

RESOLUTION 2009-052

A RESOLUTION AUTHORIZING EXECUTION OF
A MEMORANDUM OF AGREEMENT BETWEEN
THE VILLAGE OF VERNON HILLS AND
THE GRAND TRUNK CORPORATION (CANADIAN NATIONAL RAILWAY)

Whereas, the Canadian National Railway acquired a major portion of the EJ&E Railway on January 31, 2009;

Whereas, the attached Memorandum of Agreement outlines mitigation measures and conditions of obligation related to existing train traffic and changes in train traffic as a result of the CN/EJ&E transaction.

NOW THEREFORE BE IT RESOLVED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS.

That the Village President is authorized to execute a Memorandum of Agreement between the Village of Vernon Hills and the Grand Trunk Corporation (Canadian National Railway) dated March 18, 2009.

Dated this 18th day of March 2009

Adopted by roll call vote as follows:

AYES: 6-Marquardt, Schultz, Schwartz, Williams, Hebda, Koch

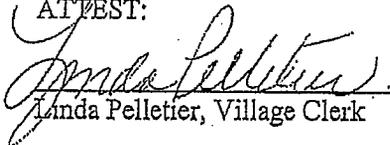
NAYS: 0-None

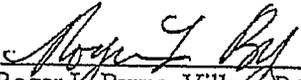
ABSENT AND NOT VOTING: 0-None

PASSED: 3/18/2009

APPROVED: 3/18/2009

ATTEST:


Linda Pelletier, Village Clerk


Roger V. Byrne, Village President



2/18/09

MEMORANDUM OF AGREEMENT

This **MEMORANDUM OF AGREEMENT** ("Memorandum") is made and entered into this 18th day of March, 2009, by and between the **Village of Vernon Hills**, an Illinois municipal corporation ("Vernon Hills") and Grand Trunk Corporation, a wholly owned U.S. subsidiary and owner of the U.S. rail operating subsidiaries of Canadian National Railway Company ("CN") (collectively, "GTC"), and co-applicant in the filing before the Surface Transportation Board ("STB"). 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 Vernon Hills that these commitments by GTC resolve any outstanding concerns Vernon Hills has related to the Transaction. The specific terms of this Memorandum between GTC and Vernon Hills are summarized below, and will be effective upon the execution of this Memorandum by duly authorized representatives of Vernon Hills and GTC.

A.

I Quiet Zones

- (A) GTC will provide funds to the Village of Mundelein ("Mundelein"), pursuant to the terms of Section II (A) of the Memorandum of Agreement entered into between Mundelein and GTC, in an amount sufficient to fund necessary improvements that will allow Mundelein and Vernon Hills to maintain a quiet zone on the CN from Willow Road on the south to Harris Road on the north and remove the existing wayside horn system at the CN railroad crossing at Butterfield Road located just south of Illinois Route 60 and at the CN railroad crossing at Route 60.

II Operations

- (A) After consultation with, review by and receiving concurrence from Vernon Hills, GTC will inspect and remove excess vegetation and debris on the EJ&EW right-of-way.
- (B) GTC will remove existing graffiti from the pedestrian tunnel under the CN line located just south of the Metra train station. Additionally, GTC will paint the older bridge located just south of the Metra train station. Additionally, GTC will paint the older bridge located just south of US 45 at the Seavey Ditch in a manner that will match the newer bridge constructed when the track was expanded to two rails.
- (C) GTC will inspect, and repair as necessary, any possible damage due to the EJ&EW bridge over the Seavey Ditch. GTC shall inspect the embankment in this area and take necessary measures to restore the embankment and route the ditch under the tracks. The existing recycled concrete slabs that were placed to stabilize the area are to be removed and standard stabilization methods installed.

III Safety Fencing

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- (A) GTC will provide funds in an amount not to exceed eighty thousand (\$80,000) dollars, for up to approximately 1000' of safety chain link fencing, if installed by the Village on railroad property (west side of tracks) along the full length of Russett Way Road for safety separation between the CN line and/or the EJ&EW and adjacent school properties. GTC agrees to provide the Village with the necessary construction and permanent easements to construct and maintain the fence.

IV Emergency Response Training

GTC will provide training at no cost to Vernon Hills for Vernon Hills's emergency responders. GTC will complete a training plan in conjunction with the Police Chief and the Fire Chief within 6 months after acquisition. All training will be completed within a 3-year span. This does not preclude additional training in subsequent years for new employees and as a refresher.

V Other

- (A) GTC has committed to construct a 30 mph connection at Leighton between the EJ&EW and GTC. GTC will provide Vernon Hills the opportunity to review plans for construction and provide updates on all permitting and construction. GTC will work with the Lake County Stormwater Management Commission and both Mundelein and Vernon Hills to address issues of wetlands mitigation and storm water drainage in the area of the northwest quadrant of Leighton.
- (B) GTC shall have discussions with METRA to determine whether there are ways to facilitate discharge on the east platform of the Vernon Hills METRA station as CN freight train volumes decline.

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) Acquisition by GTC of control of the EJ&EW, pursuant to STB authorization.
- II. Upon execution of this Memorandum and the acquisition of control of EJ&EW by GTC, GTC will fulfill its commitments contained in this agreement within a three-year period after acquisition of control.
- III. Vernon Hills agrees that it shall not make further submissions in the STB proceeding (or in related appellate proceedings) without GTC's prior review and approval except in support of this agreement and/or the STB's decision approving the Transaction.
- IV. **Confidentiality**

This negotiated Memorandum and its terms shall be confidential, except to the extent disclosure may be essential for consideration by the Vernon Hills corporate authorities at a public meeting and as otherwise required by the Illinois Freedom of Information Act ("FOIA"), and by law and, other than under FOIA, only after notice to, and consultation between GTC and Vernon Hills,

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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.

V. 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 Vernon Hills. 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. Jankowski
GTC
Director

Title

Date:

3/19/09

Agreed To:

Village of Vernon Hills

By:

Angela L. Boy
President

Date:

3/23/09