

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1289**

This Agreement made and entered into, by and between the State of Illinois acting by and through the Illinois Commerce Commission ("Commission"), the Union Pacific Railroad Company ("UP" or "Company"), the Village of Maywood ("Village"), and the State of Illinois, Department of Transportation ("Department" or "IDOT").

WITNESSETH:

WHEREAS, it has come to the attention of the Commission through correspondence from the Village that inquiry should be made into the matter of improving public safety at the 4th Avenue highway-rail grade crossing of the Company's track in the Village of Maywood, Cook County, designated as crossing (AAR/DOT #173 997S; railroad milepost 10.37-CNWA); and

WHEREAS, proper investigation has been made of the circumstances surrounding the subject crossing by a representative of the Commission's Transportation Division Railroad Section; and

WHEREAS, the physical aspects, including geometrics of the intersection, train movements, vehicular traffic volume, and sight distances and other pertinent data relating to the crossing have been obtained and shown on Exhibit A, attached to this Agreement; and

WHEREAS, the parties are mutually agreeable to accomplish proposed improvements to the crossings upon determination of the Commission by Order.

NOW, THEREFORE in consideration of the promises and of the mutual covenants and agreements as hereinafter contained the parties pray that the Commission enter an Order according to the provisions of Section 18c-7401 of the Illinois Commercial Transportation Law, 625 ILCS 5/18(c)-7401, requiring that certain improvements as hereinafter stated be made and that the cost for the proposed improvements be divided among the parties according to law and that in the interest of the traveling public the Grade Crossing Protection Fund ("Fund") of the Motor Fuel Tax Law ("MFT") be required to bear a substantial portion of the cost; To Wit the parties agree as follows:

Section 1 All improvements encompassed by this Agreement shall be made in accordance with all applicable State laws, rules, standards, regulations and orders and procedures in general.

Section 2 The parties are of the opinion that the following improvements in the interest of public safety at the aforesaid crossings should be:

- (a) Vacation of 4th Avenue at the highway-rail grade crossing of the Company's track, by the Village.

- (b) Installation of temporary Type-III barricades, if necessary, conforming to the requirements of 92 Illinois Administrative Code 1535.701 and the Manual on Uniform Traffic Control Devices, by the Company.
- (c) Removal of the existing grade crossing surface and warning devices at the existing 4th Avenue highway-rail grade crossing, by the Company.
- (d) Reconfiguration of the previous crossing area and roadway approaches such that permanent barricades are not required, by the Village (see Section 4).
- (e) Extend the right-of-way/pedestrian fence south of the tracks and adjacent to Maywood Park, west towards 5th Avenue, by the Company.
- (f) Payment as detailed *infra* from the Grade Crossing Protection Fund to the Village for voluntary closure of the 4th Avenue highway-rail grade crossing, by IDOT.
- (g) Payment as detailed in the Cost Division Table to the Village by Company as set forth in Section 5 below.

Section 3 The Village has passed a local ordinance vacating 4th Avenue at the highway-rail grade crossing of the Company's track, with a stipulation that final vacation of the roadway shall not take place until a Commission Order has been issued authorizing an incentive payment from the Grade Crossing Protection Fund for closure of the 4th Avenue highway-rail grade crossing. A copy of the Ordinance is attached as Exhibit B.

Section 4 The Company, at its sole cost and in coordination with the Village and Staff, shall upon Order, according to the requirements contained therein, install and maintain temporary barricades if necessary, and remove the crossing surface and warning devices at the 4th Avenue highway-rail grade crossing. The Village shall upon Order, according to the requirements contained therein, reconfigure the previous crossing area. The Village has provided a preliminary plan attached as Exhibit C for the reconfiguration such that permanent barricades are not required. The final reconfiguration plan will be coordinated with the UP, and approved by Commission Staff. The Company and Village work shall be completed within six (6) months.

The Company, at its sole cost, shall upon Order according to the requirements contained therein, extend the right-of-way/pedestrian fence south of the tracks and adjacent to Maywood Park, west towards 5th Avenue. The fence extension shall be completed concurrently with the closure of the 4th Avenue crossing, and then maintained by the Village.

Section 5 The parties agree that an equitable division of cost for the proposed improvements is as follows:

- COST DIVISION TABLE -

IMPROVEMENT	EST. COST	GCPF	VILLAGE	COMPANY	IDOT
Vacate 4 th Avenue by Local Ordinance.	No Estimate Required	\$0	100%	\$0	\$0
Remove existing crossing surfaces, warning devices and erect Temporary Barricades at the 4 th Avenue Grade Crossing.	No Estimate Required	\$0	\$0	100% ⁴	\$0
Reconfigure the previous crossing area and roadway approaches such that permanent barricades are not required; by the Village (see Section 4).	No Estimate Required	\$0	100% ²	\$0	\$0
Extend the pedestrian fence south of the tracks and adjacent to Maywood Park, west towards 5 th Avenue	No Estimate Required	\$0	\$0 ³	100%	\$0
Provide Grade Crossing Protection Fund Incentive Payment to Village for Voluntary Closure of the 4 th Avenue Grade Crossing.	\$70,000	100% ¹ (\$70,000)	\$0	\$0	\$0
Provide Incentive Payment to Village for Voluntary Closure of the 4 th Avenue Grade Crossing.	\$100,000	\$0	\$0	100% \$100,000 ⁵	\$0
Provide Federal Closure Incentive Payment to Village for Voluntary Closure of the 4 th Avenue Grade Crossing.	\$7,500	\$0	\$0	\$0	100% \$7,500 ⁶
TOTALS	\$177,500	\$70,000	\$0	\$100,000	\$7,500

[Totals do not reflect costs where no estimates were provided.]

Notes:

1. Total Grade Crossing Protection Fund (GCPF) payment not to exceed \$70,000 for the Village's voluntary closure of 4th Avenue Grade Crossing.
2. The Village shall pay all costs to reconfigure the previous crossing area and approaches, and shall be responsible for the subsequent maintenance of the reconfigured area outside the Company's right-of-way.
3. The Village shall be responsible for the maintenance associated with the fence.
4. The Company shall be responsible for all costs associated with erecting and maintaining temporary barricades, if needed, to prevent vehicular access to the 4th Avenue highway-rail Grade Crossing.
5. The \$100,000 incentive payment shall be provided to the Village by the Company (a contribution of \$50,000 to this amount from Metra shall be via a separate agreement between the Company and Metra).
6. Upon closure of the 4th Avenue crossing, the Village shall submit a notification of the closure and a request for the \$7,500 federal voluntary crossing closure incentive payment to the Department. Subsequent to the execution of this Agreement (see Section 7 of the Agreement), and within 60 days of receipt of the Village's notification that the road has been closed, the Department shall issue a

check in the amount of \$7,500 to the Village.

Section 6 The Village is financially able and willing to bear an equitable portion of the cost for the proposed improvements as may be assigned by the Order and indicates this intent by Resolution attached and incorporated herein by reference as Exhibit D.

Section 7 Special Provisions: The Village shall submit a certified copy of the local vacation ordinance to all parties, as evidence that the roadways have been vacated. The Village shall submit the vacation ordinance to all parties, via registered mail, at the same time as the Execution Page of this Agreement is submitted to the Commission.

Subject to availability of Grade Crossing Protection Funds, within sixty (60) days from receipt of the Village's notification that the road has been closed, the Department shall issue a check in the amount of \$70,000 to the Village as payment from the Grade Crossing Protection Fund. The Department shall notify all parties when the payment has been completed. Notification may be by regular mail, electronic mail, facsimile, or phone. The Village may use the GCPF payment for any purpose that meets IDOT's requirements for permissible uses of Motor Fuel Tax Funds.

Upon closure of the 4th Avenue Grade Crossing, the Company shall make a payment in the amount of \$100,000 to the Village.

The Illinois Department of Transportation shall utilize \$7,500 in federal funds as an incentive payment to be made to the Village. Eligibility for the Department's \$7,500 payment to the Village is based on the requirement that the authorization of the \$7,500 by the Federal Highway Administration (FHWA) shall be approved prior to the actual closure of the 4th Avenue Grade Crossing. If closure of the crossing takes place prior to federal authorization, the Department will not participate in, nor will it be responsible for the \$7,500 funding as proposed. The Department shall notify the Commission, the Village and the Company of the FHWA approval or disapproval, within thirty (30) days of the execution of an Order approving this Agreement. Notification may be by regular mail, electronic mail, or facsimile. The \$7,500 payment by the Department shall be used by the Village for a roadway safety related expense.

Upon receipt of the Commission Order, the Company shall extend the pedestrian fence south of the tracks, install temporary barricades if needed, and remove the crossing surfaces and warning devices at the 4th Avenue highway-rail Grade Crossing. The Village shall provide for the reconfiguration of the previous crossing area. The Village shall install the appropriate regulatory and warning signs conforming to the requirements of the Manual on Uniform Traffic Control Devices. All warning signs are to be maintained by the Village.

The Company shall complete and submit the Project Manager Information portion of the Project Status Report sheet, attached as Exhibit E, along with this executed Agreement.

The Company at three (3) month intervals from the date of the Commission Order

approving this Agreement, shall submit to the Director of Processing and Information, Transportation Bureau of the Commission, a Project Status Report, attached as Exhibit E, regarding the progress it has made toward completion of the work required by this Agreement. Each Project Status Report shall include the Commission Order's docket number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and the name, title, mailing address, phone number, facsimile number, and electronic mailing address of the Company.

Upon closure of the 4th Avenue Grade Crossing, and subject to the conditions and requirements set forth in this Agreement, the Village shall submit its request for the \$7,500 federal voluntary crossing closure incentive payment to the Department's Region 1 Office at the following address: Diane O'Keefe, Region Engineer, Attn: Christopher Holt, Engineer of Local Roads and Streets, 201 West Center Court, Schaumburg, Illinois 60196-1096. The request for payment shall include the location and ICC Order number, as well as the following information: **Section 07-00125-00-SP; Project # RRP-8003(882); Job # C- 91-049-08.**

Upon receipt of the request for payment for the \$7,500 incentive payment from the Village, IDOT's Region 1 Bureau of Local Roads and Streets shall prepare an invoice to be submitted to the Fiscal Control Unit in the Central Bureau of Local Roads and Streets for payment to the Village. Payment shall be issued within 60 days of a Commission Order issued subsequent to execution of this Agreement (see cost division notes).

Section 8 This Agreement shall be binding upon the parties hereto, their successors or assigns. Upon execution of this Agreement by all parties, the Commission shall enter an appropriate Order, within sixty (60) days accepting or rejecting such stipulation according to the provisions contained herein.

Section 9

- Exhibit A – Existing Conditions and Data
- Exhibit B - Ordinance
- Exhibit C – Preliminary Closing/Barricade Plan/Parking Plan
- Exhibit D - Resolution
- Exhibit E – Project Status Report

In Witness Whereof, the parties have caused this Agreement to be executed by their duly authorized officers, as of the dates indicated on their respective Execution Pages, attached hereto.

Executed by the Commission this 20th day of March 2008.



Michael E. Stead
Rail Safety Program Administrator

Attest:



Brian Vercruysse
Senior Railroad Safety Specialist

Illinois Commerce Commission Stipulated Agreement 1289, executed by Commission Staff on March 20, 2008, concerning improvements at the Avenue grade crossing of the Union Pacific Railroad Company's track, in Cook County, designated as crossing AARiDOT #173 997S, railroad milepost 10.37-CNWA.

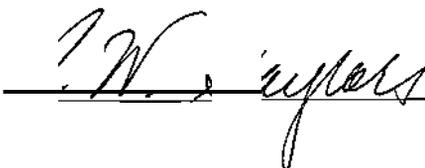
Executed by the Union Pacific Railroad Company this 3RD day of April 2008

UNION PACIFIC RAILROAD COMPANY

By:


AVP ENGINEERING

Attest:



Illinois Commerce Commission Stipulated Agreement 1289, executed by Commission Staff on March 20, 2008, concerning improvements at the 4th Avenue highway-rail grade crossing of the Union Pacific Railroad Company's track. in Cook County, designated as crossing AARiDOT #173 997S, railroad milepost 10.37-CNWA.

Executed by the Illinois Department of Transportation this 21st day of June 2008.

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

By: Christine M. Reed
Christine M. Reed, P.E., Director of Highways

ORDINANCE No. CO-Q7-43

AN ORDINANCE VACATING A STREET AT THE 4th AVENUE
HIGHWAY - RAIL GRADE CROSSING OF THE UNION PACIFIC
RAILROAD COMPANY'S TRACK IN THE VILLAGE OF MAYWOOD - AND
APPROVING THE STIPULATED AGREEMENT BETWEEN THE UNION
PACIFIC RAILROAD, METRA, AND THE VILLAGE OF MAYWOOD

WHEREAS, the Village has determined that the public interest will be served by vacating a portion of 4th Avenue at the point where such street is crossed by the Union Pacific Railroad Company's track, at the intersection legally described as follows:

THAT A PART OF THE 4TH AVENUE RIGHT OF WAY BEING A STRIP OF LAND 65.0 FEET WIDE AS EXTENDED SOUTHERLY FROM ITS LOCATION BETWEEN BLOCKS 193 AND 194 IN MAYWOOD SUBDIVISION, LYING SOUTH OF THE NORTH LINE OF THE CHICAGO AND NORTHWESTERN RIGHT OF WAY AND NORTH OF THE SOUTH LINE OF THE CHICAGO AND NORTHWESTERN RIGHT OF WAY, ALL IN THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: The intersection of Union Pacific Railroad Company's track
4th Avenue identified as 173 997S, railroad milepost 10.37 (the
and

WHEREAS, the Village, the Union Pacific Railroad Company, the Illinois Department of Transportation, the Illinois Commerce Commission have prepared a Stipulated Agreement (Exhibit A) for the vacation of the Village will vacate the right-of-way, Union Pacific and METRA will pay the Village a certain sum of money, totaling Eighty Thousand and 00/100 Dollars (\$80,000.00), and the Village will also receive funds from the Illinois Commerce Commission, through the Illinois Grade Crossing Protection Fund, and the Illinois Department of Transportation, from Illinois and federal programs for railroad safety, together totaling Seventy-Seven Thousand Five-Hundred and 00/100 Dollars (\$77,500.00) for a total compensation relative to the closing of the Crossing payable to the Village of One Hundred Fifty-Seven Thousand Five-Hundred and 00/100 Dollars (\$157,500.00); and

WHEREAS, the Village has determined the statutorily dedicated portion of 4th Avenue, as set forth in the attached plat of (Exhibit 8), serves no current or future public purpose at times can be a hazard to public health and safety.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, COOK COUNTY, ILLINOIS AS FOLLOWS;

SECTION 1: The recitals contained in the preamble to this Ordinance is hereby reference as if set forth in full herein.

SECTION 2: The Trustees of the Village of Maywood approve the vacation of the intersection of Union Pacific Railroad track and 4th Avenue identified as 173 997S, milepost 10.37, as set forth in the attached Plat of Vacation (Exhibit B), Parcel", subject to the set forth in Sections 3 and 4 below. The Trustees of the Village of Maywood also approve the attached Plat of Vacation authorize the Village President and Village Clerk, or their designees, to sign
Page 1 of 6

Ordinance Plaf of Vacation and such other documents necessary to satisfy and fulfill the Village's obligations under the Stipulated Agreement, this Ordinance the Plat of Vacation.

SECTION 3: The fee simple ownership of the Vacated Parcel shall be in the property owner of Property Identification (PJNS) 15-11-500-007-0000, 15-11-500-J03-0000 and 15-11-144-002-0000 (current owner of record: Union Pacific Railroad company) pursuant to the provisions of Section 11-91-1 of the Code (65 ILCS 5/11-91-1), subject to the Union Pacific Company to Village the estimated fair market value of the Vacated Parcel in the amount of Eighty Thousand and 00/100 Dollars (580,000.00) and fulfilling all terms and obligations of the Stipulated

SECTION 4: The authorization of the Village Attorney to finalize this vacation of a portion of 4th right-of-way by recording a certified of this Ordinance and the Plat of Vacation with the Cook County Recorder of Deeds shall become effective, without further action by the Village Board, after a Illinois Commerce Commission Order (in the form of Exhibit C) has been issued the Stipulated Agreement and authorizing incentive payments from Illinois and Federal railroad safety funds for of the 4th Grade Crossing in the total amount of One Hundred Fifty-Seven Thousand Five-hundred and 00/100 Dollars (\$157,500.00) and the payment of all funds the Village pursuant to the Stipulated have been received by the Once the terms of the Illinois Commerce Commission Order and the payment of funds have been to the Village in accordance with the Stipulated Agreement, this Ordinance shall be in full force and effect after its passage, approval and publication as required by law.

ADOPTED this 6 day of November, 2007, pursuant to a roll call vote as follows:

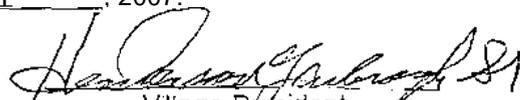
Mayor Yarbrough Sr., Trustee (S) G. Woll, A. Jaycox, D. Flowers,

AYES: R. Lopez, And K. Johnson

NAYS: None

ABSENT: Trustee E. Perkins

APPROVED by me this 6 day of November, 2007.


Village President

A T ST:


Village Clerk

Published by me in pamphlet form this 6 day of November, 2007.




Clerk

EXHIBIT A

STIPULATED AGREEMENT

(INCORPORATED HEREIN BY REFERENCE;
ORIGINAL ON FILE WITH THE VILLAGE CLERK'S OFFICE)

EXHIBIT B
PLAT OF VACATION
(ATTACHED)

4th AVENUE VACATION LEGAL DESCRIPTION

THAT PART OF THE 4TH AVENUE RIGHT OF WAY BEING A STRIP OF LAND 66.0 FEET WIDE AS EXTENDED SOUTHERLY FROM ITS LOCATION BETWEEN BLOCKS 193 AND 194 IN MAYWOOD SUBDIVISION, LYING SOUTH OF THE NORTH LINE OF THE CHICAGO AND RIGHT OF WAY AND NORTH OF THE SOUTH LINE OF THE CHICAGO AND NORTHWESTERN RIGHT OF WAY, ALL IN THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 39 NORTH, 12 EAST OF THE PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ILLINOIS COMMERCE COMMISSION
STIPULATED AGREEMENT 1289

Date March 18, 2008

The Maywood Village Board meeting on March 18, 2008

(Date)

Resolved to authorize Henderson Yarbrough, Sr., Village President

(Name, Office)

to act as designated agent in the processing of this Stipulated Agreement and that the Village of Maywood is financially willing and able to pay a portion of the cost for the proposed improvements as outlined in Section 2 of this Agreement.

ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION

PROJECT STATUS REPORT

TYPE: (CHECK ONE)

PROGRESS	<input type="checkbox"/>
COMPLETION	<input type="checkbox"/>

DATE: _____

PROJECT INFORMATION:

Reportina Partv:	Union Pacific Railroad Company
DockeVOrder #; Date:	
Status Reports Due:	
Ordered Completion Date:	
Completion Report Due:	
AARIDOT#, RR Milepost:	
Street. (in/near) City, County:	
Railroad Comoanv:	

Involving changes to the railroad crossing rndude an updated USDOT Inventory Form.

PROJECT MANAGER INFORMATION²:

Name:	THOMAS N. ANDR UK
Title:	MGR. - FIELD ENGINEERING
Reoresentina:	UP
Street Address:	500 WEST MADISON STE. 3610
City, State, Zip:	IL
Office Phone:	(312) 496-4726
Office Fax:	(702) 233-3174
Cellular Phone:	
E-Mail Address:	THANDRYU@UP.COM

Project Manager mformation to be _____ by BNSF Railway Company

DESCRIPTION OF IMPROVEMENTS ORDERED:

Close, abolish, and install temporary barricades at the 4th Avenue highway-rail grade crossing in the Village of Maywood, Cook County. Reconfigure the crossing area per Exhibit C, and extend pedestrian fence.

STATUS OF WORK: (use additional blank sheet, if necessary)
