Ordinance regulating encroachments on the right of way of US Route 34 in accordance with the following definitions:

- 1. Roadway Right of way is defined as those areas existing or acquired by dedication or by fee simple for highway purposes; also, the areas acquired by temporary easement during the time the easement is in effect:
- 2. Project Right of way is defined as those areas within the project right-of-way lines established jointly by the CITY and the STATE which will be free of encroachments except as hereinafter defined;
- 3. Encroachment is defined as any building, fence, sign (excluding certain signs located over sidewalks) or any other public structure or object of any kind (with the exception of utilities and public road signs) which is placed, located, maintained, in, on, under or over any portion of the project right of way or the roadway right of way where no project right of way line has been established.
- 4. Permissible encroachment is defined as any existing awning, marquee or sign advertising activity on the property or similar overhanging structure supported from a building immediately adjacent to the limits of the platted street where there

is sidewalk extending to the building line and which does not impair the free and safe flow of pedestrian traffic or traffic on the highway. The permissive retention of overhanging signs is not to be construed as being applicable to those signs supported from poles constructed outside the project right of way line and not confined by adjacent buildings.

5. Construction easement Area is defined as the area lying between the project right of way limits and the platted street limits within which the CITY, by concurrence with the establishment of the project right of way lines, will permit the STATE to enter to perform all necessary construction activities.

WHEREAS, representatives of the CITY and the STATE have, by visual inspection, cooperatively established project right of way lines and have mutually determined the disposition of encroachments;

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

Section 1: That no person, firm, corporation or other entity shall install, place, maintain or construct any structure that encroaches, as defined above, upon the State of Illinois project or roadway right-of-way of US Route 34, from Eldamain Road to Center Parkway.

directed to attach a copy of the	is Ordinance	to the AGREEMENT	ville is authorized and dated nois and the United City
of Yorkville relative to the abo			·
Section 3: This Ordina approval, and publication as p			t upon its passage,
Passed by the City Council of	the United C	City of Yorkville, Kend	lall County, Illinois this
day of	, 2	017.	
			CITY CLERK
CARLO COLOSIMO		KEN KOCH	
JACKIE MILSCHEWSKI		DIANE TEELING	
CHRIS FUNKHOUSER		JOEL FRIEDERS	

SEAVER TARULIS

Approved by me, as Mayor	r of the United City of Yorkville,	Kendall County, Illinois, this
day of	, 2017.	
		MAYOR

THE CITY OF YORKVILLE WILL CONTINUE ITS ENFORCEMENT OF ORDINANCE \$4.4 PROHIBITING CONNECTION OF SANITARY SEWER AND WASTE WATER INTO STORM SEWERS AND OTHER HIGHWAY DRAINAGE SYSTEMS

EXHIBIT #5

AN ORDINANCE 94-4

PROHIBITING THE CONNECTION OF SANITARY SEMAGE AND INDUSTRIAL WASTE-HATER INTO STORM SEMERS AND OTHER HIGHWAY DRAINAGE SYSTEMS

BE IT ORDAINED, by the city of Yorkville, Kendall County, Illinois:

Section 1. It shall be unlawful for any person, firm or corporation, or institution, public or private, to connect or cause to be connected, any drain carrying, or to carry, any toilet, sink, basement, septic tank, cesspool, industrial waste or any fixture or device discharging polluting substances, to any open ditch, drain, or drainage structure installed solely for street or highway drainage purposes in the city of Yorkville.

<u>Section 2</u>. This ordinance is intended to and shall be in addition to all other ordinances. State statutes, rules and regulations concerning pollution and shall not be construed as repealing or rescinding any other ordinance or part of any ordinance unless in direct conflict herewith.

Section 3. Any person, firm, or corporation violating this ordinance shall be fined not less than which Dollars (\$ 25.00), nor more than the Dollars (\$500.00) for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists.

APPROVED: HAYOR

STATE OF ILLINOIS)
CITY OF YORKVILLE)
COUNTY OF KENDALL)

PASSED: 3-10-99

March 10,1999

SIGNED:

City Clerk in and for the city of Yorkville hereby certify the foregoing to be a true, perfect, and complete copy of an Ordinance adopted by the Yorkville City Council at its meeting on March 10

City Clerk



Reviewed By:	
Legal	
Finance	
Engineer	
City Administrator	
Human Resources	
Community Development	
Police	
Public Works	
Parks and Recreation	

Agenda Item Summary Memo

Title: NPDES MS4	Stormwater Permit	
Meeting and Date:	Public Works Committee – February	y 21, 2017
Synopsis: Informati	onal	
Council Action Pres	viously Taken:	
Date of Action:	Action Taken:	
Item Number:		
Type of Vote Requi	red:	
Council Action Req	uested: None	
Submitted by:	Brad Sanderson	Engineering
	Name	Department
	Agenda Item Notes	::



Memorandum

To: Bart Olson, City Administrator

From: Brad Sanderson, EEI

CC: Eric Dhuse, Director of Public Works

Krysti Barksdale-Noble, Community Dev. Dir.

Lisa Pickering, Deputy City Clerk

Date: February 16, 2017

Subject: NPDES MS4 Stormwater Permit

The IEPA issued a revised NPDES MS4 permit in February of 2016. The new MS4 permit went into effect on March 1, 2016. The permit instructs communities to comply with the new permit provisions within 180 days (September 1, 2016) and to report on the changes implemented and provide supporting documentation with the Annual Report due by June 1, 2017.

EEI issued a memo regarding the required changes and recommendations for implementation on August 10, 2016 (see attached). The City and EEI are in the process of implementing those changes to the program. We are following up on two of the items from the August 10, 2016 memo:

The first item is in regards to updating the City's Stormwater Management Plan (SMP). We have prepared a draft revision to the SMP that incorporates the changes described in the August 10, 2016 mem as required by the new NPDES permit. The body of the draft plan is attached.

Second, the City is required to hold a Public Meeting each permit year to allow public input on the City's stormwater management program. The meeting may be held in conjunction with or as a part of a regular council meeting and is tentatively scheduled to be part of the February 28th Council meeting. Following this public meeting, revisions to the SMP will be finalized and the SMP will be provided to the IEPA as an attachment to this year's Annual Report.



Memorandum

To: Bart Olson, City Administrator

From: Brad Sanderson, EEI

CC: Eric Dhuse, Director of Public Works

Krysti Barksdale-Noble, Community Dev. Dir.

Lisa Pickering, Deputy City Clerk

Date: August 10, 2016

Subject: NPDES MS4 Stormwater Permit

The IEPA issued a revised NPDES MS4 permit in February of 2016. The new MS4 permit went into effect on March 1, 2016. The permit instructs communities to comply with the new permit provisions within 180 days (September 1, 2016) and to report on the changes implemented and provide supporting documentation with next year's Annual Report due by June 1, 2017.

Some of the changes are administrative, some do not apply to the City's circumstances and some the City is already in compliance with; however, there are some changes that require modifications to the City's activities and Stormwater Management Plan. This memo provides a summary of these changes to each of the six minimum control measures in the MS4 permit and the actions that must be taken to comply with the new provisions.

Public Education and Outreach on Storm Water Impacts

Changes: Public Education now has to include a component regarding potential impacts of climate change on stormwater discharges. In addition, there are added requirements for educational materials for non stormwater discharges and discharges from private properties. The permit includes a list of topic examples.

Current Status: The City currently complies with this measure through stormwater education materials available at the Information Center at City Hall.

Recommended Action: City staff should review and inventory the current materials available, compare with new requirements and topic list, identify need for new materials, obtain new materials and make available at City Hall. This should be completed during this permit year and updated materials provided as documentation in the next Annual Report.

Public Involvement/Participation

Changes: The new permit requires communities to identify Environmental Justice Areas within their jurisdiction and provide appropriate public involvement/participation. There is also a requirement that the community have a least one public meeting a year for the public to provide input on the adequacy of the City's stormwater program.

Current Status: The City had been meeting this requirement by allowing public comment at Board Meetings and through the Environmental Fair.

Recommended Action: The City will have to hold a public meeting during this permit year to allow public input on the stormwater program. The meeting may be part of a regular Council Meeting but would have to be part of the agenda and not just during the public comment period. Meeting minutes would be submitted with the next Annual Report as documentation.

In addition, the City will have to investigate the requirements for identifying Environmental Justice Areas and take appropriate action if areas are identified. These items should be completed during this permit year and reported on in next year's Annual Report. (See Page 14 of the Attached MS4 Permit for definitions of Environmental Justice and Environmental Justice Area.)

Illicit Discharge Detection and Elimination

Changes: The new permit now requires dry weather inspections of stormwater outfalls to look for non-stormwater of illicit discharges. The permit allows the City to prioritize their list of outfalls for inspections with high priority outfalls requiring at least annual inspection.

Current Status: The City currently addresses this requirement by responding to reports of illicit discharges and taking action with their ordinances and procedures when necessary.

Recommended Actions: The City has their stormwater outfalls identified on their inventory maps. Staff should develop a prioritization list and schedule for inspecting outfalls. Documentation of inspections should be included in the next Annual Report.

Construction Site Storm Water Runoff Control

Changes: There are a number of changes to the runoff and erosion control requirements.

Current Status: The City addresses this requirement through implementation of their Stormwater and other ordinances.

Recommended Action: The City's current ordinances comply with or are more stringent than the changes in the MS4 permit. Therefore, there are no changes to the City's current ordinances or activities required for this control measure.

Post-Construction Stormwater Management for New Development and Redevelopment

Changes: There are a number of changes to Post Construction Best Management Practices (BMPs). These changes add the requirement to consider climate control impacts on BMPs. There are also requirements to limit the use of infiltration practices (i.e. not adjacent to fuel stations, wells, etc.). A requirement has also been added for the City to develop a process to assess existing and current flood control projects for water quality and climate change impacts.

Current Status: The City addresses this requirement through implementation of their current Stormwater and other ordinances and by assisting Homeowner Associations when requested.

Recommended Action: The City's current ordinances generally comply with or are more stringent then the changes in the MS4 permit and no changes are required. However, this section of the Stormwater Management Plan should be reviewed in regards to climate change impacts and developing a plan to assess flood control projects and any necessary changes be made to the Stormwater Plan. This should be completed this permit year and the revised Stormwater Management Plan submitted with the next Annual Report as documentation.

The limits on infiltration practices are consistent with the requirements in the IEPA NPDES General Construction Permit and can be enforced through that permit for proposed infiltration BMPs. Compliance with these requirements is part of the engineering review process on new development or redevelopment projects.

Pollution Prevention/Good Housekeeping for Municipal Operations

Changes: There are added requirements for the storage of deicing materials. The City must have permanent storage or temporary storage with seasonal tarping. In addition, permanent storage structures must be constructed within two years.

Current Status: The City currently maintains and reports on good housing keeping requirements. The City currently has permanent storage so no action is required.

Monitoring

Changes: There are new requirements for monitoring and assessing the program. There are several options for monitoring from inventorying BMPs to sampling. For the City, we recommend the option to Evaluate BMP effectiveness based on published research. This requires the City to inventory BMPs implemented in the Community and estimating the resultant pollutant reduction.

Current Status: There was no monitoring of this type required under the previous permit.

Recommended Action: The Fox River Study Group is making an evaluation tool available to MS4 communities in the watershed. The tool is a spreadsheet that will allow the City to enter the areas of BMPs that are to be implemented; the spreadsheet will then estimate the pollutant reduction resulting from implementation of the BMPs. All BMPs implemented since the start of this permit (March 1, 2016) will need to be inventoried. The City will have to enter all newly constructed BMPs moving forward as well. The BMP inventory should be provided as documentation with each year's Annual Report.

Other

Changes: Communities that perform deicing operations that can cause or contribute to a violation of State chloride water quality standards have to participate in any watershed group organized to implement control measures.

Current Status: This is a new requirement.

Recommended Action: This item requires additional research to see if there are watershed groups that the City could participate in. This should be done during this permit year and documentation provided with the Annual Report.

Summary

We recommend that City staff move forward with the recommend action items outlined in this memo. In addition, the Stormwater Management Plan should be reviewed and updated to include the changes to the stormwater management procedures, policies and monitoring forms. The revised Stormwater Management Plan should then be submitted to IEPA as an attachment to the next Annual Report due on June 1, 2017.

United City of Yorkville Stormwater Management Program Plan

Kendall County, Illinois

March 9, 2010

Revised February 2017 - DRAFT

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1 Overview of the Stormwater Management Program Plan

1.1 Introduction

This Stormwater Management Program Plan (SMPP) was developed by the United City of Yorkville based off a SMPP template created by the Lake County Stormwater Management Commission. The purpose of the SMPP is to meet the minimum standards required by the United States Environmental Protection Agency (USEPA) under the National Pollutant Discharge Elimination System (NPDES) Phase II program. Federal regulations through the USEPA require that all Municipal Separate Storm Sewer Systems (MS4s), partially or fully in urbanized areas based on the 2000 census, obtain stormwater permits for their discharges into receiving waters.

The SMPP describes the procedures and practices that can be implemented by the City toward the goal of reducing the discharge of pollutants within stormwater runoff in order to comply with Federal standards. The SMPP is applicable to all properties within city limits. Compliance with the plan is intended to protect water quality and contribute to the following amenities:

- cleaner lakes and streams,
- improved recreational opportunities and tourism,
- flood damage reduction,
- better aesthetics and wildlife habitat, and
- a safer and healthier environment for the citizens.

1.2 State & Federal Regulations

Federal environmental regulations based on the 1972 Clean Water Act (CWA) require that MS4s, construction sites and industrial activities control polluted stormwater runoff from entering receiving bodies of water (including navigable streams and lakes). The NPDES permit process regulates the discharge from these sources based on amendments to CWA in 1987 and the subsequent 1990 and 1999 regulations by the U.S. Environmental Protection Agency (USEPA). In Illinois, the USEPA has delegated administration of the Federal NDPES program to the Illinois Environmental Protection Agency (IEPA). On December 20, 1999 the IEPA issued a general NPDES Phase II permit for all MS4s. Under the General ILR 40 Permit each MS4 was required to submit a Notice of Intent (NOI) declaring compliance with the conditions of the permit by March 10, 2003. The original NOI describes the proposed activities and best management practices that occurred over the original 5-year period toward the ultimate goal of developing a compliant SMPP. At the end of the 5th year (March 1, 2008) the components of the SMPP were required to be implemented; per the ILR40 permit. The IEPA reissued the ILR 40 permit on April 1, 2009. The reissued permit is included in Appendix 5.10.

Additionally, under the General ILR10 permit also administered IEPA, all construction projects that disturb greater than 1 acre of total land area are required to obtain an NPDES permit from IEPA prior to the start of construction. Municipalities covered by the General ILR40 permit are automatically covered under ILR10 30 days after the IEPA receives the NOI from the municipality.

On February 10, 2016 the IEPA released a new General NPDES Permit for Discharges from Small Municipal Separate Storm Sewer Systems effective March 10, 2016 thru February 28, 2021. Changes to the permit requirements with the newly issued permit prompted the 2017 revision to the United City of Yorkville Stormwater Management Plan. In addition, this revision captures changes that were implemented through the City's 2013 Annual Report.

1.3 Organization of SMPP

The SMPP identifies best management practices to be implemented in six different categories. These categories are:

- Public Education and Outreach
- Public Participation/Involvement
- Construction Site Runoff Control
- Post-Construction Runoff Control
- Illicit Discharge Detection and Elimination
- Pollution Prevention/Good Housekeeping

Chapter 1: Overview of the Stormwater Management Program Plan - discusses the format of the SMPP document and the regulations associated with NPDES II through state and federal agencies.

Chapter 2: Program Management - discusses the logistics of the plan. This includes the organization, implementation and responsible parties necessary to achieve overall compliance with the SMPP and NPDES Permit. It also identifies how the United City of Yorkville coordinates with other governmental agencies and discusses the legal authority that the MS4s have to implement the plan components.

Chapter 3: The Program - addresses stormwater pollutant control measures implemented by the United City of Yorkville per the six minimum control categories established by the USEPA.

Chapter 4: Monitoring, Program Evaluation and Reporting - describes the monitoring, evaluation and reporting procedures associated with the program. The SMPP is a guide created to protect United City of Yorkville receiving waters from pollution and resultant degradation. This chapter assists in identifying best management practices and processes that may require modifications in the future to help the document become an effective tool.

Chapter 5: Appendices – including forms, references, and exhibits.

1.4 Watersheds and Receiving Waters

The United City of Yorkville is primarily located within the Fox River watershed, with southern areas tributary to the Illinois River. There are several receiving waters tributary to the Fox and Illinois Rivers which are located within the Village. These streams include Blackberry Creek, Rob

Roy Creek, and Aux Sable Creek. Ponds, intermittent streams, and other on-stream bodies of water are also considered part of the receiving water system.

Watershed: The land area that contributes stormwater to one of the two major rivers draining Kendall County.

Sub-Watershed: The land area that contributes stormwater to one of the receiving waters tributary to a major river.

Receiving Water: A natural or man-made system into which stormwater or treated wastewater is discharged, including the Fox River, Illinois River, and their tributaries.

The major Watersheds and receiving waters are presented on Figure 1 Map of Major Sub-watershed and Receiving Waters.

Fox River Watershed

The Fox River originates about 15 miles northwest of Milwaukee, Wisconsin. The river enters the northeast corner of Kendall County at Montgomery. About 165 square miles of Kendall County drain to the Fox River.

Major tributaries to the Fox River in Kendall County include Blackberry Creek, Rob Roy Creek, Big Rock Creek, Little Rock Creek, Morgan Creek, Hollenback Creek, and Roods Creek. Only Blackberry Creek, Rob Roy Creek, and Hollenback Creek are located within the current city limits.

The watersheds of the creeks within the city are primarily agricultural, although significant development activity has occurred in the Blackberry Creek and Rob Roy Creek watersheds since 2000.

The Fox River watershed includes all or portions of the communities of Aurora, Millbrook, Millington, Montgomery, Newark, Oswego, Plano, Sandwich, and Yorkville.

Illinois River Watershed

The Illinois River originates at the confluence of the Des Plaines and Kankakee Rivers in Grundy County, about 10 miles southwest of Joliet, Illinois. About 155 square miles of Kendall County drain to the Illinois River.

The Illinois River does not run directly through Kendall County, but reaches into the county via Aux Sable Creek and Valley Run Creek. Only the Middle Branch of the Aux Sable Creek is located within the current city limits.

The Middle Branch Aux Sable Creek is primarily agricultural, although some development activity has occurred since 2000.

The Illinois River watershed includes all or portions of the communities of Joliet, Lisbon, Minooka Plattville, Plainfield, and Yorkville.

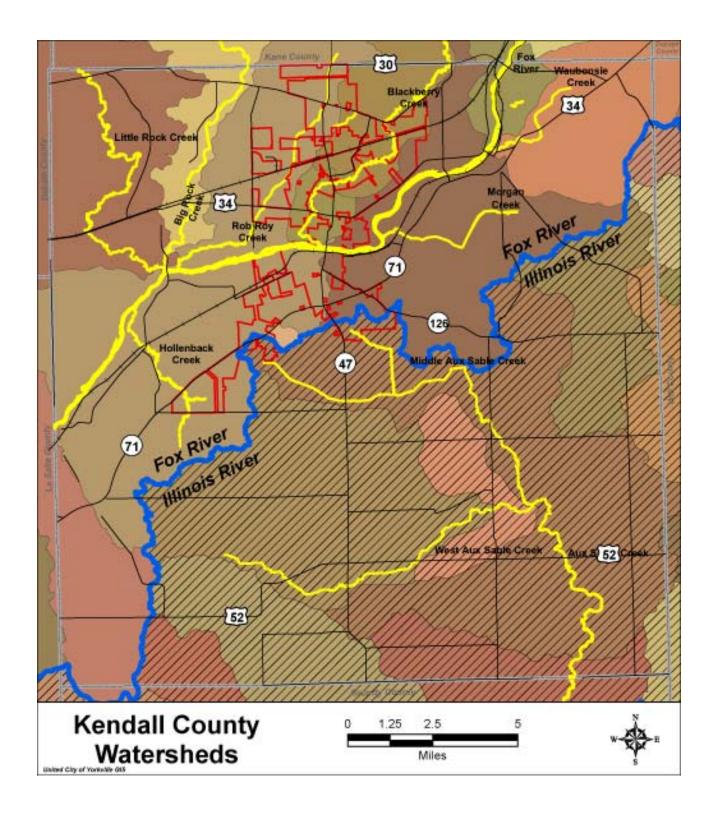


Figure 1. Map of Major Sub-Watersheds and Receiving Waters

2 Program Management

This Chapter describes the organizational structures of the United City of Yorkville and the Illinois EPA. It further discusses the roles and responsibilities of the involved parties.

2.1 Implementation of this SMPP

The SMPP includes tasks that are required to meet the permit conditions under the NPDES II program and how to perform these tasks. These forms should be printed annually and the progress of all tasks tracked. At the end of the yearly reporting period (March 1 – February 28/29) the forms should be filed in a binder to document SMPP related activities to IEPA in the case of an audit. It is anticipated that implementation of this SMPP constitutes compliance with the program. The SMPP will be posted on the United City of Yorkville's website.

The measurable goals will be evaluated and modified to maintain compliance with General Permit each year during the preparation of the Annual Report to IEPA due on June 1st of each year.

2.2 Departmental Responsibilities

The City Council is the policy and budget setting authority for United City of Yorkville. The Engineering, Community Development, and Public Works Departments work together to implement this SMPP. The City Engineer has primary responsibility for managing the overall program. The city will also work with Kendall County and adjacent municipalities regarding stormwater issues.

The Community Development Department is designated as the primary entity responsible for performing the duties related to Public Education and Outreach and Public Participation and Involvement. Much of this work will be achieved through coordination with the Green Committee. The Engineering Department is designated as the primary entity responsible for performing the duties related to Construction Site Runoff Control, Post-Construction Runoff Control, and Illicit Discharge Detection and Elimination activities. The Building Department will assist as necessary by performing certain duties during the construction of private developments. The Public Works Department is designated as the primary entity responsible for performing the duties related to Pollution Prevention and Good Housekeeping.

Measurable goals are established to document the efforts performed by the various city departments and ultimately the effectiveness of the SMPP. Those departments responsible for implementation of the SMPP shall perform, record, and forward monthly report memos to the City Engineer regarding their individual areas of responsibility. The report memos shall be prepared and forwarded during the first week of the following month. The City Engineer shall use these reports in preparing the annual report to the Illinois EPA.

2.3 Coordination with the IEPA

The United City of Yorkville is required to complete annual reports which describe the status of compliance with the ILR40 permit. The annual report will be posted on the City's website and submitted to the IEPA by the first day of June each year. Annual reporting to IEPA should include information regarding SMPP goals that are in compliance as well as those goals that need further work or modification.

Records regarding the completion and progress of the SMPP commitments will be documented on task sheets and updated throughout the year. The completed task sheets should be located in a binder with necessary supporting documentation. The binder will be available for inspection by both IEPA and the general public.

3 The Program

This Stormwater Management Program Plan includes six components, each of which is necessary to reduce/eliminate stormwater pollution in receiving water bodies. These are:

- Public Education and Outreach
- Public Participation and Involvement
- Construction Site Runoff Control
- Post-Construction Runoff Control
- Illicit Discharge Detection and Elimination
- Pollution Prevention and Good Housekeeping

3.1 Public Education and Outreach

City staff at the United City of Yorkville is responsible for providing research and advice as well as making recommendations to the City Council on environmental issues facing the community. City staff should also promulgate information related to recycling, conservation design, soil conservation, rain gardens, open space/watershed protection, water conservation, landscape maintenance, etc. through environmental fairs, pamphlet distribution, and the city website.

The annual NPDES permit report shall be placed on a City Council agenda once each year for discussion.

3.1A Measurable Goals

- Place Stormwater Management Program Plan on the city's website.
- Maintain an information center at City Hall, which will include informational items regarding stormwater-related issues. Review and update materials as necessary to maintain compliance with Permit requirements.

3.2 Public Participation and Involvement

City staff should encourage citizen participation and involvement for stormwater-related issues on both individual and community levels.

Citizen calls related to the Stormwater Management Program Plan shall be documented and directed to the appropriate department for follow-up.

3.2A Measurable Goals

• Document the number and type of calls received from the public regarding potential illicit discharges.

- Sponsor an annual environmental fair, and document the number and type of exhibitors and public attendance.
- Hold one public meeting per year to allow public input on the City's Stormwater Management Program
- Identify if there are areas meeting the Environmental Justice Area criteria within the City

3.3 Construction Site Runoff Control

The City adopted Ordinance No.2003-19 (Appendix 5.1) to regulate soil erosion and sediment control practices for construction activities that disturb more than 10,000 SF of soil. This ordinance requires the following:

- Requires the developer/contractor to follow Illinois EPA requirements regarding NPDES permitting for construction activities.
- Issuance of a Site Development Permit regulating earthwork and erosion/sediment control.
- Contractor requirements for periodic inspections during construction.
- Surety bonding to ensure that stabilization work is completed according to plan.

The City passed Resolution No. 2004-39 (Appendix 5.2) to establish the Standard Specifications for Improvements. This resolution creates standards regarding the various aspects of construction for public and quasi-public infrastructure, including responsible construction activities. Regarding stormwater management, this resolution requires:

- Sizing requirements for stormwater collection and detention facilities.
- A soil erosion and sediment control plan.
- The ability to require stormwater best management practices in the design of the stormwater collection and storage systems.

The City passed Ordinance No. 2008-01 (Appendix 5.3) to provide Wetland Protection Regulations for Water Quality and Stormwater Management Benefits. This ordinance creates requirements for the evaluation and protection of non-jurisdictional wetlands within city limits that may be affected by new development.

3.3A Complaints

Site design comments are handled on a case by case basis. Any complaints received during the review, construction, or build-out of a private development shall be directed to the City Engineer and documented. Construction and build-out related calls are typically addressed by performing a site inspection.

3.3B Violation Notification Procedures

Investigation of complaints should be performed within one business day of receipt of the complaint. In general, the compliance due date should be within 5-working days. However, if the city determines that the violation is or will result in significant environmental, health or safety hazards a 24-hour compliance requirement should be set. For such time-critical violations, the developer should also be advised to complete a Notice of Incidence report with the IEPA for all sites that were required to submit a Notice of Intent to the IEPA.

Step 1 can be initiated by observation of a violation during a routine inspection, or in response to a complaint.

Step 1: Violation Is Observed

- The inspector completes the *NPDES/Erosion Control Inspection Report* (Appendix 5.11).
- Photographs of the violation(s) should be taken and saved.
- The development project manager/property owner (a.k.a. construction site contact) shall be informed of the violation.
- A copy of the *NPDES/Erosion Control Inspection Report* is provided to the contractor and the developer. The *NPDES/Erosion Control Inspection Report* indicates the deficiencies and a maximum time frame for action.
- At the end of the indicated time frame the City shall perform a follow-up site inspection.

Step 2: 1st Follow-Up Site Inspection

The construction site contact shall be notified of the anticipated inspection time. The site shall be inspected including all items previously documented on the previous *NPDES/Erosion Control Inspection Report*. The inspector will determine if the remedial measures have all been satisfactorily addressed, substantially completed, or if significant non-compliance remains.

- If the remedial measures have been satisfactorily addressed, then the *NPDES/Erosion Control Inspection Report* is filled out indicating compliance and provided to the contractor and developer.
- If the inspector determines that the remedial measures have been substantially completed, but not entirely resolved, the inspector shall follow Step 1 above.
- If the inspector determines that the remedial measures have not been substantially completed, the inspector shall follow Step 3 discussed below. Photographs of the violations should be taken and saved.

Step 3: 1st Notice of Violation

A formal *Notice of Violation* (Appendix 5.12) letter will be sent to the contractor and developer. A copy of the *Notice of Violation* shall also be provided to the Yorkville Building Department. The letter will include the following information:

- Description of the violations (including ordinance provisions)
- Maximum time frame for resolution (typically 5 working days),

Step 4: 2nd Follow-Up Site Inspection

The inspector will determine if the remedial measures have all been satisfactorily addressed, substantially completed, or if significant non-compliance remains.

- If the remedial measures have been satisfactorily addressed, then the *NPDES/Erosion Control Inspection Report* shall be filled out indicating compliance and provided to the contractor and developer.
- If the inspector determines that the remedial measures have been substantially completed, but not entirely resolved, the inspector shall follow Step 1 above.
- If the inspector determines that the remedial measures have not been substantially completed, the inspector shall follow Step 5 discussed below. Photographs of the violations should be taken.

Step 5: 2nd Notice of Violation

• Depending on the severity of the outstanding violations the inspector may arrange for the Building Department to issue a Red Tag and a Conditional Stop Work Order upon completion of the inspection. The Stop Work Order allows for the resolution of the violation but no other on-site improvements. Building and/or Occupancy Permits will not be issued and surety/letter of credit reductions will not be considered until the violation is resolved. A formal *Notice of Violation* letter will be sent, via certified mail, to the contractor and developer. A copy of the Notice of Violation shall also be provided to the Yorkville Building Department.

Step 6: 3rd Follow-Up Site Inspection

The inspector will determine if the remedial measures have all been satisfactorily addressed, substantially completed, or if significant non-compliance remains.

- If the remedial measures have been satisfactorily addressed, then the *NPDES/Erosion Control Inspection Report* is filled out indicating compliance and provided to the contractor and developer.
- If the inspector determines that the remedial measures have been substantially completed, but not entirely resolved, the inspector shall follow Step 1 above.
- If the inspector determines that the remedial measures have not been substantially completed, the inspector shall follow Step 7 discussed below. Photographs of the violations should be taken and saved.

Step 7: 3rd Notice of Violation

The inspector issues a Red Tag and a Conditional Stop Work Order upon completion of the inspection, if one has not already been issued. The Stop Work Order allows for the resolution of the violation but no other on-site improvements. Building and/or Occupancy Permits will not be issued and surety/letter of credit reductions will not be considered or processed until the violation is resolved. Representatives from the Building and Engineering Departments shall meet to discuss the violation and subsequent actions. These actions may include: issuing fines for each day of violation since the 1st notice of violation; draw from surety to enable the City to have the remedial measures corrected; seeking United City of Yorkville legal counsel and pursuing injunctive or other legal relief.

A formal *Notice of Violation* letter will be sent, via certified mail, to the contractor and developer. A copy of the Notice of Violation shall also be provided to the Building Department and City Administrator. The letter will also include additional penalties or measures that will be imposed if the violation(s) persist.

Steps 6 and 7 will be repeated until resolution of the violation.

3.3C Measurable Goals

- Track the number of site development permits issued.
- Document any citizen complaints regarding construction site runoff and follow-up activities.
- Inspect construction sites for erosion/sediment control measures and record inspection on *NPDES/Erosion Control Inspection Report* forms.

3.4 Post Construction Runoff Control

The City adopted Ordinance No. 2009-78 (Appendix 5.4) to establish standards for design, construction, and maintenance of stormwater best management practices. This ordinance requires the following:

- All development/redevelopment projects shall incorporate stormwater Best Management Practices (BMP's) into their site designs.
- Agreements providing for the adequate maintenance of the stormwater BMP's by the developer/property owner.
- Periodic inspections and meetings with property owners by the city to ensure proper functioning of the stormwater Bumps.

The City will inspect stormwater outfalls, on existing properties with stormwater management facilities, on a priority and as needed basis. The inspections schedule should allow for inspection of priority outfalls on a regular basis. Detention basins will be inspected on an as requested basis.

3.4A Long Term Operation and Maintenance

The SMPP includes two long term maintenance agreements.

- The first agreement (Appendix 5.13) is the recommended plan for existing detention and stormwater management facilities, whether publicly or privately maintained. The intent of this sample plan is to provide guidance for the maintenance of facilities that do not have an approved plan. If an existing facility already has an adequate plan, this document would supersede the sample plan.
- The second agreement (Appendix 5.14) is provided to applicants during the permit review period for new detention and stormwater management facilities. This agreement should be reviewed and enhanced to reflect the specific design of the new development. Receipt of the signed and recorded maintenance agreement is required.

Receipt of the signed and recorded maintenance agreement is required prior to recording of a plat of subdivision, site development permit, or building permit for the property, whichever occurs first.

3.4B Site Inspections

This section focuses on post-construction inspections of previously developed sites, streambanks, shorelines, streambeds, and detention / retention ponds.

Previously Developed Sites

The United City of Yorkville will inspect outfalls for existing properties with stormwater management facilities on an as needed and priority basis. Previously developed properties that are still to be inspected should be inspected with respect to the approved development plan. A letter indicating the maintenance activity highlights, deficiencies, or modifications to the plan should be provided to the responsible party. The responsible party is encouraged to implement an annual maintenance program.

Shorelines

The City will inspect detention basin shorelines on an as needed and priority basis. They should, however, inspect all reported detention basins by using the *Stormwater Basin Annual Inspection Report* (Appendix 5.15). Observed erosion, seeding/re-seeding or slope stabilization needs should be documented. Documented deficiencies should be reported to the City Engineer who evaluates and determines appropriate remedial activities. Remedial actions might include notifying the property owner or including maintenance activities in the city's work program for city-maintained basins.

Streambanks and Stream Bed Sediment Accumulation

The City will inspect receiving water streambanks for erosion and flowlines for sediment plumes/deposits on an as needed and priority basis. Inspections should be performed in the spring or fall depending upon weather conditions. Stream locations are depicted on **Figure 1.** Document observed erosion and/or sediment accumulation. Documented

deficiencies should be reported to City Engineer who evaluates and determines appropriate remedial activities. Remedial actions would typically consist of notifying the property owner.

Detention / Retention Pond Sediment Accumulation

Ensure that new detention/retention pond is constructed per the approved development plan. The developer is responsible for ensuring that the design grade is established prior to the city's approval of the pond. Pond information, including the design permanent pool depth, is added to the *Stormwater Basin Annual Inspection Report* upon final approval of the pond.

The City will inspect detention basins to determine the normal pool depth on an as needed and priority basis. However, when detention basins are reported to the City or an inspection is requested, the City will perform an inspection, and the normal pool depth of the basin should be determined during the inspection. Observed depths should be recorded onto the *Stormwater Basin Annual Inspection Report*. If the inspected pond depth is found to be more than 2 feet shallower than the design normal pool depth, this information should be reported to City Engineer who evaluates and determines appropriate remediation activities.

3.4C Measurable Goals

- Inspect stormwater basins and outfalls reported as being deficient and document on *Stormwater Basin Annual Inspection Report* forms. Inspect other stormwater basins and outfalls on a priority and as needed basis.
- Develop a plan and process to assess climate change impacts on BMPs
- Develop a plan and process to assess flood control projects for water quality and climate change impacts.
- Provide assistance for citizens and homeowner associations (HOA's) on an as requested basis. The request and follow up action taken should be documented.
- Require new developments to enter into maintenance agreements for their stormwater management facilities, and maintain a record of those agreements.

3.5 Illicit Discharge Detection and Elimination

Illicit discharges contribute considerable pollutant loads to receiving waters. There are two primary situations that constitute illicit discharges; these include non-stormwater runoff from contaminated sites and the deliberate discharge or dumping of non-stormwater into the stormwater system. Illicit discharges can enter the storm sewer system as either an indirect or direct connection.

3.5A Regulatory Authority

Effective implementation of an Illicit Discharge Detection and Elimination (IDDE) program requires adequate legal authority to remove illicit discharges and prohibit future

illicit discharges. This regulatory authority is achieved through adoption of United City of Yorkville Ordinance No. 2010-05 (Appendix 5.5). Additionally, IEPA has regulatory authority to control pollutant discharges and can take the necessary steps to correct or remove an inappropriate discharge over and above MS4 jurisdiction.

3.5B Illicit Discharge Detection and Elimination

The United City of Yorkville maintains, operates, and publicizes a call-in phone number (630-553-4350) where parties can contact the city with environmental concerns. Primary advertisement venues include the website and all related municipal publications. Telephone calls received from residents, other internal Departments or other agencies are logged on the *Illicit Discharge Tracking Form* (Appendix 5.16). The City Engineer, or his designee, should transfer information from the tracking form to the *Illicit Discharge Summary Form* (Appendix 5.17) monthly. The summary form should be reviewed annually to determine if trends can be seen and if any additional outreach efforts are warranted.

Subdivision and Public Utility Ordinance

The United City of Yorkville created and adopted Ordinance No. 94-4 (Appendix 5.6) to prohibit the discharge of any toilet, sink, basement, septic tank, cesspool, industrial waste or other polluting substances to any open ditch, drain, or drainage structure. This ordinance can be used to further support the activities required by the city's Stormwater Management Program Plan.

3.5C Understanding Outfalls and Illicit Discharges

Understanding the potential locations and the nature of illicit discharges in urban watersheds is essential to find, fix and prevent them.

Identifying Outfalls and Receiving Waters

An Outfall is a point source where a municipal separate storm sewer discharges into Waters of the United States "receiving water". Open conveyances connecting two municipal storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other Waters of the United States are not considered outfalls. For the purposes of this program the following definitions shall be used:

Outfall: A storm sewer outlet, or other open conveyance point discharge location, that discharges into a Waters of the U.S, receiving water or another MS4.

Regulated systems include the conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, gutters, ditches, swales, man made channels or storm sewers.

The outfall inventory was prepared by the United City of Yorkville. The outfall locations have been numbered to facilitate detection and tracking of identified illicit discharges.

This information can be obtained from the city's Geographic Information System (GIS), which is maintained by the Community Development Department.

The outfall map should be revised annually to incorporate permitted outfalls associated with new developments. An outfall inventory should be performed every 5 years; the focus of this effort is to search for new outfalls (i.e. those not already included in the existing GIS). The search for new outfalls should be combined with the pre-screening efforts.

USEPA Exclusions

It is noted that not all dry-weather flows are considered inappropriate discharges. Under certain conditions, the following discharges are allowed:

- Water line flushing
- Landscaping irrigation
- Diverted stream flows
- Rising groundwater
- Uncontaminated groundwater infiltration
- Uncontaminated pumped groundwater
- Discharges from potable water sources
- Flows from foundation drains
- Air conditioning condensation
- Irrigation water
- Springs
- Water from crawl spaces
- Lawn watering
- Individual car washing
- Flows from riparian habitats and wetlands
- Dechlorinated swimming pool water
- Street wash water

Pollutant Indicators

Outfalls should be inspected for evidence of the following pollutant indicators:

- Odor
- Color of discharge water or staining of outfall pipe
- Turbidity (clarity) of discharge water
- Floatables in or residue from discharge water, such as scum, foam, suds, oil sheen, etc.
- Excessive plant growth or lack of plant growth at outfall
- Sediment plume.

3.5D Indirect Connections

Indirect connections are typically the result of events such as dumping or spillage of materials into storm sewer drains. Intentional dumping is a common type of illicit discharge. Generally, indirect modes of entry produce random, infrequent discharges, with the exception of groundwater seepage.

There are five main modes of indirect entry for discharges. These are groundwater seepage, unintentional spills, intentional dumping, outdoor washing, and over-irrigation of landscaping.

Seepage discharges can be either continuous or intermittent, depending on the depth of the water table and the season. Groundwater seepage usually consists of relatively clean water that is not an illicit discharge by itself, but can carry other illicit discharges. If storm drains are located close to sanitary sewers, groundwater seepage may intermingle with sewage. Seepage will be addressed by taking samples to check for contamination from nearby sanitary sewers or septic systems. Mitigation measures would consist of repairs to sewers or notification to the Kendall County Health Department as appropriate.

See Chapter 3.6 for the Spill Response Plan for unintentional spills.

Intentional dumping is minimized through public education. The city also maintains an Illegal Dumping Hotline which is described in Chapter 3.5B. The procedure for handling a dumping incident is described in Chapter 3.6.

Outdoor washing and over-irrigation are minimized through public education.

3.5E Direct Connections

Direct connections enter through direct piping connections to the storm sewer system, and are most easily detected during dry-weather periods. Inspection of stormwater outfalls during dry-weather conditions reveals whether non-stormwater flows exist. If non-stormwater flows are observed, they can be screened and tested to determine whether pollutants are present. If the presence of pollutants is indicated, the detective work of identifying the source of the discharge can begin and be corrected.

The process to eliminate direct connection illicit discharges consists of the following components:

- 1. **Program Planning** consists of the organizational efforts required to perform outfall screening and follow-up investigative activities of the program. Program planning identifies the regulatory authority to remove directly connected illicit discharges, identification of the outfalls and receiving waters, and providing personnel and equipment to perform the outfall screening and follow-up work.
- 2. *Outfall Screening* consists of pre-screening to determine whether dry-weather flows are present and outfall inspection which includes field visits to determine whether an illicit discharge exists.

- 3. *Follow-Up Investigation and Program Evaluation* are necessary to determine the source of any identified pollutant flows and eliminate them. The major follow-up investigation evaluation components include:
 - reviewing and assessing outfall inspection results
 - internal coordination
 - tracing upstream to identify the source of the illicit discharge
 - exercising the appropriate legal means to eliminate the illicit discharge and schedule follow-up inspections as necessary

3.5F Access to Private Property

In some cases, it may be necessary for City personnel to enter or cross private property to investigate probable illicit discharges. A form letter should be prepared that includes a short description of the project, the purpose of the access to the property, and the name of a project contact person with a telephone number. If the owner is not present, a letter should be left at the premises to facilitate return inspection. If permission to access property is denied, a public official should then contact the owner at a later date.

3.5G Confined Space Entry

Confined space entry for this program would include climbing into or inserting one's head into a pipe, manhole, or catch basin. In general, do not cross the vertical plane defining an outfall pipe or the horizontal plane defining a manhole unless properly prepared for confined space entry. Confined space entry shall be conducted only by trained personnel with appropriate rescue and monitoring equipment.

Outfall Inspection

The City is unable to perform inspections on all stormwater outfalls but will take action to correct problems with storm water outfalls as they are reported. The request and follow up action taken should be recorded. Those outfalls which are reported and are followed up with an inspection should be assessed to determine which one of the three following conditions applies:

- (1) The outfall is dry or damp with no observed flow
- (2) Flowing discharges are observed from the outfall
- (3) The outfall is partially or completely submerged with no observed flow or is inaccessible

<u>Scenario 1: No Observed Flow</u>. The field crew should photograph the outfall and complete applicable sections of the *Stormwater Outfall Inspection Form* (Appendix 5.18).

<u>Scenario 2: Observed Flow.</u> The field crew photographs the outfall and complete applicable sections of the *Stormwater Outfall Inspection Form*. The intent is to gather additional information to determine if an illicit discharge is present.

<u>Scenario 3: Submerged or Inaccessible Outfall</u>. If standing water is present in an outfall or if it is inaccessible, then complete available information from Sections 1, 2, 3 and 7 of the *Stormwater Outfall Inspection Form*, with appropriate comments being written in the "Remarks" section of the data form.

Determine the upstream sampling location using the city's storm sewer atlas. Manholes, catch basins, or culvert crossings can be used for upstream sampling locations. Make reasonable efforts to locate upstream sampling points that are accessible and exhibit flow. If inaccessible, resolve the problem in the office with appropriate supervisory personnel.

Outfall Assessment & Documentation

Complete the *Stormwater Outfall Inspection Form* for all outfall inspections. A separate data form must be completed for each outfall. In addition to standard information, the data form is used to record other information that is noted at the time the outfall inspection is conducted (e.g. dead or dying plants, fish kills, excessive algae growth, construction activities, etc. that might provide information regarding the potential for illicit discharges).

3.5H Office Closeout

Update the outfall screening scheduling and completion form and plan the next screening day's activities. Discuss any problems locating outfalls with appropriate supervisory personnel so that alternate sampling locations can be identified. Once a month, compile data from the *Stormwater Outfall Inspection Form* onto the *Outfall Inspection Summary Form* (Appendix 5.19).

3.51 Source Identification

Follow-up investigation is required for all outfalls with positive indicators for illicit discharges. The procedure for detailed investigation and source identification has three major components: 1) mapping and evaluation, 2) storm sewer investigation, and 3) tracing.

Mapping Evaluation

For each outfall to be investigated, a large-scale working map should be created to show the entire upstream storm sewer network, outfall locations, and parcel boundaries.

Storm Sewer Investigation

After conducting the mapping evaluation, a manhole-by-manhole inspection is conducted to pinpoint the location of the illicit discharge. All flows are tracked upstream until the dry-weather discharge is no longer detected. The field crew should also determine whether there has been a significant change in the flow rate between manholes.

Tracing

Once the manhole inspection has identified the reach area, testing may be necessary. If there is only one possible source to this section of the storm sewer system in the area, source identification and follow-up for corrective action is straightforward. Multiple sources, or non-definitive sources, may require testing in order to identify the contributing source. The method of testing must be approved by the Public Works Director prior to testing. Potential testing methods include dye testing, smoke testing, and/or remote video inspections.

3.5J Removal of Illicit Discharges

Removal of illicit discharge connections is required at all confirmed contributing sources. Nine steps are taken to positively identify and remove an illicit discharge to the storm sewer system. These steps are as follows:

- Step 1. Have an outside laboratory service take a grab sample and test for the illicit discharge at the manhole located immediately downstream of the suspected discharge connection.
- Step 2: Conduct an internal meeting with appropriate personnel to include Public Works personnel, Building Code Official, and the City Engineer to discuss inspection and testing results and remedial procedures.
- Step 3: The City Engineer shall send a notification letter to the owner/operator of the property/site suspected of discharging a pollutant. The letter should state the apparent violation, and request that the owner/operator describe the activities on the site and the possible sources of non-stormwater discharges including information regarding the use and storage of hazardous substances, chemical storage practices, materials handling and disposal practices, storage tanks, types of permits, and pollution prevention plans.
- Step 4: Arrange a meeting for an inspection of the property with the Building Code Official and the owner/operator of the property. After inspection, notify the site owner/operator of the findings and instruct them verbally and in writing to take any necessary corrective measures.
- Step 5: Conduct additional tests as necessary if the initial site inspection is not successful in identifying the source of the problem. The Public Works Director is responsible for determining the appropriate testing measure to pinpoint the source.
- Step 6: If the owner/operator does not voluntarily initiate corrective action, the Building Code Official shall issue a Notification of Noncompliance. The notification shall include a description of the required action(s) and a time

frame in which to take corrective action. Upon notification of noncompliance, the owner can be subject to penalties as stipulated by Municipal Code.

- Step 7: Conduct follow-up inspections to determine whether corrective actions have been implemented to: 1) remove the illicit connection or 2) establish a proper disposal practice.
- Step 8: If corrective actions have been completed (i.e. the illicit discharge has been eliminated) the City Engineer shall send a notification of compliance letter to the owner/operator of the property/site where the illicit discharge occurred.
- Step 9: If corrective actions have not been completed additional internal meetings shall be held to determine appropriate steps to obtain compliance. Appropriate actions may include monetary or other penalties.

3.5K Program Evaluation

The results of the screening program shall be reviewed periodically to determine if any trends can be identified that relate the incidence of dry-weather flow observations to the age of developed properties or land uses. These determinations may guide future outfall screening activities. Although the outfall screening program will be successful in identifying and eliminating most pollutants in dry-weather discharges, the continued existence of dry-weather flows and associated pollutants will require an ongoing commitment to continue the outfall screening program. The annual inspection screening will determine the effectiveness of the program.

3.5L Measurable Goals

- Track the number and type of potential illicit discharge on the *Illicit Discharge Tracking Forms* and *Illicit Discharge Summary Forms*.
- Inspect reported and priority storm water outfalls and record those inspections on the Stormwater Outfall Inspection Forms and Outfall Inspection Summary Forms.

3.6 Pollution Prevention and Good Housekeeping

The United City of Yorkville is responsible for the care and upkeep of public facilities, municipal roads, associated maintenance yards, and city parks. Many maintenance activities are most regularly performed directly by staff; however, from time to time contractors are employed to perform specific activities. This chapter describes how the compliance with permit requirements is achieved by incorporating pollution prevention and good housekeeping stormwater quality management into day-to-day operations. Ongoing education and training shall be provided to ensure that the appropriate employees

have the knowledge and skills necessary to perform their functions effectively and efficiently. The following lists describe activities performed by the Public Works Department and Parks Department.

Street Sweeping

All streets are swept are least 3 times per year or more often on an as-needed basis.

Fall Leaf Pick-up

The city provides free leaf pick-up service to residents every fall. Shredded and compacted leaves are removed and land-applied as fertilizer by a local farmer.

Catch Basin Cleaning

The city owns and operates a vacuum sewer cleaner truck. Catch basin cleaning is performed on an as-needed basis. Locations of cleaned catch basins are tracked.

Ice Removal

The city uses Geo-Melt (beet juice) additive with salt-spreading operations to reduce the amount of salt used in the winter, resulting in an average annual reduction in salt usage of about 500 tons.

Snow Removal

The city does not plow or salt roadways in new developments unless occupied homes exist along those roadways.

Salt Storage

The city has a salt storage building on Tower lane to provide protection for stockpiled salt from rain. After the winter season remaining salt is trucked to the Kendall County storage facility for storage until the following winter.

Spill Prevention

The city keeps Material Safety Data Sheets for all chemical agents used by the Public Works Department.

Weed Control

The city uses herbicide when needed to control the growth of vegetation in roadside ditches. Ditches are mowed where possible to avoid the application of herbicide. The Public Works Department has several employees that are certified herbicide applicators.

Illicit Connections

Public Works and Engineering Department personnel are instructed to watch for unusual discharges from storm sewers or unusual events at stormwater basins.

Landscape Maintenance

The Public Works Department and Parks Department are responsible for litter and debris control, as well as pickup and proper disposal of roadkill. The city shall endeavor to provide trash/recycling bins in more highly used parks.

Vehicle Maintenance

Vehicle maintenance procedures and practices are designed to minimize or eliminate the discharge of petroleum based pollutants to the stormwater system. Used motor oil and antifreeze are collected and stored indoors. Waste fluids are removed on a regular basis by vendors for recycling. Used batteries are stored in an enclosed covered container at the Tower Lane maintenance yard. The batteries are collected on a regular basis by a local vendor. Tires are replaced at local commercial vendor sites. Used tires are disposed of by those vendors.

Waste Management

Waste Management consists of procedural and structural practices for handling, storing and disposing of wastes generated by a maintenance activity. This helps prevent the release of waste materials into the stormwater system. Waste management practices include removal of materials such as asphalt and concrete, excess earth excavation, contaminated soil, hazardous wastes, and sanitary waste.

A spoil stock pile is located at the Tower Lane maintenance yard. Asphalt, concrete, and excess earth excavation materials are temporarily stored in the stock pile. Attempts are made to recycle asphalt and concrete products prior to storage in the spoil stock pile. Clean spoil is re-used around town where needed to backfill excavations and re-grade properties. If contaminated spoil is encountered, it is collected for treatment or disposal. Attempts are made to avoid stockpiling of contaminated spoil. If temporary stock piling is necessary, the stockpile shall be placed on an impermeable liner. Additional protective measures shall be used to protect the downslope of the stockpiled area for erosion downstream. Access to a contaminated stockpile shall be located on the upstream side of the stock pile.

Hazardous wastes shall be stored in labeled, sealed containers constructed of appropriate material. The containers are located in non-flammable storage cabinets or on shelving. These items include paint, aerosol cans, gasoline, solvents and other hazardous wastes. Paint brushes and equipment used for water and oil-based paints are cleaned within a designated cleaning area.

Sanitary wastewater shall be discharged into a sanitary sewer when possible. Portable toilets shall be maintained at high-usage parks.

Water Conservation

Water conservation practices minimize water use and help to avoid erosion and/or the transport of pollutants into the stormwater system. Ordinance No. 2006-123 (Appendix 5.7) limits the use of permanent landscape irrigation systems for certain properties as follows:

- For non-residential properties with one building, permanent irrigation systems using city water are prohibited where the total landscaped area exceeds one acre.
- For non-residential properties with more than one building, permanent irrigation systems using city water are prohibited where the total landscaped area exceeds three acres.

• For common open space properties of a primarily residential development, permanent irrigation systems using city water are prohibited.

The city has adopted Ordinance 2004-20 (Appendix 5.8) that establishes odd-even watering schedules throughout the city based on mailing addresses. This ordinance also requires a property owner to obtain a watering permit to use city water to establish new lawns. From July 1st to August 31st, watering permits are not issued and city water may not be used to water newly sodded or seeded lawns. From May 1st to June 30th, and September 1st to September 30th, watering permits are issued. Watering on the 1st day a lawn is sodded or seeded is limited to no more than eight hours. Watering on the 2nd through 10th days is limited to no more than seven hours, those hours being 5am-9am and 9pm to midnight. After Day 10, a lawn is considered established and a permit is no longer required, however, the property owner must still follow the odd-even and seven-hour restrictions.

Spill Response Plan

Spill prevention and control procedures are implemented wherever hazardous or non-hazardous chemicals substances are stored or used. The following general guidelines are implemented when cleanup activities and safety are not compromised, regardless of the type or location of the spill:

- Cover and protect spills from stormwater run-on and rainfall, until they are removed
- Dry cleanup methods are used when ever possible
- Properly dispose of used cleanup materials, contaminated materials and recovered spill material
- Contaminated water used for cleaning and decontamination shall not be allowed to enter the stormwater system
- Keep waste storage areas clean, well organized and equipped with appropriate cleanup supplies
- Maintain perimeter controls, containment structures, covers and liners to ensure proper function

Non-Hazardous Spills/Dumping

Non-hazardous spills typically consist of an illicit discharge of household materials into the street or stormwater system. Upon notification or observance of a non-hazardous spill, Public Works personnel implement the following procedure:

- Sandbag the receiving inlet to prevent additional discharge into the storm sewer system. It may be necessary to sand bag the next downstream inlet.
- Check structures in the immediate and downstream area. If possible, pollutant materials are vacuumed out. The structures are then jetted to dilute and flush the remaining unrecoverable material.

- Clean up may consist of applying "Oil Dry" or sand and then sweeping up the remnant material.
- After containment and cleanup activities have been performed, the Public Works
 Director shall fill out the *Spill Response Notice* (Appendix 5.20) door hanger and
 distribute it to adjoining residences/businesses. In residential areas, the hanger
 should be provided to residences on both sides of the spill and on both sides of the
 street.
- Public Works personnel document the location, type of spill and action taken on the *Illicit Discharge Tracking Form* and submit the tracking form to their supervisor. The supervisor or his designee takes the information from the form and transfers it to the *Illicit Discharge Summary Form*.
- If a person is observed causing an illicit discharge, the Building Code Official shall be notified and appropriate citations issued.

Hazardous Spills

Upon notification or observance of a hazardous illicit discharge, the Public Works Department shall implement the following procedure:

- Call 911 and explain the incident. The Fire Protection District responds.
- The Public Works and/or Police Departments provide emergency traffic control.
- The Fire Protection District evaluates the situation and applies "No Flash" or "Oil Dry" as necessary.
- The Fire Protection District's existing emergency response procedure, for hazardous spill containment clean-up activities, is followed.
- Public Works personnel document the location, type of spill and action taken on the *Illicit Discharge Tracking Form* and submit the tracking form to their supervisor. The supervisor or his designee takes the information from the form and transfers it to the *Illicit Discharge Summary Form*.

Employee Training

The United City of Yorkville's practice is to provide education and training to those employees of its Public Works and Engineering Departments that have stormwater-related responsibilities to ensure that they have the knowledge and skills necessary to perform their functions effectively and efficiently. Employees are encouraged to attend training sessions on topics related to the goals/objectives of the SMPP. Additionally, the Public Works Director will develop an employee training programs with curricula and materials tailored to specific employees. The materials will focus on stormwater pollution prevention measures and practices relating to the maintenance of facilities, infrastructure and properties.

The initial training program will be offered within one year of the acceptance of the SMPP. Copies of training materials will be kept and shared with appropriate new employees as part of their job introduction. The Public Works Director will monitor the

potential need for overall refresher material distributions and offer additional training as necessary.

3.6A Measurable Goals

- Maintain records for number curb miles swept each year.
- Maintain records on amount of leaves collected each fall.
- Maintain records on amount of road salt used each winter.
- Maintain records for number of catch basins cleaned.
- Maintain records for amount of herbicides and pesticides used each year.
- Maintain records on type and number of training sessions and employees in attendance.
- Monitor BMPs by Evaluating BMP effectiveness based on published research by keeping an inventory of BMPs implemented in the community and document the estimated pollution reduction provided by the BMP.
- Participate in watershed groups organized to implement control measures for chloride water quality standards for deicing operations.

4 Program and Performance Monitoring, Evaluation, & Reporting

The SMPP represents an organized approach to achieving compliance with the expectations of the NPDES Phase II program for both private and public activities within the United City of Yorkville. Land development and city projects and activities are to comply with the SMPP. Additionally, the city has numerous written and unwritten procedures for various tasks. This SMPP documents and organizes previously existing procedures to create one cohesive program addressing pre-development, construction, and post-development activities, as well as municipal operations.

This chapter describes how the United City of Yorkville will monitor and evaluate the SMPP. As part of the stormwater management program, the city will:

- review its activities
- inspect its facilities
- oversee, guide, and train its personnel
- evaluate the allocation of resources available to implement stormwater quality efforts

This chapter describes how program monitoring, evaluation and reporting will be accomplished.

4.1 Performance Milestones

Previously established ordinances and programs implement many of the anticipated tasks. The following schedule describes general performance expectations.

- Within one year following the acceptance of the SMPP, appropriate employees will receive training regarding the implementation of the SMPP.
- Within one year following the acceptance of the SMPP, items within Chapter 3 will be implemented with the exception of the IDDE program milestones discussed below. Refer to Chapter 2.1 for a description of tasks associated with the implementation of the SMPP.
- Within three years following the acceptance of the SMPP, the Outfall Inspection Procedure will be completed for all pipes identified, during the pre-screening efforts, as having dry weather flow.
- Within five years following the acceptance of the SMPP, tracing and removal procedures will be completed for all sewers identified during the Outfall Inspection Procedure as having illicit discharges.

4.2 Program Monitoring and Research

Currently water quality sampling/monitoring is not required under the NPDES Phase II program. Therefore, monitoring efforts focus on qualitative, not quantitative, examination of stormwater practices. It is anticipated that the USEPA and IEPA programs will evolve to require water quality monitoring and sampling. Future efforts may involve collecting information regarding discharges from outfalls, identifying other sources of pollutants, characterizing the receiving waters, sampling construction site discharges, and identifying the performance of stormwater pollution control measures. The United City of Yorkville will comply with future federal and state mandates regarding stormwater issues.

The United City of Yorkville will consider research conducted by others regarding the effectiveness of various alternative stormwater practices, procedures and technologies. The city will continue to seek innovative stormwater practices and technologies.

4.3 Program Evaluation

The primary mechanism for evaluating the SMPP and ensuring that the field staff has adequate knowledge is supervision by responsible managers. Management personnel include the directors and supervisors of the Public Works and Engineering Departments. Management support tasks include observing and evaluating design, construction, and field personnel as they implement the requirements of the SMPP on both municipal and private projects, and maintenance personnel as they conduct their assigned activities.

The following types of questions/answers are discussed annually between management and field staff.

- Are proper stormwater management practices used in planning, designing and constructing both city and private projects?
- Are efforts to incorporate stormwater practices into maintenance activities effective and efficient?
- Is the training program sufficient?
- Is the SMPP sufficient?
- Are the procedures for implementing the SMPP adequate?

5 Appendices



Reviewed By:		
Legal		
Finance		
Engineer		
City Administrator		
Human Resources		
Community Development		
Police		
Public Works		
Parks and Recreation		

Agenda Item Number
Old Business #1
Tracking Number
PW 2014-74

Agenda Item Summary Memo

Title: Railroad Quiet Z	ones			
Meeting and Date: Pu	ıblic Works Committee – Februa	ary 21, 2017		
Synopsis: See attached	memo.			
Council Action Previou	ısly Taken:			
Date of Action: N / A	Action Taken:			
Item Number:				
Type of Vote Required: Majority				
Council Action Requested: Approval				
Submitted by:	Erin Willrett Name	Administration Department		
Agenda Item Notes:				
	g			



Memorandum

To: Public Works Committee Members

From: Erin Willrett, Assistant City Administrator

CC:

Date: January 23, 2017

Subject: Quiet Zone Follow Up Information

Summary

Review of answers to unresolved questions from the January Public Works Committee meeting.

Background

There were several follow-up questions from the discussion on Quiet Zones at the January Public Works Committee meeting.

The first was regarding the number of trains at each location. Below are the average daily train counts provided by the Illinois Commerce Commission (https://www.icc.illinois.gov/railroad/search.aspx):

- Average daily train counts on the Union Pacific Railroad that runs through Elburn (IL Route 47 and First Street): 60 per day;
- Average daily train counts on the Union Pacific Railroad that runs through Kane County (La Fox and Brundige Road): 111 per day;
- Average daily train counts on the Burlington Northern Santa Fe Railroad that runs through Sugar Grove (Dugan Road and Main Street): 32 per day;
- Average daily train counts on the Illinois Railnet line through downtown Yorkville: 2 per day.

The Kane County numbers are higher because of the added Metra traffic.

The second was a question concerning the Federal regulations regarding train horns. Train horns are required by Federal law to be sounded at all public crossings, 24 hours a day, to warn motorists and pedestrians that a train is approaching. Train crews may also sound their horns when there is a vehicle, person or animal on or near the track and the crew determines it is appropriate to provide warning. Crews may also sound the horn when there are track or construction workers within 25 feet of a live track, or when gates and lights at the crossing are not functioning properly. For everyone's safety, Federal regulation requires locomotive horns be sounded for 15-20 seconds before entering all public grade crossings, but not more than one-quarter mile in advance. This Federal requirement preempts any state or local laws regarding the use of train horns at public crossings.

The Federal Railroad Administration (FRA) required pattern for blowing the horn is two long, one short, and one long sounding horn, repeated as necessary until the locomotive clears the crossing. Locomotive engineers retain the authority to vary this pattern as necessary for crossings in close proximity and are allowed to sound the horn in emergency situations. The Federal regulation concerning train horns is officially known as the FRA's Final Rule on the Use of Locomotive Horns at Highway/Rail Grade Crossings and became effective June 24, 2005.

Finally, I have contacted Illinois Railnet about any expected increase in train traffic in the near future. I was unable to get a response. When I do hear back from them, I will update the Committee with any future plans that have for the rail line.

Recommendation

This is an informational item.