

## MEMORANDUM OF AGREEMENT

This **MEMORANDUM OF AGREEMENT** ("Memorandum") is made and entered into this 15th day of December, 2008, by and between the **Village of Hoffman Estates** ("Hoffman Estates"), an Illinois municipal corporation, and **Grand Trunk Corporation** (together with its U.S. operating subsidiaries, "GTC"), a wholly owned U.S. subsidiary and owner of the U.S. rail operating subsidiaries of Canadian National Railway Company and co-applicant in the filing before the Surface Transportation Board ("STB") in STB Finance Docket No. 35087. This Memorandum sets out certain commitments GTC is prepared to make to address the following issues resolved by the parties related to existing train traffic and changes in train traffic anticipated as a result of the proposed CN/EJ&EW transaction ("Transaction"), should that Transaction be authorized by the STB in STB Finance Docket No. 35087, and the corresponding agreement by Hoffman Estates that these commitments by GTC resolve any outstanding concerns Hoffman Estates has related to the Transaction with respect to these issues. The specific terms of this Memorandum between GTC and Hoffman Estates are summarized below, and contained in the attached exhibits and will be effective upon the execution of this Memorandum by duly authorized representatives of Hoffman Estates and GTC.

### A.

#### I. Quiet Zones

- (A) GTC will fund the cost up to \$250,000 to Hoffman Estates for the installation of pedestrian gates at Shoe Factory Road for a new sidewalk and bicycle path crossing. Hoffman Estates will be responsible for all design, permitting, and construction subject to concurrence of GTC. Should GTC's expenditures for this project and that in Section I.B. be less than the maximums stated (\$450,000), GTC will contribute the remaining funds towards the cost of constructing a 10-foot wide bicycle path within the railroad of way, including the crossing of the track.
- (B) GTC will fund the cost of a concrete median barrier at Shoe Factory Road to be installed by Hoffman Estates (See Exhibit 1). GTC will provide reimbursement for the cost of this item up to \$200,000.
- (C) GTC will fund additional measures required to maintain the existing Quiet Zone designation on the EJ&EW line to be acquired by CN within the Village limits of Hoffman Estates should the retention of the designation be jeopardized by additional train volumes on the line resulting from the transaction. In the event Hoffman Estates is notified or otherwise becomes aware that additional measures must be taken to maintain such Quiet Zone, GTC agrees to immediately commence the provision of such additional measures within ninety (90) days after written notice from Hoffman Estates, or at such earlier date as may be required by any federal, state or local authority having jurisdiction over

the Quiet Zone designation. This provision will be limited for a period of 10 years from the date of acquisition by GTC of control of EJ&EW.

## II. Operations/Property

GTC will perform a crossing rehabilitation of the surface at Shoe Factory Road, at an estimated cost of \$120,000 (See Exhibit 2).

## III. Safety/Noise

- (A) GTC will provide \$50,000 for Hoffman Estates to construct and maintain 1,400 feet of safety fencing in Cannon Crossings Park. GTC agrees that the fencing shall be at least five (5) feet in height and located upon its property line. GTC will provide access to its property for both construction and maintenance (See Exhibit 3).
- (B) GTC will fund fully the cost of design, permitting, and construction of a variable message sign at Shoe Factory Road (estimated at \$75,000). GTC will make funds available to Hoffman Estates to complete this installation within twelve (12) months of the date of acquisition by GTC of control of EJ&EW (See Exhibit 4).
- (C) GTC will fund, construct and maintain the structural integrity of sound walls for a total distance of 6000 feet (at a cost estimated to be \$2,500,000) at locations designated in the attached exhibit (See Exhibit 5). These locations include residential areas in Hoffman Estates, as well as the Bridlewood subdivision in the unincorporated area north of Shoe Factory Road. The specifics of design will be established in cooperation with the Village and the final design subject to Village approval. GTC acknowledges that the projected cost of \$2,500,000 is an estimate only and agrees that it shall bear the actual cost necessary to construct such sound walls. GTC shall have the continuing obligation to maintain the sound walls for structural integrity, and Hoffman Estates shall bear the responsibility for keeping the walls free from graffiti or other visual defacement. GTC and Hoffman Estates agree to provide mutual access for this purpose to the limits of ability.
- (D) GTC agrees that within 180 days of the date of its acquisition of control of EJ&EW, GTC shall deliver a plan for the specific construction timetable for the improvements required in this Section III. GTC will complete all construction activity within three years of the date that the plan has been reviewed and approved by Hoffman Estates.

## IV. Emergency Response Training

GTC will provide training at its sole cost to Hoffman Estates for Hoffman Estates' emergency responders. GTC will complete a training plan in conjunction with the Police Chief and the Fire Chief within 3 months after acquisition of EJ&EW. All training will be completed within a 3-year period following acquisition by GTC of control of EJ&EW. This does not preclude additional training in years following that three-year period, for new employees and as refresher.

**V. Communicatlons**

GTC will fund at its sole expense a specific emergency protocol and dispatching view capability on behalf of Hoffman Estates in cooperation with Northwest Central Dispatch Communications Center. GTC agrees to bear the cost of the hardware, software and communication equipment which the parties jointly deem necessary and appropriate in order to provide specific emergency protocol and dispatching view capabilities at the Northwest Central Dispatch. Hoffman Estates agrees to assist in the design, testing and training with the Northwest Central Dispatch.

**VI. Additional Consideratlons**

GTC will convey an easement at no charge for the pedestrian/bicycle crossing anticipated at Shoe Factory Road. Any improvement within the easement area shall be constructed in accordance with AREMA specifications, and subject to GTC engineering review. This provision shall be limited to a period of ten years from the date of acquisition by GTC of control of EJ&EW.

**B.****CONDITIONS FOR GTC'S OBLIGATIONS UNDER THIS MEMORANDUM OF AGREEMENT**

- I. The commitments of GTC set forth in this Agreement are conditioned upon the following:
  - (A) STB approval of the application by GTC to acquire control of the EJ&E West Company, provided that such approval does not include the imposition upon GTC of any condition for mitigation in Hoffman Estates that is materially inconsistent with, in lieu of, or supplemental to the commitments in this Agreement; and
  - (B) Acquisition by GTC of control of the EJ&EW, pursuant to STB authorization.
- II. As promptly as commercially reasonable, but not later than three years after acquisition of control of EJ&EW, GTC shall fulfill all of its commitments contained herein.
- III. Hoffman Estates agrees that it shall not make further submissions in the proceeding without GTC's prior review and approval except in support of this agreement and prompt STB approval of the Transaction.

**IV. Confidentiality**

This negotiated Memorandum and its terms shall be confidential, except to the extent disclosure may be necessary for consideration by the Hoffman Estates corporate authorities at a public meeting and as otherwise required by law including the Illinois Freedom of Information Act, and except that it may be submitted to the STB's Section of Environmental Analysis ("SEA"), subject to a request that it be kept confidential by SEA and the STB.

It is the intent of the parties to this Memorandum that the STB require GTC's compliance with this agreement in lieu of inconsistent mitigation that the STB might otherwise impose regarding environmental impacts within the Village limits of Hoffman Estates. SEA has asked that it be provided copies of any formalized agreements between GTC and affected communities, and the parties agree that GTC shall provide a copy of this Memorandum to SEA upon execution.

Agreed To:

GTC

By: 

Title: SVP SOUTHERN REGION

Date: 12/16/08

Agreed To:

Village of Hoffman Estates

By: William B. Mc Neal  
Village President

Date: 12-15-08



## Median Barrier



1,2: Photos courtesy of Qwick Kurb  
3: Photo by Parsons

Median Barriers are designed to promote safe crossings at at-grade railroad crossings. The barrier discourages vehicles from crossing into the oncoming lane to circumnavigate a gate that is already down. A Federal Railroad Administration study shows that median barriers reduce motorist drive-arounds by more than 75 percent.

The installation can either be a non-mountable raised median (3) or a raised mountable separator along with formidable markers mounted on flexible posts on top of the separator (1,2). The raised mountable separator deters drivers from crossing the midline. The markers make the barrier very visible and help add to the barrier effect.

The Village of Hoffman Estates will be responsible for the construction and maintenance of a median barrier along Shoe Factory Road.

GTC will be responsible for construction costs up to \$200,000.



## Crossing Rehabilitation



Railroad crossing rehabilitation includes installing panels between the rails to allow for smoother crossing. This also allows for quieter crossing.

Benefits include:

- Smoother ride over the track crossing
- Durability
  - Built of high-strength materials
  - Able to withstand heavy vehicles
- Safety
  - Non-skid surface matches existing roads
- Quick and easy installation

GTC will replace the crossing panels at Shoe Factory Road. GTC will be responsible for construction and maintenance.

The estimated cost of this improvement is \$120,000.



## Safety Fencing



*Photo by Parsons*

The Village of Hoffman Estates will be responsible for the construction and maintenance of safety fencing along the current EJ&EW right-of-way adjacent to Cannon Crossings Park.

GTC will be responsible for construction costs up to \$50,000. This cost assumes five-foot high chain link fence will be provided for 1,400 linear feet.



## Variable Message Sign



The Village of Hoffman Estates will be responsible for the construction and maintenance of a variable message sign along Shoe Factory Road, east of the EJ&EW. GTC will be responsible for construction costs up to \$75,000.

Crossing  
Delay

[http://www.its.dot.gov/jpodocs/repts\\_te/13587.html](http://www.its.dot.gov/jpodocs/repts_te/13587.html)



## Noise Barriers



Noise barriers are used to attenuate the sound of trains as they pass through sensitive land use areas. The theory is to block sound waves after they are emitted from the source. Noise barriers may be made of masonry wall, earthwork, steel, concrete, masonry, wood, plastics, or composites. The height is determined by the source of the noise and the position of the receiver.

GTC will be responsible for the construction of noise barriers along the current EJ&EW right-of-way at the residential developments located between Golf Road and I-90.

GTC will be responsible for construction costs up to \$2.5 million. This cost assumes noise barriers will be provided for 6,000 linear feet.

GTC will be responsible for the maintenance of the structural integrity of the noise barriers. The Village of Hoffman Estates will be responsible for the maintenance of the visual appearance of the noise barriers.



Photo by Sound Fighter Systems



Spring Creek Valley  
Forest Preserve

EJ&E Railroad

SOUTH  
BARRINGTON

Noise Mitigation  
– Exhibit 5

Crossing  
Rehabilitation  
– Exhibit 2

Variable Message Sign  
– Exhibit 4

HOFFMAN ESTATES

Median Barrier  
– Exhibit 1

Pedestrian Gates

SHOE FACTORY ROAD

Noise Mitigation  
– Exhibit 5

Safety Fencing  
– Exhibit 3

ROHRSEN ROAD

Poplar Creek  
Forest Preserve

GOLF ROAD

BARTLETT ROAD

Scale in Miles  
0 .25 .5



CN Acquisition of EJ&E Lines  
**Hoffman Estates**  
VOLUNTARY AGREEMENT EXHIBIT