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236854

October 20, 2014

Ms. Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001

ENTERED  
Office of Proceedings  
October 20, 2014  
Part of  
Public Record

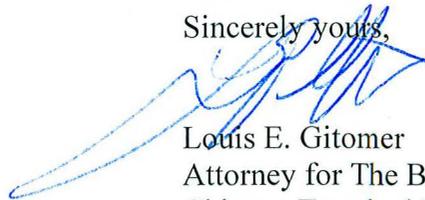
Re: **Docket No. FD 35865, *The Baltimore and Ohio Chicago Terminal Railroad Company –Joint Use Exemption- Indiana Harbor Belt Railroad Company***

Dear Ms. Brown:

Enclosed are the original and 10 copies of the Petition for Exemption, a diskette containing a WORD and pdf version of the Petition, and a check in the amount of \$9,800 is to cover the filing fee. **Expedited handling is requested.**

Please time and date stamp the extra copy of the filing and return it in the enclosed pre-paid envelope. Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Louis E. Gitomer  
Attorney for The Baltimore and Ohio  
Chicago Terminal Railroad Company

Enclosures

FILED  
October 20, 2014  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
October 20, 2014  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35865

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THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY  
—JOINT USE EXEMPTION—  
INDIANA HARBOR BELT RAILROAD COMPANY

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PETITION FOR EXEMPTION

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**EXPEDITED HANDLING REQUESTED**

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Attorneys for: The Baltimore and Ohio Chicago  
Terminal Railroad Company

Dated: October 20, 2014

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35865

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THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY  
—JOINT USE EXEMPTION—  
INDIANA HARBOR BELT RAILROAD COMPANY

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PETITION FOR EXEMPTION

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**EXPEDITED HANDLING REQUESTED**

The Baltimore and Ohio Chicago Terminal Railroad Company (“BOCT”),<sup>1</sup> a Class II railroad, and the Indiana Harbor Belt Railroad Company (“IHB”), a Class II railroad, petition the Surface Transportation Board (the “Board”) to exempt a modification to an 1896 joint use agreement that will improve fluidity and efficiency of operations at Blue Island, IL, a major railroad junction in the Chicago terminal. Specifically, BOCT and IHB have agreed to a change in operations over approximately 483 feet of track between Blue Island Junction Eastward Absolute Signal, milepost DIH 15.2, and the Westward Absolute Signal at CP Francisco (CP 154), milepost 15.3 (the “Line”) so that BOCT will dispatch and control train movement over the Line. A map of the general area is in Exhibit B.

BOCT’s predecessor, the Chicago and Calumet Terminal Railroad Company (“Calumet”), and IHB’s predecessor, the Chicago Hammond and Western Railroad Company (“Hammond”), entered an Agreement dated October 5, 1896, for the joint use of Calumet’s line between Blue Island and McCook, IL, and Hammond’s line to be constructed between McCook

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<sup>1</sup> BOCT is a wholly owned subsidiary of CSX Transportation, Inc.

and Franklin Park, IL (collectively the “BOCT-IHB Lines”). In a Supplemental Agreement dated January 1, 1930, BOCT and IHB agreed that IHB would be in charge and control of the operation of trains on the BOCT-IHB Lines.<sup>2</sup> BOCT and IHB jointly use and operate over the BOCT-IHB Lines.

Based on the 1896 and 1930 agreements, IHB controls operations over the Line today, including dispatching. However, CSXT, on behalf of BOCT, controls train movements, including dispatching, of the end points of the Line at Blue Island Junction and CP Francisco. Thus, for example, for a train to move over the Line, authority is required from CSXT at Blue Island Junction, from IHB on the Line, and again from CSXT at CP Francisco. The need to receive clearance to proceed from multiple dispatchers has resulted in inefficient and non-fluid movements not only on the Line, but also through Blue Island Junction, which is adjacent to the Line.

Several important routes through the Chicago terminal area pass through or are affected by Blue Island Junction, which generally handles about 50 trains per day. Not only do BOCT and IHB operate over the Line, but so do CSXT, the BNSF Railway Company, the Canadian Pacific Railway Company, and the Union Pacific Railroad Company. The proposed modification to control of this segment of the BOCT-IHB Lines will unify dispatching of the Line in one dispatcher and eliminate the inefficiency of requiring approval from multiple dispatchers to move across 483 feet of track. Instead of arranging for clearance to operate over the Line from CSXT, IHB and CSXT again, the railroads operating on the Line will be able to contact the CSXT dispatcher and receive permission to transit the Line. Receiving clearance from a single

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<sup>2</sup> Exhibit A contains the 1896, 1930 and 2014 agreements.

dispatcher to operate over a line of railroad even as short as the Line will result in greater efficiency and fluidity while eliminating potential delays caused by different dispatchers.

As a result of the acquisition by CSXT of a 22.37-mile exclusive, perpetual non-assignable railroad operating easement that runs between Elsdon, IL, milepost 8.7, and Munster, IN, milepost 31.07 (the “Easement Line”), from the Grand Trunk Western Railroad Company, the acquisition of trackage rights by BOCT over the Easement Line from CSXT<sup>3</sup>, and the need to improve the efficiency and fluidity of operations over the Easement Line, BOCT and IHB entered the Second Supplemental Agreement on October 1, 2014 so that BOCT controls train movement over the Line, including dispatching. Despite its limited length and because of its strategic location, improving the fluidity and efficiency over the Line should also help to improve fluidity and efficiency at Blue Island Junction and in the Chicago terminal. CSXT provides dispatching for BOCT and on behalf of BOCT, and CSXT will dispatch and control train movements over the Line.<sup>4</sup> The agreed upon modification to the joint use of the Line will allow a single dispatcher to efficiently authorize the movement of trains between Blue Island Junction and CP Francisco.

#### **ARGUMENT SUPPORTING THE MODIFICATION OF THE JOINT USE OF THE LINE**

BOCT and IHB seek an exemption under 49 U.S.C. § 10502 from the applicable requirements of 49 U.S.C. §11323(a)(6) in order to modify the joint use of the Line in order to improve the efficiency of the operation over the Line. The proposed transaction will unify dispatching of three areas, Blue Island Junction, CP Francisco, and the Line in one railroad,

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<sup>3</sup> *CSX Transportation, Inc.-Acquisition of Operating Easement-Grand Trunk Western Railroad Company*, Docket No. FD 35522 (served February 8, 2013).

<sup>4</sup> As stated in the accompanying letter from CSXT, CSXT agrees to be subjected to the labor protection being imposed in this transaction.

CSXT, which provides dispatching services for BOCT, instead of having to contact CSXT, then IHB, and then CSXT again or trying to coordinate the movement of the train through the different dispatchers.

Under 49 U.S.C. §10502, the Board must exempt a transaction from regulation when it finds that:

(1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and

(2) either:

(a) the transaction is of limited scope, or

(b) regulation is not necessary to protect shippers from the abuse of market power.

The legislative history of Section 10502 reveals a clear Congressional intent that the Board should liberally use its exemption authority to free certain transactions from the administrative and financial costs associated with continued regulation. In enacting the Staggers Rail Act of 1980, Pub. L. No. 96-488, 94 Stat. 1895, Congress encouraged the Board's predecessor agency to liberally use the expanded exemption authority under former Section 10505:

The policy underlying this provision is that while Congress has been able to identify broad areas of commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemption from remaining regulation.

H.R. Rep No. 1430, 96 the Cong. 2d Sess. 105 (1980). See also *Exemption From Regulation--Boxcar Traffic*, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, *Brae Corp. v. United States*, 740 F.2d 1023 (D.C. Cir 1984). Congress reaffirmed this policy in the

conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which re-enacted the rail exemption provision as Section 10502. H.R. Rep. No. 422, 104th Cong., 1st Sess. 168-69 (1995).

**A. The Application of 49 U.S.C. §11323(a)(6) Is Not Necessary to Carry Out the Rail Transportation Policy**

Detailed scrutiny of this transaction is not necessary to carry out the rail transportation policy. The proposed modification to the joint use of the Line is for the purpose of improving the efficiency and fluidity of operations over the Line.

An exemption will foster many of the policy considerations in the Rail Transportation Policy at 49 U.S.C. §10101. An expedited exemption for the modification of the joint use would “minimize the need for Federal regulatory control over the rail transportation system” (49 U.S.C. §10101(2)). Reducing from three to one clearance to operate on the Line would “promote a safe and efficient rail transportation system” (49 U.S.C. §10101(3)). The improvement in dispatching would also “foster sound economic conditions in transportation” by reducing delays and attendant costs encountered in transiting the Line and “ensure effective ... coordination between rail carriers” by improving the fluidity in transiting the Line (49 U.S.C. §10101(5)). More efficient dispatching of the Line and the resulting more fluid operations over the Line will result in the “honest and efficient management of railroads” (49 U.S.C. §10101(9)). The more efficient movement of trains over the Line will “encourage and promote energy conservation” (49 U.S.C. §10101(14)).

Other aspects of the rail transportation policy are not adversely affected. Competition will not be harmed. The same railroads that operate over the Line today will continue to operate

over it after the joint use is modified to unite the dispatch of the Line. The Line will continue in service, albeit in a more efficient and fluid manner.

**B. This Transaction Is Of Limited Scope**

The proposed transaction is of limited scope. BOCT and IHB seek to modify the operation of 483 feet of jointly used track in Blue Island, IL to enhance efficiency and fluidity of railroad operations.

**C. This Transaction Will Not Result In An Abuse Of Market Power.**

The number of railroads operating over the Line will not be reduced as a result of the modification of the joint use of the Line so that a single railroad will control dispatching over the Line. No shippers will see reduced service. The goal of the modification of the joint use of the Line to place dispatching under the control of one railroad is to increase the efficiency and fluidity of operations over the Line, and reduce congestion at Blue Island. The only competitive result should be the more efficient movement of the trains operating over the Line. Hence, modification of the joint use of the Line to place dispatch and control of the Line with BOCT will not result in an abuse of market power.

**LABOR PROTECTION**

BOCT and IHB do not anticipate that this transaction will adversely affect any employees. Any employees of BOCT, IHB, or CSXT who may be adversely affected by the modification of the joint use of the Line are entitled to protection under the conditions imposed in *Norfolk and Western Railway Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc. —Lease and Operate*, 360 I.C.C. 653 (1980).

## **ENVIRONMENTAL AND HISTORIC MATTERS**

Environmental and historic impacts associated with trackage rights transactions generally are considered to be insignificant. Therefore, environmental and historical reports and documentation normally need not be submitted for this type of transaction, pursuant to 49 C.F.R. § 1105.6(c)(2)(i) and (4) and § 1105.8(b)(1) and (3).

## **EXPEDITED HANDLING REQUESTED**

As the Board well knows, operations through the Chicago terminal can be challenging. Any proposal that enhances the efficiency and fluidity of those operations should be encouraged and implemented as soon as possible. Here, BOCT and IHB have arrived at a private sector solution to enhance the efficiency of rail operations over the Line, which should benefit the six railroads operating over the Line, enhance the efficiency and fluidity of operations over the Line and through the adjacent Blue Island Junction. Any increase in fluidity and efficiency in the Chicago terminal area should be encouraged and implemented as quickly as possible.

Therefore, in order to expeditiously implement the proposal to change dispatching and control of the Line so that a single railroad provides dispatching, BOCT and IHB respectfully request the Board to expedite granting the exemption requested and serve a decision within 30 days.

## **CONCLUSION**

Application of the regulatory requirements and procedures of 49 U.S.C. §11323(a)(6) to the modification of the joint use of the Line proposed by BOCT and IHB is not required to carry out the rail transportation policy set forth in 49 U.S.C. §10101, as previously shown. Nor is Board regulation required to protect shippers from the abuse of market power. Moreover, this modification of the joint use of the Line is of limited scope.

Accordingly, BOCT and IHB respectfully request the Board expeditiously grant an exemption for the proposed modification of the joint use of the Line of the Line.

Respectfully Submitted,



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Attorneys for: The Baltimore and Ohio Chicago  
Terminal Railroad Company

Dated: October 20, 2014

EXHIBIT A – AGREEMENTS

EXHIBIT "A."

**CHICAGO AND CALUMET TERMINAL RAILWAY COMPANY.  
CHICAGO, HAMMOND AND WESTERN RAILROAD COMPANY.**

October 5, 1896.

AN AGREEMENT made and concluded this 5th day of October, A. D., 1896, by and between the CHICAGO AND CALUMET TERMINAL RAILWAY COMPANY, hereinafter for convenience called the CALUMET COMPANY, party of the first part, and the CHICAGO, HAMMOND AND WESTERN RAILROAD COMPANY, hereinafter for convenience called the HAMMOND COMPANY, party of the second part, BEARS WITNESS:

WHEREAS, the Calumet Company owns or is possessed of a line of railway extending generally from a point near the shore of Lake Michigan contiguous to Whiting, in Lake County, Ind., southerly to East Chicago, thence in a generally westerly direction to Blue Island, in Cook County, Ill.; and thence in a general northerly direction to a point at or near to McCook in said Cook County; and

WHEREAS, the Hammond Company owns or is possessed of a line of railway also extending generally from a point at or near the shore of Lake Michigan, near Whiting aforesaid, to Blue Island aforesaid; and was about to enter upon the construction of its railroad from Blue Island aforesaid northerly through said McCook to Franklin Park in said county; and

WHEREAS, the Calumet Company proposed to extend its rail road from said McCook to Franklin Park; and

WHEREAS, it is to the mutual advantage of the parties hereto that there should be but one line of railroad between said Blue Island and Franklin Park, provided that each party hereto has the full, free and unobstructed use of the same:

NOW, THEREFORE, in consideration of the premises and of one dollar by each of the parties hereto to the other in hand paid, the receipt whereof is hereby acknowledged, and of the mutual undertakings and agreements hereinafter recited by each of the parties hereto severally to be kept and performed, and for the purpose of securing, so far as possible to the parties hereto and to their successors and assigns all the advantages of a full, free and unobstructed use of said line of railroad from Blue Island to Franklin Park, aforesaid, that either of said parties would have if it owned and operated said line of railroad from Blue Island to Franklin Park exclusively, it is mutually covenanted and agreed as follows:

ARTICLE I.

SECTION 1. The said Calumet Company does hereby grant, demise and lease unto the said Hammond Company, for the term of ninety-nine years next ensuing after the date hereof, the right to a common use with the said Calumet Company of the railroad of the said Calumet Company from the said Blue Island to McCook,

and the Hammond Company agrees to use the same under the conditions herein provided, together with all side tracks, industrial tracks, switches, turnouts, crossovers and appurtenances upon the said line of railroad now constructed or hereafter to be constructed as herein provided, together with facilities for erecting and maintaining a line or lines of telegraph wires not exceeding five in number. The said Hammond Company shall also have the right to connect its tracks and yards with the tracks of the said Calumet Company at and between the points aforesaid; the cost of switch tenders for the operation of the switch connections and appurtenances necessary thereto shall be borne by the Hammond Company. The tracks, facilities and appurtenances, the common use of which is hereby granted, demised and leased, are shown in red upon the plat hereto attached, and marked "Exhibit A," and when the improvements herein contemplated to be made shall have been completed, such improvements shall be shown by additions to such "Exhibit A."

#### ARTICLE II.

SECTION 1. The said Hammond Company does hereby grant, demise and lease unto the said Calumet Company for the term of ninety-nine years next ensuing after the date hereof the right to a common use with the said Hammond Company of the railroad of the said Hammond Company to be constructed as hereinafter provided from the said McCook to the said Franklin Park, and the Calumet Company agrees to use the same under the conditions herein provided, together with all side tracks, industrial tracks, switches, turnouts, crossovers and appurtenances upon said line of railroad, together with facilities for erecting and maintaining a line or lines of telegraph wires, not exceeding five in number. The said Calumet Company shall have the right to connect its tracks and yards with the tracks of the said Hammond Company at and between the points aforesaid; the cost of switch tenders for the operation of the switch connections and appurtenances necessary thereto shall be borne by the Calumet Company. The tracks, facilities and appurtenances, the common use of which is hereby granted, demised and leased to the said Calumet Company, shall, when completed, be indicated in red upon a plat marked "Exhibit B," which shall thereupon be attached hereto.

#### ARTICLE III.

SECTION 1. The Calumet Company further covenants and agrees to construct and complete for the joint use aforesaid of the Calumet and Hammond Companies and additional track between said Blue Island and McCook adjoining its track now existing between said points, so as to make a double track railroad between said points; and shall so construct such additional track and so change said existing track that the grade of said tracks shall in no case exceed twenty feet to the mile; provided, however, that the cost of so changing the grade of said existing track shall not exceed the sum of twenty-five thousand dollars.

The construction of such track shall be commenced within the earliest practicable time after the bonds and capital stock of the Calumet Company shall have been delivered to the Chicago and Northern Pacific Bondholders Committee. It is, however, understood that, in any event, such additional track and change

of grade provided for herein shall be completed and ready for operation for the joint use of the Hammond and Calumet Companies, aforesaid, on or before July 1, 1897.

SECTION 2. The Hammond Company further covenants and agrees to construct, within the earliest practicable time, a single-track railroad, from said McCook to Franklin Park, leased, as provided in Article II, hereof, to the Calumet Company for the common use of the Hammond and Calumet Companies, together with all necessary switches, side tracks, turnouts, passing tracks, connections, station buildings, yards, transfer tracks and appurtenances. All of said work shall be completed by the said Hammond Company within one year after the completion of the appraisalment hereinafter provided to be made of the existing railroad of the said Calumet Company between said Blue Island and said McCook, not counting however, delays caused in the completion of such work by bona fide injunctions, or by orders of court preventing the building of said railroad in condemnation proceedings to acquire right of way on which to lay down and construct said railroad. Notwithstanding any such injunctions or orders of court, the said Hammond Company expressly covenants and agrees to complete said work within three years from the completion of the appraisalment of the existing railroad of the said Calumet Company between Blue Island and McCook, as aforesaid. If the said Hammond Company shall fail to complete said work as aforesaid, within the time above specified, then the said Calumet Company may, at its option, terminate this agreement.

SECTION 3. The said Hammond Company further covenants and agrees that, whenever and as soon as the volume of traffic or business between said McCook and said Franklin Park requires the construction of an additional track between said points, it will construct the same, thereby making a double-track railroad between said points.

SECTION 4. It is further covenanted and agreed by each of the parties hereto that if, at any time during the term of this contract the volume of the business transacted over its line of railroad covered by the terms of this agreement shall become so great that the said business cannot be conveniently or expeditiously done or, if additional main, side, switch, industrial or other tracks are necessary for new business, it will construct such additional side, switch, industrial or other tracks upon its line of railroad between the points covered by the terms of this agreement as are necessary, and such additional tracks shall be open during the term of this contract to the use of both parties hereto, and each party hereto also agrees that it will construct such additional main tracks as are necessary to be used by either of the parties hereto, for the proper conduct of said business.

When either party shall notify the other party that such additional main, side, switch, industrial or other tracks are deemed to be necessary on the line of such other party hereto for the accommodation or development of the business of both parties on such lines, then the arbitrators may, in addition to considering the question of the necessity for such tracks, impose such reasonable guarantees

for the extent of the use of said tracks by the other party hereto giving such notice as will insure to the party building such tracks the payment of the interest on the securities necessary to provide the money for the creation of such additional facilities.

#### ARTICLE IV.

SECTION 1. Each of the parties hereto further covenants and agrees that it will maintain, renew, replace and repair all said tracks, facilities and appurtenances, the right to use which is hereby granted, demised and leased by it to the other, and will furnish the necessary train dispatchers, flagmen, switchmen, interlocking operators, signal men, and other employees necessary for the convenient operation of the trains of the parties hereto over the same.

SECTION 2. Each of the parties hereto further covenants and agrees that it will pay, satisfy and discharge all assessments, taxes and charges, whether the same may be imposed by the United States of America, or by any State, municipal or other authority that shall or may be lawfully charged or imposed upon it or its property, traffic or business, and that it will perform for the public all duties which now or hereafter under the laws or ordinances of the United States of America, or of the State of Illinois, or of any town, village or city, or other proper authority, may be required of it in regard to the premises and property embraced or covered by this agreement.

#### ARTICLE V.

SECTION 1. The said Hammond Company further covenants and agrees to pay semi-annually unto the said Calumet Company, as rent for the rights and privileges by this agreement between Blue Island and McCook granted, demised and leased unto it, such part of the annual interest of five per cent. of the value of the tracks, facilities and appurtenances, the right to use which is hereby granted, demised and leased unto it, to be computed in the manner hereinafter specified, as the number of wheel miles run by the said Hammond Company over said tracks, facilities and appurtenances of the said Calumet Company is part of the whole number of wheel miles run thereon by both parties hereto, during the previous six months. Such rental shall be due and payable semi-annually on the 1st days of January and July in each year during the continuance of this agreement, and shall be paid in gold coin of the present standard of weight and fineness.

SECTION 2. The said Hammond Company further covenants and agrees to pay monthly as rent for the rights and privileges by this agreement granted, demised and leased unto it, in addition to that above provided for, that part of the cost of maintaining, renewing, replacing, repairing and operating said tracks, facilities and appurtenances of the said Calumet Company, together with all assessments, taxes and charges thereon paid by the said Calumet Company, as by Sections 1 and 2 of Article IV hereof, provided, as the number of wheel miles run by the said Hammond Company on said tracks, is part of the whole number of wheel miles run thereon by both parties hereto during the same month. The

payments in this section provided for need not necessarily be made in gold coin, but may be made in legal tender of the United States. Such payments shall be due and payable on the 1st day of each month during the continuance of this agreement for the preceding month.

SECTION 3. The value of the tracks, facilities and appurtenances of the said Calumet Company, the right to use which is hereby granted, demised and leased unto the said Hammond Company, shall, for the purpose of computing the rent to be paid therefor, be determined by appraisers chosen as follows: The said Calumet Company and the said Hammond Company shall each forthwith appoint a competent person as an appraiser of the existing tracks, facilities and appurtenances, and the joint conclusion of the said two appraisers as to the value of the same shall be final and conclusive upon the parties hereto. If said appraisers cannot agree upon the value of the said tracks, facilities and appurtenances, then they shall, within ten days after their failure so to agree upon said value, appoint a third competent and disinterested person to appraise said tracks, facilities and appurtenances, and the conclusion of said third person as to the value of the same shall be conclusive upon the parties hereto. If said two appraisers originally appointed cannot, within said ten days, agree upon a third person as an appraiser as aforesaid, the Judge of the District Court of the United States for the Northern District of Illinois shall, on application by either of the parties, on notice to the other party, appoint a competent and disinterested person as an appraiser, whose conclusion as to the value of the said tracks, facilities and appurtenances shall be final and conclusive upon the parties hereto.

SECTION 4. The said value of the said tracks, facilities and appurtenances of the said Calumet Company shall be determined as follows:

(a) An estimate shall be made of what it would cost the Hammond Company to duplicate at the present time the said railroad of the Calumet Company between Blue Island and McCook, with all its property, facilities and appurtenances.

(b) An estimate shall be made of the value of the fact that the present railroad of the said Calumet Company was constructed prior to the location of the Drainage Canal of the Sanitary District of Chicago, and it shall be assumed that the said Sanitary District of Chicago will be obliged to build for the said Calumet Company a proper and sufficient double-track railroad bridge across the said Drainage Canal, and to pay to the said Calumet Company a sum of money the interest on which shall be sufficient to forever maintain said bridge when constructed. The cost or value of the said bridge over the said Drainage Canal shall not, however, be added to the capital sum herein provided to be found until said bridge shall be actually built and completed by the Sanitary District of Chicago.

(c) An estimate shall be made of the value of the existing traffic of the Calumet Company, destined to or coming from any point between Blue Island and McCook, excepting the traffic incidental to the stone and stone-crushing business. From the books of the Calumet Company and from other sources of information or knowledge shall be by the appraisers determined the average

annual net profit derived by the said Calumet Company for the three years preceding the date of this instrument from such local traffic. Any revenue derived from the traffic incident to the stone or stone-crushing business, or to the transferring or switching of cars between said Blue Island and McCook not concerned in said local traffic, as above defined, shall not be considered. The average annual net profit determined as aforesaid shall be capitalized on a five per cent. basis, and the amount of such capitalization shall be the value of said local traffic for the purposes hereof.

The sum of the values of the elements above mentioned shall be the value of the tracks, facilities and appurtenances the right to use which is hereby granted, demised and leased, for the purpose of computing the rent to be paid therefor.

SECTION 5. The said Calumet Company covenants and agrees to pay, semi-annually, unto the said Hammond Company, as rent for the rights and privileges by this agreement between McCook and Franklin Park granted, demised and leased unto it, such part of the annual interest of five per cent. of the cost of the tracks, facilities and appurtenances the right to use which is hereby granted, demised and leased unto it, as the number of wheel miles run by the said Calumet Company over the said tracks, facilities and appurtenances of the said Hammond Company is part of the whole number of wheel miles run thereon by both of the parties hereto during the previous six months. Such rental shall be due and payable semi-annually, on the 1st days of January and July in each year, during the continuance of this agreement, and shall be paid in gold coin of the present standard of weight and fineness.

SECTION 6. The said Calumet Company further covenants and agrees to pay monthly, as rent for the rights and privileges by this agreement granted, demised and leased unto it, in addition to that above provided for, that part of the cost of maintaining, renewing, replacing, repairing and operating all of said tracks, facilities and appurtenances of the said Hammond Company, together with all assessments, taxes and charges thereon, paid by the said Hammond Company, as by Sections 1 and 2 of Article IV hereof provided as the number of wheel miles run by the said Calumet Company on said tracks, facilities and appurtenances is part of the whole number of wheel miles run thereon by both of the parties hereto during the same month. The payments in this section provided for need not necessarily be made in gold coin, but may be made in legal tender of the United States. Such payments shall be due and payable on the 1st day of each month during the continuance of this agreement for the preceding month.

SECTION 7. In case either of the parties hereto shall hereafter construct any additional tracks, facilities and appurtenances by the terms hereof to be built, or decided to be necessary for the proper conduct of the business contemplated by this agreement by the arbitrators, as herein provided, the cost of which, for the purpose of computing the rent as above provided, shall not have been included in the sum fixed as above provided, then the other party hereto shall pay its wheelage proportion of the annual interest of five per cent. upon the said cost thereof, and its wheelage proportion of the cost of maintaining, renewing, replac-

ing, repairing and operating the same, and the taxes, charges and assessments thereon, determined in the same manner as above provided in regard to the other tracks, facilities and appurtenances, the right to use which is hereby granted, demised and leased.

If such tracks, facilities and appurtenances shall not by the terms hereof be built forthwith or prior to July 1, 1897, or shall not be decided to be necessary for the proper conduct of the business contemplated by this agreement by the arbitrators as herein provided, then the other party hereto shall have the option to use such tracks, facilities and appurtenances and, if it shall use the same, then it shall pay its wheelage proportion of the annual interest of five per cent. upon the cost of said tracks, facilities and appurtenances, and its wheelage proportion of the cost of maintaining, renewing, replacing, repairing and operating the same, and all the taxes, charges and assessments thereon, determined in the same manner, as above provided, in regard to the other tracks, facilities and appurtenances the right to use which is hereby granted, demised and leased.

SECTION 8. In determining the cost of maintaining, renewing, replacing and repairing and operating the railroad of each of the parties hereto, as provided in Section 1 of Article IV hereof, the actual cost only of materials, supplies and labor shall be considered, but no part of the salaries paid to the managing officers of either Company shall be charged, but the fair and equitable proportion of the salaries of train dispatchers, local agents, telegraph operators and other employees employed about the business of both parties hereto upon the line of railroad covered by the terms of this agreement, and in keeping the proper records and accounts necessary to the carrying out of the terms hereof, shall be included. In determining the cost of any tracks, facilities and appurtenances covered by the terms of this agreement, and the cost of the maintaining, renewing, replacing, repairing and operating any of the same, the books of account and vouchers of the parties hereto evidencing such costs and expenditures, together with all facts and information relative thereto, shall be submitted freely and fully to the other party. In determining the cost of any such work, and in estimating the value of the existing tracks, facilities and appurtenances of the Calumet Company between Blue Island and McCook, a proper charge for interest, in no case exceeding the rate of six per cent. per annum, during the time of construction, shall be taken into account, but in no such case shall the cost or value of the rolling stock of either party hereto be considered, nor the cost of any other property not used in common.

SECTION 9. By the term "wheel mile," as used in this agreement, is meant the distance of one mile run by one wheel; and the wheel miles run by any locomotive, car or train during any time is determined by multiplying the number of wheels under such locomotive, car or train by the number of miles run by such locomotive, car or train during such time.

#### ARTICLE VI.

SECTION 1. Either party shall be at liberty to give to other railroad companies facilities for doing business over said line of railroads from Blue Island to Franklin Park, limited only to the capacity of such lines as they exist or as they

may from time to time be increased, enlarged or extended as herein provided for doing business thereon with convenience and dispatch; provided, however, that all business so done by licensees or lessees of either party hereto shall, as between the parties hereto and for the purposes of this agreement, be regarded as the business of the party hereto licensing or permitting the same.

#### ARTICLE VII.

SECTION 1. The parties hereto hereby mutually covenant and agree that all time cards, rules, regulations and orders for the movement and operation of trains while upon the railroad of either party hereto, so far as covered by the terms of this agreement, shall be made from time to time by the party hereto severally owning such lines of railroad, and the management of trains, cars and engines while upon such railroad shall be under the immediate direction of the general manager or other proper officer or agent of the company owning such railroad on which such cars, trains and engines may be; but such time cards, rules and regulations and orders shall be reasonable, just and fair to all parties using such property, without preference or discrimination in favor of or against either; but passenger trains of all kinds shall have the right of way and precedence over all other trains and kinds of business upon said railroads severally; and each party shall have the general control, supervision and management of the property owned and controlled by it, covered by the terms hereof, and full and sole control and direction of the management, use, location, improvement and repair of the same, and the appointment and suspension of all officers, agents and employees necessary for such purpose; but all such officers, agents and employees as shall be concerned in the maintenance of such tracks, facilities and appurtenances, or in the operation of the trains of both parties hereto, shall be considered as joint officers, agents and employees, and any such officers, agents or employees shall be discharged for cause on the written demand of the other party hereto.

SECTION 2. The parties hereto covenant and agree to use their best efforts to maintain uniform rates, fares and charges upon, over and along such line of railroads at a remunerative figure for the service performed by them severally. The said parties further covenant and agree that they will cooperate to manage said line of railroads as economically as possible, consistent with good service and the safe conduct of business thereon.

SECTION 3. Each party hereto further covenants and agrees that during the term aforesaid it will keep accurate and true accounts of all wheel miles run by it or by its sub-lessees on its own tracks covered by the terms of this agreement, and of all wheel miles run by it or by its sub-lessees on the tracks of the other party hereto covered by the terms of this agreement. Each party hereto further covenants and agrees that on or before the 20th day of each month during the term aforesaid it will deliver to the other a true transcript or copy of the accounts so kept by them severally for the preceding month under the provisions of this section.

SECTION 4. Each of the parties hereto further covenants and agrees that upon the receipt and exchange of accounts of wheel miles run, as provided in

Section 3 of this article, it will state and deliver true and accurate accounts based upon a wheelage proportion as provided in this agreement, which shall show the amount then due under the terms of this agreement from the other party hereto; and such other party shall pay the amounts so shown to be due within 30 days after the receipt of such accounts.

SECTION 5. Each party hereto does further covenant and agree that it will permit the other party hereto by such proper person as it may appoint to inspect, at any reasonable time, the books, vouchers and other papers relating to the costs and charges and all accounts to be kept under the provisions of this agreement.

SECTION 6. The parties hereto do mutually covenant and agree that the amounts shown to be due by each and every account required to be kept, delivered or presented under the terms of this agreement shall be paid by the party who has covenanted and agreed to pay the same to the party entitled to receive the same, and all claimed omissions and errors in such accounts, or exceptions thereto, which may be taken by the debtor, shall be subsequently adjusted between the parties.

SECTION 7. It is further mutually covenanted and agreed that the assessments and taxes upon the property of each party hereto, a wheelage proportion of which the other party has covenanted to pay, as herein provided, shall be charged in the accounts stated between said parties, as herein provided, in the following manner: Upon the execution hereof, and upon the 1st day of January in each succeeding year, an estimate shall be made of said assessments and taxes for such calendar year; the monthly proportion of such assessments and taxes shall be charged in each monthly account thereafter stated between the said parties, as herein provided. When the actual assessments and taxes for such calendar year shall be ascertained, the estimated amount charged in each previous monthly account as aforesaid shall be adjusted to correspond with such actual assessments and taxes on the basis of the proportionate wheelage of each party in such month.

#### ARTICLE VIII

SECTION 1. In the event either party hereto shall determine to extend said line of railroads beyond said Franklin Park, it shall, upon the completion of the same, notify in writing the other party of such completion, and thereupon such other party shall have the same rights to use such extension as is granted, demised and leased to it in the property described in this agreement by the terms hereof. It is expressly provided, however, that such party hereto shall not have any right to use any such extension beyond Franklin Park constructed by the other party hereto so building said extension, unless it shall exercise its option within one year after receiving notice of the completion of said extension as aforesaid, except by the consent of the party hereto building such extension.

SECTION 2. It is further mutually covenanted and agreed that in the case of the construction of such extension all the terms and conditions of this agreement shall be made applicable to such extension, and the proportion of all charges

and expenses of every kind and nature which each shall pay, assume or bear shall be fixed upon a wheelage basis, as provided herein with regard to the property described herein, and the rental to be paid to the party constructing and owning such extension for the use of such extension by the other party hereto, shall be determined in the same manner as that provided in Article V, Section 5 hereof, regarding payments of rental by the Calumet Company to the Hammond Company.

SECTION 3. It is further mutually covenanted and agreed that if such extension beyond Franklin Park shall be constructed by either party hereto, and if the other party shall fail to exercise its option to have the right to use such extension within one year after receiving notice of the completion thereof, then such other party will not directly or indirectly build a duplicate or competing line of railroad between the points reached by such extension.

#### ARTICLE IX.

SECTION 1. The parties hereto do mutually covenant and agree that if either of them, as grantee and lessee herein, shall at any time or times hereafter during the term aforesaid, fail or omit to pay the rent herein reserved, or any part of such rent, when the same should be paid as herein provided, or shall fail or omit to keep and perform all covenants and agreements herein contained or any of them, and shall continue in default in respect to such payments or the performance of such covenants and agreements for a period of thirty days, then, and in either and every such case, it shall be lawful for the other party hereto, as grantor and lessor, at its option, to enter into and upon the demised premises and appurtenances and every part thereof as to which such default exists and remove all persons therefrom, without let or hindrance by the other party as grantee and lessee; and thenceforth the said demised premises and appurtenances, and all additions and improvements which shall have been made to the same, to have, hold, possess and enjoy as of the first and former estate of the said party, as grantor or lessor, in the said premises and appurtenances, with the right to collect all rentals then due; or may take such other and further action for the enforcement of the provisions of this agreement as to the said party, as grantor or lessor, may seem to it advisable, provided, however, that by such re-entry the said party as grantor or lessor, as the case may be, shall not impair its right of action for the recovery of any and all damages on account of the non-payment of rent or the non-performance or breach of the terms and covenants of this agreement; but in case of re-entry as aforesaid, the rent reserved herein, and the several installments thereof, and all other sum or sums of money to be paid hereunder, which shall have accrued or been earned under the terms of this agreement, down to the date of such re-entry, shall be deemed and taken to be due and payable, and shall be paid by the other party hereto, as grantee and lessee, to the party hereto, as grantor and lessor. Failure to exercise any of the rights or privileges based upon any default under the terms hereof, or waiver of any such default, shall not bar or preclude the exercise of any rights or privileges based upon any subsequent default under the terms hereof.

## ARTICLE X.

SECTION 1. Each party hereto, as grantor and lessor, does hereby covenant and agree that the other party hereto, as grantee and lessee, on paying the rental herein reserved, and performing and fulfilling all and singular the covenants and agreements herein contained on its part to be performed and fulfilled, shall and may peaceably and quietly have, hold and enjoy the grants, rights, privileges, licenses and easements demised, as aforesaid, for and during the term aforesaid, without any let or hindrance or molestation on the part of the said party hereto as grantor and lessor, or any other person or persons, corporation or corporations whatsoever claiming by, from, through or under it.

## ARTICLE XI.

SECTION 1. In the event of a disagreement between the parties hereto, either in the interpretation of this agreement or any of the clauses, provisions or words thereof, or as to the necessity for any additional track or tracks, or as to the provision for the assurance of the party required to make the expenditure for additional tracks as provided in Article III, Section 4 of this agreement, or as to the time when any such additional track or tracks shall be built, or as to when any other act or thing by either of the parties hereto shall be done or performed, or as to the manner in which the same shall be done or performed (except as to the appraisalment provided for in Sections 3 and 4 of Article V herein), all said questions shall be submitted to a Board of Arbitrators, to consist of three competent and disinterested persons, one each to be chosen by the parties hereto, and the third to be chosen by the two first thus chosen.

The decision of such arbitrators, or of a majority of them, on any question submitted, shall be final and conclusive upon the parties hereto.

In the event the arbitrators chosen by the parties hereto shall be unable, within five days after the appointment of the second arbitrator aforesaid, to agree upon the third arbitrator, such third arbitrator shall, on application of either party hereto, upon notice to the other, and within five days next ensuing, be selected and appointed by the Judge of the District Court of the United States for the Northern District of Illinois, or the Federal Judge holding the office corresponding thereto, and the person so selected shall thereupon act as the third arbitrator.

Either party desiring the submission to arbitration of any question arising between the parties hereto, upon the matters and things the subject of this agreement, shall give notice in writing to the other of such desire and of the question to be submitted, naming in said notice the arbitrator selected by it. Within ten days thereafter, the other party hereto shall select an arbitrator, and notify the moving party of the arbitrator so selected. And failure to select said arbitrator within the time limited shall authorize the first arbitrator selected to select the second arbitrator. The arbitrator chosen in either of said ways shall select an arbitrator as above provided within the time above limited, and all questions

submitted to the said arbitrators shall be decided by them within thirty days after the date the said three arbitrators shall be selected in either of the ways herein prescribed.

The fees of said arbitrators for their services shall be paid by the parties hereto in equal proportions, share and share alike.

## ARTICLE XII.

SECTION 1. Each party hereto does further covenant and agree that it will, and it does hereby, assume all risk of and all liability for injury or damage to persons or to property in its possession, or to property of third persons, caused by its trains, cars or locomotives operated over the premises demised by this agreement, or by its officers, agents or servants employed in the management, running or operating of its trains, cars or locomotives, in any manner whatever, or by the officers, agents or servants of the other party while acting as the servants or agents of the party in whose possession the property is damaged and who are in charge of any interlocking system, bridges, gates, switches, turntables or other appliances or devices, in any manner whatsoever connected with the operation of the demised property, or in charge of the maintenance, renewal and repair of the same, or in charge of the making or the giving of time cards, rules, regulations and orders in any manner having to do with the management, starting, moving, running or operating of said trains, cars or locomotives.

In case of collision between the trains, cars or locomotives of the parties hereto, the party in fault shall assume all liability for all loss or damage caused thereby; and if both parties are in fault, or if the collision be caused by the fault of the agents or servants of the other party hereto who are joint employees of both the parties hereto, and while such joint employees are in any manner whatsoever engaged in the discharge of their regular duties connected with the operation of either or both of said parties' trains, cars or locomotives so colliding, or in the making or the giving of time cards, regulations and orders, in any manner having to do with the management, starting, moving, running or operating of either or both of said parties' trains, cars or locomotives so colliding, then each party shall assume all liability for all loss or damage to its own property or to the property in its possession, or to persons upon its trains.

The party liable for any loss or damage to persons or property under the terms of this agreement shall save and keep harmless the other party of and from all claims and demands for or on account of such loss or damage.

It is further agreed that neither party hereto shall, as between the parties hereto, be liable for any claim or demand, loss or expense because of any law, statute or otherwise, of the State of Illinois making liable the lessor or owner of the track on which the liability may accrue, but as between the parties hereto the party liable for any such claim, demand, loss or expense shall save the said party hereto, lessor or owner as aforesaid, harmless therefrom.

ARTICLE XIII.

SECTION 1. This agreement shall enure to the benefit of and be binding upon the successors, assigns, purchasers, lessees and licensees of the parties hereto, and the provisions herein shall always and irrevocably be held to be covenants running with the land and to bind all persons, firms and corporations taking the premises herein described, or any part thereof, by, through or under the parties hereto or either of them.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective Presidents and their corporate seals to be hereunto attached, attested by their respective Secretaries, the day and year first above written.

CHICAGO AND CALUMET TERMINAL RAILWAY COMPANY,

{ CORPORATE  
SEAL }

By

S. R. AINSLIE,  
*President*

Attest:

HENRY S. HAWLEY,  
*Secretary.*

CHICAGO, HAMMOND AND WESTERN RAILROAD COMPANY,

{ CORPORATE  
SEAL }

By

J. P. LYMAN,  
*President.*

Attest:

JAMES MILES,  
*Asst. Secretary.*

STATE OF ILLINOIS {  
COUNTY OF COOK } ss.:

I, Kemper K. Knapp, a notary public in and for the County and State aforesaid, do hereby certify that S. R. Ainslie, President, and Henry S. Hawley, Secretary, of the Chicago and Calumet Terminal Railway Company, who are personally known to me to be the same persons whose names are subscribed to the foregoing agreement as such President and Secretary, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, and as the free and voluntary act of the said Chicago and Calumet Terminal Railway Company, for the uses and purposes therein set forth, and caused the corporate seal of said company to be thereto attached.

Given under my hand and notarial seal this 5th day of October, 1896.

[SEAL]

KEMPER K. KNAPP,  
*Notary Public.*

STATE OF ILLINOIS }  
COUNTY OF COOK } ss.:

I, Walter B. Smith, a notary public in and for the County and State aforesaid, do hereby certify that J. P. Lyman, President, and James Miles, Assistant Secretary, of the Chicago, Hammond and Western Railroad Company, who are personally known to me to be the same persons whose names are subscribed to the foregoing agreement as such President and Secretary, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, and as the free and voluntary act of the said Chicago, Hammond and Western Railroad Company, for the uses and purposes therein set forth, and caused the corporate seal of said company to be thereto attached.

Given under my hand and notarial seal this 6th day of October, 1896.

[SEAL]

WALTER B. SMITH,  
*Notary Public.*

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SUPPLEMENTAL AGREEMENT

JANUARY 1, 1930

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The Baltimore and Ohio Chicago Terminal  
Railroad Co.

AND

Indiana Harbor Belt Railroad Co.

---

USE OF TRACKS BETWEEN BLUE ISLAND  
AND FRANKLIN PARK, ILLINOIS

THIS SUPPLEMENTAL AGREEMENT, made this First day of January, 1930, between THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY; hereinafter termed the "Terminal Company," and the INDIANA HARBOR BELT RAILROAD COMPANY, hereinafter termed the "Belt Company,"

**WITNESSETH:**

WHEREAS, on October 5, 1896, an agreement was made between the Chicago and Calumet Terminal Railway Company and the Chicago, Hammond and Western Railroad Company in respect to their joint use of their railroads between Blue Island, Ill., and Franklin Park, Ill., a copy of which agreement, marked "Exhibit A," is hereto attached and made a part hereof; and

WHEREAS, the Terminal Company has succeeded to the rights and obligations of the Chicago and Calumet Terminal Railway Company under said agreement, and the Belt Company has succeeded to the rights and obligations of the Chicago, Hammond and Western Railroad Company under said agreement; and

WHEREAS, said now existing railroads and their now existing appurtenances in said agreement of October 5, 1896, provided to be jointly used, and the cost thereof computed as provided in said agreement, are shown upon the Exhibit, marked "Exhibit B," attached hereto and made a part hereof; and

WHEREAS, the parties hereto desire to provide for an extension of the term of said agreement of October 5, 1896, and for a more convenient and economical method of operating, maintaining and improving said railroads and for certain other modifications of said agreement as to additions and improvements, for the purpose of handling the business of the parties hereto;

THEREFORE, in consideration of the premises and of the mutual covenants of the parties hereto, it is agreed:

**ARTICLE I.**

The term of the grant, demise and lease, as fixed in Section 1 of Article I, and in Section 1 of Article II of said agreement of October 5, 1896, is hereby extended to October 5, 2095.

**ARTICLE II.**

**SECTION 1.** Section 4 of Article III of said agreement of October 5, 1896, is hereby amended, as of the date hereof, by substituting, in lieu of said Section 4, of Article III, the following as Sections 1, 2 and 3 of Article II of this Supplemental Agreement:

The Terminal Company shall, upon the written request of the Belt Company from time to time after the date of this Supplemental Agreement, construct and

complete, for the joint use of the parties hereto, under said agreement of October 5, 1896, and under this Supplemental Agreement, such additional tracks, with necessary switches and crossovers between said Blue Island and McCook, adjoining the tracks of the Terminal Company now existing between said points as are necessary to make a railroad of not exceeding four main tracks, and the Terminal Company shall acquire any additional right of way necessary for said additional tracks. The location, standard of construction and gradient of said additional tracks, and of any necessary bridges therefor shall be such as will permit the efficient and safe operation of the cars, engines and equipment of either of the parties hereto and shall be determined by the Chief Engineers of the Terminal Company and the Belt Company. The construction of said additional tracks shall be commenced within the earliest practicable time after said written request by the Belt Company, and said additional tracks shall be completed and available for operation for said joint use within a reasonable time after said written request by the Belt Company; except that, as to such additional tracks within the limits of the highway and grade separations hereinafter provided for, such additional tracks shall be completed and available for said joint operation within a reasonable time after the completion of said grade separations.

The Terminal Company shall also, upon the written request of the Belt Company, at any time after the date of this Supplemental Agreement, institute negotiations with the Chicago & Alton Railroad Company for a separation of the grades at the crossing of the railroad of the Terminal Company and of the Chicago & Alton Railroad Company at Summit, Ill., and with the Atchison, Topeka & Santa Fe Railway Company and the Chicago and Illinois Western Railroad Company for a separation of the grades at the crossings of the railroad of the Terminal Company and of the Atchison, Topeka & Santa Fe Railway Company and of the Chicago and Illinois Western Railroad Company at McCook, Ill. The Belt Company reserves the right to participate, as a party, in said negotiations and in any arbitrations as to said separations of grades. If the parties to said negotiations, including the Terminal Company and the Belt Company, shall not, within a reasonable time after said written request by the Belt Company, agree, by arbitration or otherwise, as to all of the terms and conditions of said grade separations or as to the division between the Terminal Company, the Chicago & Alton Railroad Company, the Atchison, Topeka & Santa Fe Railway Company and the Chicago and Illinois Western Railroad Company of the expense of the construction and maintenance of said grade separations, the Terminal Company may and, upon the written request of the Belt Company, shall promptly apply to the Illinois Commerce Commission or to such other governmental body as may at the time have jurisdiction, for a final adjudication of the terms and conditions and of the division of the expenses of construction and maintenance of said grade separations. The Terminal Company shall complete, or cause to be completed the construction of said grade separations within a reasonable time after the construction of said grade separations has been agreed upon or adjudicated, as hereinbefore provided. The Terminal Company shall, in the process of said grade separations, construct new bridges to carry the railroad of the Terminal Company over the Illinois and Michigan Canal, over the Drainage Channel of the Sanitary District of Chicago and over the Des Plaines

River. These bridges shall be completed within the time required, as hereinbefore provided, for the completion of said grade separations. The location, design, specification and loading of said bridges shall be determined by the Chief Engineers of the Terminal Company and the Belt Company.

The Terminal Company shall also, upon the written request of the Belt Company, at any time after the date of this Supplemental Agreement, institute negotiations with the necessary municipality or governmental body, then having jurisdiction for a separation of the grades at the respective crossings of the railroad of the Terminal Company and of the public thoroughfares now known as Archer Avenue, in Summit, Ill., and as Joliet Road in McCook, Ill. The Belt Company reserves the right to participate, as a party, in said negotiations. If said parties to said negotiations, including the Terminal Company and the Belt Company, shall not, within a reasonable time after said written request by the Belt Company, agree as to all of the terms and conditions of said grade separations or as to the division between the Terminal Company and the municipality or governmental body of the expense of the construction and maintenance of said grade separations, the Terminal Company may and, upon the written request of the Belt Company, shall promptly apply to the Illinois Commerce Commission, or to such other governmental body, as may at the time have jurisdiction, for a final adjudication of the terms and conditions and of the division of the expense of construction and maintenance of said grade separations. The Terminal Company shall complete, or cause to be completed, the construction of said grade separations within a reasonable time after the construction of said grade separations has been agreed upon or adjudicated, as hereinbefore provided.

The Terminal Company and the Belt Company shall each, promptly after the date of this Supplemental Agreement, construct and complete upon its railroad, the joint use of which is granted by said agreement of October 5, 1896, proper and complete automatic signals. The location, design and type of construction of said automatic signals shall be determined by the Chief Engineers of the Terminal Company and the Belt Company.

The Belt Company shall promptly pursue negotiations for the separation of the grades of the railroad of the Belt Company and of certain other railroads and highways in a zone between Roosevelt Road in the Village of Broadview and St. Charles Road in the Village of Bellwood, which negotiations are in progress between the Belt Company and other interested parties. The Terminal Company reserves the right to participate as a party in such negotiations as have not been completed and in any arbitrations as to said separations of grades. If the parties to such uncompleted negotiations, including the Belt Company and the Terminal Company, shall not, within a reasonable time after the date of this Supplemental Agreement agree, by arbitration, or otherwise, as to all of the terms and conditions of said grade separation or as to the divisions between the Belt Company and the municipality, governmental body or other railroad company of the expense of the construction and maintenance of such grade separation, the Belt Company may, and, upon written request of the Terminal Company, shall promptly apply to the Illinois Commerce Commission or to such other governmental body as may at the time have jurisdiction for a final adjudication of the terms and conditions,

and of the division of the expense of construction and maintenance of said grade separation. The Belt Company shall complete, or cause to be completed, the construction of said grade separation within a reasonable time after the construction of said grade separation has been agreed upon or adjudicated as hereinbefore provided.

In anticipation of the ultimate construction of the improvements in this Section 1 of Article II specified, the Terminal Company may, in its discretion, acquire the right of way therefor, or a part thereof, and grade and provide structures therefor, and the cost of such right of way and construction, although the project of which said right of way and construction form a part shall not be completed and placed in service, shall become a charge to Capital Account from the date of such expenditure, and interest thereon shall be included in current charges at five and one-half per cent. (5½%). It is understood that the construction contemplated in the preceding sentence shall not embrace the construction of the additional tracks between Blue Island and McCook, and that the annual interest upon the cost of said additional tracks between Blue Island and McCook shall be governed by the provisions of the Fourth Paragraph of Section 4, of this Article II.

SECTION 2. In addition to the facilities and improvements expressly provided to be constructed in Section 1 of Article II of this Supplemental Agreement, if, at any time during the remaining term of said agreement of October 5, 1896, as herein extended, the traffic to be handled by either or both of the parties hereto or by their authorized licensees over the railroad of either party hereto, covered by said agreement of October 5, 1896, shall become of such volume or character that said traffic cannot be conveniently or expeditiously handled, or if additional main, side, switch, industrial or other tracks, right of way or real estate, grade separations or grade changes, signalling or other facilities or improvements upon or appurtenant to said railroads of either party hereto are required for the proper operation of either of said railroads or the handling of the traffic of either party hereto, then either party hereto may, at its option, construct or acquire such additional facilities or improvements upon or appurtenant to its own said railroad, or may, by agreement or by arbitration under said agreement of October 5, 1896, cause such additional facilities and improvements to be constructed or acquired by the other party hereto upon or appurtenant to said railroad of the other party hereto. If either party hereto on its own initiative so constructs or acquires such additional facilities or improvements upon or appurtenant to its own said railroad it shall promptly in writing notify the other party hereto of the completion thereof, and the other party hereto may elect, in writing, at any time during the term of said agreement of October 5, 1896, as hereby extended, to jointly use said additional facilities and improvements. If either party hereto so constructs or acquires such additional facilities or improvements upon or appurtenant to its said railroad, upon the request of the other party hereto, said party hereto so constructing said additional facilities and improvements may elect in writing, at any time during the term of said agreement of October 5, 1896, as hereby extended, to jointly use said additional facilities and improvements. When either party hereto shall notify the other party hereto that said additional facilities or improvements, provided for in this Section 2 of Article II, are so deemed to be necessary upon the railroad

of the other party hereto, and the other party hereto shall not agree to construct such additional facilities or improvements, then the arbitrators under said agreement of October 5, 1896 shall, in addition to considering the necessity for such additional facilities or improvements, impose such a reasonable guaranty upon the party hereto so requiring such additional facilities or improvements as will insure the payment by said party of a proper proportion of the interest upon the cost of said additional facilities and improvements.

SECTION 3. Either party hereto reserves the right to reconstruct, relocate, regrade, enlarge or improve any tracks or facilities constructed or acquired by it upon or appurtenant to its said railroad, provided that the exercise of this right shall not unreasonably interfere with any of the rights granted or belonging to the other party hereto or its authorized licensees under said agreement of October 5, 1896, or under this agreement.

SECTION 4. Section 7 of Article V of said agreement of October 5, 1896, is hereby amended, as of the date hereof, by substituting in lieu of said Section 7 of Article V the following as Section 4 of Article II of this Supplemental Agreement.

Except as provided in Sections 1, 2 and 3 of Article V of this Supplemental Agreement, if either of the parties hereto shall at any time during the hereafter remaining term of said agreement of October 5, 1896, as hereby extended, acquire or construct hereunder any additional tracks, bridges, right of way, real estate, structures, buildings, sidetracks, grade separations or grade changes or other improvements or facilities upon or appurtenant to either of said railroads of the parties hereto which shall be jointly used or elected to be jointly used by the other party hereto or be held necessary for and subject and chargeable to such joint use, including the improvements and facilities provided for in Section 1 of Article II of this Supplemental Agreement, then the other party hereto shall pay its wheelage proportion of the annual interest, at the rate hereinafter in this Section 4 of Article II of this Supplemental Agreement provided, upon the cost thereof, to the party so constructing or acquiring said improvements or facilities, chargeable to capital account under the rules of the Interstate Commerce Commission or other governmental body having jurisdiction, and its wheelage proportion of the cost of maintenance, renewal, replacement, repair and operation thereof and of the taxes, charges and assessments thereon, determined and payable as in Article V of said agreement of October 5, 1896, provided in regard to the tracks and facilities, the right to use which is granted by said agreement.

Said annual interest upon the cost of the improvements or facilities specifically provided for in Section 1 of Article II of this Supplemental Agreement, including separations of grades, bridges, automatic signals and right of way, but excluding the additional tracks between Blue Island and McCook, shall be at the rate of five and one-half per cent.

Said annual interest upon the cost of said additional tracks and upon the cost of any other hereafter acquired or constructed additional improvements or facilities, as defined in this Section 4 of Article II of this Supplemental Agreement, shall be at the rate at which money may, at the time of acquiring or constructing said additional improvements or facilities, be borrowable in the money

market by the party hereto so acquiring or constructing said additional improvements or facilities; in determining said rate of interest, consideration shall be given to commissions actually paid by the borrowing party and authorized, if required by law, by the Interstate Commerce Commission or other public authority having jurisdiction, and to any discounts paid or premiums received by the borrowing party and authorized, if required by law, by the Interstate Commerce Commission or other public authority having jurisdiction. If the parties hereto shall fail to agree upon said rate of interest at which money may be borrowable, then said rate of interest shall be fixed by a Board of Arbitration to be constituted as provided in Article XI of said agreement of October 5, 1896, as amended by Article VI of this Supplemental Agreement.

### ARTICLE III.

Notwithstanding any provisions in said agreement of October 5, 1896, or elsewhere in this Supplemental Agreement, if any of the taxes, governmental charges or special assessments upon the jointly used railroad of either party hereto are not levied or charged alone or only upon the whole or some particular portion of said jointly used railroad, but are levied or charged upon premises of which said jointly used railroad, or some particular portion thereof, is only a part, then the amount to be prorated between the parties hereto as such taxes, governmental charges or special assessments shall be adjusted between the parties hereto upon an equitable basis, and if the parties hereto cannot agree upon said basis, it shall be fixed by a Board of Arbitration to be constituted as provided in Article XI of said agreement of October 5, 1896, as amended by Article VI hereof.

In computing the part, based upon assessed valuation of main track, of the general taxes to be paid by the Belt Company to the Terminal Company, under said agreement of October 5, 1896, as supplemented by this agreement, in respect to the railroad of the Terminal Company between Blue Island and McCook, the assessed valuation per mile of main track of the railroad of the Belt Company, as fixed for each year by the taxing authorities of Illinois, plus ten per cent. of said assessed valuation, shall, in respect to said year, be treated, as between the parties hereto, as the assessed valuation per mile of main track of the railroad of the Terminal Company between Blue Island and McCook; provided that, at the option of the Belt Company, said part of said general taxes to be paid by the Belt Company to the Terminal Company in respect to any year shall be computed upon the assessed valuation per mile of main track of the railroad of the Terminal Company as fixed for said year by the taxing authorities of Illinois.

The method provided in the last preceding paragraph for computing general taxes has been agreed upon as equitable from study and consideration of the present situation as to total mileage within the State of Illinois of the respective parties hereto which is assessed, for purposes of taxation, as main track, under the present law of Illinois. In case such total main track mileage, thus assessed in Illinois for purposes of taxation, of either of the parties hereto, should be so increased by or through the inclusion of such present total main track mileage of either of the parties hereto with other main track mileage, or should be so diminished by exclusion of some part of such present main track mileage of either

party, or in case the present law of the State of Illinois concerning assessment of main track mileage should be so changed that the method of computation provided in the last preceding paragraph operates, in the belief of either party, unfairly or inequitably, then the party so believing may call upon the other party to readjust said method of computation upon an equitable basis, and if the parties hereto cannot agree upon such basis of readjustment, it shall be fixed by a Board of Arbitration to be constituted as provided in Article XI of said agreement of October 5, 1896, as amended by Article VI hereof. If either party hereto, at any time after the expiration of ten years from the date of this Supplemental Agreement, shall believe that the method of computation provided in the last preceding paragraph then operates, for any reason, unfairly or inequitably, the party so believing may, by written request, call upon the other party for an equitable readjustment of said method of computation for a period of ten years next succeeding the date of said request. Further such equitable readjustments, each for a period of ten years, may, at any time after the termination of any such period of readjustment, be so requested by either party hereto. If the parties hereto cannot agree upon the basis of any such equitable readjustment, it shall be fixed by a Board of Arbitration to be constituted as provided in Article XI of said agreement of October 5, 1896, as amended by Article VI hereof.

#### ARTICLE IV.

The Belt Company shall continue during the hereafter remaining term of said agreement of October 5, 1896, as hereby extended, in charge and control of the operation of trains, locomotives and cars upon said railroad and properties of the Terminal Company, provided that if the wheelage of the Belt Company and its licensees upon said railroad of the Terminal Company during any calendar year shall equal or fall below fifty per cent. of the total wheelage upon said railroad of the Terminal Company during said calendar year, then the Terminal Company at its option may resume charge and control of the operation of trains, locomotives and cars upon said railroad and properties of the Terminal Company during the calendar year next succeeding said calendar year.

The Belt Company shall continue during the hereafter remaining term of said agreement of October 5, 1896, as hereby extended, in charge and control of the operation of trains, locomotives and cars upon said railroad and properties of the Belt Company, provided that if the wheelage of the Belt Company and its licensees upon said railroad of the Belt Company during any calendar year shall equal or fall below fifty per cent. of the total wheelage upon said railroad of the Belt Company during said calendar year, then the Terminal Company, at its option, may assume charge and control of the operations of trains, locomotives and cars upon said railroad and properties of the Belt Company during the calendar year next succeeding said calendar year.

#### ARTICLE V.

SECTION 1. In respect to the following specified classes of now existing facilities of the Belt Company and of the Terminal Company, said facilities being shown on Exhibit B, hereto, it is agreed by the parties hereto that, in lieu of the

distribution between them of interest and of the expense of maintenance, operation and taxes upon the basis of wheelage as provided in the agreement of October 5, 1896, the parties hereto shall, from and after the date of this Supplemental Agreement assume and pay the following:

In respect to industrial tracks, hereby defined as those tracks or parts of tracks, including so-called team tracks, owned by either of the parties hereto, maintained and operated primarily for or in connection with the placement of cars for loading and unloading by individuals or Companies other than the parties hereto, or for holding and sorting cars incident to such placement, each party shall assume and pay such a proportion of the annual interest at the rate of five per cent. (5%) upon the total cost, as fixed in Exhibit B hereto, of all such now existing industrial tracks of the other party hereto as a unit, as the number of revenue cars handled to or from such hereinbefore defined industrial tracks, used for the placement of cars for loading or unloading, by or for it bears to the total number of cars so handled and a like proportion of the expense of maintenance, renewal, replacement, repair and operation of said tracks, and of the taxes, governmental charges, and assessments thereon, and a like proportion of the annual interest at the rate of five per cent. (5%) upon the cost, chargeable to capital account under the rules of the Interstate Commerce Commission or other governmental body having jurisdiction, and of the expense of maintenance, renewal, replacement, repair and operation, and of the taxes, governmental charges and assessments in respect to any additions, betterments or improvements constructed after the date of this Supplemental Agreement, including changes in grade required by law, or otherwise, to or in said tracks.

In respect to classification, receiving and departure yards, each party hereto shall assume and pay such a proportion of the annual interest at the rate of five per cent. upon the cost, as fixed in Exhibit B hereto, of each said yard of the other party hereto jointly used by it, as the number of cars handled through said yard by or for it bears to the total number of cars handled through said yard and a like proportion of the expense of maintenance, renewal, replacement, repair and operation of said yard and of the taxes, governmental charges and assessments thereon, and a like proportion of the annual interest at the rate of five per cent. upon the cost, chargeable to capital account, under the rules of the Interstate Commerce Commission, or other governmental body having jurisdiction, and of the expense of maintenance, renewal, replacement, repair and operation and of the taxes, governmental charges and assessments in respect to any additions, betterments or improvements constructed after the date of this Supplemental Agreement, including changes in grade required by law, or otherwise, to or in said yard.

In respect to car repair yards and shops, storehouses, pertaining thereto, and machinery, tools and fixtures therein, hereinafter termed "Car repair plants," each party hereto shall, to the extent not covered by the Rules of the American Railway Association, assume and pay such a proportion of the annual interest at the rate of five per cent. upon the cost, as fixed in Exhibit B hereto, of each said car repair plant of the other party hereto jointly used by it, as the amount charged for repairs for it at said car repair plant bears to the total charges for repairs at said car repair plant, said charges for repairs for it to be on the same price basis as said total

charges for repairs; and a like proportion of the expense of maintenance, renewal, replacement, repair and operation of said car repair plant and of the taxes, governmental charges and assessments thereon; and a like proportion of the annual interest at the rate of five per cent. upon the cost, chargeable to capital account under the rules of the Interstate Commerce Commission, or other governmental body having jurisdiction, and of the expense of maintenance, renewal, replacement, repair and operation and of the taxes, governmental charges and assessments in respect to any additions, betterments or improvements constructed after the date of this Supplemental Agreement, including changes in grade required by law, or otherwise, to or in said car repair plant. Each party hereto shall pay for the repair of its cars at any car repair plant of the other party hereto the actual cost of such repairs as fixed by the rules of the American Railway Association, Mechanical Division, from time to time in effect.

In respect to roundhouses, turn-tables, cinder pits, coaling stations, water stations, power-houses, electric light plants, machine shops, storehouses pertaining thereto, machinery and fixtures therein and similar facilities required for the housing and care of, and the furnishing of supplies to locomotives, hereinafter termed "locomotive terminal facilities," and the tracks appurtenant to said locomotive terminal facilities, each party hereto, if and when it elects to use said locomotive terminal facilities of the other party hereto, shall assume and pay for the use of said locomotive terminal facilities of the other party hereto and for the services received therein an equitable consideration to be agreed upon, or to be arbitrated as provided in Article XI of said agreement of October 5, 1896, as amended by Article VI hereof.

In respect to office buildings and their appurtenances used in whole or in part by one party hereto for its exclusive benefit, the party so using shall assume an equitable proportion of the interest and taxes thereon and of the cost of maintenance and operation thereof based upon its approximate use of said office building; said equitable proportion may, in the case of the use by one party of an office building of the other, be made a fixed monthly rental. In respect to office buildings and their appurtenances used by both parties for services in connection with two or more of the classes of facilities in this agreement specified, an equitable apportionment of interest and taxes thereon and of the cost of maintenance and operation thereof shall be made to each class.

SECTION 2. If either party hereto hereafter acquires or constructs upon, or appurtenant to, its railroad covered by said agreement of October 5, 1896, any additional facility, such as the now existing facilities in Section 1 of this Article V, hereinbefore specified, it shall promptly, in writing, notify the other party hereto of the completion thereof and the other party hereto may elect, in writing, at any time during the term of said agreement of October 5, 1896, as hereby extended, to jointly use said facility, and upon such election, said party so electing shall pay in respect to said facility and any additions, betterments or improvements thereto such a proportion of the interest at the rate, as hereinafter in this Section 2 of Article V of this Supplemental Agreement provided, upon the cost thereof and such a proportion of the expense of maintenance, renewal, replacement, repair and operation thereof and of the taxes, governmental charges and assessments thereon

as in Section 1 of this Article V of this Supplemental Agreement hereinbefore fixed in respect to a like now existing facility. Said annual interest upon the cost of said additional facility and of any additions, betterments and improvements thereto shall be at the rate at which money may, at the time of acquiring or constructing said facility and said additions, betterments and improvements, be borrowable in the money market by the party hereto so acquiring or constructing said facility, additions, betterments and improvements; in determining said rate of interest, consideration shall be given to commissions actually paid by the borrowing party and authorized, if required by law, by the Interstate Commerce Commission or other public authority having jurisdiction, and to any discounts paid or premiums received by the borrowing party and authorized, if required by law, by the Interstate Commerce Commission or other public authority having jurisdiction. If the parties hereto shall fail to agree upon said rate of interest at which money may be borrowable, then said rate of interest shall be fixed by a Board of Arbitration to be constituted as provided in Article XI of said agreement of October 5, 1896, as amended by Article VI of this Supplemental Agreement.

SECTION 3. If either party hereto acquires or constructs upon or appurtenant to its railroad, covered by said agreement of October 5, 1896, and this Supplemental Agreement, any additional facility, not herein provided for, of such special nature or for such special use, such, for example, as Less Carload Transfer Stations or Icing Stations, that the apportionment between the parties hereto of interest and the expense of maintenance, operation and taxes on a wheelage basis, as provided in Section 4 of Article II of this Supplemental Agreement, will be inequitable, each party hereto, if and when it elects to use such facility of the other party hereto, shall assume and pay for the use of such facility and for services received therein an equitable consideration based on use to be agreed upon, or if the parties hereto cannot agree upon an equitable consideration based on use, it shall be fixed by a Board of Arbitration to be constituted as provided in Article XI of said agreement of October 5, 1896, as amended by Article VI hereof.

SECTION 4. In the event any of the facilities specified by classes in Section 1 of this Article V and shown in Exhibit "B" hereto, or any of the facilities hereafter acquired or constructed under Sections 2 or 3 of this Article V, shall, by reason of a change in operation or use, become improperly classified, appropriate reclassification shall be made by mutual agreement between the parties hereto to conform to such change in operation or use and shall take effect at the time such change shall have been made.

#### ARTICLE VI.

The first paragraph of Article XI of said agreement of October 5, 1896 is hereby amended, as of the date hereof, by substituting, in lieu of said first paragraph of Article XI, the following as Article VI of this Supplemental Agreement.

In the event of a disagreement between the parties hereto, either in the interpretation of the agreement of October 5, 1896, or of this Supplemental Agreement or as to the necessity for any additional tracks, facilities or improvements requested by one party hereto to be constructed by the other party hereto under

Section 2 of Article II hereof, or as to the guaranty, as provided in the agreement of October 5, 1896, and in this Supplemental Agreement, to the party required to make the expenditure for such additional tracks, facilities or improvements, or as to the time when any such additional tracks, facilities or improvements shall be built, or as to when or in what manner any other act by either of the parties hereto shall be performed (except as to the appraisal provided for in Sections 3 and 4 of Article V of said agreement of October 5, 1896, and except as to acts, the performance of which, as to time and manner, is fixed by this Supplemental Agreement) all said questions shall be submitted to a Board of Arbitrators, to consist of three competent and disinterested persons, one each to be chosen by the parties hereto and the third to be chosen by the two first thus chosen.

#### ARTICLE VII.

In the opinion of the parties hereto, the facilities and improvements, hereinbefore in Section 1 of Article II provided to be constructed, will meet the present requirements of the traffic and operations of the parties hereto, or either of them, upon said railroads of the parties hereto, and each party hereto expects and, so far as it legally may, agrees, upon the terms and conditions of said agreement of October 5, 1896, and of this Supplemental Agreement, to use said railroad of the other party hereto to the extent that and as long as said railroad and facilities of the other party hereto is adequate, or shall, as provided in said agreements, be made adequate for the proper handling of its traffic and for the proper conduct of its operations and for the proper exercise of its rights and performance of its duties as a common carrier.

If at any time the line of railroad of the Belt Company between McCook and Franklin Park and/or the line of railroad of the Terminal Company between Blue Island and McCook shall not be adequate and cannot be made adequate to properly handle all possible traffic and it becomes necessary for the Belt Company or the Terminal Company to construct or acquire a new line of railroad supplemental to either or both of the above described lines of railroads of the parties hereto, then and in that event such supplemental line of railroad or railroads shall be constructed or acquired under and subject to the terms and conditions of said agreement of October 5, 1896, and of this Supplemental Agreement; each party hereto shall construct or acquire for the joint use of both parties the necessary line of railroad supplemental to said presently owned railroads, and the total of the wheelage on both the presently owned railroad and the supplemental railroad aforesaid, shall be used as the basis for the distribution between the parties hereto, of interest and of the expense of maintenance, operation and taxes on both presently owned railroad and supplemental railroad as one unit.

#### ARTICLE VIII.

Except as in this Supplemental Agreement amended or supplemented, the provisions of said agreement of October 5, 1896, shall, during the term thereof as hereby extended, continue in effect as therein provided, and shall apply to all the properties covered by this Supplemental Agreement and to the relations of the parties hereto in respect to said properties.

IN WITNESS WHEREOF, each party hereto has caused this Supplemental Agreement to be signed by its proper officer and its corporate seal to be affixed and attested by its Secretary, the day and year first above written.

**INDIANA HARBOR BELT RAILROAD COMPANY,**

{CORPORATE  
SEAL }

By

P. E. CROWLEY,  
*President.*

Attest:

E. F. STEPHENSON,  
*Secretary.*

**THE BALTIMORE & OHIO CHICAGO TERMINAL  
RAILROAD COMPANY,**

{CORPORATE  
SEAL }

By

H. B. VOORHEES,  
*President.*

Attest:

H. H. HALL,  
*Asst. Secretary.*

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

I, B. H. Sheffer, a notary public in and for the county and state aforesaid, do hereby certify that P. E. Crowley, President, and E. F. Stephenson, Secretary, of the Indiana Harbor Belt Railroad Company, who are personally known to me to be the same persons whose names are subscribed to the foregoing agreement as such President and Secretary, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, and as the free and voluntary act of the said Indiana Harbor Belt Railroad Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 16th day of January, 1931.

B. H. SHEFFER,  
*Notary Public.*

Notary Public, Westchester County, N. Y.  
Certificate Filed in New York County Clerk's, No. 2177  
Register's No. 1342A

(My Commission Expires March 30, 1931.)

STATE OF ILLINOIS }  
COUNTY OF COOK } ss.:

I, Thomas M. Butters, a notary public in and for the county and state aforesaid, do hereby certify that H. B. Voorhees, President, and H. H. Hall, Assistant Secretary, of The Baltimore & Ohio Chicago Terminal Railroad Company, who are personally known to me to be the same persons whose names are subscribed to the foregoing agreement as such President and Assistant Secretary, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, and as the free and voluntary act of the said The Baltimore & Ohio Chicago Terminal Railroad Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 22nd day of December, 1930.

THOMAS M. BUTTERS,  
*Notary Public.*

## SECOND SUPPLEMENTAL AGREEMENT

THIS SECOND SUPPLEMENTAL AGREEMENT made and entered into this 1st day of October 2014 by and between **INDIANA HARBOR BELT RAILROAD COMPANY**, (hereinafter referred to as ("IHB")), and **THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY** ("Terminal Company");

**WHEREAS**, **THE CHICAGO AND CALUMET TERMINAL RAILROAD COMPANY**, a predecessor of **Terminal Company**, and the **CHICAGO HAMMOND AND WESTERN RAILROAD COMPANY**, a predecessor of **IHB**, entered into an agreement dated October, 5, 1896, with respect to the joint use of their railroads between Blue Island, Illinois, and Franklin Park, Illinois (the "**Agreement**"); and

**WHEREAS**, The parties hereto entered into several supplemental agreements including a Supplemental Agreement dated January 1, 1930, providing for an extension of the term of the Agreement and for a more convenient and economical method of operating, maintaining and improving said railroads and their shared facilities (the "**Supplemental Agreement**"); and

**WHEREAS**, Article IV of the Supplemental Agreement granted **IHB** the right to control train movement from Blue Island, Illinois to Franklin Park, Illinois (the "**IHB Dispatched Trackage**"), subject to certain use (wheelage) requirements; and

**WHEREAS**, on June 8<sup>th</sup>, 2013, CSX Transportation, Inc. ("**CSXT**") acquired a permanent easement from the **Canadian National Railway**, ("**CN**"), to operate the rail line known as the Elsdon Subdivision and assume all rights and obligations associated with the operation of the Elsdon Subdivision; and

**WHEREAS**, as part of the Elsdon Subdivision acquisition, **CSXT** assumed the rights and obligation to control the **BLUE ISLAND INTERLOCKING SIGNAL SYSTEM**, "**Blue Island**", which controls the signals at CP Blue Island and CP Francisco; and

**WHEREAS**, **CSXT's** control of **Blue Island** necessitates that Terminal Company assume control over approximately 400 ft. of trackage between the Blue Island Junction and the Eastward Absolute Signals at CP Francisco, owned by Terminal Company and dispatched by IHB; and

**WHEREAS**, **Terminal Company** and **IHB** strive to operate their respective railroads in the safest, most efficient manner possible.

**NOW, THEREFORE**, The parties hereto, intending to be legally bound, agree as follows:

### **SECTION 1. DESCRIPTION OF CHANGES**

Article IV of the Supplemental Agreement is hereby amended to add the following new paragraphs at the end of Article IV:

Notwithstanding the foregoing, the Terminal Company shall have the dispatching and control of train movement of the approximately 400 feet of track between Blue Island

Junction and the Eastward Absolute Signals at CP Francisco. The Terminal Company will arrange with CSXT to dispatch and control train movements over said trackage.

The operation of said trackage shall at all times be in accordance with the rules, instructions and restrictions of CSXT but such rules shall be reasonable, just and fair between all parties using said trackage and shall not unjustly discriminate against any of them. These rules and instructions shall include, but not be limited to, Operating Rules, Time Tables, Special Instructions, Bulletins, General Orders and authoritative directions of Train Dispatchers and Operating Officers.

## **SECTION 2. MISCELLANEOUS PROVISIONS**

Except as specifically modified by this Second Supplemental Agreement, all terms and conditions of the Agreement and the Supplemental Agreement shall remain in full force and effect.

## **SECTION 3. TERM AND TERMINATION**

1. This Second Supplemental Agreement shall become effective on the latter of the date first above written or the effective date of approval by the Surface Transportation Board, should STB approval be required.
2. This Second Supplemental Agreement may be terminated by mutual written consent of the parties. Termination of this Second Supplemental Agreement shall not relieve or release any party hereto from any obligations assumed or from any liability which may have arisen or been incurred by such party under the terms of this Second Supplemental Agreement prior to termination hereof.

## **SECTION 4. LABOR PROTECTION**

IHB shall notify the Terminal Company immediately of any labor protection claims filed as a direct result of Terminal Company assuming control of the approximately 400 feet of track between Blue Island Junction and the Eastward Absolute Signals at CP Francisco. Subject to Terminal Company's independent review of IHB's proposed response to such labor protection claims, Terminal Company shall indemnify IHB for any labor protection claims filed within twenty-four (24) months of the effective date of CSXT's assuming control over the approximately 400 feet of IHB trackage as more specifically identified in this Second Supplemental Agreement provided said claims are a direct result of Terminal Company assuming control of that approximately 400 feet of track.

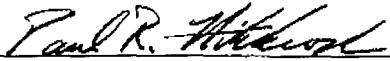
**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be duly executed as of the day and year first above written.

**INDIANA HARBOR BELT RAILROAD**

By 

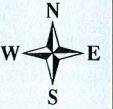
Title Paul Supt.

**BALTIMORE AND OHIO CHICAGO  
TERMINAL RAILROAD COMPANY**

By 

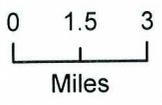
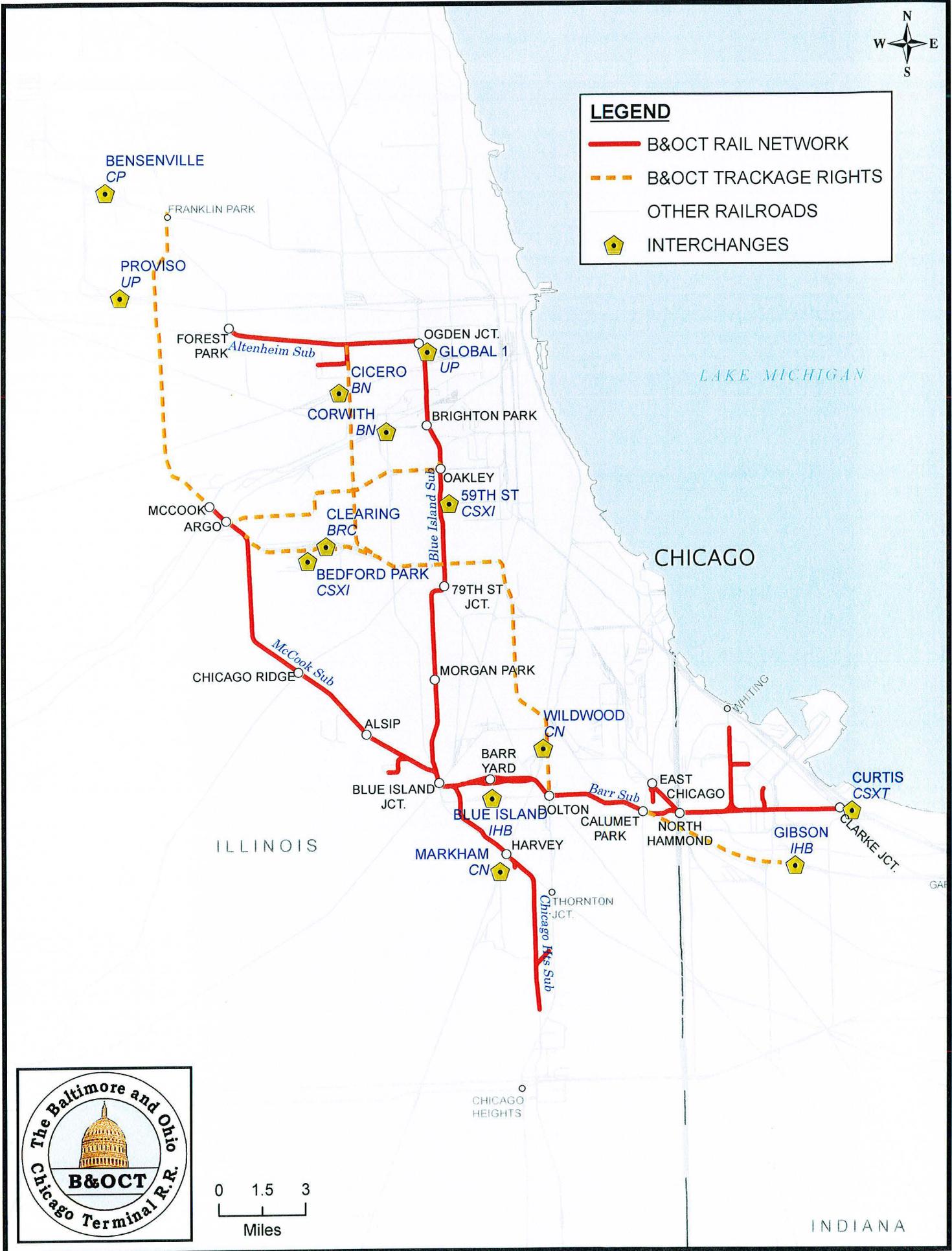
Title Vice President

EXHIBIT B - MAP



**LEGEND**

-  B&OCT RAIL NETWORK
-  B&OCT TRACKAGE RIGHTS
-  OTHER RAILROADS
-  INTERCHANGES



INDIANA