

VILLAGE OF SAUK VILLAGE
COOK AND WILL COUNTIES, ILLINOIS

ORDINANCE NO. 10-045

**AN ORDINANCE APPROVING A MEMORANDUM OF AGREEMENT WITH
GRAND TRUNK CORPORATION, A WHOLLY OWNED U.S. SUBSIDIARY
AND OWNER OF THE U.S. RAIL OPERATING SUBSIDIARIES OF
CANADIAN NATIONAL RAILWAY COMPANY, FOR THE VILLAGE OF
SAUK VILLAGE, ILLINOIS**

ADOPTED BY THE
MAYOR AND BOARD OF TRUSTEES
OF THE
VILLAGE OF SAUK VILLAGE

THIS 12TH DAY OF OCTOBER, 2010

Published by authority of the
Mayor and Board of Trustees of
The Village of Sauk Village,
Cook and Will Counties, Illinois
The 12th day of October, 2010

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SAUK VILLAGE, ILLINOIS**

WHEREAS, the Village of Sauk Village, Counties of Cook and Will, State of Illinois (the "Village") is a duly organized and existing village and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code, as supplemented and amended, with the full power to enact ordinances and adopt resolutions for the benefit of its residents; and

WHEREAS, on or about December 24, 2008, the Surface Transportation Board ("STB"), a federal economic regulatory agency that, approved a merger whereby Canadian National Railway Company, operating through its wholly-owned subsidiary, Grand Trunk Corporation, ("CN Railway") obtained ownership and/or control of certain railway lines that are located in or near the Village (the "Transaction"); and

WHEREAS, in connection with the Transaction, the STB requires CN Railway to take certain measures to mitigate the impact that the Transaction has on municipalities that neighbor its railways; and

WHEREAS, in connection with the foregoing, CN Railway has presented the Board of Trustees of the Village (the "Village Board") and the Village Mayor, who is also the President of the Village Board, (the "President" and with the Village Board, the "Corporate Authorities") with a certain memorandum of agreement (the "Memorandum of Agreement"), attached hereto and incorporated herein as Exhibit A, which sets forth certain steps that CN Railway will take to improve safety and mitigate the noise and other environmental impacts that its railway operations have on the Village (collectively, "Mitigating Measures"); and

WHEREAS, among the Mitigating Measures is an agreement that CN Railway will provide certain funds for the Village's use in making safety-related improvements on properties immediately adjacent to CN Railway's right-of-ways in the Village; and

WHEREAS, the Corporate Authorities are committed to ensuring that railroad traffic running through the Village operates in a safe and quiet manner; and

WHEREAS, based on the foregoing, the Corporate Authorities find that it is in the best interests of the Village to approve a memorandum of agreement with terms

substantially the same as the terms of the Memorandum of Agreement; and

WHEREAS, the President is authorized to enter into and the Village Attorney (the "Attorney") is authorized to review and amend agreements for the Village making such insertions, omissions and changes as shall be approved by the President and the Attorney, in concert with the terms as agreed to and directed by the Corporate Authorities; and

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Sauk Village, Cook and Will Counties, Illinois, as follows:

SECTION 1: The preambles to this Ordinance are found to be full, true and correct and are hereby incorporated into the terms of this Ordinance as if fully set forth herein. This Ordinance is adopted pursuant to the authority granted to the Village by the Constitution of the State of Illinois and the Illinois Compiled Statutes. All applicable provisions of the Illinois Compiled Statutes, including the Illinois Municipal Code, as may be amended from time to time, relating to the purpose of this Ordinance are incorporated herein by this reference.

SECTION 2: The Village Board hereby authorizes and directs the President or his designee to negotiate, enter into and approve a memorandum of agreement with terms substantially the same as the terms of the Memorandum of Agreement, after the review and approval of the same by the Village Board. The Village Board authorizes and directs the President or his designee to execute any and all additional documentation and take any further steps necessary to carry out the intent of this Ordinance. Any and all previous steps taken to carry out the intent of this Ordinance are hereby ratified. The Village Clerk is hereby authorized and directed to attest to and countersign any other documentation that may be necessary to carry out and effectuate the purpose of this Ordinance. The Village Clerk is also authorized and directed to affix the Seal of the Village to such documentation as is deemed necessary.

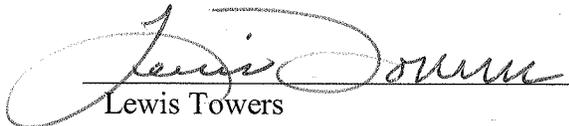
SECTION 3: The headings of the sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provision of this Ordinance. The provisions of this Ordinance are hereby declared to be severable. If any portion of this Ordinance is held to be invalid or determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said portion shall be stricken from this Ordinance and the remaining portions of this Ordinance shall continue in full force and effect to the fullest extent possible. All codes, provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded. This Ordinance shall be in full force and effect from and after the date of its passage, approval and publication in pamphlet form as provided by law.

AYES: TRUSTEES ANDERSON, BENSON, HANKS, MYERS, BURGESS AND WILLIAMS

NAYS: NONE

ABSENT: NONE

PASSED AND APPROVED THIS 12th day of October, 2010


Lewis Towers
Village Mayor

Attest:

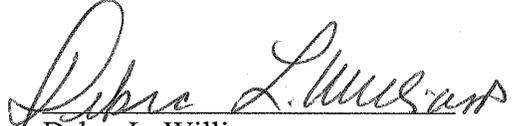

Debra L. Williams
Village Clerk

EXHIBIT A

MEMORANDUM OF AGREEMENT

This **MEMORANDUM OF AGREEMENT** ("Memorandum") is made and entered into this xxth day of September, 2010, by and between the **Village of Sauk Village**, an Illinois municipal corporation ("Sauk Village") 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 Sauk Village that these commitments by GTC resolve any outstanding concerns Sauk Village has related to the Transaction. The specific terms of this Memorandum between GTC and Sauk Village are summarized below, and will be effective upon the execution of this Memorandum by duly authorized representatives of Sauk Village and GTC.

A.

I Quiet Zones

- (A) GTC will support and provide at its sole cost and expense independent consulting assistance to assist Sauk Village's efforts to establish a Quiet Zone for Torrence Avenue and/or Cottage Grove Avenue. GTC will bear such cost until the Quiet Zone has been approved by the appropriate authorities having jurisdiction over the same. GTC shall provide Sauk Village with a list of appropriate consultants for consideration.
- (B) GTC shall fund in its entirety the installation of the minimum requirements of any designated mitigation items required for the establishment of the Quiet Zone within the village limits of Sauk Village.

II Noise and Safety Mitigation

GTC will provide \$270,000 to Sauk Village for noise mitigation, and additional safety fencing for properties adjacent to rail lines owned by GTC's subsidiary within Sauk Village. These funds may be used to cover reimbursement or construction costs for the improvements including design and engineering. Sauk Village 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, Sauk Village may utilize any portion of these funds to administer a mitigation fund for distribution to owners of property located adjacent to rail lines owned by GTC's subsidiary. Sauk Village or the referenced property owners will be responsible for the construction, ownership and maintenance of all improvements. Within 60 days from the effective date of this agreement, Sauk Village shall submit to GTC a specific plan for use of the funds, along with any criteria for disbursement if funds are distributed to individual property owners. GTC will commit to disburse

100% of these funds within 30 days of the receipt of the plan. Sauk Village will be responsible for providing a semi-annual report to GTC of all expenditures until all of the \$270,000 is spent or otherwise distributed.

III Emergency Response and Training

GTC will provide training, both in-house and off-site, at no cost to Sauk Village for Sauk Village'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 Sauk Village. 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 Sauk Village. 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 Other

GTC will provide a waiver of fees for a period of twenty years (20 years) for all existing municipal utility license agreements between GTC and Sauk Village.

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. Sauk Village will accept funds committed for the mitigation provided in Section II and complete installation of improvements or distribution of said funds within the same three-year period.

- B. Sauk Village 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.

II. Confidentiality

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

GTC

Title

Date: _____

Agreed To:

Village of Sauk Village

By:

Mayor

Date: _____