

LICENSE FOR A PEDESTRAIN PARK SIDEWALK CROSSING

THIS AGREEMENT, made and entered into as of the ____ day of August, 2016, by and between the ILLINOIS CENTRAL RAILROAD COMPANY (hereinafter referred to as "Railroad") whose mailing address is 17641 S. Ashland Avenue, Homewood, Illinois 60430-1345 and City of Hammond (hereinafter referred to as "Licensee") whose mailing address is P.O. Box 2788 Hammond, LA 70404

WITNESSETH:

IN CONSIDERATION of the mutual covenants and agreements herein set forth, Railroad, insofar as it lawfully may, does hereby grant unto Licensee a right or license to construct, maintain and use of three (3) Pedestrian Park Sidewalk Crossing approximately 6 feet in width, upon, over and across the property or right-of-way of Railroad (including the track located thereon) at milepost Approximately mp 859.26 (between Charles and Thomas Streets) DOT number 967716B, mp 859.31 Between Thomas Street and Morris Ave) DOT number 967717H and the crossing on alignment with Hanson Street mp 859.44 DOT number 300195THammond sub as shown on the print attached hereto and made a part hereof,

UPON AND SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. DEFINITIONS.

(a) Railroad's Property. "Railroad's Property" shall mean the property shown on the attached print, to the extent owned by Railroad, whether owned in full ownership or as a servitude, easement, or right-of-way, including Railroad's track, the land on which the track is situated, and any adjacent land of Railroad on either side of the track.

(b) License. "License" shall mean the right granted by Railroad to Licensee to construct, maintain and use a private vehicular road, together with a private pedestrian walkway, under the terms and conditions set forth hereinafter.

(c) License Area. "License Area" shall mean that portion of Railroad's Property over and across which the License is granted. The License Area extends from one edge of the Railroad's Property across the track to the opposite edge of the Railroad's Property and measures a distance of approximately 10 feet in width on either side of the center line of the sidewalk, all as more fully shown on the attached print.

(d) Sidewalk. "Sidewalk" shall mean the sidewalk approaches on either side of the Crossing Proper within the License Area including that portion between tracks where multiple tracks exist.

(e) Crossing Proper. "Crossing Proper" shall mean that portion of the License Area encompassing an area from end-of-tie to end-of-tie.

(f) Licensee's Property. "Licensee's Property" shall mean the property or estate of Licensee to and from which the License provides ingress and egress for Licensee's benefit and use.

(g) Cost. "Cost" shall mean the actual cost of labor, equipment and materials plus Railroad's then current customary additives for overhead and other indirect costs.

2. USE.

(a) The License shall only affect and burden the License Area and no other portion of Railroad's Property, and the Sidewalk and Crossing Proper shall be constructed, located, and maintained entirely within the License Area. Licensee shall have no right to use or cross any other portion of Railroad's Property or to use the sidewalk and Crossing Proper for any purposes other than as expressly permitted herein, and Licensee, as a further consideration, cause, and condition without which this License would not have been granted, agrees to restrict public's use to those purposes and then only to said location and no other for crossing the Railroad's Property, including the track.

(b) Licensee shall not do or permit to be done any act which will in any manner interfere with, limit, restrict, obstruct, damage, interrupt, or endanger Railroad's operations or facilities.

(c) Licensee shall require and shall take all steps necessary to ensure that all persons using the sidewalk and Crossing Proper come to a complete stop, look carefully for approaching trains before fouling or crossing Railroad's tracks, and yield to any approaching train.

(d) The sidewalk and Crossing Proper shall not be used by vehicles.

3. TERM.

(a) This License shall become effective as of the date first written above and shall continue in effect thereafter until terminated in one of the manners set forth below:

(i) Either party may at any time give the other party written notice of termination specifying the date on which termination shall be effective, provided that such notice shall be delivered at least thirty (30) days.

(ii) Railroad shall have the right to terminate this Agreement immediately upon written notice to Licensee if Licensee at any time breaches or fails to perform any of the terms and conditions hereof;

(iii) This License shall terminate through non- use or in any other manner provided by law.

(b) Unless the parties mutually agree in writing to leave the sidewalk and Crossing Proper in place after termination, the termination of this Agreement shall not be effective until all removal and restoration is complete. Termination of this Agreement shall not release Licensee from any liability or responsibility and duty, which accrued prior to such termination, removal and restoration.

4. CONSTRUCTION. The construction of the Sidewalk, including the necessary grading, culverts and drainage on each side of the Railroad's track, shall be performed by Licensee at its own risk and expense, and to the satisfaction of the Railroad's authorized representative. Railroad will install the Crossing Proper over its track(s), from end-of-tie to end-of-tie, and make all adjustments required in Railroad facilities, if any, at Licensee's sole expense. The estimate dated August 27, 2016 are added as exhibit B for the projected estimated cost of the project to be \$22,556 Licensee shall pay actual cost.

5. NOTIFICATION TO RAILROAD. At least ten (10) days prior to entering upon the Sidewalk for the purpose of performing any construction or maintenance work hereunder, Licensee shall notify Railroad's Regional Manager in writing of the type of work to be performed and the date such work will commence. The notice shall be sent to the following address:

Senior Manger Engineering Manager
Illinois Central Railroad Company
2151 Mill Street
Jackson MS 39202

6. SIGHTING AT CROSSING. LICENSEE SHALL KEEP EACH QUADRANT OF THE INTERSECTION OF THE SIDEWALK WITH RAILROAD'S TRACK FREE OF BUSHES, TREES, WEEDS, VEGETATION, AND ALL OTHER OBSTRUCTIONS OF ANY KIND THAT COULD INTERFERE WITH A MOTOR VEHICLE OPERATOR SIGHTING AN APPROACHING TRAIN.

7. RAISING WIRE LINES. If it should be necessary to raise any wires on Railroad's property not belonging to Railroad to provide safe clearance for vehicles, Licensee shall make all arrangements therefor at its own sole risk and expense.

8. MAINTENANCE. Licensee shall, at its own risk and expense, maintain said sidewalk in good and safe condition commensurate with its intended use. The Railroad shall, at the sole risk and expense of Licensee, maintain the Crossing Proper, however, Railroad shall have the right, but not the duty, to perform at Licensee's sole risk and expense, any repair or maintenance on the sidewalk that Railroad considers reasonably necessary and Licensee shall pay the cost thereof upon receipt of a bill whether made at Licensee's request or otherwise.

9. CROSSING TO BE KEPT FREE OF DEBRIS. Licensee shall at all times during the term of this Agreement, keep the Railroad's track free of dirt, rocks or other debris or obstructions of any kind, and will not permit any condition which might interfere with the safe and efficient operation of trains over the Crossing Proper, or which might damage equipment or facilities belonging to Railroad or others, or which might constitute a safety hazard of any kind. If at any time Licensee shall fail to do so, Railroad may, at its option, remove any dirt, rocks, debris or obstructions, and Licensee will pay Railroad the cost thereof promptly upon receipt of bill therefor. If the continued or repeated presence of dirt, rocks, debris or obstructions should, in the opinion of Railroad, create an operating hazard, Railroad may keep a flagman on duty at Licensee's expense until such condition is corrected in a manner reasonably satisfactory to Railroad, or at its option may immediately terminate this Agreement.

10. GATES, FENCING AND FLAGGING. Licensee shall, at its own risk and expense, install and maintain any gate or fencing or other barrier, which Railroad indicates, is reasonably necessary and shall keep the gates closed when the License Area is not in actual use. Licensee shall, at its own risk and expense, provide whatever flag protection Railroad shall indicate is necessary. Railroad shall have the right, but not the duty, to provide any such flag protection at Licensee's sole risk and expense and Licensee shall pay the cost thereof upon receipt of a bill. It is further understood and acknowledged by Licensee that Railroad has no obligation or duty to determine the need for any gate or other barrier or the need for flag protection.

11. SIGNS, SIGNALS AND WARNING DEVICES. Licensee acknowledges that Railroad has no obligation or duty to give audible warning of the approach of a train, nor erect whistle posts, nor reduce the speed of its trains, nor alter its operations in any manner, owing to the presence or existence of the Sidewalk

and crossing proper or other use or exercise of the right or license granted herein. Licensee assumes, at its own risk and expense, sole responsibility for determining if any signs, signals or other warning devices are necessary or appropriate for the safety of persons using the License Area and specifically acknowledges that Railroad has no obligation or duty whatever to make any such determination. If the installation of any signs, signals or warning devices on the License Area is presently or hereafter required by law or by competent public authority, or is otherwise requested by Licensee, same shall conform to any then currently applicable practices of the Railroad for such devices as to design, material and workmanship and all costs incurred by the Railroad related to the installation, operation, maintenance, renewal, alteration and upgrading thereof shall be solely borne by Licensee.

12. INDEMNITY. As a further consideration for the License herein granted, and as a condition without which the License would not have been granted, Licensee agrees, regardless of any negligence or other legal fault by or on the part of Railroad or its officers, employees or agents, fully to defend, indemnify and save harmless Railroad and its officers, employees and agents, from and against any and all claims, demands, actions and causes of action, and to assume all risk, responsibility and liability (including all liability for expenses, attorney's fees and costs incurred or sustained by Railroad, whether in defense of any such claims, demands, actions and causes of action or in the enforcement of the indemnification rights hereby conferred),

(a) for death of or injury to any and all persons, including but not limited to the officers, employees, agents, patrons, invitees and licensees of the parties hereto, and for any and all loss, damage or injury to any property whatsoever, including but not limited to that belonging to or in the custody and control of the parties hereto, in whole or in part arising from, growing out of, or in any manner or degree directly or indirectly caused by, attributable to or resulting from the grant or exercise of this License, the failure of Licensee to conform to the conditions of this Agreement, work performed by Railroad for Licensee under the terms of this Agreement, work performed by Licensee under the terms of this Agreement, or from the construction, installation, maintenance, repair, renewal, alteration, change, relocation, existence, presence, use, operation or removal of any structure incident thereto, and

(b) for death of or injury to the officers, employees, agents, patrons, invitees and licensees of Licensee and for any and all loss, damage or injury to their property, and to any property belonging to or in the care, custody or control of Licensee, in whole or in part arising from, growing out of, or in any manner or degree directly or indirectly caused by, attributable to or resulting from the conduct of any railroad operations at or near the area in which the herein conferred License is granted or exercised.

It is the intention of the parties hereto that Licensee shall be solely responsible for all such destruction or damage to property or for personal injury to or death of any persons which would not have occurred if such private road crossing had never been constructed or used.

Licensee shall at its sole expense join in or assume, at the election and on demand of Railroad, the defense of any claims, demands, actions and causes of action hereunder arising. The word "Railroad" as used in this Section shall include the assigns of Railroad and any other railroad company that may be operating upon and over the tracks crossing the License Area.

13. INSURANCE. Licensee shall procure and maintain during the life of this Agreement CONTRACTUAL LIABILITY INSURANCE which will insure the indemnity undertaking hereinabove set forth. Such insurance shall have a minimum combined single limit of \$5,000,000 per occurrence with an aggregate limit of \$10,000,000 per annual policy period. Said insurance shall be deemed primary as it relates to this Agreement, and Railroad shall be named as an additional insured. Licensee shall furnish the Railroad at the address shown below in this Section with a certificate evidencing that such insurance is in full force and effect and that the same will not be canceled, terminated, or not renewed without at least thirty (30) days' advance written notice by the insurance carrier to the Railroad. AND IN ADDITION TO OTHER INFORMATION THE CERTIFICATE SHALL CONTAIN THE FOLLOWING LANGUAGE:

Notwithstanding anything contained therein to the contrary, the Contractual Liability Insurance hereinabove referred to is extended to specifically insure the indemnity obligations assumed by Livingston Parish Louisiana under Section 12 of an Agreement dated ___ August, 2016 with Illinois Central Railroad Company covering use of Railroad's Property for a private road crossing. Insurer shall not cancel, terminate, or allow to lapse by reason of nonrenewal the policy without providing Illinois Central Railroad Company at least thirty (30) days' advance written notice, said notice to be sent via certified mail to:

Vice President-Engineering
Illinois Central Railroad Company
17641 Ashland Avenue
Homewood, Illinois 60430-1345

14. REMOVAL OF SIDEWALK AND CROSSING PROPER. Prior to termination of this Agreement, Licensee shall remove its Sidewalk from Railroad's Property (except for the Crossing Proper located between the ends of ties) and restore the Railroad's Property, as near as may be, to its former condition insofar as such restoration may in the opinion of Railroad's duly authorized representative be practical, all at Licensee's sole risk and expense. If Licensee fails to so remove and restore, Railroad shall have the right, but not the obligation, to do so at Licensee's sole risk and expense. Upon termination, Railroad shall have the right, but not the duty, to remove the Sidewalk and Crossing Proper and to restore the Railroad's Property, all at Licensee's sole risk and expense. Licensee shall pay the cost of any work performed by Railroad upon presentation of a bill. Railroad shall have the right to require Licensee to deposit the estimated cost of any or all removal or restoration work involving the Sidewalk and/or Crossing Proper or to furnish an acceptable performance bond in such amount upon execution of this Agreement or at any time thereafter to assure complete performance under this Section.

15. ASSIGNMENT. Licensee shall not have the right to assign this Agreement without first obtaining the consent in writing of the Railroad, which consent will not be unreasonably withheld.

16. TAXES. The Licensee shall pay all taxes, general and special, license fees or other charges which may become due or which may be assessed against the premises of the Railroad because of the construction, existence, operation or use of said Sidewalk and Crossing Proper, or the business conducted in connection with said facility, and shall reimburse the Railroad for any such taxes, license fees or other charges which may be paid by the Railroad upon the presentation of bills therefor.

17. BILLS. All bills submitted by the Railroad to Licensee pursuant to the terms of this Agreement shall be paid by Licensee within fifteen (15) days of receipt thereof.

18. ENFORCEABILITY. In the event that any parts, sections or other portions of this Agreement are found unenforceable under the applicable law of any courts having jurisdiction over this Agreement, the remaining parts, sections or other portions thereof and the enforcement of same shall not be affected and shall otherwise remain in full effect and enforceable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the date first above written.

ILLINOIS CENTRAL RAILROAD COMPANY

By _____

Tom Bourgonje
Southern Regional Chief Engineer

CITY OF HAMMOND, LOUISIANA

By _____

Title: _____

EXHIBIT A



Project Estimate

Southern Region
Technical Services
Homewood, IL



One 6 foot rubber crossings

Estimate: Hanson Street
Location: Hammond
Company Name: Illinois Central
Subdivision Name: Hammond
Mile Post: 859.44
State: LA
Network #

Date created: August 27, 2018
Date revised:
Status: X

Description	UM	QTY	PRICE	TOTAL
LABOR				
	GANG SIZE	Days	MD	
Unload/Distribute Material	5	0.5	2.5	\$825
Construct Track	5	1	5	\$1,650
Install Turnouts	8	0	0	\$0
Destress Track	5	0	0	\$0
Surfacing	5	0.5	2.5	\$825
Welding	2	0	0	\$0
Flagging	1	0	0	\$0
Install Crossings	5	0.5	2.5	\$825
B&S Labor	0	0	0	\$0
S&C Labor	1	0	0	\$0
Open Line	0	0	0	\$0
Open Line	0	0	0	\$0
Open Line	0	0	0	\$0
Open Line	0	0	0	\$0
Open Line	0	0	0	\$0
TOTAL DIRECT LABOR				\$4,125

Description	UM	QTY	PRICE	TOTAL
MATERIAL				
Rail New				\$0
Rail PW (Non-Capitalized item)				\$0
Field Welding				\$0
Spikes				\$29
Anchors				\$28
Tie Plates				\$170
Minor OTM				\$0
Major OTM				\$0
Turnouts				\$0
Track Ties				\$0
Switch Ties				\$702
Ballast				\$416
Crossing Materials				\$1,681
Structures Material				\$0
S&C Material				\$0
Open Line				\$0
Open Line				\$0
Open Line				\$0
Open Line				\$0
Open Line				\$0
TOTAL DIRECT MATERIAL				\$3,026

Description	UM	QTY	PRICE	TOTAL
OTHER				
Per Diem (Mandays)	SUM	13	\$74.16	\$927
Permitting	SUM	0	\$0	\$0
Engineering Consulting/Design	SUM	0	\$0	\$0
Grading	SUM	0	\$0	\$0

Project Estimate

**Southern Region
Technical Services
Homewood, IL**



One 6 foot rubber crossings

Flagging - Contractor (Mandays)	SUM	2	\$1,300	\$2,600
Land Purchase/Real Estate Fees	SUM	0	\$0	\$0
Track Construction	TF	0	\$30	\$0
Welding - Contractor	EA	0	\$600	\$0
Rental Equipment	SUM	1	\$1,000	\$1,000
B&S Contracts Other	SUM	0	\$0	\$0
Culverts	SUM	0	\$0	\$0
Sheet Piling	SUM	0	\$0	\$0
S&C Contracts Other	SUM	0	\$0	\$0
Directional Boring	SUM	0	\$0	\$0
Fiber Optic	SUM	0	\$0	\$0
Utilities - Electrical/Gas	SUM	0	\$0	\$0
Shipping	SUM	0	\$0	\$0
Asphalt	SUM	0	\$15,000	\$0
Traffic control	SUM	0	\$12,500	\$0
Crossbuck assemblys	SUM	0	\$900	\$0
Contingency	SUM	1	\$1,074	\$1,074

TOTAL OTHER				\$5,601
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ADDITIVES	UM	QTY	PRICE	TOTAL
Labor Surcharges		\$4,125	234%	\$9,653
Material Surcharges		\$3,026	5%	\$151
TOTAL ADDITIVES				\$9,804

DONATION	Amount	TOTAL
Donation	\$22,556	\$22,556
TOTAL DONATION	\$22,556	

TOTAL PROJECT COST	\$22,556
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MATERIAL	FORECAST	FO Hanson Street	Hammond		859
Material Description	State Tax	UM	QTY	Unit Price	Total
SPIKE TRACK 5/8' X 6", 50 lb Keg	4.00%	CN	1	27.97	\$29
RAIL ANCHOR 115	4.00%	EA	18	1.51	\$28
TIE PL DS 7-1/2X14 BASE 5-1/2N	4.00%	EA	18	9.07	\$170
SWITCH TIE - 10' HW	4.00%	EA	9	75.00	\$702
BALLAST ROAD (80T per car)	4.00%	TON	10	40.00	\$416
RUBBER CROSSING MATERIAL (Per Quote)	4.00%	TF	6	265.00	\$1,654

Project Estimate

**Southern Region
Technical Services
Homewood, IL**



One 6 foot rubber crossings