

5.20.94

40-R-94

A RESOLUTION

Authorizing the City Manager to Execute an Agreement
for Railway-Highway Grade Separation Improvement
Project: BRM-7003(89)

WHEREAS, Ridge Avenue (FAU Route 3509) is located in Evanston, Cook County, Illinois, and as a dual two-lane highway extends over the main tracks and across the right-of-way of the Chicago Transit Authority, a municipal corporation "Company", by means of existing overpass structures and approaches thereto, at a location north of Howard Street. The present northbound and southbound highway traffic is carried over the tracks by a four-lane structure built in 1924; and

WHEREAS, the State of Illinois, acting by and through its Department of Transportation ("State") current improvement program contemplates the replacement of the four-lane structure for highway traffic at this location, and afforded by 1) removing the 1924 structure, 2) constructing a new structure for both northbound and southbound traffic, along the existing alignment all substantially as shown on the map included in "Exhibit A", attached hereto and made a part hereof; and

WHEREAS, the State, the City of Evanston "City", and the Company propose to construct a new overpass structure and approaches along Ridge Avenue spanning the railroad tracks, said improvements to be designated as City Section 92-00201-00-BR, State Job Number C-91-346-92, Federal-Aid Project No. BRM-6003 (994); and

WHEREAS, in conjunction with the aforementioned project the Company will be required to make certain adjustments to their signal and communication facilities and other appurtenances and furnish flaggers and other personnel as required to protect their equipment, employees and passengers during construction; said work to be designated as City Section 9-00201-01-RR, State Job No. C-91-592-93 and Federal Project No. BRM-7003(89); and

WHEREAS, the proposed grade separation improvement shall be financed in part with Bridge Replacement and Rehabilitation Funds (BRRP) as made available by the Federal-Aid Highway Act.

WHEREAS, the City Council of the City of Evanston has determined that it is in the best interests of the City to enter into a Department of Transportation Agreement for railway-highway grade separation improvement project: BRM-7003(89).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY ILLINOIS:

SECTION 1: That the City Manager of the City of Evanston is hereby authorized and directed to sign, an agreement in substantially the same terms as that attached hereto as Exhibit A and made a part hereof, for the Railway-Highway Grade Separation Improvement Project: BRM-7003(89).

SECTION 2: This Resolution shall be in full force and effect following its passage and approval in the manner

required by law.

Lorraine H. Norton
Mayor

ATTEST:

Justin Davis
City Clerk

Adopted: September 12, 1994

**STATE OF ILLINOIS
DEPARTMENT OF TRANSPORTATION
AGREEMENT FOR
RAILWAY-HIGHWAY GRADE SEPARATION IMPROVEMENT
PROJECT: BRM-7003 (89)**

THIS AGREEMENT made and entered into by and between the STATE OF ILLINOIS, acting by and through its Department of Transportation, hereinafter referred to as the "STATE", Party of the First Part, and the City of Evanston, State of Illinois, acting by and through its City Council hereinafter referred to as the "CITY", Party of the Second Part, and the Chicago Transit Authority, a municipal corporation acting by and through its Chicago Transit Board, hereinafter referred to as the "COMPANY", Party of the Third Part,

WITNESSETH:

THAT, WHEREAS, Ridge Avenue (FAU Route 3509) is located in Evanston, Cook County, Illinois, and as a dual two-lane highway extends over the main tracks and across the right-of-way of the COMPANY, by means of existing overpass structures and approaches thereto, at a location north of Howard Street. The present northbound and southbound highway traffic is carried over the tracks by a four-lane structure built in 1924; and

WHEREAS, the STATE'S current improvement program contemplates the replacement of the four-lane structure for highway traffic at this location, and afforded by 1) removing the 1924 structure, 2) constructing a new structure for both northbound and southbound traffic, along the existing alignment all substantially as shown on the map designated as "Exhibit A", attached hereto and made a part hereof; and

WHEREAS, the STATE, the CITY, and the COMPANY propose to construct a new overpass structure and approaches along Ridge Avenue spanning the railroad tracks, said improvements to be designated as CITY Section 92-00201-00-BR, STATE Job Number C-91-346-92, Federal-Aid Project No. BRM-6003 (994); and

WHEREAS, in conjunction with the aforementioned project the COMPANY will be required to make certain adjustments to their signal and communication facilities and other appurtenances and furnish flaggers and other personnel as required to protect their equipment, employees and passengers during construction; said work to be designated as CITY Section 93-00201-01-RR, STATE Job No. C-91-592-93 and Federal Project No. BRM-7003(89); and,

WHEREAS, the proposed grade separation improvement shall be financed in part with Bridge Replacement and Rehabilitation Funds (BRRP) as made available by the Federal-Aid Highway Act.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements as hereinafter contained, the parties hereto agree as follows:

SECTION 1: The project covered under this agreement shall be subject to all appropriate Federal laws, rules, regulations, orders and approvals pertaining to all agreements, specifications, award of contracts, acceptance of work and procedure in general. The STATE and the COMPANY shall be governed by the applicable provisions of the Federal-Aid Policy Guide (hereinafter referred to as the Policy Guide, Transmittal 1, Subchapter G, Part 646, dated December 9, 1991, and any supplements or amendments thereto.

SECTION 2: By separate documents, arrangements are being made for the COMPANY to convey to the STATE the rights necessary to construct this grade separation improvement. Construction work on COMPANY'S property provided for in this agreement shall not be started until the necessary rights have been received by the STATE. The property rights to be utilized will be indicated in the separate documents and made a part hereof.

SECTION 3: The STATE and the CITY shall secure or cause to be secured, without expense to the COMPANY, all the properties required for or incidental to the construction of the Ridge Avenue structure, excepting those provided for in Section 2 hereof.

SECTION 4: The plans and estimates of cost for changes in railroad facilities on the COMPANY's right-of-way, as necessitated by the proposed improvements, shall be prepared by or for the COMPANY at the expense of the STATE and CITY, and all such plans and estimates shall be subject to review and acceptance by authorized representatives of the STATE and the CITY.

The preliminary and detailed plans, field surveys and any necessary specifications and special provisions for construction of the proposed structure, and all highway appurtenances as affected, shall be prepared by or for the STATE, CITY and COMPANY by the City's Consulting Engineer, and all such plans, specifications and special provisions as will affect the COMPANY's interests shall be subject to approval by authorized representatives of the COMPANY. The CITY, at the shared expense of said CITY and the STATE and under the supervision of the STATE, shall carry out the inspection of the work performed by the STATE'S contractor, including the mill and shop inspection incidental to the fabrication of the superstructures and the checking of shop plans for the superstructure as will be prepared by the STATE's contractor.

SECTION 5: No changes shall be made on any approved plans, specifications or special provisions by any party hereto without the consent in writing of the other parties. All parties shall have an authorized representative available at all reasonable times to approve such changes.

SECTION 6: The parties hereto shall construct or cause to be constructed, in substantial accordance with the approved plans, specifications and special provisions, the following items of work:

- I. **WORK BY THE STATE:** The STATE shall furnish, or cause to be furnished, all the labor, materials and work equipment required to perform and complete:
 - A. The construction of the new roadway and the grade separation over the tracks; and
 - B. Incidental work necessary to complete the items hereinabove specified.

The STATE'S work shall be awarded to a competent and experienced contractor (or contractors) who has (have) adequate equipment, organization and finances, and the COMPANY shall be notified of the contractor (or contractors) receiving such award for all work affecting the COMPANY's interest.

- II. WORK BY THE COMPANY: The COMPANY shall furnish, or cause to be furnished, and in accordance with the stipulations contained in the Federal Highway Administration's Federal-Aid Policy Guide, Transmittal 1, Subchapter G, Part 646, dated December 9, 1991, and supplements thereto, all the labor, materials and work equipment required to perform and complete:
- A. The preliminary engineering required for the preparation of the plans and estimates as set forth in Section 4.
 - B. The furnishing of flaggers and other personnel as required to protect railway traffic in connection with the work to be performed by the COMPANY and by the STATE's contractor.
 - C. The performance of (1) the office engineering for reviewing the plans, specifications and special provisions prepared by or for the CITY and STATE, as described in Section 4 above, (2) the essential field and construction engineering for carrying out the COMPANY's work as above specified, and (3) the inspection of the erection and construction of the highway overpass structure to the extent as determined by the parties hereto.
 - D. Incidental work necessary to complete the items hereinabove specified.

The COMPANY's work is estimated to cost \$216,000.00, as shown on the detailed estimate marked "Exhibit B", attached hereto and made a part hereof.

III. DIVISION OF EXPENSE: The actual expense as incurred by the COMPANY for work performed as outlined under Section 6, subheading (II), shall be borne 100% by the STATE subject to reimbursement of 80% Federal funds and 10% City funds.

SECTION 7: The COMPANY, for performance of its work as herein specified, may bill the STATE monthly (in sets of two) for its actual expense incurred. The progressive invoices may be rendered on the basis of the estimated percentage of work completed plus allowable additives. The STATE, after verifying with the CITY, that the bills are reasonable and proper, shall promptly reimburse the COMPANY for the amount billed. Payment under this paragraph shall not be claimed for any bill totaling less than \$500.00.

The COMPANY, upon completion of its work, shall promptly render to the STATE a detailed final statement (in sets of two) of its actual expense incurred. After the STATE has checked the final statement and agreed with the COMPANY that the costs are reasonable and properly set up, insofar as they are able to ascertain, the STATE shall then reimburse the COMPANY an amount, less previous payments, if any, equal to 95% of the amount billed. After final inspection of the installation has been made and the STATE has audited the expense as incurred by the COMPANY, the STATE shall reimburse the COMPANY for the retained amounts less the deduction of any item (or items) of expense found as not being eligible for reimbursement.

SECTION 8: Subsequent to the award of any contract (or contracts), and before any work is started on the improvement, a conference shall be held between the representatives of the STATE, the CITY, and the COMPANY, and the interested contractor (or contractors), at a time and place as designated by the STATE, for the purpose of coordinating the work to be performed by the parties, and at which time a schedule of operations will be adopted.

SECTION 9: The STATE shall require its contractor (or contractors), before entering upon the COMPANY's right-of-way for performance of his (or their) construction operations, or work preparatory thereto, to secure a temporary construction easement from the COMPANY for the occupancy and use of the

COMPANY'S right-of-way outside the limits identified in Section 2, and to comply with the COMPANY'S requirements for clearance, operations and general safety regulations.

SECTION 10: The safety and continuity of operation of the traffic of the COMPANY shall be at all times protected and safeguarded, and the STATE shall require its contractor (or contractors) to perform the work accordingly.

At no time shall the contractor's work or equipment be allowed to unduly interfere with or interrupt the COMPANY'S trains or service. The minimum clearances to allow passage of trains, with reference to the COMPANY'S tracks, of any necessary falsework, equipment, bracing or forms as required for the reconstruction of the Ridge Avenue Bridge, shall be not less than,

Vertical - 14 feet 6 inches above top of high rail; and

Lateral - 8 feet 0 inches from centerline of nearest track.

Whenever the work may affect the safety of trains, the method of doing such work shall first be submitted to the COMPANY'S authorized representatives for their approval, without which it shall not be commenced or prosecuted, and such approval shall not be unreasonably withheld. The approval of the COMPANY'S authorized representatives shall not be considered as a release from responsibility, or liability for any damage which the COMPANY may suffer, or for which they may be held liable by the acts of the contractor, or those of his subcontractor, or his or their employees.

SECTION 11: The STATE shall require its contractor (or contractors), upon the completion of the work of such contractor (or contractors), to remove from within the limits of the COMPANY'S right-of-way all machinery, equipment, surplus materials, temporary bridges, falsework, rubbish or temporary buildings of such contractor (or contractors), and to leave the right-of-way upon which the said contractors carried on operations in a neat condition, satisfactory to the authorized representative of the COMPANY.

SECTION 12: The STATE shall require its contractor (or contractors) to perform his (or their) work in accordance with the "Standard Specifications for Road and Bridge Construction", adopted July 1, 1994, and the "Supplemental

Specifications" in effect on the date of invitation for bids. The Railroad Protective Public Liability and Property Damage Liability policy shall have a combined single limit not less than \$2,000,000 per occurrence and a \$6,000,000 minimum aggregate limit naming the COMPANY as the insured and the CITY as additionally insured, and shall be in the form set forth in the Federal Highway Administration's Federal-Aid Policy Guide, Transmittal 1, Subchapter G, Part 646, dated December 9, 1991, and modifications thereto.

The STATE shall require its contractor(s) to indemnify and save harmless the COMPANY and the CITY from and against any and all liability, damages, costs and expenses for loss or damage to any property whatsoever and injury to or death of any persons whomsoever, arising or growing, in whole or in part, out of or in connection with the performance of any of the work on the reconstruction of said viaduct structure. The STATE shall insert the necessary clause or clauses into all contracts and specifications for the project.

SECTION 13: When the construction of this grade separation project is completed, the maintenance and jurisdiction of the completed structure shall be divided between the CITY and COMPANY as follows. The CITY will maintain that portion of the structure deck, sidewalks and parapet handrail located above the substructure (I-beams). The COMPANY shall maintain the remaining portion of the structure such as I-beams, piers, abutments, drainage systems, etc. In the event of railway derailments, accidents or collisions growing out of the operations of the COMPANY, and resulting in damage to the highway overpass structure, the CITY shall make the repairs necessary to restore said structure for which they have maintenance responsibilities substantially to its former condition and the COMPANY agrees to reimburse the CITY for the actual cost of such repairs. Insofar as the maintenance work to be performed by the CITY affects the safety of railroad operations, it shall be subject to approval by the Chief Engineer(s) of the COMPANY, which approval shall not be unreasonably withheld.

If at any time the COMPANY reasonably determines that maintenance work is required on the part of the structure that the CITY is obligated hereby to maintain for the continued safety of railroad operations, the CITY shall, upon

notification by the COMPANY, make, or by agreement with others provide for, the necessary repairs. Repairs will not be deemed necessary if the CITY furnishes documentation that said part of the structure is structurally sound and in compliance with STATE and/or Federal requirements. If the CITY does not proceed promptly with such repairs, and in the opinion of the COMPANY's Chief Engineer(s) they are required for the safety of railroad operations, the COMPANY shall make the repairs necessary to restore the structure substantially to its former condition, and the CITY agrees to reimburse the COMPANY for the actual cost of such repairs.

The CITY shall have no liability of any kind, for interruption of the COMPANY'S operations, or otherwise, to the COMPANY in the event that repairs or maintenance to the aforesaid structure which the CITY is obligated hereunder to perform or which it does perform, require or result in alteration or cessation of the COMPANY'S services or operations.

The CITY agrees to defend, indemnify to the extent "allowed by law" and save harmless the COMPANY, their successors and assigns, from and against any and all liability, loss, cost, damage, expense and claims of every kind and character due to personal injury, wrongful death and property damage, arising directly or indirectly out of or incident to the CITY's obligation to maintain the CITY's portion of the highway overpass structure, the highway approaches thereto, and all other appurtenances of the highway, unless such incident is the result of the COMPANY's negligence.

SECTION 14: The respective portions of the new structure as outlined in Section 13 for maintenance and jurisdiction shall become the property of the CITY and the COMPANY upon its completion. The STATE shall have no ownership interest in the new structure.

SECTION 15: In order to fulfill its maintenance obligation, the CITY shall have access to the overpass structure at all times within the limits of the overpass, for the performance of inspections, repair and maintenance. The COMPANY shall be notified whenever such activities affect their operations. The CITY shall secure permission from the COMPANY for the use and

occupancy of the COMPANY's right-of-way prior to the commencement of any maintenance work. All repair or maintenance work shall be performed in accordance with the applicable STATE's Standard Specifications in effect on the date the work is performed.

SECTION 16: In the event that delays or difficulties arise in acquiring right of entry or in settling damages or damage claims, or for any other cause which in the opinion of the STATE renders it impracticable to proceed with the construction of the project, then at any time before a construction contract is executed or actual construction is started, the STATE may serve formal notice of cancellation upon the CITY and the COMPANY and this Agreement shall thereupon become null and void; excepting prior to the termination of this Agreement the COMPANY shall present a bill to the STATE for the actual expense it has previously incurred in connection with this grade separation project, and after the STATE, has reviewed the bill, a settlement between the parties shall be promptly concluded.

SECTION 17: It is the policy of the U.S. Department of Transportation that minority business enterprises, as defined in 49 Code of Federal Regulations (CFR) Part 23, shall have the maximum opportunity to participate in the performance of agreements financed in whole or in part with Federal funds. Consequently, the minority business enterprises requirements of 49 CFR Part 23 apply to this agreement.

In the event any work is performed by other than COMPANY forces, the COMPANY agrees to ensure that minority business enterprises, as defined in 49 CFR Part 23, have the maximum opportunity to participate in the performance of this agreement. In this regard, the COMPANY shall take all necessary and reasonable steps, in accordance with 49 CFR Part 23, to ensure that minority business enterprises have the maximum opportunity to compete for and perform portions of this agreement. The COMPANY shall not discriminate on the basis of race, color, national origin or sex in the selection and retention of contractors, including procurement of materials and leases of equipment.

The COMPANY shall include this provision in every sub-agreement,

including procurement of materials and leases of equipment.

Failure to carry out the requirements set forth above shall constitute a breach of agreement and may result in termination of the agreement or such remedy as deemed appropriate.

In the event any work is performed by other than COMPANY forces, the requirements of the Prevailing Wage Act approved June 26, 1941, as amended, shall prevail.

SECTION 18: This Agreement shall be binding upon the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the parties have caused these presents to be executed in quadruplicate counterparts, each of which shall be considered as an original, by their proper officers thereunto duly authorized, as of the dates below indicated.

Executed by the CITY, this _____
day of _____, 1994

CITY OF EVANSTON, Acting by
and through its City Council

by _____
City Manager

Executed by the STATE, this _____
day of _____, 1994

STATE OF ILLINOIS, Department
of Transportation

by _____
Director of Highways

Executed by the COMPANY, this _____
day of _____, 1994

CHICAGO TRANSIT AUTHORITY,

by _____
Chairman, Chicago Transit Board

Attest:

Secretary

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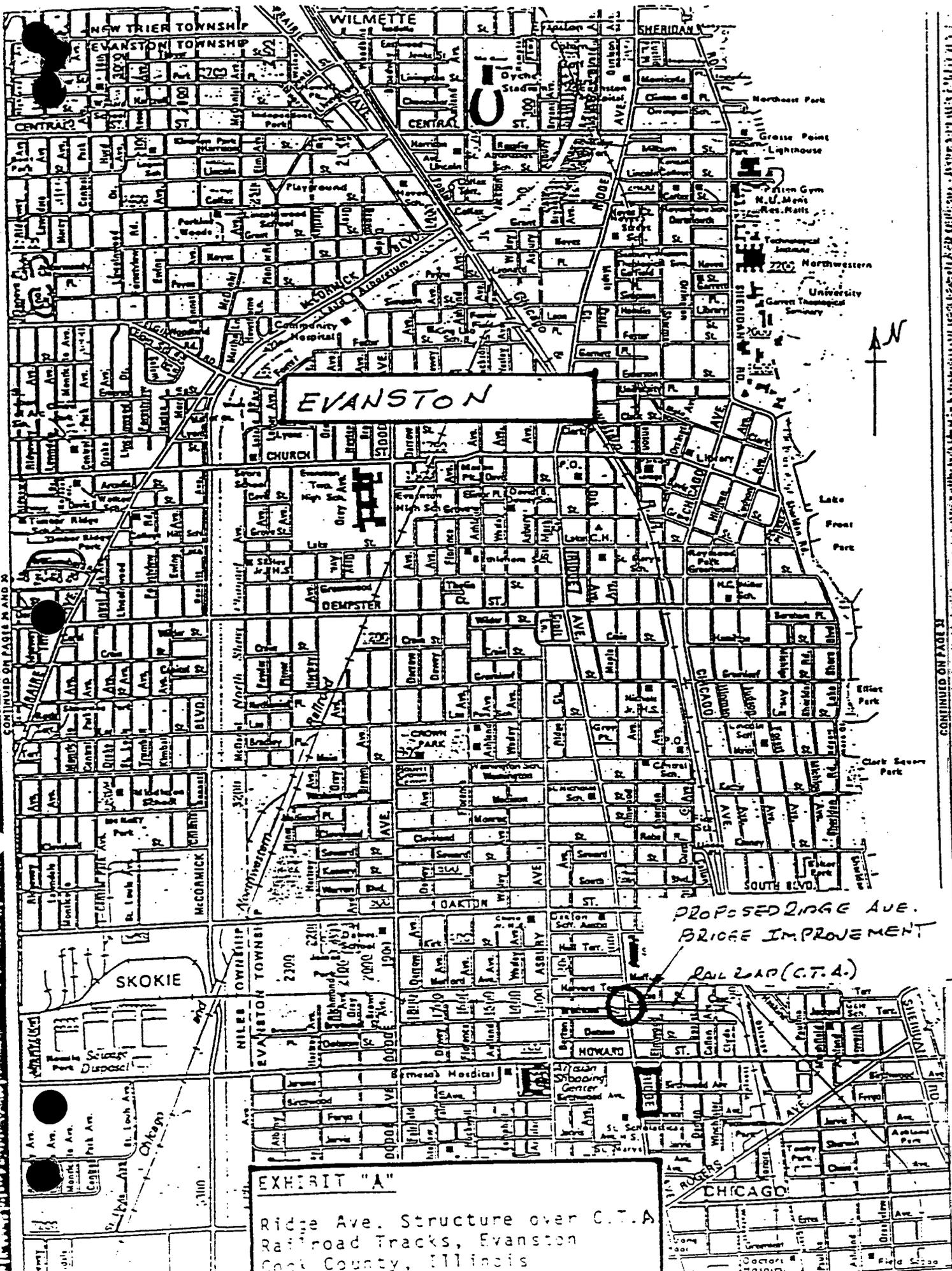


EXHIBIT "A"
 Ridge Ave. Structure over C.T.A.
 Railroad Tracks, Evanston
 Cook County, Illinois

CONTINUED ON PAGE 2

CONTINUED ON PAGE 3

EXHIBIT "B"

ESTIMATE OF COST FOR CTA FORCE WORK TO BE PROVIDED FOR THE RIDGE
AVENUE BRIDGE IMPROVEMENT:

The following personnel and work items are anticipated. Some of this work will be performed on an overtime basis at time and half or double time premium rates. The current fringe benefit rate is 53.2% of direct labor. In any case, only actual costs plus allowable Administrative/Accounting costs (20% contemplated for estimating purposes only) will be billed.

(1) Engineering Design/Construction Review & Coordination	\$9,000
(2) Construction Inspector/Liaison	\$41,000
(3) Flagging	\$82,000
(4) Cable Relocation	\$36,000
(5) Track Displacement/Settlement Survey	\$4,000
(6) Track Restoration	\$24,000
(7) Miscellaneous and Contingency	\$20,000
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TOTAL	\$216,000