

ORDINANCE

WHEREAS, the City of Chicago (“City”) is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Illinois Commerce Commission (“ICC”) has a project for improving public safety at the North Nagle Avenue highway-rail grade crossing of the track Union Pacific Railroad Company (“Railroad”) (crossing identified as AAR/DOT #173 887G at milepost 10.31) in the City of Chicago, Cook County, Illinois (“Project”); and

WHEREAS, the Chicago Department of Transportation (“CDOT”) has agreed to participate in the Project, by installing certain facilities, subject to reimbursement by ICC, and by maintaining certain other facilities, all related to the public use of the public ways; and

WHEREAS, among the facilities to be maintained by CDOT after completion is a pedestrian escape feature that is located outside the public way of Nagle Avenue; and

WHEREAS, in order to perform its agreed upon maintenance obligations, CDOT requires that Railroad convey an easement to City to allow access to railroad property outside the public way, for the improvement, maintenance and public use of a public sidewalk, gates and related facilities, including access and construction; and

WHEREAS, in order to perform its agreed upon installation and maintenance obligations on Railroad, and to allow public use of the public improvement, Railroad must grant a permanent easement to City to allow such access to railroad property outside the public way; and

WHEREAS, ICC, Railroad and CDOT have agreed upon compensation for the grant of easement, which compensation will be reimbursed by ICC as a Project cost; *now therefore*,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. The City Council hereby approves the acceptance of a grant of easement for the agreed compensation as herein described as necessary and appropriate for public use of the public way in North Nagle Avenue.

SECTION 3. The Commissioner of Transportation (the “Commissioner”) is hereby authorized, subject to the approval of the Corporation Counsel as to form and legality, to accept an Easement Deed in substantially the form of **Exhibit 1** which is attached hereto and incorporated herein.

SECTION 4. The Commissioner of CDOT is hereby authorized, subject to the review and approval of the City's Corporation Counsel as to form and legality, to negotiate, to execute and deliver agreements and such other documents, and take such other actions as may be necessary or appropriate to carry out and comply with the intent of this ordinance, including the ICC's, Railroad's and CDOT's successful completion of the Project.

SECTION 5. The City Council hereby opens as public way those portions of the Railroad property to the extent burdened by the grant of easement.

SECTION 6. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 7. This ordinance shall take effect upon its passage and approval.

Attachments: Exhibit 1 (to Ordinance) – Easement Deed