MEMORANDUM OF AGREEMENT

This ***MEMORANDUM OF AGREEMENT*** ("Memorandum") is made and entered into this 16th day of November, 2009, by and between the **Village of Lake Zurich**, an Illinois municipal corporation ("Lake Zurich") and **Grand Trunk Corporation**, a wholly owned U.S. subsidiary and owner of the U.S. rail operating subsidiaries of Canadian National Railway Company (collectively, "GTC"), 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 CN/EJ&EW transaction ("Transaction"), authorized by the STB on December 24, 2008 in STB Finance Docket No. 35087, and the corresponding agreement by Lake Zurich that these commitments by GTC resolve any outstanding concerns Lake Zurich has related to the Transaction. The specific terms of this Memorandum between GTC and Lake Zurich are summarized below, and will be effective upon the execution of this Memorandum by duly authorized representatives of Lake Zurich and GTC.

A.

I Quiet Zones

(A) GTC will fund additional measures required to maintain the existing Quiet Zone designation on the EJ&EW line acquired by GTC within the planning limits of Lake Zurich should the retention of the designation be jeopardized by additional train volumes on the line resulting from the transaction. This provision will be limited for a period of 10 years from the date of acquisition by GTC of control of EJ&EW.

II Noise and Safety Mitigation

GTC will provide $ 1,960,000 for noise mitigation, safety fencing, or road improvements for adjacent village streets, residential, school, and park properties within Lake Zurich. These funds may be used to cover reimbursement or construction costs for the improvements including design and engineering. Lake Zurich may use these funds for any combination of mitigation elements constructed on non-railroad property, but immediately adjacent to the right of way. In addition, Lake Zurich may utilize any portion of these funds to administer a mitigation fund for distribution to adjacent property owners. Lake Zurich or adjacent property owners will be responsible for the construction, ownership and maintenance of all improvements. If noise walls are selected as an option, GTC shall allow construction on the railroad property line provided Lake Zurich assumes all ownership and maintenance through a license agreement with GTC.

Within 90 days from the effective date of this agreement, Lake Zurich shall submit to GTC a specific preliminary plan for use of the funds, along with any criteria for disbursement if funds are distributed to individual property owners. GTC will disburse 100% of these funds within 30

days of the receipt of the plan. Lake Zurich will be responsible for providing a semi-annual report to GTC of all expenditures.

III Emergency Response and Training

GTC will provide training, both in-house and off-site, at no cost to Lake Zurich for Lake Zurich's emergency responders. GTC will complete a training plan in conjunction with the designated Fire/Rescue Department representatives within 6 months after effective date of this agreement. All training will be completed within a 3-year span. Specialized training will be limited to qualified candidates submitted by Lake Zurich. This does not preclude additional training in subsequent years for new employees and as refresher. GTC will cover tuition, transportation, lodging and meals as required.

IV Communications

GTC will fund at its sole expense the establishment of a specific emergency protocol and dispatching view capability on behalf of Lake Zurich. The monitoring system will be web-based and allow for viewing of train location and direction of travel. GTC shall bear the cost of the hardware, software and communication equipment in order to provide specific emergency protocol and dispatching view capabilities as identified above.

V Annexation

GTC will allow Lake Zurich to annex railroad owned property within Lake Zurich's municipal limits, provided all costs and filings are the responsibility of Lake Zurich and GTC has the right to review and accept all documents. Lake Zurich shall designate such property within three years of the date of execution of this memorandum. Any future annexation requests made by Lake Zurich will be considered by GTC within a reasonable timeline.

VI Other

(A) GTC will provide license agreements, using GTC's standard utility license agreement at no cost, to govern those municipally owned utility crossings that exist but are not recorded. GTC engineering will cooperate in reviewing records and facilities to identify any such utility crossings. It shall be the responsibility of Lake Zurich to identify and prepare the documentation for these crossings within 12 months of the date of execution of this memorandum. In addition, GTC shall provide a maximum of 6 additional license agreements at no cost to Lake Zurich for new utility crossings, to be located by mutual agreement of the parties, within the 3-year period after execution of this memorandum.

(B) GTC has been advised that Lake Zurich intends to pursue two specific road improvement projects that involve current grade crossings. In the case of Church Street, Lake Zurich plans to relocate the existing grade crossing to accommodate a realignment of the street. GTC shall provide an expeditious review of the

engineering proposal when presented and hereby agrees to grant the license agreement for the new alignment at no cost to Lake Zurich using GTC's standard crossing agreement. Should a grade separation be determined to be the preferred alternative at East Main Street crossing, GTC agrees to support the project in the form of the customary railroad proportional share of the capital cost, not to exceed 10%. In the case of Ela Road, GTC commits to the same expeditious engineering review. Should the project involve the closure of the Ela road grade crossing and diversion of traffic to the existing Rand route underpass, GTC agrees to support the project in the form of the customary railroad proportional share of the capital cost, not to exceed 10%.

(C) GTC will pay up to $30,000 to secure the 3 culvert/cattle crossings within Lake Zurich. GTC will consult with Lake Zurich to develop a plan. GTC will have the option of performing the improvements, or allocating the funds to Lake Zurich to accomplish the same. GTC will complete the work, or deliver the funds, within one year of the date of this agreement.

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. Upon execution of this Memorandum, GTC will fulfill its commitments contained in this agreement within a three-year period after the effective date of this agreement, unless otherwise specified herein. GTC may request an additional two-year period should Lake Zurich submit modifications to the initial noise and safety mitigation plans referenced in Section II above. Lake Zurich will accept funds committed for the mitigation provided in Section II and, and absent such an extension, complete installation of improvements or distribution of said funds within the same three-year period.

B. Lake Zurich agrees that it shall not make further submissions in the STB proceeding or in appellate proceedings without GTC's prior review and approval except in support of this agreement and/or the STB's decision approving the Transaction. Lake Zurich shall formally withdraw from the TRAC coalition within 30 days of executing this memorandum.

II. **Confidentiality**

This negotiated Memorandum and its terms shall be confidential, except to the extent disclosure may be essential for consideration by the Lake Zurich corporate authorities at a public meeting and as otherwise required by law and only after notice to, and consultation between GTC and Lake Zurich, 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.

III. Sole Remedy

It is the intent of the parties to this Memorandum that the STB require GTC's compliance with this agreement in lieu of any additional or inconsistent mitigation that the STB might otherwise impose regarding environmental impacts in Lake Zurich. SEA has asked that CN provide 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: Eric T. Johnson

GTC Director

Title

Date: 11-16-09

Attest: _____

By: _____

Agreed To:

Village of Lake Zurich

By: Suzanne K. Branding

Suzanne Branding
Village President

Date: 11-16-09

Attest:

By: Wende M Dau

Wende Dau
Village Clerk