
THE VILLAGE OF COAL CITY
GRUNDY & WILL COUNTIES, ILLINOIS

ORDINANCE
NUMBER 15-04

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT
BY AND BETWEEN THE VILLAGE OF COAL CITY AND THE STATE OF ILLINOIS,
ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION, PROVIDING FOR
FUNDING FOR THE VILLAGE'S CONSTRUCTION OF A RAILROAD EXTENSION**

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Published in pamphlet form by authority of the President and Board of Trustees of the Village of
Coal City

on January 12, 2015

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AN ORDINANCE AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT BY AND BETWEEN THE VILLAGE OF COAL CITY AND THE STATE OF ILLINOIS, ACTING THROUGH ITS DEPARTMENT OF TRANSPORTATION, PROVIDING FOR FUNDING FOR THE VILLAGE'S CONSTRUCTION OF A RAILROAD EXTENSION

WHEREAS, the Village of Coal City ("Village") is a non-home rule municipality; and

WHEREAS, Inland Logistics Port Coal City, LLC (hereinafter, "ILPCC") is desirous of developing a rail-served industrial park (the "Park") on certain property located within the Village; and

WHEREAS, ILPCC requires financial assistance from the State of Illinois in order to develop certain elements of the Park and has requested that the Village assist it by undertaking receiving and disbursing State grant funds to third parties engaged in the construction of a railroad track extension from the main line tracks of the Union Pacific Railroad to the west side of South Broadway Road in Coal City, Illinois throughout the remainder of the Park (the "Rail Extension"), leasing the real property underneath and along the Rail Extension, constructing the Rail Extension (the "Project"), and owning the newly constructed portion of railroad tracks and associated appurtenances for approximately five (5) years following the completion of construction of the Rail Extension; and

WHEREAS, the Track Construction Grant Agreement By and Between the State of Illinois and the Village of Coal City, attached hereto as Exhibit 1 and incorporated herein by reference as though fully set forth herein (the "Grant Agreement") provides for the State to disburse up to \$2,950,000.00 in grant funds to the Village for the construction of the Rail Extension in support of the Project and for the Village to perform its obligations in connection therewith;

WHEREAS, the Village is authorized by Section 8-1-2.5 of the Illinois Municipal Code, 65 ILCS 5/8-1-2.5, to appropriate and expend funds for economic development purposes,

including making expenditures deemed necessary or desirable for the promotion of economic development within the Village; and

WHEREAS, the Village President and Trustees (the “Corporate Authorities”) hereby find and determine that a true and very real need exists to facilitate the Project by entering into the Grant Agreement and that doing so serves a proper corporate and public purpose by promoting economic development objectives, including fostering private investment, creating jobs, increasing property tax revenues, encouraging further development in the area, and diversifying the Village’s economic base; and

WHEREAS, the Village finds that it is advisable, necessary, desirable and in the best interests of the Village to promote economic development by undertaking the obligations provided in the Grant Agreement; and

WHEREAS, the Corporate Authorities have found and determined that the Grant Agreement, substantially in the form affixed hereto as Exhibit 1, is in the best interests of the Village, and the Corporate Authorities hereby conclude that it is advisable, necessary and in the best interests of the public health, safety and welfare of the Village to enter into the Grant Agreement;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Coal City, Counties of Will and Grundy, Illinois, as follows:

SECTION 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

SECTION 2. Enactment.

A. Approval and Authorization.

1. The Corporate Authorities hereby approve and direct entering into the Grant Agreement by the Village and hereby authorize, approve, and direct Village President Neal Nelson to execute and deliver the Grant Agreement on the Village's behalf with such changes thereto as such person deems appropriate and any related documents necessary to the consummation of the transactions contemplated by the Grant Agreement.

2. The Corporate Authorities shall and do hereby authorize, approve, and direct the Village Clerk to affix the Village seal to the Grant Agreement and to attest the executed Grant Agreement following the Village President's signature. The Village Clerk shall be further authorized and directed to certify any document, including without limitation the Ordinance *sub judice*, to evidence the adoption by the Corporate Authorities of an enactment authorizing entry into the Grant Agreement.

3. The Corporate Authorities shall and do hereby authorize, approve, and direct the Village President, Village Clerk, Village Administrator, Village Attorney and Village Treasurer to execute and deliver such documents, and undertake such additional tasks as may be necessary or convenient to carry out the intent of this Ordinance and consummate the Grant Agreement.

SECTION 3. Resolution of Conflicts. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

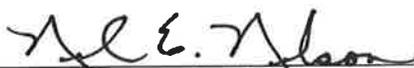
SECTION 4. Saving Clause. If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance, which are hereby declared to be separable.

SECTION 5. Effectiveness. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SO ORDAINED this 12 day of January, 2015, at Coal City, Grundy and Will Counties, Illinois.

AYES: 4
NAYS: 0
ABSENT: 2
ABSTAIN: 0

VILLAGE OF COAL CITY


Neal E. Nelson, President

Attest:

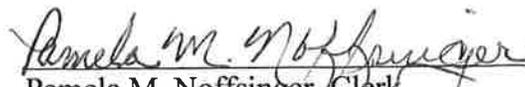

Pamela M. Noffsinger, Clerk

Exhibit 1

Track Construction Grant Agreement By and Between the State of Illinois and the Village of
Coal City

(ATTACHED ON FOLLOWING PAGES)

TRACK CONSTRUCTION GRANT AGREEMENT
BY AND BETWEEN
THE STATE OF ILLINOIS, ACTING THROUGH ITS
DEPARTMENT OF TRANSPORTATION
AND
THE VILLAGE OF COAL CITY

TABLE OF CONTENTS

ITEM 1 - DEFINITIONS AND TERMS

- 1.1 Definitions
- 1.2 Other Definitional Provisions

ITEM 2 - THE PROJECT

ITEM 3 - FUNDING

- 3.1 In General
- 3.2 Manner or Obtaining Grant Funds
- 3.3 Disbursement and Authentication of Agreement Changes
- 3.4 Retention; Final Disbursement
- 3.5 No Default

ITEM 4 - MATERIAL

- 4.1 Security Interest
- 4.2 Supplemental Documentation
- 4.3 Right to Inspect
- 4.4 Warranties, Representations and Covenant With Respect to the Material.

ITEM 5 - REPRESENTATIONS AND WARRANTIES

- 5.1 Authority
- 5.2 No Litigation
- 5.3 No Default
- 5.4 Financial Statements
- 5.5 Statements
- 5.6 Permits and licenses
- 5.7 Prohibited Contracts
- 5.8 International Boycott Violation
- 5.9 Title
- 5.10 TIN
- 5.11 Certification of No Debt Delinquency
- 5.12 State Human Rights Act
- 5.13 State Business Enterprise Program

ITEM 6 - COVENANTS

- 6.1 Completion; Plans and Specifications
- 6.2 Procurement
- 6.3 Inspection
- 6.4 Use and Maintenance
- 6.5 Record Keeping
- 6.6 Charges
- 6.7 Liens
- 6.8 Financial Reports
- 6.9 Conveyance; Other Financing
- 6.10 Notice of Litigation
- 6.11 Hazardous Substances

ITEM 7 - GRANT DOCUMENTS

- 7.1 Generally

7.2 Other Approvals

ITEM 8 - EVENTS OF DEFAULT

- 8.1 Events of Default
- 8.2 Repayment After Event of Default
- 8.3 Remedies Non-Exclusive
- 8.4 Termination of Commitments
- 8.5 Uniform Commercial Code
- 8.6 Agreement to Assemble Collateral
- 8.7 Notice
- 8.8 Sale

ITEM 9 – INDEMNITY

ITEM 10 - GENERAL

- 10.1 Term and Termination
- 10.2 Subrogation
- 10.3 Time of Performance Extension
- 10.4 Compliance With Law
- 10.5 Prohibited Interest
- 10.6 Bribery Prohibited
- 10.7 Dispute or Disagreement
- 10.8 Attorneys' Fees
- 10.9 Labor Law Compliance
- 10.10 Veteran's Preference in Public Contracts
- 10.11 Notice
- 10.12 Survival
- 10.13 Modification
- 10.14 Amendment
- 10.15 No Waiver by State
- 10.16 Entire Agreement
- 10.17 Severability
- 10.18 Successors
- 10.19 Reference to Legislation
- 10.20 Waiver
- 10.21 Authority of Recipient's Agents
- 10.22 Choice of Law
- 10.23 Consent to Jurisdiction; Service; Venue
- 10.24 Captions
- 10.25 Grant Funds Recovery Act
- 10.26 Prevailing Wage
- 10.27 State's Representations and Warranties

ATTACHMENTS

- Legal Descriptions
- Estimated Project Cost/Budget
- Form of Compliance Certificate
- Authorization Certificate
- Permitted Exceptions to Title
- Schedule of Litigation
- Purchase Money Security Interest
- Business Enterprise Program Certification
- Owner's Agreement (Exhibit "B")
- Lease (Exhibit "C")

THIS TRACK CONSTRUCTION GRANT AGREEMENT ("Agreement") dated and effective as of the ____ day of ____ 20__, by and between The State of Illinois, acting through its Department of Transportation, 2300 South Dirksen Parkway, Springfield, Illinois 62764 ("State") and the Village of Coal City, a municipal corporation, with its principal place of business and primary office located at 515 S. Broadway, Coal City, Illinois 60416 ("Recipient") refers to the following facts and circumstances:

WHEREAS, Recipient has requested financial assistance from State to construct various trackage for the benefit of providing rail service within the Village of Coal City and located on the real property owned by Inland Logistics Port Coal City, LLC an Illinois limited liability company ("Owner") and leased to Recipient under a Lease whose terms are acceptable to State, such real property being legally described in the legal description (the "Legal Description") attached hereto and, by this reference, made a part hereof, and

WHEREAS, Recipient will use State financial assistance in the amount set forth in the Project Budget, attached hereto and, by this reference, made a part hereof, solely for the purpose of constructing such rail facilities connecting to the previously constructed track extension from the main line tracks of the Union Pacific Railroad ("Union Pacific") to the west side of South Broadway Road within the State of Illinois; and

WHEREAS, the labor and materials required for the construction of the trackage, as set forth and described in the Project Budget and the Purchase Money Security Interest attachments, shall be hereinafter called the "Project" and the State finds that the Project is in the public interest and will enhance the utilization of rail freight service in the State of Illinois; and

WHEREAS, the offering of a grant instead of a loan is warranted because a grant will attract investment by another party or parties greater than the State's investment, and because of the high level of public, transportation and economic benefits which will accrue as a result of the completion of the Project.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, this Agreement is made to provide financial assistance for the Project's costs in the form of a Grant from the State to Recipient on the terms and conditions hereinafter set forth.

ITEM 1 - DEFINITIONS

1.1 Definitions. In addition to any work, terms and/or phrases defined herein, the following words, terms and/or phrases shall have the meanings set forth, and such meanings shall be applicable to the singular and plural form, giving effect to the numerical difference:

- a) "*Act of God*" means an earthquake, flood, cloudburst, tornado or other phenomena of nature beyond the power of the Recipient to foresee or to make preparation in defense against; however, a rain, windstorm or other natural phenomenon of normal intensity, based on U.S. Weather Bureau reports, for the particular locality and for the particular season of the year in which the work is being prosecuted, shall not be considered as such.
- b) "*Administrator*" means the Administrator of the Federal Railroad Administration of the United States Department of Transportation.
- c) "*Charges*" means all national, federal, state, county, city, municipal and/or other governmental (or any instrumentality, division, agency, body or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances upon and/or relating to the Material, Recipient's Liabilities, Recipient's business, Recipient's ownership and/or use of any of its assets, and/or Recipient's income and/or gross receipts.
- d) "*CFR*" means the Code of Federal Regulations as amended.

- e) *"Construction"* means constructing new (or rehabilitating existing) track, ties, track bed, rails, switches and other facilities needed to provide service on a rail line, to the extent necessary to permit adequate and efficient rail freight and/or passenger service, in accordance with the terms and conditions hereof.
- f) *"Debt"* means the aggregate of all indebtedness, obligations, liabilities, reserves and any other items which would be classified as a liability on a consolidated balance sheet of Recipient In accordance with generally accepted accounting including the following: (i) all Indebtedness or liabilities of any other Person which Recipient may guarantee or otherwise be responsible or liable for (other than any liability arising out of the endorsement of commercial paper for deposit or collection received in the ordinary course of business); (ii) all indebtedness and liabilities secured by any lien or any security interest on any property or assets of Recipient, whether or not the same would be classified as a liability on a balance sheet; (iii) the aggregate amount of rentals or other consideration payable by Recipient under all leases and other agreements for the use, acquisition or retention of real or personal property such that payments due thereunder in effect on the date hereof be included in a balance sheet of the lessee; but excluding all general contingency reserves and reserves for deferred income taxes and investment credit, in accordance with generally accepted accounting principles or other accounting principles generally used in the railroad industry.
- g) *"Deficiencies"* means at any time and as determined by State and/or the Administrator, any aspect of the materials, workmanship, design, Construction of the Project that fails to meet (i) the standard approved in writing by State with respect to the Project. or (ii) In the absence of any written approvals as described in (g)(i), the then-current standards of the American Railway Engineering and Maintenance of Way Association's Manual of Railway Engineering and its related Volume Portfolio of Trackwork Plans, or (iii) any more stringent standard required by the servicing railroad, applicable law, rule or regulation.
- h) *"Eligible Project Costs"* means the total allowable costs incurred by Recipient in connection with the Construction of the Project, including any required cost sharing and voluntary committed cost sharing, including third party contributions, as shown on the Project Budget and which are otherwise eligible to be reimbursed hereunder.
- i) *"Event of Default:"* has the meaning ascribed to such term in Section 8.1 below.
- j) *"Final Audit"* means the audit of the Project as described In Section 3.5 below.
- k) *"Financials"* means those financial statements of Recipient, more specifically described in Sections 5.4 and 6.8 below, which have been, or may in the future be, delivered by or on behalf of Recipient to the State.
- l) *"FRA"* means Federal Railroad Administration.
- m) *"Grant"* means financial accommodations made by State to Recipient hereunder.
- n) *"Grant Documents"* means collectively, this Agreement, attachments, exhibits and appendices made a part hereof and Other Agreements related hereto, as the same may be hereafter amended, modified and/or supplemented.
- o) *"Material"* means all acquired goods, equipment, inventory, track, track material, rail, cross-ties, wire, pipes, conduit, poles, culverts, switches and any and all property, replacements and proceeds thereof acquired directly or indirectly pursuant to this Agreement by and between the State and Recipient.
- p) *"Net Project Cost"* means the actual cost of the Project to be established upon Project completion minus any credits for removal of scrap.

- q) *"Other Agreements"* means all agreements, instruments and documents between Recipient and State, including without limitation all guaranties, mortgages, deeds of trust, notes, letters of credit, advances of credit, bankers acceptances, pledges, powers of attorney, consents, assignment, contracts, notices, security agreements, leases, financing statements and all other written matter heretofore, now and/or from time to time hereafter executed or caused to be executed by and/or on behalf of Recipient and/or any guarantor and delivered to State.
- r) *"Performance Bond"* means a performance bond in favor of State assuring completion of the Construction in a timely and workmanlike manner and in an amount at least equal to the aggregate Project Budget.
- s) *"Person"* means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity, party or government, whether national, federal, state, county, city, municipal or otherwise including without limitation, any instrumentality, division, agency, body or department thereof.
- t) *"Plans and Specifications"* means all plans and specifications for Construction of the Project that are required to be approved by all public and quasi-public authorities or that are otherwise necessary or prepared in connection with Construction of the Project.
- u) *"Project"* has the meaning ascribed to such term in the preambles above and in Section 2 below.
- v) *"Project Budget"* means the financial plan for the Project or program that the State approves during the award process or in subsequent amendments to the award, which is attached hereto and, by this reference, made a part hereof. This includes the costs and line item categories necessary to complete the Construction of the Project in accordance with the terms and conditions hereof.
- w) *"Project Completion Date"* means the earlier of (i) the date on which the State, in its sole and absolute discretion, has determined by written notice to Recipient that the Project is substantially complete, or (ii) the Required Completion Date as described in subsection (aa) below.
- x) *"Recipient's Liabilities"* means all obligations and liabilities of the Recipient to the State, including without limitation, all debts, claims, and indebtedness, whether primary, secondary, direct, contingent, fixed—or otherwise, now and/or from time to time hereafter owing, due and payable, however evidenced, created, incurred, acquired or owing and however arising, whether under this Agreement or the Other Agreements, or by oral agreement or operation of law or otherwise.
- y) *"Recipient's Obligations"* means all terms, conditions, warranties, representations, agreements, undertakings, covenants and provisions (other than Recipient's Liabilities) to be performed, discharged, kept, observed or complied with by Recipient pursuant to this Agreement and/or any of the Other Agreements.
- z) *"Rehabilitation"* means replacing or upgrading existing ties, rail and other track materials or related facilities to the extent necessary to permit safe, adequate and efficient rail freight service.
- aa) *"Required Completion Date"* means twenty four (24) months from the later to occur of (i) the date of execution of the Agreement by both parties and (ii) the effective date of this Agreement set forth above.
- bb) *"Substantial Completion"* means the stage of the Project when the Project or designated portion thereof is sufficiently complete in accordance with this Agreement so the Recipient can occupy or use the Project for its intended use.
- cc) *"Sufficient Maintenance"* means the amount of maintenance necessary to maintain the Project in compliance with Federal Railroad Administration Class I Track Safety Standards as set forth at 49 CFR Part 213, as amended, sufficient to handle weight limits of 286,000 pounds.

dd) "STB" means the Surface Transportation Board of the United States Department of Transportation.

1.2 Other Provisions. Except as otherwise defined in this Agreement or the Other Agreements, all words, terms and/or phrases used herein shall be defined by the applicable definition, if any, in the Uniform Commercial Code of the State of Illinois.

ITEM 2 - THE PROJECT

2.1 The Recipient agrees to undertake and complete the Project and to provide for the use of the completed Project as described in the Project Plan. The Recipient's Project Plan is attached hereto and made a part hereof by this reference up to the amounts set forth in the Limitation Note to the Project Budget attached hereto. Recipient shall perform or cause to be performed all improvements as are necessary to construct railroad trackage as part of Recipient's track construction Project in Coal City, Illinois where such trackage is proposed to connect to Union Pacific's main line trackage located, near such location, such Project being on the real property of the Owner, legally described in the Legal Description attached hereto ("Owner's Real Property"), and such improvements being as delineated in the Project Budget attached hereto. In order to facilitate the Project, Owner shall obtain a temporary construction easement in favor of Recipient from First National Bank of Ottawa as Trustee of Trust # 2811 dated July 26, 2013 and Reed and Broadway, an Illinois LLC, on land lying adjacent to the Owner's Real Property and legally described on the attached Legal Description ("Temporary Construction Easement Parcel").

Under the terms of an Owner's Agreement between Owner, Recipient and State attached hereto as Exhibit "B" (the "Owner's Agreement") and a Lease between Owner and Recipient attached hereto as Exhibit "C", both by this reference, made part hereof, the Owner shall grant to Recipient the right to install such trackage on Owner's Real Property (including arranging for the granting of the temporary construction easement mentioned above), shall grant to the State the right to come onto the Owner's Real Property to inspect, or in the event of Recipient's default under this Agreement, to remove such trackage and related personal property, and shall disclaim therein (and hereby disclaims) any interest in such trackage and personal property.

ITEM 3 - FUNDING

3.1 In General. Provided no Event of Default then exists and would not be created thereby, the State commits to make a Grant to Recipient in the aggregate principal amount of up to \$2,950,000.00, which is the amount necessary to finance the construction of the Project as set forth in the Limitation Note specified in the Project Budget subject to the terms and conditions contained herein and in the Other Agreements. Any costs incurred by Recipient in excess of the amount set forth in the Limitation Note specified in the Project Budget shall be the sole responsibility of Recipient. In no event shall any amounts disbursed hereunder be used to reimburse or otherwise pay any cost or expense arising from, or in any way related to, correcting a deficiency in workmanship or materials. The Recipient shall, to the extent of its ability and consistent with the other provisions of this Agreement, take all cash and trade discounts, tax exemptions, or other credits to which it is entitled in connection with goods and services purchased or used on this Project by Recipient.

Notwithstanding anything to the contrary contained herein or in the Other Agreements, the obligation of State to process any requisitions or make any Grant hereunder is subject to and contingent upon: (a) appropriation of such funds to State by the Illinois General Assembly and the State's having continued authority to make or continue this Grant. The Recipient shall not hold the State liable for failure by the Illinois General Assembly to appropriate sufficient funds for this Project, failure by the State of Illinois to release funds for this Project, or the State's lacking the continuing authority to make or continue this Grant. (b) Recipient providing to the State within sixty (60) days from the effective date hereof set forth on page 3 of this Agreement, an executed Lease Agreement (the "Lease") with the Owner, to be attached hereto as Exhibit "C" upon its execution, covering the Owner's Real Property on terms in all respects satisfactory to State, for a term of at least five (5) years from the date of completion of the Project, granting to Recipient the full use and occupation of the Owner's

Real Property including the right to install trackage and any other elements of the Project on such Owner's Real Property as required by the terms of this Grant pursuant to temporary and permanent easements acceptable to State. (c) State shall not reimburse any costs incurred prior to the execution of this Agreement by State.

A Project Budget shall be prepared and maintained by the Recipient; a copy of the Project Budget on the date of execution of this Agreement is attached hereto. The Recipient shall carry out the Project and shall incur obligations against and make disbursements of Project funds only in conformity with the latest Project Budget. The Project Budget may be revised from time to time upon approval by authorized State personnel, but no Budget or revision thereof shall be effective unless and until the State shall have approved the same in writing. However, any amendment to the Project Budget shall be in accordance with the provisions of section 10.14 below.

3.2 Manner of Obtaining Grant Funds. As a condition to the State's obligation to make each disbursement hereunder, Recipient shall provide to the State each of the following documents in a form satisfactory to the State:

- a) A Compliance Certificate substantially in the form attached hereto and signed by an authorized representative of Recipient, including a written request for each disbursement of funds stating the amount requested;
- b) A listing of Eligible Project Costs incurred by Recipient (but not reimbursed hereunder), including the following: (i) paid invoices and/or such other supporting documentation with respect to expenditures set forth as State requires; (ii) waivers and releases of lien for each materials dealer and contractor who has furnished materials, performed work or services in connection with the Construction of the Project (iii) such other sworn statements, affidavits, and other documents or instruments as the State requires; and (iv) receipted invoices, vouchers, canceled checks, statements marked "paid" or other evidence of payment and substantiation of costs as State requires;
- c) An inventory of goods, materials and other tangible personal property purchased by Recipient as an estimated Eligible Project Cost not yet reimbursed hereunder; and
- d) Documents, statements or other supporting evidence with respect to the allowable costs for the Project being reduced by the salvage value of any material being replaced in carrying out the Project.

3.3 Disbursement.

- a) Disbursements shall be made not more often than monthly, within ninety (90) days of receipt by the State of all above-described documents in form and substance satisfactory to the State. The State shall notify the Recipient, within thirty (30) days of receipt of said documents, if said documents are deficient in form and substance. Recipient shall have thirty (30) days from receipt of said notification to correct any deficiencies and resubmit said documents. Failure by the State to notify the Recipient within thirty (30) days of receipt of said documents shall in no way be construed as an acceptance by the State of said documents. All Eligible Project Costs comprising a requested disbursement shall be determined in accordance with sound accounting procedures. In addition to and without limitation of any other term or provision hereof it is expressly understood and agreed that the Project Budget reflects by category the purposes for which funds granted hereunder are to be used. The State shall not be required to disburse funds for any category or purpose more than the amounts specified in the Project Budget. Recipient shall not use funds disbursed by the State hereunder for any purpose other than as set forth on the Project Budget.
- b) Except pursuant to a change order approved in writing by the State, Recipient may not reallocate amounts shown on the Project Budget to different categories without the State's prior written consent. Recipient shall not delete any line item from the Project Budget, without the State's prior written consent.

3.4 Authorization of Agreement Changes

- a) The State reserves the right to alter the Project Budget, extend or shorten the improvement, add such work as may be necessary, and increase or decrease the quantities of work to be performed to accomplish such changes, including the deduction or cancellation of any one or more of the work items.
- b) Any alterations, cancellations, extensions or deductions which in the aggregate exceed Five Thousand Dollars (\$5,000) shall be authorized by the Chief, Bureau of Freight Rail Management before work is started. Such authorizations shall identify the items of work involved and the method of payment for each item. Work performed without such order shall not be an Eligible Project Cost. Any alterations, cancellations, extensions, or deductions which in the aggregate are less than Five Thousand Dollars (\$5,000) may be authorized in the field and confirmed in writing later.
- c) Whenever it becomes necessary to perform extra work on the Project or to decrease existing work items, Recipient is required to prepare form OPP 2200 (Authorization of Agreement Changes form) and submit it to the Chief, Bureau of Freight Rail Management ("State's Project Manager") for approval. State's Project Manager will have Recipient sign the change order prior to submitting it to the Bureau Chief. This form is also used to balance final as-built quantities with Agreement quantities.
- d) Any adjustments in compensation because of changes may not increase the amount set forth in the Limitation Note specified in the Project Budget through the use of a change order. All authorizations for Agreement changes for amounts in excess of the amount set forth in the Limitation Note specified in the Project Budget require an amendment to the Agreement. The Authorization of Agreement Changes form will become part of the Agreement's Project Budget.
- e) Extra work will be paid for either at a lump sum price or at unit prices agreed upon by both parties. Statements shall be accompanied and supported by receipted invoices for all materials used and transportation charges. However, if materials used are not specifically purchased for such work but are taken from stock, then in lieu of the invoices, Recipient shall furnish an affidavit certifying that such materials were taken from its stock, and that the quantity claimed was actually used.

3.5 Final Disbursement. Prior to completion, the amount disbursed by the State in connection with a request for disbursement shall not be more than ninety-five percent (95%) of the aggregate Eligible Project Costs reimbursed hereunder. After receipt by the State of written notice from the Recipient that the Project is complete, the State shall make a final disbursement in an amount equal to five percent (5%) of the aggregate of all Eligible Project Costs to be reimbursed hereunder within ninety (90) calendar days of the Project Completion Date. In the event that the State's Final Audit determines that State has made disbursements in excess of the amount set forth in the Limitation Note specified in the Project Budget, the Recipient shall repay that amount to the State within ninety (90) days after the State notifies the Recipient of the amount of the excess.

3.6 No Default. Each disbursement of funds by the State to the Recipient pursuant to this Agreement shall constitute an automatic *warranty* and representation by Recipient to the State that there does not then exist an Event of Default.

ITEM 4 - MATERIAL

4.1 Security Interest. To secure the prompt, full and faithful performance and observance by Recipient of all of the terms and provisions to be kept, performed or observed by Recipient under this Agreement and the Other Agreements, Recipient grants to the State a first priority Purchase Money Security Interest in and to, and pledges and collaterally assigns to the State, all of Recipient's now existing and/or owned and hereafter arising and/or acquired goods, equipment, rail, cross-ties, switches and

other property, replacements and proceeds thereof which were acquired for the Project with the proceeds of the Grant, including but not limited to those items listed in the Purchase Money Security Interest schedule, which is attached hereto and, by this reference, made a part hereof, to the extent such property is acquired for the Project with the proceeds of the Grant; together with all accessions to the foregoing and all substitutions, renewals, improvements, and replacements of the additions to the foregoing; and all products and proceeds of the foregoing (whether in the form of cash, proceeds of Insurance policies, or otherwise). All of the foregoing is referred to herein individually and collectively as the "Material". Recipient shall make appropriate entries upon its financial statements and its books and records disclosing State's security interest in the Material.

- 4.2 Supplemental Documentation. Recipient shall execute and deliver to State all agreements, instruments and documents ("Supplemental Documentation") that the State requests, in a form and substance acceptable to the State, necessary to perfect and maintain the State's security interest in the Material and to consummate the transactions contemplated in or by this Agreement and the Other Agreements. Recipient agrees that a carbon, photographic or photostatic copy, or other reproduction of this Agreement or of any financing statement, shall be sufficient as a financing statement.

Recipient shall provide the State with an inventory identifying Materials financed with funds made available by this Agreement.

- 4.3 Right to Inspect. The State shall have the right, on twenty-four (24) hours notice, to inspect the following: (i) the Material and all related books and records, and (ii) the premises upon which the Material is located pursuant to the terms of the Owner's Agreement (Exhibit "B"); and the Lease (Exhibit "C") and the State shall also have the right to verify the amount and condition of any other matter relating to the Material.
- 4.4 Warranties, Representations and Covenants with Respect to the Material. Recipient warrants and represents to and covenants with the State the following: (i) The State's purchase money security interest in the Material is now and at all times hereafter shall be perfected and have a first priority; (ii) Recipient shall mark the Material, as directed by the State, with a distinctive durable mark or brand; (iii) the Material is not now and shall not at any time hereafter be stored with a bailee, warehouseman or similar party without the State's prior written consent and, in such event, Recipient will cause any such bailee, warehouseman or similar party to issue and deliver to the State, in form and substance acceptable to the State, warehouse receipts in the State's name; (iv) Recipient shall not sell, lease, assign, mortgage or transfer any part of its interest in the Material without the State's prior written consent; (v) the property delineated in Section 4.1 and the Purchase Money Security interest shall not be considered fixtures and shall remain personal property for the term of this Agreement, irrespective of the manner in which it is annexed/attached to the real property (and any appurtenances thereto) described in the attached Legal Description; (vi) Recipient's principal place of business as indicated on page three (3) of this Agreement is true and accurate.

ITEM 5 - REPRESENTATIONS AND WARRANTIES

As a material inducement to the State entering into this Agreement, making the Grant and disbursing any funds hereunder, Recipient hereby represents and warrants the following to State:

- 5.1 Authority. Recipient has full right, power and authority to execute and deliver this Agreement and the other Agreements. Recipient has full right, power and authority to carry out the terms and provisions hereof and no other action is required for the consummation of this transaction. The Grant Documents and all other documents and instruments to be executed by Recipient have been duly authorized, executed and delivered and constitute the valid and legally binding obligations of Recipient.
- 5.2 No litigation. Except as noted in attached "Schedule of Litigation", there are no actions, suits or proceedings pending or, to the best of Recipient's knowledge, threatened against or affecting Recipient or the Project before any court, governmental, administrative, regulatory, adjudicatory or arbitrational body or agency of any kind including, without limitation, environmental protection laws, rules or regulations, which would materially and adversely affect the Project or Recipient's ability to

perform its obligations under the Grant Documents. Without limitation of the foregoing, there are no pending or, to the best of Recipient's knowledge, threatened proceedings or actions, by parties other than Owner or its members, to revoke, attack, challenge the validity, rescind or modify the zoning or annexation of the Project or any permits heretofore issued with respect thereto, asserting such zoning or permits do not permit the development of the Project as contemplated hereby. Recipient has not received notice of any of the foregoing actions, suits or proceedings.

5.3 No Default. The consummation of the transactions herein contemplated and performance of the agreements, undertakings and obligations constituting the Grant Documents and Other Agreements will not result in the breach of, or constitute a default under, any instrument or agreement to which Recipient is a party or by which Recipient or the Project is bound.

5.4 Financial Statements. Recipient has heretofore furnished State a copy of its audited financial statements as of April 30, 2014 prepared by Brian Zabel & Associates in accordance with generally accepted accounting principles or other accounting principles generally used on a basis consistent with that of preceding years. Such statements present the financial condition of Recipient as of the date thereof. Recipient has no contingent liabilities not provided for or not disclosed in such statements. Recipient shall provide a written statement indicating that there have been no material adverse changes to the financial condition of the Recipient since the date of the financial statements referenced above.

5.5 Statements. None of the statements, representations and warranties of Recipient set forth in this Agreement nor in any documents, financial statements, credit information, certificate or statement required herein to be furnished or furnished to the State by Recipient contains any untrue statement of a material fact or omits to State a fact material to this Agreement or to the State's decision to enter into this Agreement or the transactions contemplated hereunder.

5.6 Permits and Licenses. All permits, certificates and licenses required for or in connection with the construction and operation of the Project have been or will be duly and validly issued. Such permits and licenses are in full force and effect other than any permits or licenses which can only be issued upon completion of the Project. Recipient has no reason to believe that such permits and licenses will not be issued upon completion of the Project.

5.7 Prohibited Contracts

- a) No member, officer, or employee of Recipient, during his tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- b) Recipient has not entered into, within one year before the costs are allowable for the Project or a task, or will enter into while the costs are allowable, any subcontract or other arrangement which may affect the Project or a task under this Agreement if any officer, key salaried employee, official, or any member of the immediate family of one of the foregoing has any material interest in the arrangement unless the arrangement has been approved by State.
- c) Recipient agrees to insert the requirements of the above provisions in any and all subcontracts related to the Project.

5.8 International Boycott Violation. Recipient certifies that neither it nor any substantially-owned affiliated company is participating in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act.

5.9 Title. Recipient is the sole owner and holder of good and marketable title to the Materials and the Owner is the sole owner and holder of good and marketable title to the Owner's Real Property free and clear of all liens securing indebtedness for money granted subject only to the exceptions set forth in the attached "Permitted Exceptions To Title" schedule.

5.10 Tax Identification Number. Recipient certifies under penalty of perjury that 36-6005836 is the correct Federal Taxpayer Identification Number. Recipient is doing business as:

<input type="checkbox"/>	Individual	<input type="checkbox"/>	Service Provider Corporation
<input type="checkbox"/>	Sole Proprietorship	<input type="checkbox"/>	Real Estate Agent
<input type="checkbox"/>	Partnership	<input checked="" type="checkbox"/>	Governmental Entity
<input type="checkbox"/>	Corporation	<input type="checkbox"/>	Tax Exempt Organization (IRC 501 (a) only)
<input type="checkbox"/>	Not-for-profit Co-Operative Assoc.	<input type="checkbox"/>	Trust or Estate
<input type="checkbox"/>	Medical and Health Care	<input type="checkbox"/>	Limited Liability Company

5.11 Certification of No Delinquency. Recipient and its affiliates are not delinquent in the payment of any debt to the State (or if delinquent has entered into a deferred payment plan to pay the debt), and Recipient and its affiliates acknowledge the contracting state agency may declare the Agreement void if this certification is false (30 ILCS 500/50-11) or if Recipient or an affiliate later becomes delinquent and has not entered into a deferred payment plan to pay off the debt (30 ILCS 500/50-60).

5.12 State Human Rights Act. Recipient hereby agrees to observe and comply with all provisions of the State's Constitution, laws, regulations, and judicial orders pertaining to nondiscrimination, equal employment opportunity and sexual harassment including but not limited to:

- d) The Illinois Human Rights Act (775 ILCS 511-101 et seq.);
- e) Article VI of the regulations of the Illinois Department of Human Rights (56 Ill. Adm. Code 2520, Subpart f), which charter is hereby incorporated herein by this reference;
- f) The Public Works Employment Discrimination Act (775 ILCS 10/01 et seq.); and
- g) A written sexual harassment policy as required by 775 ILCS 5/2-105 (A) (4).

5.13 State Business Enterprise Program. Recipient agrees, pursuant to the State Finance Act, 30 ILCS 105/45, to comply with Section 6(d) of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575 and Section 2-105 of the Illinois Human Rights Act, 775 ILCS 5/2-105. In addition, prior to the execution of this Agreement, Recipient will submit to State the written certification, which is made a part hereof as Exhibit "A".

ITEM 6 - COVENANTS

Recipient hereby covenants and warrants to and agrees with State as follows:

6.1 Completion: Plans and Specifications. Recipient shall complete the Project no later than 24 months after the later of (a) the date of execution of this Agreement by both parties and (b) the effective date set forth on page 3 above. Prior to commencing any work on any portion of the Project, the State shall approve final plans and specifications for such work. The Project will be constructed free from deficiencies in accordance with the approved plans and specifications, complying with all building, zoning and other applicable governmental laws, ordinances, regulations, rules, permits, requirements, restrictive covenants, annexation agreements, development agreements, court orders, and decrees affecting the Project.

6.2 Procurement. Recipient shall complete the Project at or below the costs itemized in the Project Budget. Recipient shall use its best efforts, consistent with the terms and conditions hereof, to take all cash and trade discounts, tax exemptions, and other credits available in connection with goods and services procured in connection with the Project. All procurement transactions without regard to dollar value shall be conducted in a manner that provides open and free competition in accordance with sound railroad industry practices. Except as otherwise authorized in writing by the State, Recipient shall not execute any contract or otherwise obligate itself in any manner to any third party with respect to the Project; no such authorization shall be required with respect to nonprofessional services of a routine nature in the ordinary course of Recipient's business. No such authorization shall be granted by the State unless Recipient provides evidence satisfactory to State that such third party

is ready, willing, and able to provide bid guarantees and performance and payment bonds. Recipient may procure goods and services by any of the following methods:

- a) By sealed bid or competitive negotiation:
 - 1. The solicitation of offers shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured and shall require all bidders to provide a bid bond.
 - 2. Such description shall not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
 - 3. When Recipient solicits offers by sealed bids or competitive negotiation, Recipient shall:
 - i. Solicit not less than three (3) able bidders, unless fewer such bidders can be identified; and
 - ii. Select the lowest bid responsive to the bid requirement; and
 - iii. Award such contract only to responsible contractors that possess the ability to perform under the terms and conditions of a proposed procurement. Recipient shall consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources; and
 - iv. In no event shall Recipient award such contracts without prior approval of State; or
- b) From Recipient's stocks in accordance with 23 CFR Sections 140-908 and 140-912; or
- c) Pursuant to long term continuing supply contracts or credit arrangements; or
- d) Otherwise in accordance with 49 CFR Section 18.36.

6.3 Inspection.

- a) Recipient will permit and cooperate with the State in arranging for inspections during normal business hours of the Project by any representative of the State. Recipient acknowledges and agrees to the following: (i) all such inspections and any reports made in connection therewith shall be made at the State's expense for the sole benefit of the State; (ii) neither the State, nor any of its representatives, agents or contractors assume any responsibility or liability (except to the State) by reason of such inspections, reports or the furnishing of any such reports to Recipient; (iii) Recipient will not rely upon any such inspections or reports for any purpose whatsoever, except that the Project has been or is being completed in compliance with the approved Plans and Specifications; and (iv) such inspections and the furnishing of any of such reports to Recipient will not constitute a waiver of any of the provisions of this Agreement or any of the obligations of Recipient hereunder or under the Other Agreements,
- b) Recipient will permit and cooperate with the State in arranging for inspections of all of books and records of Recipient and any contractor which relate to any item or task intended to receive funds directly or indirectly pursuant to this Agreement.
- c) Representatives of the State shall report to the State and Recipient any deficiencies and delays not otherwise excused by the terms and conditions hereof. Recipient shall investigate such alleged deficiencies and delays and correct them at Recipient's sole expense within a reasonable

time or respond in writing to the State, setting forth the basis on which Recipient believes the report of such deficiencies and/or delays is inaccurate. The Recipient shall not use any amounts disbursed pursuant to this Agreement to pay for a replacement or correction required under this provision.

- d) Recipient shall provide to the State, within thirty (30) days following any track inspection, copies of any and all track inspection reports completed by the FRA or other appropriate governmental authorities until the maintenance requirement described below in Section 6.4 has been fulfilled.

6.4 Use and Maintenance. Recipient shall sufficiently maintain the Project, without the use of Federal funds, to meet the minimum standards of FRA Class I Track Safety Standards to permit safe operation of rail freight for a minimum period of five (5) years following completion of the Project.

6.5 Record Keeping. Recipient shall maintain, and shall require each contractor and subcontractor to maintain, for a period of not less than five (5) years following the Project Completion Date, each of the following:

- a) Adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with this Agreement. This Agreement and all books, records, and supporting documents related to this Agreement shall be available for review and audit by the Auditor General; and the Recipient agrees to cooperate fully with any audit conducted by the Auditor General and to provide full access to all relevant materials. Failure to maintain the books, records, and supporting documents required by this Section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under this Agreement for which adequate books, records, and supporting documentation are not available to support their purported disbursement;
- b) Records sufficient to identify the application of all funds received in connection with the Construction of the Project, together with supporting documentation including, without limitation, paid invoices;
- c) Records sufficient to evidence compliance with Sections 6.2, 6.3 and 6.4 of this Agreement in connection with all Eligible Project Costs; and
- d) All other records necessary to disclose the amount and disposition of the Grant hereunder, including the following: (i) the nature of such expenditures; (ii) the total cost of each undertaking for which funds were disbursed hereunder; (iii) the amount, if any, of funds supplied by other sources; and (iv) any other books, records and documents necessary to maintain a complete verification of Recipient's obligations. Recipient shall maintain segregated accounting records pertaining exclusively to the Project. Recipient shall keep and submit to State such information as State determines is necessary to ascertain whether Recipient has fully complied with this Agreement and all applicable legal requirements.

6.6 Charges. Recipient will pay, or cause to be paid, all taxes, assessments and other similar charges which are assessed, levied, confirmed, imposed or which become a lien upon or against the Project or any portion thereof, or which become payable with respect thereto or with respect to the use or possession of the Project before the same become delinquent.

6.7 Liens. The Project and the Material shall be kept free and clear of liens and encumbrances, unless bonded or insured in a manner satisfactory to State, of every nature or description, other than the security interests and liens of State and the exceptions described in the attached "Permitted Exceptions to Title" and as permitted in writing by State.

- 6.8 Financial Reports. After the Project Completion Date and for so long as any of Recipient's Liabilities to State remain outstanding, Recipient will promptly deliver to State such financial statements including sources and applications of funds as shall be reasonably required by State.
- 6.9 Conveyance; Other Financial. During the term of the Grant, neither the Project, nor any portion thereof or interest therein, will be sold, conveyed, transferred, assigned, hypothecated, encumbered, or disposed of except as described in the attached "Permitted Exceptions to Title" nor will an agreement for any of the foregoing be entered into, except as described in the attached "Permitted Exceptions to Title", without State's prior written consent, except as provided in Section 7.1 (b).
- 6.10 Notice of Litigation. During the term of the Grant, Recipient shall promptly furnish State a written notice of any investigation or litigation naming Recipient as a defendant affecting or relating to the Project.
- 6.11 Hazardous Substances. Recipient hereby represents, warrants and covenants to State that to its best knowledge and belief:
- a) The Project and the use and operation thereof are currently in compliance and will remain in compliance with all applicable environmental, health and safety laws and regulations
 - b) Neither Owner nor Recipient (i) has received any notice of any hazardous or toxic or other waste substances or materials in, under or upon the Project or of any violation of any environmental protection laws or regulations with respect to the Project; or (ii) knows of any basis for any such notice or violation with respect to the Project. Recipient covenants and agrees that no waste, petroleum products, pesticides or toxic or hazardous substances or materials, within the definition of any applicable statute or regulation, shall be used or stored upon the Project (except those products used in the ordinary course of Recipient's business which are used in full and complete compliance with any and all applicable laws, ordinances or regulations relating to the use or storage thereof) and that Recipient shall protect, defend, indemnify and hold State harmless from and against any and all loss, cost (including attorneys' fees and expenses), liability and damage whatsoever because of or in any way resulting from any violation or claimed violation of any of the covenants or agreements set forth in this Section or any applicable statute or regulation for the protection of the environment which occurs upon the Project, or by reason of the imposition of any governmental lien for the recovery of environmental cleanup costs expended by reason of such violation, without regard to fault on the part of Recipient.
 - c) There are no pending or threatened actions, suits or proceedings (or notices of potential actions, suits or proceedings) by any governmental agency or any other entity regarding any environmental, health or safety law, waste disposal or "super lien" or similar governmental actions, or proceedings that would affect or impair the value or usefulness of the Project. Recipient has not received notice of any of such actions, suits or proceedings. Recipient will promptly notify State of any notices, or any pending or threatened action, suit or proceeding in the future, and Recipient will promptly cure and have dismissed with prejudice any such actions, suits and proceedings to the satisfaction of State.
 - d) The business and all operations conducted on the Project or on Owner's Property have and will lawfully dispose of wastes.
- 6.12 Recipient assumes all obligations of compliance with all environmental requirements imposed by federal, state and local authorities that affect the Project or any business or other activity conducted thereon or therewith. In the event any governmental or quasi-governmental agency having jurisdiction over Recipient or the Project determines that there is a violation of any applicable statute or regulation relating to the environment, then, in the event Recipient disagrees with such determination, Recipient shall be entitled to defend or contest such claim for a period of up to sixty (60) days after notice of such determination before State shall have the right (but not the obligation)

to cure any such alleged violation. Any fees, costs and expenses imposed upon or incurred by State at any time and from time to time in correcting or curing or attempting to correct or cure an alleged violation or any breach of any of the covenants, representations or warranties contained in this Section shall be Immediately due and payable by Recipient to State upon demand for reimbursement for same, and shall (together with interest thereon at the rate of interest allowed by Statute from the date such fees, costs and expenses are so imposed upon or incurred by State) become part of the indebtedness secured by the Grant Documents. Recipient hereby covenants and agrees to protect, defend, indemnify, and hold harmless State from any and all such costs and expenses. Notwithstanding anything herein to the contrary, Recipient covenants and agrees to cure any alleged violation in the event such alleged violation constitutes an emergency situation or In the event State determines, in its sole reasonable discretion, that such alleged violation materially impairs the value of the Project.

ITEM 7 - GRANT DOCUMENTS

7.1 Generally. The obligations of State to make or disburse any portion of the Grant shall be subject to the following conditions, in addition to such matters and conditions as are otherwise required hereunder, all in form and substance acceptable to State:

- a) State shall have received a duly executed copy of each of the following, in form and substance acceptable to State and its counsel:
 - i) this Agreement;
 - ii) UCC Financing Statement(s) naming the Recipient, as debtor, in favor of State, as secured party, together with a description of any and all applicable collateral delineated hereunder in Section 4 and in the attached Purchase Money Security Interest schedule;
 - iii) Performance Bond by Recipient or by Recipient's contractor;
 - iv) the Lease described in Section 3.1 (b) hereof, which is, upon execution, to be attached herto as Exhibit "C";
 - v) Owner's Agreement as described in Section 2.1 hereof;
 - vi) a lessee's policy of title insurance insuring Recipient's interest as Lessee under its Lease with Owner;
 - vii) the Temporary Construction Easement referenced in Paragraph 2.1 hereof;
 - viii) the DCEO grant in favor of Recipient for this Project;
 - ix) evidence of conveyance of proposed 40 acre parcel to Hoffman Property Holdings, LLC, by Owner for operation of a distribution center, and
 - x) Such other opinions, documents, certificates, certifications and approvals required hereunder or as State or its counsel may reasonably request.
- b) Other Approvals. The obligations of State to make any portion of the Grant shall be further subject to the condition that all proceedings taken in connection with this Agreement are satisfactory to State and its counsel.

ITEM 8 - EVENTS OF DEFAULT

8.1 Events of Default. The occurrence of anyone of the following events, within five (5) years after the Project Completion Date, shall constitute an Event of Default by Recipient under this Agreement:

- a) failure or neglect by Recipient to perform, keep or observe any term, provision, condition, covenant; warranty or representation contained in this Agreement which is required by this Agreement to be performed, kept or observed by Recipient; including, without limitation, Recipient's obligation to provide a fully executed copy of the Lease meeting the requirements of Section 3.1 (b) to State within sixty (60) days as herein above provided;
- b) any material statement, report or certificate made or delivered by Recipient, or any of its partners, officers, employees or agents, to State is not true and correct or any representation as to the financial condition of Recipient is not true and correct as of the date it is made;
- c) failure by Recipient to pay any of its liabilities within thirty (30) days of receipt of notice of said liabilities;
- d) the Material, any other of Recipient's assets, or Owner's Real Property are attached, seized, subjected to a writ of distress warrant, or are levied upon, or come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors;
- e) a petition under the Bankruptcy Reform Act of 1978 or any similar law or regulation shall be filed by or against Recipient; Recipient shall make an assignment for the benefit of its creditors; any case or proceeding shall be filed by or against Recipient for its dissolution or liquidation; or Recipient is enjoined, restrained or in any way prevented by court order or otherwise from conducting all or a material part of its business affairs;
- f) a notice of lien, levy or assessment is filed of record with respect to all or any part of the Project by any federal, state or local department or agency and remains unsatisfied or un bonded in a manner satisfactory to State for a period of ninety (90) days after such filing;
- g) the occurrence of a default by Recipient to a party other than State (including without limitation a default under the Lease) which default could reasonably be expected to have a material and adverse effect on Recipient or the Project, and such default is declared and is not cured within the time, if any, specified in any agreement governing the same;
- h) failure by Recipient to complete the Project on or prior to the Required Completion Date;
- i) filing of an application or petition with State *and/or* the STB to abandon the Project or any part thereof;
- j) the Project is no longer used by Recipient for rail freight; however, Recipient shall be allowed thirty (30) days to cure the discontinuance after the giving of notice thereof by State to Recipient;
- k) failure by Recipient to provide Sufficient Maintenance; however, Recipient shall be allowed thirty (30) days to cure said failure after giving of notice thereof by State to Recipient,
- l) the occurrence of an Event of Default under any of the Other Agreements;
- m) the sale or disposal by Recipient of all or any part of the Material where the Transferee does not enter into an assignment and assumption agreement with the Recipient; or
- n) the sale or disposal by the Recipient of the Material where the Transferee uses the property for a purpose inconsistent with the purposes for which the Grant was originally made.

- 8.2 Repayment After Event of Default. After an Event of Default, the principal amount of the Grant shall be due and payable on the thirtieth (30th) day after the giving of notice of such Event of Default to Recipient by State.
- 8.3 Remedies Non-Exclusive. All of State's rights and remedies under this Agreement, the Grant Documents, and the Other Agreements are cumulative and non-exclusive.
- 8.4 Termination of Commitments. Upon an Event of Default without notice by State to or demand by State of Recipient, State shall have no further obligation to and may then forthwith cease granting funds to or for the benefit of Recipient under this Agreement and the Other Agreements.
- 8.5 Uniform Commercial Code. Upon an Event of Default, State, in its sole and absolute discretion, may exercise any one or more of the rights and remedies accruing to a secured party under the Uniform Commercial Code (as enacted in the State of Illinois) and any other applicable law relating to default by a debtor including, without limitation, the right to terminate this Agreement and cancel all as yet unfulfilled obligations of State hereunder.
- 8.6 Agreement to Assemble Material. Upon an Event of Default, Recipient immediately upon demand by State, shall assemble the Material and make it available to State at the Project site. Recipient agrees that entry by State upon such locations shall not constitute a trespass or breach of peace. Recipient recognizes that in the event it fails to perform, observe or discharge any of its obligations or liabilities under this Agreement or the Other Agreements, a remedy at law will not provide adequate relief to State. Recipient agrees that State shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.
- 8.7 Notice. Any notice required to be given by State of a sale, lease, other disposition of the Material or any other Intended action by State, given not less than ten (10) days prior to such proposed action, shall constitute commercially reasonable and fair notice thereof to Recipient.
- 8.8 Sale. Upon an Event of Default, Recipient agrees that State may postpone or adjourn any such sale of the Material by an announcement at the time and place of sale or by announcement at the time and place of such postponed or adjourned sale, without being required to give a new notice of sale. Recipient agrees that State has no obligation to preserve rights against prior parties to the Material. Further, to the extent permitted by law, Recipient waives and releases any cause of action and claim against State as a result of State's possession, collection or sale of the Material, any liability or penalty for failure of State to comply with any requirement imposed on State relating to notice of sale, holding of sale or reporting of sale of the Material, and any right of redemption from such sale.

ITEM 9 - INDEMNITY

If any loss, damage, destruction, injury or death occurs to any person or property as a result of or in the course of the performance by Recipient of its obligations under this Agreement, whether intentional or unintentional, Recipient agrees to indemnify and hold harmless State from any and all liability of State which may result from any such loss, damage, destruction, injury or death including, without limitation, all related costs and reasonable attorneys' fees and expenses. Recipient shall not be obligated to indemnify and hold harmless State from liability for Injury or death proximately caused by the negligence of an employee or agent of State. If any claim for indemnity is asserted by the State, State shall give prompt notice thereof to Recipient and Recipient shall assume the defense thereof, with full power to litigate, compromise, or settle same in its sole discretion, it being understood that the State will not settle or consent to a settlement of any claim for which indemnity will be sought hereunder without the prior consent of Recipient.

ITEM 10 - GENERAL

- 10.1 Term and Termination. The term of this Agreement (the "*Term*") shall be for a period of five (5) years following the Project Completion Date after which Recipient's obligations (other than

obligations under item 9 above) shall be considered fulfilled if no default exists or is continuing (and no condition exists that could mature into an event of default), upon expiration of such five (5) year period. State's obligations under this Agreement including, without limitation, the obligation to disburse funds shall, at State's option, terminate upon the occurrence of an Event of Default. Provided no Event of Default then exists, Recipient shall have the right to terminate this Agreement upon thirty (30) days prior written notice to State if State fails to disburse funds in accordance with this Agreement. State shall notify Recipient within thirty (30) days of State's acceptance of submitted invoices (as provided in Section 3.2 of this Agreement) if State anticipates a minor delay in the processing of such disbursements. Minor delays in the processing of such disbursements shall not constitute a failure by State entitling Recipient to terminate this Agreement. In the event that State and Recipient disagree over what constitutes a "Minor Delay", State and Recipient shall act in accordance with Section 10.7 of this Agreement. If Recipient terminates this Agreement in accordance with this Section, then the funds disbursed under the Grant shall be repaid by Recipient to State in five (5) equal annual installments of principal beginning on the thirtieth (30th) day after such termination becomes effective.

10.2 Subrogation. State shall be subrogated to claims and liens of all parties whose claims or liens are discharged or paid, directly or indirectly, with the proceeds of the Grant. Recipient shall do nothing to interfere with or prejudice the State's right to recover damages or seek other relief against a third party and shall furnish all reasonable assistance and cooperation to the State in connection with the State's action against such third party, including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the State.

10.3 Time of Performance Extension. Time is of the essence of this Agreement. When a delay occurs due to unforeseen causes reasonably beyond the control and without fault or negligence of the Recipient, including, but not restricted to the following:

- a) Acts of God;
- b) Riots, insurrection, or war;
- c) Extraordinary delays caused by strikes or lockouts by third parties that are providing labor, material, or services under contract to the Project;
- d) Extraordinary delays caused by derailments, wrecks, or freight embargoes; or
- e) Inability to procure critical materials.

The time of completion shall be extended in whatever amount is determined by the State to be equitable. Said extension shall be effectuated in compliance with the standards set forth in Section 10.13 herein below.

In order to invoke the relief available pursuant to this provision, the Recipient must file a written request for an extension of time with the State within twenty (20) days of the onset of one of the above occurrences. Within twenty (20) days of receiving said request, the State will issue a decision on the validity of Recipient's claim and notify the Recipient, in writing, whether the requested extension is granted or denied.

10.4 Compliance with Law. In performance of its obligations pursuant to this Agreement, Recipient and State shall comply with all applicable provisions of federal, state, and local law, including the following: the Illinois Historic Preservation Act, 20 ILCS 3410/1; the Illinois Endangered Species Protection Act, 520 ILCS 10/1 et seq.; and the Interagency Wetland Policy Act of 1989, 20 ILCS 830/1-1 et seq. All limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements, and shall not affect the application of more restrictive federal, state or local standards relating to the performance or Construction of the Project. If State has approved of work to be performed, and such work does not meet more restrictive state or local standards, Recipient and State will jointly review the Project and negotiate in good faith an appropriate remedy. Whenever an action of one of the parties required by this Agreement is subject to the approval or consent of a governmental agency, the requirement of this Agreement shall be

deemed satisfied if the party has applied for such approval and uses and continues to use its best efforts to obtain such approval or consent without delay.

- 10.5 Prohibited Interests. No Person holding an elective office in the State of Illinois or any employee of State during his or her tenure or for one year thereafter may have any interest, direct or indirect, in this Agreement. Recipient shall impose the foregoing prohibition in each contract and subcontract financed directly or indirectly in whole or in part under this Agreement.
- 10.6 Bribery Prohibited. Recipient certifies the, following: (i) neither it nor any of its elected officials, directors, officers, employees, or agents has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois; (ii) nor has Recipient made an admission of guilt of such conduct which is a matter of record; (iii) nor has an official, agent, or employee of Recipient committed bribery or attempted bribery on behalf of Recipient pursuant to the direction or authorization of a responsible official of Recipient; and (iv) Recipient shall not enter into any contract for work or services under this Agreement with any person or business entity which is prohibited from contracting directly with State pursuant to 30 ILCS 505/10.1.
- 10.7 Dispute or Disagreement. It is mutually agreed by both parties that the Chief, Bureau of Freight Rail Management, Illinois Department of Transportation, shall act as referee in all questions or disputes arising under the terms of this Agreement including, without limitation, disputes pertaining to Deficiencies. Recipient may appeal any such final decision of the Chief in writing to the Secretary of the Illinois Department of Transportation stating the nature and extent of the question or questions appealed together with any supporting documentation. State shall not delay resolution of any dispute or disagreement beyond 90 days. Upon exhaustion of these administrative remedies, Recipient shall have the right to seek appropriate remedies at law or in equity subject to paragraph 10.23 below.
- 10.8 Attorney's Fees. Recipient agrees to pay all costs of collection, including attorney's fees, litigation expenses, and fees (including contingency and percentage fees paid to collection agencies) incurred by State in connection with collection efforts, questions or disputes arising under the terms of this Agreement.
- 10.9 Labor Law Compliance. Recipient agrees to comply with all applicable federal and state laws and regulations including, but not limited to, such laws and regulations relating to minimum wages and prevailing wages paid to employees. Recipient also agrees to require any contractor doing any work in connection with the Project to agree to such compliance.
- 10.10 Veteran's Preference in Public Contracts. Recipient shall comply with "AN ACT to give preference to the veterans of the United States military and naval service in appointments and employment upon public work by, or for the use of, the state or its political subdivisions," passed by the 59th General Assembly and approved on June 12, 1935: 330 ILCS 55/0.01.
- 10.11 Notices. All notices permitted or required pursuant to this Agreement shall be in writing and shall be deemed to have been properly given (i) if served in person; (ii) on the third (3rd) day following the day such notice is deposited In any post office station or letter-box if mailed by certified or registered mail, return receipt requested, postage prepaid, or (iii) on the first (1st) day following the day such notice is delivered to an overnight courier service for overnight delivery, if addressed to the party to whom such notice is intended as set forth below:

State: Chief, Bureau of Freight Rail Management
Illinois Department of Transportation
Division of Public & Intermodal Transportation
100 W. Randolph, Suite 6-600
Chicago, Illinois 60601

Cc: Chief Counsel
Illinois Department of Transportation
100 W. Randolph St., Suite 6-600
Chicago, IL 60601

Recipient: Village Administrator
Village of Coal City
515 S. Broadway
Coal City, IL 60416

with a copy to: Mark Heinle
Ancel, Glink et al
1979 N. Mill St., Suite 207
Naperville, IL 60563

Chris McGrath
Inland Logistics Port Coal City
800 West 79th Street, Suite 3
Willowbrook, IL 60527

- 10.12 Survival. Recipient covenants, warrants and represents to State that all representations and warranties of Recipient contained in this Agreement and the Other Agreements shall be true from the time of Recipient's execution of this Agreement until expiration of the Term of this Agreement and the maintenance requirement described above in Section 6.4 has been fulfilled. All of Recipient's warranties, representations, undertakings and covenants contained in this Agreement or the Other Agreements shall survive the termination or cancellation of this Agreement.
- 10.13 Modification. This Agreement and the Other Agreements may not be modified, altered or amended except by an agreement in writing signed by Recipient and State except as provided herein with respect to statutory or other governmental standards. Recipient may not sell, assign or transfer this Agreement, or the Other Agreements or any portion thereof, without the prior written approval of State.
- 10.14 Amendment. The Parties agree that no amendment to this Agreement, or any Exhibits or Attachments hereto, shall be of any force or effect unless the amendment is dated, reduced to writing, executed by both parties, and attached to and made a part of this Agreement. No work shall be commenced and no costs or obligations shall be incurred in consequence of any amendment to this Agreement or any attachments hereto unless and until such amendment has been executed and made a part of this Agreement and the Project Budget has been amended to conform thereto.
- 10.15 No Waiver by State. State's failure to require strict performance by Recipient of any provision of this Agreement shall not waive, affect or diminish any right to State thereafter to demand strict compliance and performance therewith. Any suspension or waiver by State of any Event of Default by Recipient under this Agreement or the Other Agreements shall not suspend, waive or affect any other Event of Default by Recipient under this Agreement or the Other Agreements, whether the same is prior or subsequent thereto and whether of the same or of a different type. None of the undertakings, agreements, warranties, covenants and representations of Recipient contained in this Agreement or the Other Agreements and no Event of Default by Recipient under this Agreement or the Other Agreements shall be deemed to have been suspended or waived by State unless such suspension or waiver is by an instrument in writing signed by an officer of State and directed to Recipient specifying such suspension or waiver. Recipient waives the right to direct the application of any and all payments at any time or times hereafter received by State on account of Recipient's liabilities. Recipient agrees that State shall have the continuing exclusive right to apply and re-apply any and all such payments in such manner as State may deem advisable, notwithstanding any entry by State upon any of its books and records.

- 10.16 Entire Agreement. This Agreement and the Attachments and Exhibit(s) annexed hereto and integrated herewith contain the entire agreement of the parties and supersede any and all prior agreements or oral understandings between the parties.
- 10.17 Severability. If any provision of this Agreement or the Other Agreements or the application thereof to any Person or circumstance is held invalid or unenforceable, the remainder of this Agreement and the Other Agreements and the application of such provision to other Persons or circumstances will not be affected thereby and the provisions, of this Agreement and the other Agreements shall be severable in any such instance.
- 10.18 Successors. This Agreement and the Other Agreements shall be binding upon and inure to the benefit of the successors and assigns of Recipient and State. This provision, however, shall not be deemed to modify Section 9 hereof.
- 10.19 Reference to Legislation. Wherever in this Agreement reference is made to a standard mandated or defined in a state or federal statute, rule or regulation, such standard shall be deemed to include and be modified herein by any amendments, revisions or other modifications enacted or promulgated in connection therewith, Including without limitation, the opinions, rulings and decisions of any state or federal court. Without limitation of the foregoing, any such reference herein shall not prevent a more rigorous standard from applying to Recipient as a result of such amendment, revision or modification.
- 10.20 Waiver. Except as otherwise specifically provided in this Agreement, and notwithstanding anything to the contrary that may be contained in this Agreement or the Other Agreements, Recipient waives any and all notice or demand which Recipient might be entitled to receive by virtue of any applicable statute or law. In addition, Recipient waives presentment, demand and protest and notice of presentment, protest, default. Dishonor, non-payment, maturity, release, compromise; settlement, extension or renewal of any or all agreements, instruments or documents at any time held by State on which Recipient may in any way be liable.
- 10.21 Authority of Recipient's Agents. Until State is notified by Recipient to the contrary in writing by registered or certified mail, the signature upon this Agreement or upon any of the Other Agreements of any partner, manager, employee or agent of Recipient, or of any other Person designated in writing to State by any of the foregoing, shall bind Recipient and be deemed to be the duly authorized act of Recipient.
- 10.22 Choice of Law. This Agreement and the Other Agreements shall be governed and controlled by the laws of the State of Illinois as to interpretation, enforcement, validity, construction, effect, choice of law and in all other respects.
- 10.23 Consent to Jurisdiction: Service: Venue. Recipient irrevocably agrees that, subject to State's sale and absolute election, all actions and proceedings in any way, manner or respect, arising out of or from or related to this Agreement, Other Agreements or Material, shall be litigated only in the Illinois Court of Claims. Recipient hereby consents and submits to the jurisdiction of such court. Recipient hereby irrevocably appoints and designates Mark Heinle, Esq, Ancel, Glink et al, 1979 N. Mill St., Suite 207, Naperville, IL 60563 or any other party whom Recipient may from time to time hereafter designate (after giving State five (5) days written notice thereof) as Recipient's true and lawful attorney-in-fact and duly authorized agent for service of process and agrees that service of such process on such party shall constitute personal service of such process on Recipient. Such party shall, within five (5) days of such service, forward the same by certified or registered mail, with all papers affixed thereto to Recipient. Recipient hereby waives any right it may have to transfer or change the Venue of any litigation brought against Recipient by State in accordance with this section.

10.24 Captions. Section headings and captions herein are for convenience of reference only and shall not limit or otherwise affect the interpretation or construction of the provisions hereof.

10.25 Grant Funds Recovery Act and Grant Accountability and Transparency Act. This Grant is subject to the Illinois Grant Funds Recovery Act, 30ILCS 705/1 and the Grant Accountability and Transparency Act, Public Act 098-0706. This Grant is valid until the Required Completion Date, and grant funds are available to Recipient and may be expended by Recipient only until said date unless State, at its discretion, grants an extension of time. Any grant funds which are not expended or legally obligated by Recipient at the end of the Agreement or by the expiration of the period of time grant funds are available for expenditure or obligation, whichever is earlier, shall be returned to State within 45 days; this process is subject to revision at the sole determination and discretion of State. Project close-out shall be in accordance with Section 3.5 of this Agreement.

Pursuant to Section 4 of the Illinois Grant Funds Recovery Act, 30 ILCS 705/1 et seq., Recipient agrees to comply with the quarterly reporting requirements established by State. In the event that Recipient fails to comply with such reporting requirements, State shall have the right to withhold or suspend its reimbursement of grant funds to Recipient.

Recipient also agrees to comply with other requirements of the Illinois Grant Funds Recovery Act whereby State, the Illinois Auditor General or the Illinois Attorney General shall have the authority to inspect and audit any books, records, or papers related to the grant funds, or the program or project for which grant funds were provided hereunder.

10.26 Prevailing Wage. As required by the Prevailing Wage Act, (820 ILCS 130/0.01) Recipient shall pay laborers, workers and mechanics not less than the prevailing rate of wages as ascertained by the Illinois Department of Labor for the locality in which Project work is to be performed by Recipient. Recipient also agrees to require its contractors and subcontractors to pay laborers, workers and mechanics the prevailing rate of wages as ascertained by the Illinois Department of Labor for the locality in which Project work will be performed for the Recipient. The current prevailing rates of wages shall be obtained by visiting the Illinois Department of Labor web site at <http://www.state.il.us/agency/idol/> or by calling them at 312-793-2814. Recipient shall post the scale of wages for all laborers, workers and mechanics in a prominent and easily accessible place at the site of work.

If the Illinois Department of Labor revises the prevailing rates of wages, Recipient shall post the revised rates of wages and shall pay not less than the revised rates of wages. It is the responsibility of Recipient to review the rates applicable to the Project at regular intervals in order to ensure the timely payment of current rates. Provision of this information to Recipient by the Illinois Department of Labor satisfies the notification of revisions by State to Recipient pursuant to the Act, and Recipient agrees that no additional notice is required. Recipient shall notify each of its contractors or subcontractors of the revised rates of wages.

10.27 State's Representations and Warranties. State represents and warrants the following to Recipient:

- a) State has the power and authority to enter into and carry out its obligations under this Agreement pursuant to 20 ILCS 2705/2705-400 through 2705/2705-450;
- b) The execution and performance of this Agreement on the part of State does not violate any statute, rule, regulation, order, writ, injunction or decree of any court, administrative agency or governmental body, or any other agreement..

Recipient, by signature of its authorized representative below, hereby certifies under oath that all the information in this Agreement is true and correct to the best of Recipient's knowledge, information and belief, that the grant funds shall be used only for the purposes described in this Agreement, and that the award of grant funds is conditioned upon this certification.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered as of the day and year specified at the beginning hereof.

For the Recipient: VILLAGE OF COAL CITY

Signature of Authorized Representative

__Neal E. Nelson_____
Type/Print Name of Authorized Representative

Date

__Mayor and President of Board of Trustees_____
Type/Print Title of Authorized Representative

ATTEST:

Village Clerk

For the State: ILLINOIS DEPARTMENT OF TRANSPORTATION

Joseph Shacter, Director, Division of Public and Intermodal Transportation

Date

Tony Small, Director of Finance and Administration

Date

Michael A. Forti, Chief Counsel
(Approved as to form)

Date

Erica J. Borggren, Acting Secretary of Transportation

Date

LEGAL DESCRIPTION OF OWNER'S REAL PROPERTY

SECTION A:

A STRIP OF LAND 36.00 FEET WIDE, SITUATED IN THE NORTHEAST AND SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 12.00 FEET (NORMALLY DISTANT) TO THE RIGHT AND LYING 24.00 FEET (NORMAL DISTANT) TO THE LEFT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK: COMMENCING AT A BRASS DISK LOCATED AT THE NORTHEAST CORNER OF SOUTHEAST QUARTER OF SAID SECTION 15; THENCE SOUTH 88 DEGREES 31 MINUTES 41 SECONDS WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 542.28 FEET TO SAID CENTER LINE; THENCE SOUTH 01 DEGREES 17 MINUTES 54 SECONDS EAST ALONG SAID CENTER LINE, A DISTANCE OF 1,085.55 FEET TO A POINT HEREINAFTER CALLED "POINT A" AND THE POINT OF BEGINNING; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS WEST, A DISTANCE OF 1,420.71 FEET TO A POINT OF TERMINUS, IN GRUNDY COUNTY, ILLINOIS.

SECTION B:

A STRIP OF LAND 36.00 FEET WIDE, SITUATED IN THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 12.00 FEET (NORMALLY DISTANT) TO THE LEFT AND LYING 24.00 FEET (NORMAL DISTANT) TO THE RIGHT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK: BEGINNING AT AFORESAID "POINT A"; THENCE SOUTH 05 DEGREES 03 MINUTES 41 SECONDS WEST, A DISTANCE OF 287.81 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 573.69 FEET SUBTENDING A CHORD BEARING SOUTH 40 DEGREES 13 MINUTES 47 SECONDS WEST, AN ARC DISTANCE OF 704.26 FEET TO A TANGENT LINE; THENCE SOUTH 75 DEGREES 23 MINUTES 53 SECONDS WEST ALONG SAID TANGENT LINE, A DISTANCE OF 100.00 FEET TO A POINT HEREINAFTER CALLED "POINT B"; THENCE ALONG A LINE LYING 12.00 FEET (NORMALLY DISTANT) TO THE RIGHT AND LYING 24.00 FEET (NORMAL DISTANT) TO THE LEFT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK: THENCE NORTH 81 DEGREES 45 MINUTES 28 SECONDS EAST, A DISTANCE OF 1,032.83 FEET TO A POINT HEREINAFTER CALLED "POINT C" AND A POINT OF TERMINUS FOR AFORESAID SIDELINES; THENCE NORTH 04 DEGREES 47 MINUTES 48 SECONDS EAST ALONG A RADIAL LINE, A DISTANCE OF 37.17 FEET TO A POINT HEREINAFTER CALLED "POINT D"; THENCE ALONG A LINE LYING 12.00 FEET (NORMALLY DISTANT) TO THE RIGHT AND LYING 24.00 FEET (NORMAL DISTANT) TO THE LEFT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK: THENCE NORTHERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 573.69 FEET SUBTENDING A CHORD BEARING NORTH 40 DEGREES 40 MINUTES 41 SECONDS WEST, AN ARC DISTANCE OF 788.59 FEET TO A TANGENT LINE; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS WEST ALONG SAID TANGENT LINE, A DISTANCE OF 79.29 FEET TO AFORESAID "POINT A" AND THE POINT OF BEGINNING, IN GRUNDY COUNTY, ILLINOIS.

SECTION C:

A STRIP OF LAND 36.00 FEET WIDE, SITUATED IN THE NORTHEAST AND SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 12.00 FEET (NORMALLY DISTANT) TO THE LEFT AND LYING 24.00 FEET (NORMAL DISTANT) TO THE RIGHT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK: BEGINNING AT AFORESAID "POINT B"; THENCE SOUTH 81 DEGREES 45 MINUTES 28 SECONDS WEST, A DISTANCE OF 507.34 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 573.69 FEET SUBTENDING A CHORD BEARING NORTH 49 DEGREES 46 MINUTES 13 SECONDS WEST, AN ARC DISTANCE OF 970.67 FEET TO A TANGENT LINE; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS

WEST ALONG SAID TANGENT LINE, A DISTANCE OF 3,297.16 FEET TO A POINT OF TERMINUS, IN GRUNDY COUNTY, ILLINOIS.

THE SIDELINES OF SAID SECTIONS A, B AND C TO BE EXTENDED OR SHORTENED TO TERMINATE AT THE INTERSECTING SIDELINES OF SECTIONS A, B AND C.

LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT PARCEL

SECTION D:

A STRIP OF LAND 136.00 FEET WIDE, SITUATED IN THE NORTHEAST AND SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 62.00 FEET (NORMALLY DISTANT) TO THE RIGHT AND LYING 74.00 FEET (NORMAL DISTANT) TO THE LEFT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK: COMMENCING AT THE BRASS DISK LOCATED AT THE NORTHEAST CORNER OF SOUTHEAST QUARTER OF SAID SECTION 15; THENCE SOUTH 88 DEGREES 31 MINUTES 41 SECONDS WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 542.28 FEET TO SAID CENTER LINE; THENCE SOUTH 01 DEGREES 17 MINUTES 54 SECONDS EAST ALONG SAID CENTER LINE, A DISTANCE OF 1,085.55 FEET TO A POINT HEREINAFTER CALLED "POINT E" AND THE POINT OF BEGINNING; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS WEST, A DISTANCE OF 1,470.71 FEET TO A POINT OF TERMINUS, IN GRUNDY COUNTY, ILLINOIS.

SECTION E:

A PARCEL OF LAND, SITUATED IN THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT AFORESAID "POINT E"; THENCE NORTH 88 DEGREES 07 MINUTES 06 SECONDS WEST, A DISTANCE OF 74.11 FEET TO A POINT ON A LINE 74.00 FEET WEST OF AND PARALLEL WITH THE CENTER LINE OF TRACK; THENCE SOUTH 05 DEGREES 03 MINUTES 41 SECONDS WEST, A DISTANCE OF 283.70 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 499.69 FEET SUBTENDING A CHORD BEARING SOUTH 40 DEGREES 13 MINUTES 48 SECONDS WEST, AN ARC DISTANCE OF 613.42 FEET TO A TANGENT LINE; THENCE SOUTH 75 DEGREES 23 MINUTES 53 SECONDS WEST ALONG SAID TANGENT LINE, A DISTANCE OF 95.88 FEET; THENCE SOUTH 11 DEGREES 25 MINUTES 19 SECONDS EAST, A DISTANCE OF 74.11 FEET TO THE CENTER LINE OF SAID TRACK, ALSO TO A POINT HEREINAFTER CALLED "POINT F"; THENCE SOUTH 11 DEGREES 25 MINUTES 19 SECONDS EAST CONTINUING ALONG THE LAST DESCRIBED COURSE, A DISTANCE OF 62.10 FEET TO A POINT ON A LINE 62.00 FEET SOUTH OF AND PARALLEL WITH THE CENTER LINE OF SAID TRACK; THENCE NORTH 81 DEGREES 45 MINUTES 28 SECONDS EAST, A DISTANCE OF 1,075.25 FEET TO THE WEST RIGHT-OF-WAY LINE OF BROADWAY ROAD AS MONUMENTED AND OCCUPIED; THENCE NORTH 01 DEGREES 21 MINUTES 02 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 317.83 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 58 SECONDS WEST ALONG A LINE PERPENDICULAR TO THE LAST DESCRIBED COURSE, A DISTANCE OF 321.04 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 511.69 FEET SUBTENDING A CHORD BEARING NORTH 21 DEGREES 58 MINUTES 36 SECONDS WEST, AN ARC DISTANCE OF 369.36 FEET TO A TANGENT LINE; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS WEST ALONG SAID TANGENT LINE, A DISTANCE OF 75.84 FEET; THENCE NORTH 88 DEGREES 07 MINUTES 06 SECONDS WEST, A DISTANCE OF 62.10 FEET TO AFORESAID "POINT E" AND THE POINT OF BEGINNING, IN GRUNDY COUNTY, ILLINOIS.

SECTION F:

A STRIP OF LAND 136.00 FEET WIDE, BEFORE INTERSECTING WITH THE EAST LINE OF THE WEST 356.50 FEET OF SAID NORTHEAST AND SOUTHEAST QUARTER, AND 110.00 FEET WIDE THEREAFTER TILL TERMINUS, SITUATED IN THE NORTHEAST AND SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 62.00 FEET (NORMALLY DISTANT) TO THE LEFT BEFORE SAID INTERSECTION AND 36.00 TO THE LEFT THEREAFTER AND LYING 74.00 FEET (NORMAL DISTANCE) TO THE RIGHT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK:

BEGINNING AT AFORESAID "POINT F"; THENCE SOUTH 81 DEGREES 45 MINUTES 28 SECONDS WEST, A DISTANCE OF 507.34 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 573.69 FEET SUBTENDING A CHORD BEARING NORTH 49 DEGREES, 46 MINUTES 13 SECONDS WEST, AN ARC DISTANCE OF 970.67 FEET TO A TANGENT LINE; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS WEST ALONG SAID TANGENT LINE, A DISTANCE OF 3,347.16 FEET TO A POINT OF TERMINUS, IN GRUNDY COUNTY, ILLINOIS.

THE SIDELINES OF SAID PARCELS D, E AND F TO BE EXTENDED OR SHORTENED TO TERMINATE AT THE INTERSECTING SIDELINES OF SECTIONS D, E AND F AND EXISTING PROPERTY AND RIGHT-OF-WAY LINES WHERE THEY INTERSECT.

PROJECT BUDGET
Inland Logistics Port – Coal City
Grundy County

U Track Construction

Scope	Qty	Unit	Unit Price	Total
Professional Services				
Civil Engineering Design	1	LS	\$221,000.00	\$221,000.00
Railroad Design	1	LS	\$30,000.00	\$30,000.00
Project Management, Bid Preparation & Analysis, and Construction Management	1	LS	\$333,000.00	\$333,000.00
Project Insurance	1	LS	\$30,000.00	\$30,000.00
Earthwork + Utilities				
Erosion Control Plan	1	LS	\$5,000.00	\$5,000.00
Silt Fence	6,000	LF	\$2.25	\$13,500.00
Layout	1	LS	\$10,000.00	\$10,000.00
Strip Topsoil to Stockpile	12,000	CY	\$3.25	\$39,000.00
Cut/Fill	31,000	CY	\$6.00	\$186,000.00
Storm Water Culverts	300	LF	\$800.00	\$240,000.00
Trench Backfill Material	1,200	CY	\$40.00	\$48,000.00
Spoil Respread	6,000	CY	\$4.50	\$27,000.00
Topsoil Respread	64,000	SY	\$0.50	\$32,000.00
Fine Grade	64,000	SY	\$0.40	\$25,600.00
Hydro Seeding Adjacent to Track	20,000	SY	\$1.35	\$27,000.00
Railroad Work				
Subballast (CA-6-12")	8,250	CY	\$25.00	\$206,250.00
AREMA Class 1 Relay Rail 112# (Min)	17,728	LF	\$24.00	\$425,472.00
New AREMA IG 7"x9"x8'-6" Ties	5,030	Each	\$80.00	\$402,400.00
Other Track Material (Tie Plates, Anchors, Joint Bars, Bolts, Nuts & Washers)	8,864	LF	\$25.00	\$221,600.00
No. 9 AREMA Turnout with Sampson Switch Points	2	Each	\$57,500.00	\$115,000.00
UPRR Class 2 Ballast (8" below Tie)	5,800	CY	\$33.00	\$191,400.00
Surface, Align and Dress	8,864	LF	\$2.00	\$17,728.00
UPRR Earthen Bumper	2	Each	\$1,500.00	\$3,000.00
Contingency	1	LS	\$100,050.00	\$100,050.00
			TOTAL	\$2,950,000.00

LIMITATION NOTE: ALL OF THE LINE ITEMS LISTED IN THE PROJECT BUDGET ATTACHED HERETO AND, BY THIS REFERENCE, MADE A PART HEREOF, ARE ELIGIBLE PROJECT COSTS. HOWEVER, STATE WILL ONLY REIMBURSE RECIPIENT FOR THE COSTS OF CERTAIN MATERIALS AND LABOR UP TO \$2,950,000.00. NO LIABILITY BY THE STATE SHALL BE INCURRED ABOVE \$2,950,000.00.

FORM OF COMPLIANCE CERTIFICATE

State of Illinois
Department of Transportation
Division of Public and Intermodal Transportation
100 W. Randolph, Suite 6-600
Chicago, Illinois 60601
Attention: Chief, Bureau of Freight Rail Manangement

Re: Request for Disbursement of \$_____ -
Compliance with Track Construction
Grant Agreement

To: Samuel Tuck III, PE MS
Chief, Bureau of Freight Rail Management:

The Village of Coal City, an Illinois municipal corporation ("Recipient"), hereby certifies to the State of Illinois acting through its Department of Transportation ("State") pursuant to the Track Construction Grant Agreement dated _____, 20__ (the "Grant Agreement") that:

1. All representations and warranties made by Recipient In the Grant Agreement are true and correct as if made on the date hereof.
2. On the date hereof, there exists no Event of Default under the Grant Agreement.
3. There has been no material adverse change in the condition (financial or otherwise) of Recipient since the execution of this Grant Agreement.
4. None of the proceeds previously disbursed by State to Recipient have been used to pay or reimburse the cost of correcting any deficiency.
5. All costs submitted for reimbursement are Eligible Project Costs.
6. All invoices submitted for reimbursement have been paid to the appropriate contractor or subcontractor.

All capitalized terms used but not defined herein shall have the respective meanings ascribed to them In the Grant Agreement.

Very truly yours,

The Village of Coal City

By: _____
Matthew T. Fritz

Title: Village Administrator

AUTHORIZATION CERTIFICATE

I, Matthew T. Fritz, do hereby certify that:

1. As Village Administrator, I am the duly appointed representative of the Recipient, The Village of Coal City.
2. I have the authority in the name of Recipient now and from time to time hereafter as I deem advisable, necessary, expedient, convenient, or proper, to (a) execute and deliver to the State of Illinois ("State") such agreements, instruments, and documents as State may request or require to effectuate the purpose and intent of the Track Construction Grant Agreement ("Grant Agreement") or these Resolutions; (b) amend, modify, alter, extend, renew or otherwise change any of the provisions, terms, conditions, covenants, guaranties, or representations contained in the Grant Agreement and (c) expedite and deliver to State any disposition or authorization for the application, payment, transfer, receipt, or disposition of any grant proceeds made available to Recipient by State or for the transfer or other disposition of any property, real or personal, belonging to Recipient; and,
3. I am authorized, directed, and empowered to do and perform all acts and things I deem advisable, necessary, expedient, convenient or proper in order to consummate fully all of the transactions contemplated under the Grant Agreement.

IN WITNESS WHEREOF, I have hereunto subscribed my name as and have caused the seal of Recipient to be hereto affixed this ____ day of _____, 20____.

ATTEST:
(Village Seal)

Matthew T. Fritz, Village Administrator

PERMITTED EXCEPTIONS TO TITLE PURSUANT TO SECTION 5.9 OF THE GRANT AGREEMENT

None.

SCHEDULE OF LITIGATION REQUIRED TO BE PROVIDED BY RECIPIENT PURSUANT TO SECTION 5.2 OF THE GRANT AGREEMENT

None.

PURCHASE MONEY SECURITY INTEREST

Inland Logistics Port – Coal City, IL
Grundy County, IL

No.	Item	Unit	Quantity
1	Subbalast (CA-6-12")	CY	8,250
2	AREMA Class 1 Relay Rail 112# (Min)	LF	17,728
3	New AREMA IG 7"x9"x8'-6" Ties	Each	5,030
4	Other Track Material (Tie Plates, Anchors, Joint Bars, Bolts, Nuts & Washers)	LF	8,864
5	No. 9 AREMA Turnout with Sampson Switch Points	Each	2
6	UPRR Class 2 Ballast (8" below Tie)	CY	5,800
7	Storm Water Culverts	LF	300

EXHIBIT "A"

BUSINESS ENTERPRISE PROGRAM CERTIFICATION

[This Certification must be executed by an authorized officer of Recipient only if the amount of the state funds in the Grant is \$250,000 or more]

Pursuant to the State Finance Act, 30 ILCS 105/45. Recipient hereby certifies that Recipient complies with one of the following programs (check applicable program below):

- the Disadvantaged Business Enterprise program filed by the Illinois Department of Transportation (Department),
- the goals created by Recipient in conjunction with Department's Division of Public and Intermodal Transportation and the Office of Business and Work Force Diversity, which goals shall become a part of the Federal Section 5311 facility construction goal matrix,
- a Disadvantaged Business Enterprise program filed independently by Recipient or, if applicable, by one or more service boards, such as Metra, Pace, and/or the CTA,
- Follows Federal guidelines to the extent applicable.

and that such program has been approved, to the extent required by the relevant operating Administration of the United States Department of Transportation pursuant to Section 6(d) of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act, 30 ILCS 575, and complies with Section 2-105 of the Illinois Human Rights Act, 775 ILCS 5/2-105, including its requirements related to providing equal employment opportunities, refraining from unlawful discrimination, and having written sexual harassment policies.

Recipient understands and agrees that the program or goals checked above, and the goals included therein, are deemed to be part of this Track Construction Grant Agreement between Recipient and State.

In witness whereof, I have hereunto affixed my official signature and the seal, if applicable, this _____ day of _____, 20____.

Signature of Certifying Officer

Printed Name of Certifying Officer:

EXHIBIT "B"

OWNER'S AGREEMENT AMONG STATE, RECIPIENT AND OWNER

EXHIBIT "C"

LEASE BETWEEN OWNER AND RECIPIENT

[to be attached upon execution by the parties]

PROPOSED CONSTRUCTION EASEMENT
COAL CITY, ILLINOIS

LEGAL DESCRIPTION OF PREMISES

SECTION D:

A STRIP OF LAND 136.00 FEET WIDE, SITUATED IN THE NORTHEAST AND SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 62.00 FEET (NORMALLY DISTANT) TO THE RIGHT AND LYING 74.00 FEET (NORMAL DISTANT) TO THE LEFT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK:

COMMENCING AT A BRASS DISK LOCATED AT THE NORTHEAST CORNER OF SOUTHEAST QUARTER OF SAID SECTION 15; THENCE SOUTH 88 DEGREES 31 MINUTES 41 SECONDS WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 542.28 FEET TO SAID CENTER LINE; THENCE SOUTH 01 DEGREES 17 MINUTES 54 SECONDS EAST ALONG SAID CENTER LINE, A DISTANCE OF 1,085.55 FEET TO A POINT HEREINAFTER CALLED "POINT E" AND THE POINT OF BEGINNING; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS WEST, A DISTANCE OF 1,470.71 FEET TO A POINT OF TERMINUS, IN GRUNDY COUNTY, ILLINOIS.

SECTION E:

A PARCEL OF LAND, SITUATED IN THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT AFORESAID "POINT E"; THENCE NORTH 88 DEGREES 07 MINUTES 06 SECONDS WEST, A DISTANCE OF 74.11 FEET TO A POINT ON A LINE 74.00 FEET WEST OF AND PARALLEL WITH THE CENTER LINE OF TRACK; THENCE SOUTH 05 DEGREES 03 MINUTES 41 SECONDS WEST, A DISTANCE OF 283.70 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 499.69 FEET SUBTENDING A CHORD BEARING SOUTH 40 DEGREES 13 MINUTES 48 SECONDS WEST, AN ARC DISTANCE OF 613.42 FEET TO A TANGENT LINE; THENCE SOUTH 75 DEGREES 23 MINUTES 53 SECONDS WEST ALONG SAID TANGENT LINE, A DISTANCE OF 95.88 FEET; THENCE SOUTH 11 DEGREES 25 MINUTES 19 SECONDS EAST, A DISTANCE OF 74.11 FEET TO THE CENTER LINE OF SAID TRACK, ALSO TO A POINT HEREINAFTER CALLED "POINT F"; THENCE SOUTH 11 DEGREES 25 MINUTES 19 SECONDS EAST CONTINUING ALONG THE LAST DESCRIBED COURSE, A DISTANCE OF 62.10 FEET TO A POINT ON A LINE 62.00 FEET SOUTH OF AND PARALLEL WITH THE CENTER LINE OF SAID TRACK; THENCE NORTH 81 DEGREES 45 MINUTES 28 SECONDS EAST, A DISTANCE OF 1,075.25 FEET TO THE WEST RIGHT-OF-WAY LINE OF BROADWAY ROAD AS MONUMENTED AND OCCUPIED; THENCE NORTH 01 DEGREES 21 MINUTES 02 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 317.83 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 58 SECONDS WEST ALONG A LINE PERPENDICULAR TO THE LAST DESCRIBED COURSE, A DISTANCE OF 321.04 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 511.69 FEET SUBTENDING A CHORD BEARING NORTH 21 DEGREES 58 MINUTES 36 SECONDS WEST, AN ARC DISTANCE OF 369.36 FEET TO A TANGENT LINE; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS WEST ALONG SAID TANGENT LINE, A DISTANCE OF 75.84 FEET; THENCE NORTH 88 DEGREES 07 MINUTES 06 SECONDS WEST, A DISTANCE OF 62.10 FEET TO AFORESAID "POINT E" AND THE POINT OF BEGINNING, IN GRUNDY COUNTY, ILLINOIS.

PROPOSED CONSTRUCTION EASEMENT
COAL CITY, ILLINOIS

SECTION F:

A STRIP OF LAND 136.00 FEET WIDE, BEFORE INTERSECTING WITH THE EAST LINE OF THE WEST 356.50 FEET OF SAID NORTHEAST AND SOUTHEAST QUARTER, AND 110.00 FEET WIDE THEREAFTER TILL TERMINUS, SITUATED IN THE NORTHEAST AND SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 62.00 FEET (NORMALLY DISTANT) TO THE LEFT BEFORE SAID INTERSECTION AND 36.00 TO THE LEFT THEREAFTER AND LYING 74.00 FEET (NORMAL DISTANT) TO THE RIGHT OF THE FOLLOWING DESCRIBED CENTER LINE OF TRACK:

BEGINNING AT AFORESAID "POINT F"; THENCE SOUTH 81 DEGREES 45 MINUTES 28 SECONDS WEST, A DISTANCE OF 507.34 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 573.69 FEET SUBTENDING A CHORD BEARING NORTH 49 DEGREES 46 MINUTES 13 SECONDS WEST, AN ARC DISTANCE OF 970.67 FEET TO A TANGENT LINE; THENCE NORTH 01 DEGREES 17 MINUTES 54 SECONDS WEST ALONG SAID TANGENT LINE, A DISTANCE OF 3,347.16 FEET TO A POINT OF TERMINUS, IN GRUNDY COUNTY, ILLINOIS.

THE SIDELINES OF SAID PARCELS D, E AND F TO BE EXTENDED OR SHORTENED TO TERMINATE AT THE INTERSECTING SIDELINES OF SECTIONS D, E AND F AND EXISTING PROPERTY AND RIGHT-OF-WAY LINES WHERE THEY INTERSECT.

ALTA COMMITMENT FOR TITLE INSURANCE

Issued By:



Fidelity National Title
Insurance Company

Commitment Number:

GR14002029

FIDELITY NATIONAL TITLE INSURANCE COMPANY, a California corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate ninety (90) days after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

This Commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

IN WITNESS WHEREOF, FIDELITY NATIONAL TITLE INSURANCE COMPANY has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

Fidelity National Title Insurance Company

By:

President

Attest:

Secretary

Countersigned By:

Authorized Officer or Agent



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ALTA Commitment (06/17/2006)



ORIGINATING OFFICE:	FOR SETTLEMENT INQUIRIES, CONTACT:
Fidelity National Title Company, LLC 117 E Main St Morris, IL 60450 Main Phone: (815)941-8001	Fidelity National Title Company, LLC 117 E Main St Morris, IL 60450 Main Phone: (815)941-8001 Main Fax: (815)941-8006

Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
 124 W. Washington St.
 Morris, IL 60450

SCHEDULE A

ORDER NO. GR14002029

Property Ref.: Easement for Railroad Tracks, Coal City, IL 60416

1. Effective Date: December 8, 2014
2. Policy or (Policies) to be issued:
 - a. ALTA Owner's Policy 2006
 Proposed Insured: Inland Logistics Port Coal City, LLC
 Policy Amount: \$10,000.00
3. The estate or interest in the land described or referred to in this Commitment is:
 Fee Simple
4. Title to the estate or interest in the land is at the Effective Date vested in:
 Reed & Broadway, LLC as to that part of the land falling in the North 1358.70 feet of the Northeast quarter of Section 15;
 First National Bank Of Ottawa, As Trustee, Trust #2811 Dated July 26, 2013 as to the remainder of the land
5. The land referred to in this Commitment is described as follows:
 SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

END OF SCHEDULE A

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AMERICAN
LAND TITLE
ASSOCIATION



EXHIBIT "A"
Legal Description

Parcel 1: (Section A)

A strip of land 36.00 feet wide, situated in the Northeast and Southeast quarter of Section 15, Township 32 North, Range 8 East of the Third Principal Meridian, lying 12.00 feet (normally distant) to the right and lying 24.00 feet (normal distant) to the left of the following described center line of track:

Commencing at a brass disk located at the Northeast corner of Southeast quarter of said Section 15; thence South 88 degrees 31 minutes 41 seconds West along the North line of said Southeast quarter, a distance of 542.28 feet to said center line; thence South 01 degrees 17 minutes 54 seconds East along said center line, a distance of 1,085.55 feet to a point hereinafter called "Point A" and the point of beginning, thence North 01 degrees 17 minutes 54 seconds West, a distance of 1,420.71 feet to a point of terminus, in Grundy County, Illinois.

Parcel 2: (Section B)

A strip of land 36.00 feet wide, situated in the Southeast quarter of Section 15, Township 32 North, Range 8 East of the Third Principal Meridian, lying 12.00 feet (normally distant) to the left and lying 24.00 feet (normal distant) to the right of the following described center line of track:

Beginning at aforesaid point "A"; thence South 05 degrees 03 minutes 41 seconds West, a distance of 287.81 feet to a point of curvature; thence Southerly along a curve concave to the Northwest having a radius of 873.68 feet subtending a chord bearing South 40 degrees 13 minutes 47 seconds West, an arc distance of 704.25 feet to a tangent line; thence South 75 degrees 23 minutes 53 seconds West along said tangent line a distance of 100.00 feet to a point hereinafter called "Point B" thence along a line lying 12.00 feet (normally distant) to the right and lying 24.00 feet (normal distant) to the left of the following described center line of track: thence North 81 degrees 45 minutes 28 seconds East, a distance of 1,032.83 feet to a point hereinafter called "Point C" and a point of terminus for aforesaid sidelines; thence North 04 degrees 47 minutes 48 seconds East along a radial line, a distance of 37.17 feet to a point hereinafter called "Point D" thence along a line lying 12.00 feet (normally distant) to the right and lying 24.00 feet (normal distant) to the left of the following described center line of track: thence Northerly along a curve concave to the Northeast having a radius of 573.69 feet subtending a chord bearing North 40 degrees 40 minutes 41 seconds West, an arc distance of 788.50 feet to a tangent line; thence North 01 degrees 17 minutes 54 seconds West along said tangent line, a distance of 79.29 feet to aforesaid "Point A" and the point of beginning, in Grundy County, Illinois.

Parcel 3: (Section C)

A strip of land 36.00 feet wide, situated in the Northeast and Southeast quarter of Section 15, Township 32 North, Range 8 East of the Third Principal Meridian, lying 12.00 feet (normally distant) to the left and lying 24.00 feet (normal distant) to the right of the following described center line of track:

Beginning at aforesaid "Point B"; thence South 81 degrees 45 minutes 26 seconds West, a distance of 507.34 feet to a point of curvature; thence Northerly along a curve concave to the Northeast having a radius of 573.69 feet subtending a chord bearing North 49 degrees 46 minutes 13 seconds West, an arc distance of 970.67 feet to a tangent line; thence North 01 degrees 17 minutes 54 seconds West along said tangent line, a distance of 3,297.18 feet to a point of terminus, in Grundy County, Illinois.

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ALTA Commitment (06/17/2006)

Page 3

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Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
124 W. Washington St.
Morris, IL 60450

SCHEDULE B - SECTION I REQUIREMENTS

1. Note for information: the coverage afforded by this commitment and any policy issued pursuant hereto shall not commence prior to the date on which all charges properly billed by the Company have been fully paid
2. Unless disposed of to the satisfaction of the Company, appropriate exceptions will be raised for defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.
3. The "Good Funds" section of the Title Insurance Act (215 ILCS 155/26) is effective January 1, 2010. This Act places limitations upon our ability to accept certain types of deposits into escrow. Please contact your local Fidelity National Title office regarding the application of this new law to your transaction.
4. Instrument(s) in a form satisfactory to the Company creating the estate or interest to be insured must be executed and presented in recordable form, including applicable real estate transfer tax declarations for the State, County, and Municipality (if applicable), and satisfaction of any applicable requirements and payment of transfer taxes.
5. Payment of real estate taxes affecting the land that may be due or payable prior to closing (or as may be required by a lender to be insured). Schedule B tax exception will be amended accordingly based on a later date search and payment as noted herein.
6. For all mortgages and liens referenced below, we should be furnished with proper payoff figures, authorizations, funds and documents sufficient to pay off and release said liens at or prior to closing.
7. We should be furnished a properly executed ALTA statement and, unless the land insured is a condominium unit, a survey if available. Matters disclosed by the above documentation will be shown specifically.
8. Deed in a form satisfactory to the Company from Reed & Broadway, LLC as to that part of the land falling in the North 1358.70 feet of the Northeast quarter of Section 15;

First National Bank Of Ottawa, As Trustee, Trust #2811 Dated July 26, 2013 as to the remainder of the land to Inland Logistics Port Coal City, LLC.
9. Effective June 1, 2009, pursuant to Public Act 95-988, satisfactory evidence of identification must be presented for the notarization of any and all documents notarized by an Illinois notary public. Satisfactory identification documents are documents that are valid at the time of the notarial act; are issued by a state or federal government agency; bear the photographic image of the individual's face; and bear the individual's signature.
10. Mortgage Dated January 28, 2004 And Recorded January 29, 2004 As Document No. 429495 And Re-recorded February 29, 2004 As Document No. 430260 And Re-recorded November 28, 2006 As Document No. 471636 Made By Reed & Broadway, Llc To Grundy Ank To Secure An Indebtedness In The Amount Of \$1,112,000.00.

Note: Modifications Recorded As Document Nos. 492148, 497121, 508360 And 518404.

(Affects the Reed & Broadway LLC title and other property)

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Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
124 W. Washington St.
Morris, IL 60450

SCHEDULE B - SECTION I REQUIREMENTS

(continued)

11. Mortgage Dated January 18, 2005 And Recorded January 19, 2005 As Document No. 443916 And Re-recorded November 28, 2006 As Document No. 471638 Made By Reed & Broadway, Llc To Grundy Bank To Secure An Indebtedness In The Amount Of \$236,005.00.

Note: Modifications Recorded As Document Nos. 508359 And 518405.

(Affects the Reed & Broadway title and other property)
12. Mortgage And Assignment Of Rents Dated September 11, 2013 And Recorded September 13, 2013 As Document 541831 Made By The First National Bank Of Ottawa, Illinois, A National Banking Association, As Trustee Under Trust Agreement Dated July 26, 2013 And Known As Trust Number 2811 And Noel R. Trotter And Deborah L. Trotter To The First National Bank Of Ottawa To Secure A Note For \$3,500,000.00.

(Affects Trust #2811 title and other property)
13. Security Interest Of The First National Bank Of Ottawa, Secured Party, In Certain Described Chattels On The Land, As Disclosed By Financing Statement Naming Noel R. Trotter And Deborah L. Trotter As Debtor And Recorded Septemeber 13, 2013 As Document No. Ucc13-109.
14. Security Interest Of The First National Bank Of Ottawa Secured Party, In Certain Described Chattels On The Land, As Disclosed By Financing Statement Naming Noel R. Trotter And Deborah L. Trotter As Debtor And Recorded September 13, 2013 As Document No. Ucc13-110.
15. Security Interest Of The First Bank Of Ottawa, Illinois, Secured Party, n Certain Described Chattels On The Land, As Disclosed By Security Agreement [Financing Statement] Naming Noel R. Trotter And Deborah L. Trotter And Recorded September 13, 2013 As Document No. 541832.
16. Existing unrecorded leases and all rights thereunder of the lessees and of any person or party claiming by, through or under the lessees.
17. The Company should be furnished a statement that there is no property manager employed to manage the Land, or, in the alternative, a final lien waiver from any such property manager.
18. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
19. Attention is directed to the fact that the improvements on the Land have not been completed. Therefore, this commitment/policy is subject to such further exceptions, if any, as may be disclosed upon the completion of the improvements, at which time a determination will be made as to whether ALTA endorsement 9-06 may issue.

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Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
124 W. Washington St.
Morris, IL 60450

**SCHEDULE B - SECTION I
REQUIREMENTS**
(continued)

20. The Land described in Schedule A either is unsubdivided property or constitutes part of a subdivided lot. As a result, a Plat Act Affidavit should accompany any conveyance to be recorded. In the alternative, compliance should be had with the provisions of the Plat Act (765 ILCS 205/1 et seq.)

21. The Company will require the following documents for review prior to the issuance of any title assurance predicated upon a conveyance or encumbrance from the entity named below:

Limited Liability Company: REED & BROADWAY L.L.C

- a) A copy of its operating agreement, if any, and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member
- b) If a domestic Limited Liability Company, a copy of its Articles of Organization and all amendments thereto with the appropriate filing stamps
- c) If the Limited Liability Company is member-managed, a full and complete current list of members certified by the appropriate manager or member
- d) If the Limited Liability Company was formed in a foreign jurisdiction, evidence, satisfactory to the Company, that it was validly formed, is in good standing and authorized to do business in the state of origin
- e) If less than all members, or managers, as appropriate, will be executing the closing documents, furnish evidence of the authority of those signing.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

END OF SCHEDULE B - SECTION I

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Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
124 W. Washington St.
Morris, IL 60450

**SCHEDULE B - SECTION II
EXCEPTIONS**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

GENERAL EXCEPTIONS

- 1. **Rights or claims of parties in possession not shown by Public Records.**
- 2. **Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the Land.**
- 3. **Easements, or claims of easements, not shown by the Public Records.**
- 4. **Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.**
- 5. **Taxes or special assessments which are not shown as existing liens by the Public Records.**

A 6. Taxes for the years 2014.
Taxes for the years 2014 are not yet due or payable.
Permanent Tax No.: 09-15-200-004-0000

Note: Taxes for the year 2013 amounting to \$482.00 are paid of record.
(Affects part of the land and other property)

B 7. Taxes for the years 2014.
Taxes for the years 2014 are not yet due or payable.
Permanent Tax No.: 09-15-200-005-0000

Note: Taxes for the year 2013 amounting to \$571.22 are paid of record.
(Affects part of the land and other property)

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Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
 124 W. Washington St.
 Morris, IL 60450

SCHEDULE B - SECTION II
EXCEPTIONS
 (continued)

- C 8. Taxes for the years 2014.
 Taxes for the years 2014 are not yet due or payable.
 Permanent Tax No.: 09-15-400-002-0000
 Note: Taxes for the year 2013 amounting to \$682.78 are paid of record.
 (Affects part of the land and other property)
- D 9. Taxes for the years 2014.
 Taxes for the years 2014 are not yet due or payable.
 Permanent Tax No.: 09-14-300-007-0000
 Note: Taxes for the year 2013 amounting to \$143.58 are paid of record.
 (Affects part of the land and other property)
- X 10. Rights of Way for railroad switch and spur tracks, if any.
- E 11. Rights of Way for drainage tiles, ditches, feeders, laterals and underground pipes, if any.
- W 12. Rights of the public, the State of Illinois and the municipality in and to that part of the Land, if any, taken or used for road purposes.
- F 13. Rights of adjoining and contiguous owners to have maintained the uninterrupted flow of the waters of any stream which may flow on or through the Land.
- G 14. Terms, Provisions And Conditions Contained In Ordinance 05-22 For Annexation Recorded November 29, 2005 as Document Number 456275.
- H 15. Subject To Claypool Drainage And Levee District Per Documents Filed October 4, 1947 In Book 204 At Page 39 And Filed November 25, 1975 In Book 333 At Page 243. (For Particulars See Record)

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Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
124 W. Washington St.
Morris, IL 60450

SCHEDULE B - SECTION II
EXCEPTIONS
(continued)

- I 16. Easement In Favor Of Commonwealth Edison Company, And Its/their Respective Successors And Assigns, To Install, Operate And Maintain All Equipment Necessary For The Purpose Of Serving The Land And Other Property, Together With The Right Of Access To Said Equipment, And The Provisions Relating Thereto Contained In The Grant Recorded/filed In Book 238 At Page 262 As Document No. 181204. (For Particulars See Record)
- J 17. Easement In Favor Of Northern Illinois Gas Company, And Its/their Respective Successors And Assigns, To Install, Operate And Maintain All Equipment Necessary For The Purpose Of Serving The Land And Other Property, Together With The Right Of Access To Said Equipment, And The Provisions Relating Thereto Contained In The Grant Recorded/filed In Book 260 At Page 252 As Document No. 196518. (For Particulars See Record)
- K 18. Easement In Favor Of Northern Illinois Gas Company, And Its/their Respective Successors And Assigns, To Install, Operate And Maintain All Equipment Necessary For The Purpose Of Serving The Land And Other Property, Together With The Right Of Access To Said Equipment, And The Provisions Relating Thereto Contained In The Grant Recorded/filed December 2, 1964 In Book 266 At Page 470. (For Particulars See Record)
- L 19. Right Of Way Grant From Chicago Title And Trust Company Under Trust Number 38039 To Commonwealth Edison Company Dated October 9, 1964 And Recorded November 4, 1964 In Book 260 At Page 334 Over The Southeast Quarter Of Section 10 And East Half Of Section 15. (For Particulars See Record)
- M 20. Premises In Question Is Subject To The Maine Township Drainage And Levee Assessments.

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Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
124 W. Washington St.
Morris, IL 60450

SCHEDULE B - SECTION II
EXCEPTIONS
(continued)

- N 21. Terms, Provisions, Conditions And Limitations Contained In Annexation Agreement To The Village Of Coal City By The Instrument Recorded April 21, 2011 As Document No. 519565. (For Particulars See Record)
- O 22. Ordinance No. 10-28, Annexing Certain Property To The Village Of Coal City By The Instrument Recorded April 21, 2011 As Document No. 519566, And The Terms, Provisions And Conditions Therein Contained. (For Particulars See Record)
- P 23. Easement For Ingress And Egress As Disclosed By Trustee's Deed Recorded December 23, 2009 As Document No. 506904. (For Particulars See Record)
- (Affects Parcel 3)
- Q 24. Rights Of Way For Railroad Switch And Spur Tracks, If Any.
- R 25. Development Agreement Between The Village Of Coal City And Inland Logistics Port Coal City, Llc, Reed & Broadway, Llc And First National Bank Of Ottawa, As Trustee Under Trust Agreement Dated July 26, 2013 And Known As Trust No. 2811 Recorded November 13, 2013 As Document No. 543330. Subject To Terms And Conditions Therein Contained.
- S 26. Declaration Of Switching Fee Revenue Sharing Covenant Made Between The Village Of Coal City, Illinois And Inland Logistics Port Coal City, Llc Recorded Novemer 13, 2013 As Document No. 543329. Subject To The Terms And Conditions Therein Contained.

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Name and Address of Title Insurance Agent: Frank J. Cortina, Jr.
 124 W. Washington St.
 Morris, IL 60450

**SCHEDULE B - SECTION II
 EXCEPTIONS
 (continued)**

T 27. Ordinance No. 13-40 Ratifying Entry Into Development Agreement With Inland Logistics Port Coal City, Llc, Reed & Broadway, Llc And First National Bank Of Ottawa, As Trustee Under Trust Agreement Dated July 26, 2013 And Known As Trust No. 2811, Providing For The Development Of Coal City Inland Logistics Port Recorded November 27, 2013 As Document No. 543614.

U 28. The Land Lies Within The Boundaries Of A Special Service Area As Disclosed By Ordinance Recorded As Document 543615, And Is Subject To Additional Taxes Under The Terms Of Said Ordinance And Subsequent Related Ordinances.

Note: Declaration Of Consent And Waiver To Creation Of Special Service Area And Imposition Of Special Service Area Tax Pursuant Thereto Recorded As Document Nos. 543327 And 543328.

Note: A Full Payment Letter Must Be Presented In Conjunction With Any Deed To Be Recorded.

V 29. Easement In Favor Of Commonwealth Edison Company, And Its/their espective Successors And Assigns, To Install, Operate And Maintain All Equipment Necessary For The Purpose Of Serving The Land And Other Property, Together With The Right Of Access To Said Equipment, And The Provisions Relating Thereto Contained In The Grant Recorded/filed As Document No. 347876, Affecting Strips Within The Premises In Question. (For Particulars See Record)

END OF SCHEDULE B - SECTION II



CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. *The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www.alta.org>.*

END OF CONDITIONS

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