

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Village of Lombard, Petitioner,	:	
	:	
v.	:	T11-0019
	:	
State of Illinois, Department of Transportation, Division of Highways, and Union Pacific Railroad Company, a Delaware Corporation, Respondents.	:	
	:	
Petition for an order of the Illinois Commerce Commission authorizing the construction of a pedestrian overpass crossing the Respondent Union Pacific Railroad Company's rail corridor at railroad mile post 19.13, Village of Lombard, Du Page County, Illinois, and authorizing the expenditure of Grade Crossing Protection Funds to pay a portion of the costs thereof.	:	

**STAFF RESPONSE TO VILLAGE OF LOMBARD'S  
NOVEMBER 30, 2012, PETITION FOR EXTENSION OF TIME  
AND AMENDED COST DIVISION TABLE**

Now comes Staff of the Commission (Staff), and in response to the Petition filed by the Village of Lombard (Village), respectfully states as follows:

Staff has no objection to Village's petition. A Proposed Stipulation (to attain an Agreed Supplemental Order), attached hereto, has been prepared by Staff and coordinated with all parties. The Village, Union Pacific Railroad Company, and Illinois Department of Transportation will file formal Responses stipulating to the facts, finding, and conclusions provided in the attached Proposed Stipulation.

Respectfully submitted  
December 17, 2012



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authorizing the construction of a pedestrian overpass crossing :  
the Respondent Union Pacific Railroad Company's rail corridor :  
at railroad mile post 19.13, Village of Lombard, Du Page :  
County, Illinois, and authorizing the expenditure of Grade :  
Crossing Protection Funds to pay a portion of the costs thereof. :

**PROPOSED STIPULATION**

By the Commission:

**PROCEDURAL HISTORY**

On June 2, 2011, the Illinois Commerce Commission entered its original Order in the above-captioned matter. The Village of Lombard (Village or Petitioner) was required to perform certain work necessary for the installation of a pedestrian bridge to carry the Great Western Trail over the Union Pacific Railroad Company's (UP or Company) three (3) mainline tracks at railroad milepost 19.13 on the Geneva Subdivision (the Great Western Trail Pedestrian Overpass). The Order mandated that all work for this project was to be completed on or before December 31, 2012. The Order also granted the Village the amount of \$1,982,367 in assistance from the Grade Crossing Protection Fund (GCPF) towards the construction of the Great Western Trail Pedestrian Overpass.

**PETITION FOR EXTENSION OF TIME AND PROVISION FOR COST UPDATES**

On November 30, 2012, the Village filed a Petition for Supplemental Order, requesting an extension of time, to and including September 30, 2013, to complete the work required by the Commission in its original Order. The need for the extension as identified by the Village is based upon a previously unknown conflict with an existing water main and the proposed retaining wall that was identified during construction. This conflict required further engineering and plan development before the retaining wall and its ground columns could be installed, delaying completion of the pedestrian overpass.

The Village also requested in its Petition that the Cost Division table be amended in the Commission's Order, dated June 2, 2011. The total assistance from the GCPF remains unchanged, but the project components for the Great Western Trail Pedestrian Overpass have been updated to reflect the actual costs spent to date by the Village. The Amended Cost Division Table is included within the Findings Section of this Supplemental Order.

### **RESPONDENT COMPANY'S POSITION**

The UP has no objection to the Village's request for extension of time or modification to the Cost Division Table.

### **RESPONDENT ILLINOIS DEPARTMENT OF TRANSPORTATION'S POSITION**

The Illinois Department of Transportation (Department) has no objection to the Village's request for extension of time or modification to the Cost Division Table.

### **STAFF RESPONSE**

Staff concurs with the Village's request for extension of time and modification to the Cost Division Table.

### **COMMISSION FINDINGS AND CONCLUSIONS**

The Commission, having reviewed the entire record, finds that:

- (1) The Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (2) The recitals of facts, as set forth in prefatory portion of this Supplemental Order, are supported by Commission Staff and are hereby adopted as findings of facts;
- (3) It is fair and reasonable to grant the Village additional time, to and including September 30, 2013, to complete the required work;
- (4) The construction cost of the Great Western Trail Pedestrian Overpass is currently identified at \$3,941,767 versus \$3,303,945 estimated in the Commission's Order, dated June 2, 2011. The GCPF of the Motor Fuel Tax Law should still be directed to pay an amount not to exceed \$1,982,367 to reimburse the Village of Lombard for eligible project costs. This represents approximately 50% of the cost of the Great Western Trail Pedestrian Overpass. To reflect actual costs incurred to date, the division of costs associated with the use of the GCPF is amended in the following table:

- **AMENDED GCPF COST DIVISION TABLE** -

<b>Work Item</b>	<b>Total Est. Cost</b>	<b>GCPF</b>
Bridge over UP Construction	\$2,700,000	\$675,000 (25%)
RR Force Account (Excludes Flagging)	\$15,000	\$13,500 (90%)
Com Ed Relocation	\$422,000	\$379,800 (90%)
Easement Compensation to UPRR	\$97,000	\$87,300 (90%)
RR Flagging	\$40,000	\$36,000 (90%)
Phase III Engineering		
Resident Engineering	\$553,777	\$498,399 (90%)
Geotechnical Engineering	\$113,990	\$102,591 (90%)
Undesignated balance (due to cost increases to above Items)		\$189,777
<b>Total</b>	<b>\$3,941,767</b>	<b>\$1,982,367 (50%)</b>

- (5) All other terms and conditions of the original Order dated June 2, 2011, shall remain in full force and effect except as herein modified.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an extension of time, to and including September 30, 2013, is hereby granted to the Village of Lombard to complete the work required as set forth in the original Order dated June 2, 2011.

IT IS FURTHER ORDERED that the Cost Division Table in the original Order, dated June 2, 2011, is hereby amended in accordance with the Amended Cost Division Table in Finding (4).

IT IS FURTHER ORDERED that all other terms and conditions of the original Order, dated June 2, 2011, are hereby affirmed and shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that, subject to Sections 18c-2201 and 18c-2206 of the Illinois Commercial Transportation Law, 625 ILCS 5/18c-1101, *et seq.*, this is a final decision of the Commission subject to the Administrative Review Law.

By Order of the Commission this 9<sup>th</sup> day of January, 2013.

DOUGLAS P. SCOTT  
CHAIRMAN