Item #3:

Resolution Approving Agreement With CN Railroad Re: Mitigation

VILLAGE OF LONG GROVE
RESOLUTION NO. 2010-R-__

RESOLUTION APPROVING AN AGREEMENT WITH THE GRAND TRUNK CORPORATION RELATING TO TRAIN TRAFFIC MITIGATION

WHEREAS, the Grand Trunk Corporation is the owner of the U.S. rail operating subsidiaries of Canadian National Railway Company ("***GTC***"); and

WHEREAS, the Village of Long Grove has requested that GTC undertake certain measures to mitigate noise and safety issues relating to GTC train traffic within the Village; and

WHEREAS, in response to the Village's request, GTC has prepared a draft Memorandum of Agreement (the "***MOA***") outlining GTC's commitment to provide funding for certain mitigation measures, which draft MOA is attached hereto as Exhibit A ; and

WHEREAS, pursuant to Section B.I.B of the MOA, the Village "shall not make submissions in the STB proceeding or in appellate proceedings without GTC's prior review and approval...," and the Village agrees that it shall not, as the Village of Long Grove, make such submissions in relation to the matters currently pending under Surface Transportation Board (STB) Finance Docket No. 35087; and

WHEREAS, the MOA further provides that it is the intent "that the STB require GTC's compliance with [the MOA] in lieu of any additional or inconsistent mitigation that the STB might otherwise impose regarding environmental impacts in Long Grove" arising out of STB Finance Docket No. 35087; and

WHEREAS, based on the foregoing understandings, the President and Board of Trustees have determined that it is in the best interests of the Village and its residents to enter into the MOA, subject to the conditions set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

Section 1: Recitals. The foregoing recitals are hereby incorporated herein as findings of the Village Board of Trustees.

Section 2: Approval of Memorandum of Agreement. The President and Board of Trustees hereby approve the Memorandum of Agreement attached hereto as Exhibit A, subject to the following:

a. GTC agreeing to a revised timeline for the Village's submission of plans for mitigation measures; and

b. GTC agreeing to a revised timeline for implementation of mitigation measures.

Upon satisfaction of the foregoing conditions, the Village President and Village Clerk are hereby authorized and directed to execute and attest the MOA on behalf of the Village. Further, the Village Manager shall cause such other actions that are necessary or convenient to occur to allow the mitigation measures outlined in the MOA to proceed.

Section 3: Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS ___ DAY OF _____, 2010.

AYES:

NAYS:

ABSENT:

APPROVED THIS ___ DAY OF _____, 2010.

_____
Village President

ATTEST:

_____
Village Clerk

EXHIBIT A

MEMORANDUM OF AGREEMENT

MEMORANDUM OF AGREEMENT

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

A.

I Quiet Zones

(A) GTC will fund additional measures required to maintain the existing Quiet Zone designation on the EJ&EW line acquired by GTC within the limits of Long Grove should the retention of the designation be jeopardized by additional train volumes on the line resulting from the transaction. This provision will be limited for a period of 10 years from the date of acquisition by GTC of control of EJ&EW.

II Safety Mitigation

GTC will provide $ 175,000 for and safety/privacy fencing and/or vegetation shields for adjacent residential and park properties within Long Grove. These funds include all costs for the improvements including design and engineering. Long Grove 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, Long Grove may utilize any portion of these funds to administer a mitigation fund for distribution to adjacent property owners. Long Grove or adjacent property owners will be responsible for the construction, ownership and maintenance of all improvements. Long Grove must include improvements to separate the recreational path on the east side of the Indian Creek subdivision from the EJ&EW railroad property. GTC will provide an additional $ 25,000 to Long Grove for improvements or recreational equipment for the park in the Indian Creek subdivision.

Within 270 days from the effective date of this agreement, Long Grove shall submit 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 these funds within 90 days of the

receipt of the plan that is consistent with this agreement. Long Grove will be responsible for providing a semi annual report to GTC of all expenditures.

III Emergency Response and Training

GTC will provide training at no cost to Long Grove for their designated emergency response provider. All training will be completed within a 3-year span. Some training will be limited to qualified candidates submitted by Long Grove. This does not preclude additional training in subsequent years for new employees and as refresher.

IV Communications

GTC will fund at its sole expense the establishment of a specific emergency protocol and dispatching view capability on behalf of Long Grove at the single most impacted agency dispatching emergency vehicles across the EJ&EW line. GTC shall bear the cost of the hardware, software and communication equipment in order to provide specific emergency protocol and dispatching view capabilities at the appropriate dispatch facility.

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. Long Grove will accept funds committed for mitigation and complete installation of improvements or distribution of said funds within the same three-year period.

B. Long Grove agrees that it shall not make 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 Long Grove corporate authorities at a public meeting and as otherwise required by law and only after notice to, and consultation between GTC and Long Grove, 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 Long Grove. 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 Long Grove

By: _____
President

Date: _____