

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

City of McHenry, Illinois, a municipal corporation,	:	
Petitioner,	:	
	:	
v.	:	T14-0010
	:	
The Union Pacific Railroad Company,	:	
Respondent.	:	
	:	
Petition for an order of the Illinois Commerce Commission to	:	
permit the construction and maintenance of a pedestrian	:	
crossing on the south side of McCullom Lake Road,	:	
AAR/DOT #178 815V, railroad milepost 67.29 located in the	:	
City of McHenry, McHenry County, Illinois.	:	

STAFF RESPONSE TO CITY'S FEBRUARY 3, 2014, PETITION

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

1. Staff has no objection to the City's petition, and concurs with the installation of a new pedestrian-rail grade crossing for a multi-use path on the south side of the existing McCullom Lake Road highway-rail grade crossing of the Union Pacific Railroad Company's (UP) track.

2. To supplement the petition, Staff has received from the City's consultant an updated plan sheet showing the alignment of the proposed multi-use path. It is attached herein as Exhibit 1.

3. Staff also contacted the UP's Signal Department to assess current operations. It was noted that train traffic over the crossings is approximately 2 trains per week at 10 mph.

4. Staff believes that the Village should be responsible for all costs associated with the installation of the multi-use path and the new pedestrian crossing, including

any widening of the existing crossing surface. The UP should be responsible for the routine maintenance costs associated with the crossing surface.

5. Staff has prepared a draft Proposed Order, which is attached to this Response. Staff requests that it be entered without a hearing.

Respectfully Submitted on February 21, 2014:

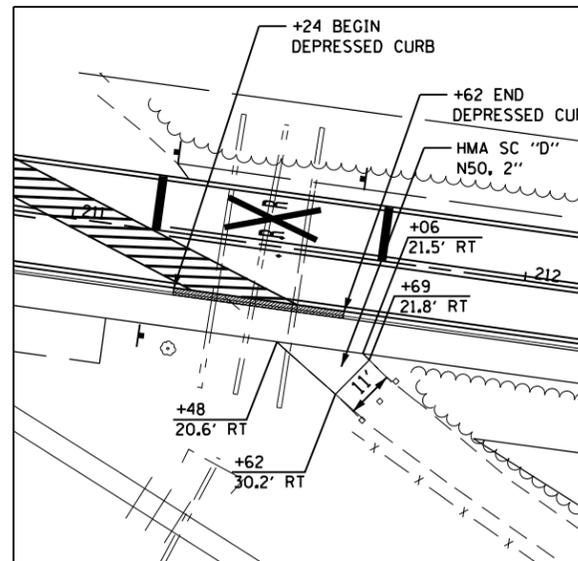


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Illinois Commerce Commission
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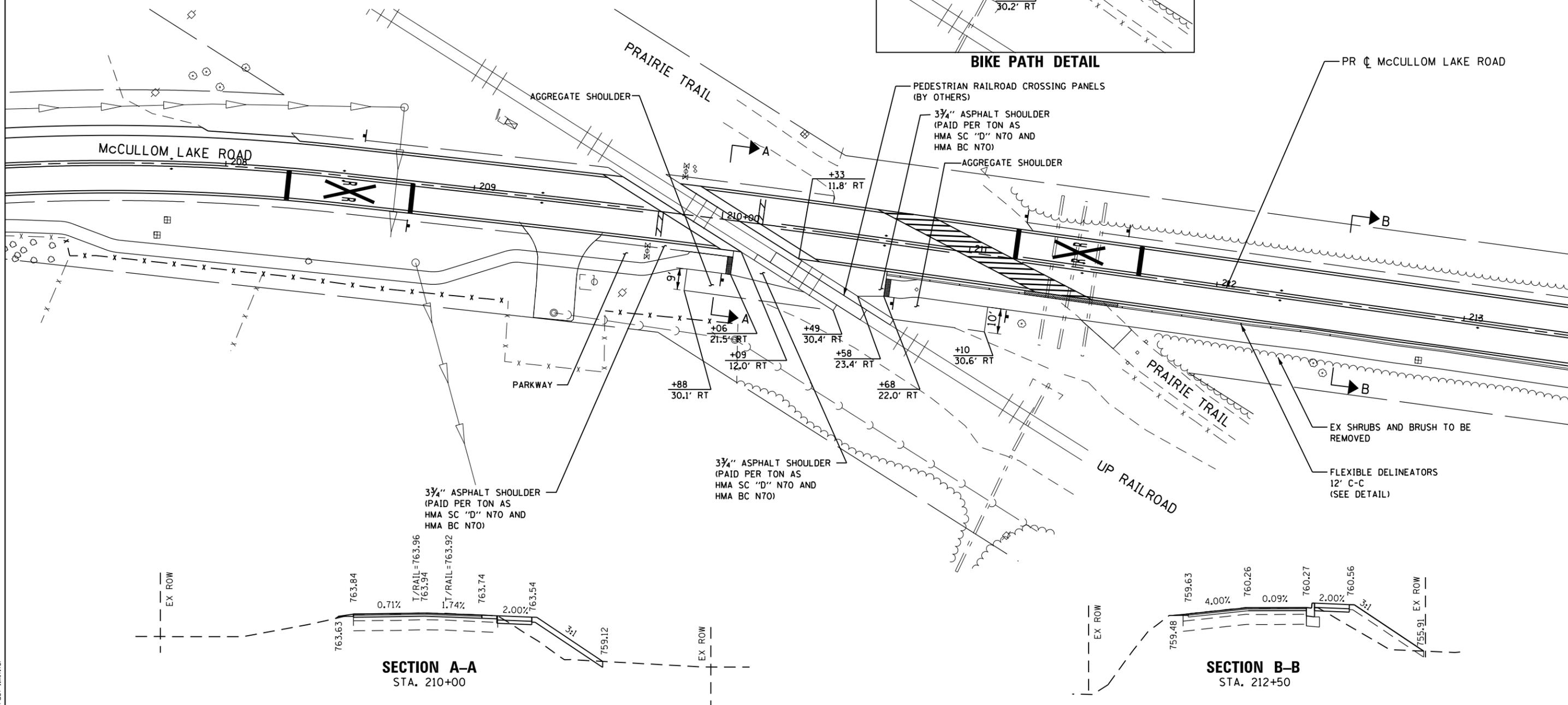
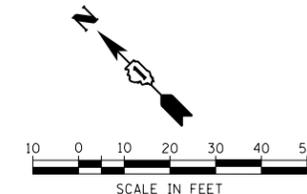
**FLEXIBLE CHANNELIZER
TUBULAR MARKER**



48" WHITE POST WITH THREE
3" x 3" SILVER HIGH INTENSITY
REFLECTIVE PATCHES. BLACK
CAP WITH PIN-LOCK SURFACE
MOUNT BASE.



BIKE PATH DETAIL



**SECTION A-A
STA. 210+00**

**SECTION B-B
STA. 212+50**

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PROJECT CONTACT: HRGreen.com
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PLOT DRIVER: pdfcut
PLOT TABLE: Struct 11x17.tbl



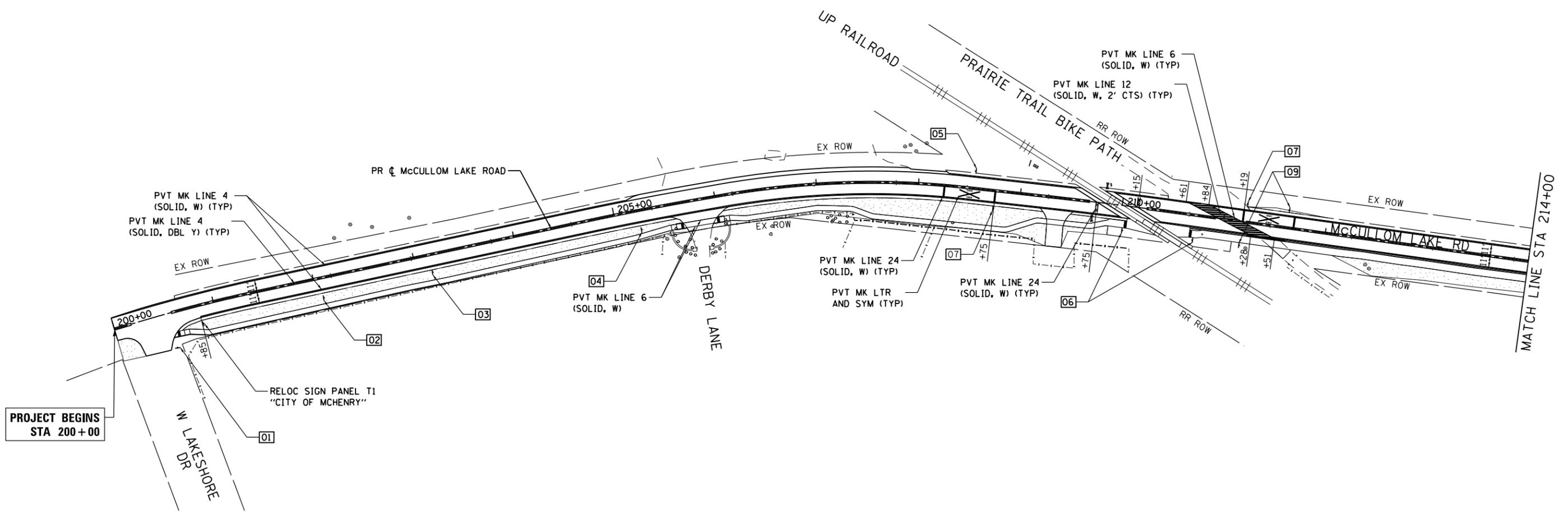
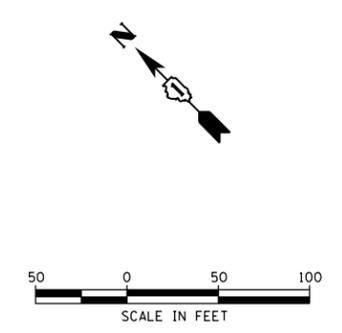
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FILE NAME = 157-det-rrr.dgn	DRAWN - TAY	REVISED -
PLOT SCALE = 1"=20'	CHECKED - TH	REVISED -
PLOT DATE = 12/13/2013	DATE - 12/13/13	REVISED -

**STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION**

RAILROAD CROSSING DETAILS

SCALE: 1"=20' SHEET NO. 1 OF 1 SHEETS STA. TO STA.

F.A.U. RTE. 4085	SECTION 13-00077-00-RS	COUNTY MCHENRY	TOTAL SHEETS 81	SHEET NO. 52
FAU 4085		CONTRACT NO. XXXXX		
FED. ROAD DIST. NO. ILLINOIS FED. AID PROJECT				



PROJECT BEGINS
STA 200+00

MATCH LINE STA 214+00

LEGEND :

	SEEDING, CLASS 2A
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NOTES:
SEE IDOT DISTRICT ONE DETAIL TC-13 AND CONSTRUCTION DETAILS FOR ADDITIONAL PAVEMENT MARKING AND MARKER DETAILS.

ALL SIGNS WITHIN THE CITY RIGHT-OF-WAY SHALL CONFORM WITH MUTCD, ILMUTCD OR CITY DETAILS AND INCLUDE DIAMOND GRADE DG3 REFLECTIVE SHEETING AND BE INSTALLED ON 2" GS TELESCOPING POST WITH GS WINGED SOIL ANCHORS.

ALL PAVEMENT MARKINGS SHALL BE THERMOPLASTIC AND RAISED REFLECTIVE PAVEMENT MARKERS SHALL BE INSTALLED PER THE CONSTRUCTION DETAILS AND MUTCD STANDARDS.

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PROJECT CONTACT: tyelton
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FILE NAME: 157-pmk-01.dgn
PLOT DRIVER: pdfcut
PEN TABLE: Struct_11x17.tbl

HRGreen.com
Illinois Professional Design Firm
#184-001322

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PLOT DATE = 12/13/2013	DATE - 12/13/13	REVISED -

**STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION**

**PAVEMENT MARKING, SIGNING AND LANDSCAPE PLAN
MCCULLOM LAKE ROAD**

SCALE: 1" = 50' SHEET NO. 1 OF 6 SHEETS STA. 200+00 TO STA. 214+00

F.A.U. RTE.	SECTION	COUNTY	TOTAL SHEETS	SHEET NO.
4085	13-00077-00-RS	MCHENRY	81	31
FAU 4085		CONTRACT NO. XXXXX		
FED. ROAD DIST. NO.		ILLINOIS FED. AID PROJECT		



01

R1-1
36" X 36"



02

W11-1
30" X 30"



03

R2-1
30" X 36"



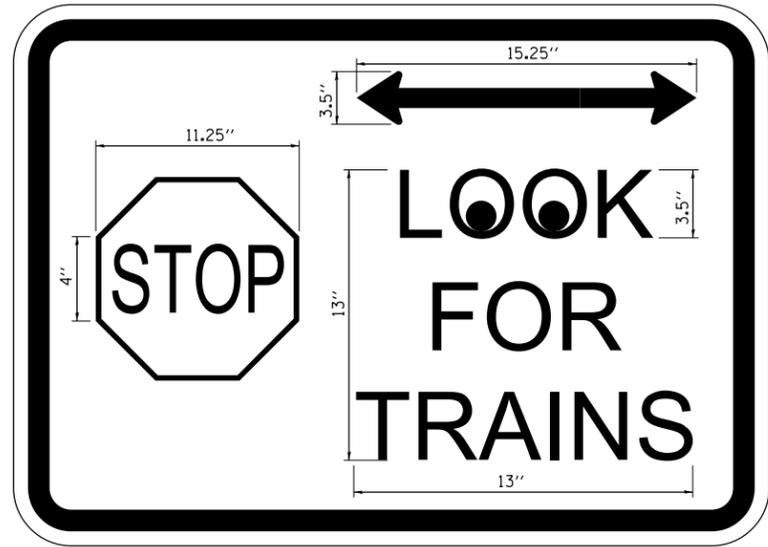
04

R4-1
24" X 30"



05

W11-7
30" X 30"



06

CUSTOM
24" X 30"



07

W10-1
36" D



08

W2-2
30" X 30"



09

D11-1
24" X 18"

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PROJECT CONTACT: HRGreen.com
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PEN TABLE: Struct.tbl



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PLOT SCALE = NTS	CHECKED - TH	REVISED -
PLOT DATE = 12/13/2013	DATE - 12/13/13	REVISED -

STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION

SIGN LEGEND	
MCCULLOM LAKE ROAD	
SCALE: NTS	SHEET NO. 6 OF 6 SHEETS STA. TO STA.

F.A.U. RTE.	SECTION	COUNTY	TOTAL SHEETS	SHEET NO.
4085	13-00077-00-RS	MCHENRY	81	36
FAU 4085		CONTRACT NO. XXXXX		
FED. ROAD DIST. NO.		ILLINOIS FED. AID PROJECT		

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

City of McHenry, Illinois, a municipal corporation, Petitioner,	:	
	:	
v.	:	T14-0010
	:	
The Union Pacific Railroad Company, Respondent.	:	
	:	
Petition for an order of the Illinois Commerce Commission to permit the construction and maintenance of a multi-use path on the south side of McCullom Lake Road, AAR/DOT #174 118V, railroad milepost 16.12 located in Cook County, Illinois.	:	

DRAFT PROPOSED ORDER

By Order of the Commission:

On February 3, 2014, the City of McHenry (City or Petitioner) filed the above-captioned verified Petition (Petition) with the Illinois Commerce Commission (Commission) naming as Respondent the Union Pacific Railroad Company (Company or UP) seeking authority to construct a new pedestrian-rail grade crossing for a multi-use path on the south side of the existing McCullom Lake Road (AAR/DOT #178 815V, railroad milepost 67.29) highway-rail grade crossing of the Company's tracks, located in the City of McHenry, McHenry County.

PROCEDURAL HISTORY

On February 21, 2014, Staff filed a Staff Response that included updated plans and a draft Proposed Order. On _____, the UP filed its Response providing concurrence to the Petition, and stipulating to the provisions in the draft Proposed Order included with Staff's Response. On _____, the City filed its concurrence, stipulating to the provisions in the draft Proposed Order.

PETITIONER'S EVIDENCE

Within its Petition, the City is seeking authority to construct a new pedestrian-rail grade crossing for a multi-use path on the south side of the existing McCullom Lake Road highway-rail grade crossing in accordance with the plan exhibits included within said Petition and Staff Response. Current train traffic over the single track crossing is approximately 2 trains per week at 10 mph. In conjunction with the construction of the

multi-use path, additional warning signs will be added at the new pedestrian crossing. The pedestrian crossing will provide a connection for existing pedestrian facilities on the south side of McCullom Lake Road and the regional Prairie Trail, located east of the crossing, which serves various residential areas and parks.

The City intends on constructing the path in 2014. The City is coordinating the installation of the pedestrian crossing portion of the project with the UP. The City will be responsible for all installation costs associated with construction of the path and the new pedestrian crossing.

RESPONDENT RAILROAD'S POSITION

The Company in its Response filing indicated that it had no objection to the City's Petition, with the understanding that the City will be responsible for all installation costs (design, labor and material) for the path and the new pedestrian crossing. The Company will be responsible for the routine maintenance costs associated with the crossing surface.

COMMISSION STAFF ANALYSIS AND CONCLUSION

Staff has no objection to the City's petition.

COMMISSION FINDINGS AND CONCLUSIONS

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

- (1) The recitals of fact in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (2) Petitioner City of McHenry, Illinois, is a body politic and corporate organized and existing under and by virtue of the laws of the State of Illinois;
- (3) Respondent Union Pacific Railroad Company is a rail carrier engaged in the transportation of persons and property by rail in the State of Illinois;
- (4) The Petitioner has filed a Petition for an Order seeking permission to construct and maintain a new pedestrian-rail grade crossing for a multi-use path, located on the south side of the existing McCullom Lake Road highway-rail grade crossing of the Union Pacific Railroad Company's tracks designated as AAR/DOT #178 815V, railroad milepost 67.29;
- (5) The Commission has jurisdiction over the Petitioner and the Respondent and the subject-matter of this proceeding;
- (6) The improvements to the McCullom Lake Road highway-rail grade crossing, requested by the Petitioner, are necessary to promote safety

and the convenience of the public, in accordance with the Illinois Commercial Transportation Law, 625 ILCS 5/18c-7401(3);

- (7) The recitals of fact and conclusions of law contained in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and conclusions of law;
- (8) The City of McHenry shall, at its sole cost and expense, install and maintain the approaches for the path adjacent to the McCullom Lake Road crossing in accordance with the design plans included with the Petition and Staff Response;
- (9) The Union Pacific Railroad Company, at the City of McHenry's sole cost and expense, shall install the additional crossing surface panels to accommodate the path. The Company will be responsible for the routine maintenance costs associated with the crossing surface;
- (10) The City of McHenry should be responsible for all construction costs associated with the multi-use path and the new pedestrian crossing;
- (11) The parties should proceed immediately to take the actions they are directed to perform by this Order. All work required of the parties under this Order should be completed by October 15, 2015;
- (12) Any person making a Request for an Extension of Time up to 30 days to complete a project ordered by the Commission must file a request with the Director of Processing and Information no later than 14 days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request;
- (13) Any person making a Request for an Extension of Time that exceeds 30 days must file a Petition for Supplemental Order with the Director of Processing and Information no later than 21 days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders;
- (14) Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the Project will be completed. Prior to submitting a Request for Extension of Time or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the Project within the ordered timeframe;
- (15) The Commission or its Administrative Law Judge reserves the right to deny Petitions for Supplemental Orders and Requests for Extension of Time, if the reason(s) supporting the request is (are) insufficient or where it appears the person has not made a good faith effort to complete the Project within the allotted time. Failure of the Commission or Administrative Law Judge to act

on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the City of McHenry is authorized, in accordance with the plans incorporated into the Petition and Staff Response, to construct or have constructed on its behalf a new pedestrian-rail grade crossing for a multi-use path located on the south side of the existing McCullom Lake Road highway-rail grade crossing of the Union Pacific Railroad Company's track. All work shall be completed by or on behalf of the City of McHenry in accordance with Findings (7) through (15).

IT IS FURTHER ORDERED that the Union Pacific Railroad Company shall complete the widening of the crossing surface at the McCullom Lake Road grade crossing of its track, in conjunction with the Petitioners work, and in accordance with Findings (7) through (15).

IT IS FURTHER ORDERED that the City shall, at six-month intervals from the date of this order until the Project has been completed, submit written reports to the Director of Processing in the Commission's Transportation Bureau (Director of Processing), describing the progress that has been made toward completing the Project. If the Project is behind schedule, the report shall include a brief explanation of the reason for the delay. Each progress report shall include the Commission Order number; the date the Order was entered; the deadline for completion of the Project established by the Order; the type of improvement; and Project manager information (name, title, mailing address, telephone number, and facsimile number) of the employee responsible for the management of the Project.

IT IS FURTHER ORDERED that the City shall, within five days of the completion of the Project, file with the Director of Processing a letter advising the Commission of the completion date.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any supplemental order or orders as it may deem necessary.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final Order subject to the Administrative Review Law.

By Order of the Commission this ____ day of _____ 2014.

DOUGLAS P. SCOTT
CHAIRMAN