

10/4/2004

**52-R-04**

**A RESOLUTION**

**Authorizing the Interim City Manager to Sign an  
Intergovernmental Agreement with the Illinois Department of  
Transportation and the Chicago Transit Authority  
for the Reconstruction of the Asbury Avenue Bridge**

**WHEREAS**, Asbury Avenue (FAU Route 3732) is located in Evanston, Cook County, Illinois, and as a two-lane highway extends over the main tracks and across the right-of-way of the Chicago Transit Authority ("Authority"), by means of an existing overpass structure located approximately one thousand (1,000) feet north of the intersection of the centerline of Howard Street and the centerline of Asbury Avenue; and

**WHEREAS**, the present northbound and southbound highway traffic is carried over the tracks by a structure built in 1924; and

**WHEREAS**, the Illinois Department of Transportation ("State's") current improvement program contemplates the replacement of the two-lane highway bridge at this location, as afforded by 1) removing the 1924 structure, and 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 and made a part hereof; and

**WHEREAS**, the State, the City of Evanston ("City"), and the Authority propose to construct a new overpass structure and approaches along

Asbury Avenue spanning the railroad tracks, said improvements to be designated as City Section 00-00215-00-BR, State Job Number C-91-416-99, and Federal Aid Project No. BHM-7003-(801); and

**WHEREAS**, the State, the City and the Authority will enter into a separate agreement relative to the letting and awarding of the construction contract by the State, the construction inspection by the City under the supervision of the State, and the funding of the aforementioned project, including the costs incurred by the Authority; and

**WHEREAS**, in conjunction with the aforementioned project the Authority will be required to make certain adjustments to its signal and communication facilities and other appurtenances and furnish flaggers and other personnel as required to protect its equipment, employees and passengers during construction and;

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

**WHEREAS**, the City Council has determined it is in the best interest of the City to approve said Intergovernmental Agreement;

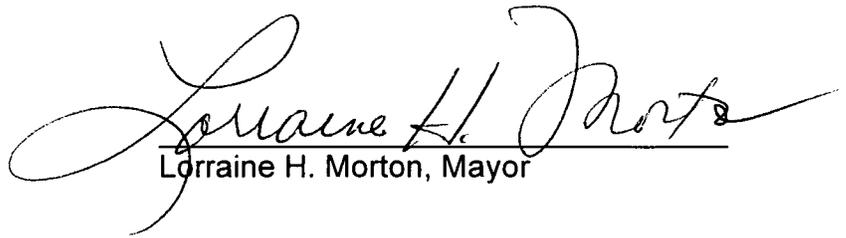
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** That the Interim City Manager is hereby authorized to sign and the City Clerk hereby authorized to attest to the Intergovernmental

Agreement with the Illinois Department of Transportation and the Chicago Transit Authority for the Reconstruction of the Asbury Avenue Bridge, attached as "Exhibit 1".

**SECTION 2:** That the Interim City Manager is hereby authorized and directed to negotiate any additional conditions of the Intergovernmental Agreement as may be determined to be in the best interests of the City.

**SECTION 3:** That this Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

  
Lorraine H. Morton, Mayor

Attest:

  
Mary P. Morris, City Clerk

Adopted: October 11, 2004

STATE OF ILLINOIS  
DEPARTMENT OF TRANSPORTATION  
AGREEMENT FOR  
RAILWAY-HIGHWAY GRADE SEPARATION IMPROVEMENT  
PROJECT: No. BHM-7003 (801);

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

WITNESSETH:

WHEREAS, Asbury Avenue (FAU Route 3732) is located in Evanston, Cook County, Illinois, and as a two-lane highway extends over the main tracks and across the right-of-way of the AUTHORITY, by means of an existing overpass structure located approximately 1,000 feet north of the intersection of the centerline of Howard Street and the centerline of Asbury Avenue; and

WHEREAS, the present northbound and southbound highway traffic is carried over the tracks by a structure built in 1924; and

WHEREAS, the STATE'S current improvement program contemplates the replacement of the two-lane highway bridge at this location, as afforded by 1) removing the 1924 structure, and 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 B," attached and made a part hereof; and

WHEREAS, the STATE, the CITY, and the AUTHORITY propose to construct a new overpass structure and approaches along Asbury Avenue spanning the railroad tracks, said improvements to be designated as CITY Section 00-00215-00-BR, STATE Job Number C-91-416-99, Federal Aid Project No. BHM-7003- (801); and

WHEREAS, the STATE and the CITY will enter into a separate agreement relative to the letting and awarding of the construction contract by the STATE, the construction inspection by the CITY under the supervision of the STATE, and the funding of the aforementioned project, including the costs incurred by the AUTHORITY; and

WHEREAS, in conjunction with the aforementioned project the AUTHORITY will be required to make certain adjustments to its signal and communication facilities and other appurtenances and furnish flaggers and other personnel as required to protect its equipment, employees and passengers during construction and;

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

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 AUTHORITY 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: The AUTHORITY hereby grants, to the STATE and the CITY a temporary construction access easement to its right-of-way for the demolition and construction of the Asbury Avenue Bridge (see Exhibit A, attached). The demolition and construction work must not affect the AUTHORITY'S operations. This temporary grant is subject to all conditions stated in Sections 10,11 and 12 of this agreement. This temporary grant shall expire at the earlier of: 1) the completion of the bridge or 2) three (3) years from the date of this agreement. This grant is made without warranty of title.

SECTION 3: The CITY shall certify that it has complied with Titles II and III of the Federal Uniform Relocation Assistance and Real Estate Property Acquisition Act when acquiring any property or property interest needed to complete the proposed construction. This includes property acquired by donation. The CITY shall certify that it has complied with this federal law before this project is approved for letting.

SECTION 4: The CITY shall secure or cause to be secured, without expense to the AUTHORITY, all the properties required for or incidental to the construction of the Asbury Avenue structure.

SECTION 5: The plans and estimates of cost for construction-related activities on the AUTHORITY'S right-of-way, necessitated by the proposed improvements, shall be prepared for the AUTHORITY by the CITY at the expense of the STATE and CITY. All such plans and estimates shall be subject to review and acceptance by authorized representatives of the STATE, the CITY and the AUTHORITY. The STATE shall require its contractor to indemnify and hold harmless the AUTHORITY, its successors and assigns, from and against any and all liability, loss, 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 development and preparation of the plans and estimates.

The STATE shall require its contractor to indemnify and hold harmless the AUTHORITY, from and against 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 part, out of or in connection with the performance of any of the work on the reconstruction of said bridge structure.

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 for the STATE, CITY and AUTHORITY by the CITY'S Consulting Engineer, and all such plans, specifications, and special provisions as will affect the AUTHORITY'S interest shall be subject to approval by

authorized representative of the AUTHORITY. 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 checking of shop plans for the superstructure as will be prepared by the STATE's contractor. The STATE will perform mill and shop inspection incident to the fabrication of the superstructure.

SECTION 6: 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 7: 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 AUTHORITY shall be notified of the contractor (or contractors) receiving such award for all work affecting the AUTHORITY'S interest.

- II. WORK BY THE AUTHORITY: The AUTHORITY 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 5.
  - B. The furnishing of flaggers and other personnel as required to protect railway traffic in connection with the work to be performed by the AUTHORITY 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 5 above, to the extent such plans, specifications and special provisions affect the AUTHORITY'S interests; (2) the essential field and construction engineering for carrying out the AUTHORITY's work as above specified, and (3) the inspection of the erection and construction of the highway overpass structure to the extent such erection and construction affects the AUTHORITY'S interests. The STATE and the CITY shall indemnify and hold harmless the AUTHORITY 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 AUTHORITY'S inspection activities.

D. Incidental work necessary to complete the items hereinabove specified.

The AUTHORITY'S work is estimated to cost \$284,100, as shown on the detailed estimate marked "Exhibit A", attached hereto and made a part hereof.

III. DIVISION OF EXPENSE: The actual expenses incurred by the AUTHORITY for work performed as outlined under Section 7, subheading (II), shall be paid for 100% by the STATE.

SECTION 8: The AUTHORITY, 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 AUTHORITY for 95% of the amount billed. Payment under this paragraph shall not be claimed for any bill totaling less than \$500.00.

The AUTHORITY, 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 AUTHORITY that the costs are reasonable and properly set up, insofar as they are able to ascertain, the STATE shall then reimburse the AUTHORITY 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 AUTHORITY, the STATE shall reimburse the AUTHORITY for the retained amounts less the deduction of any item (or items) of expense found as not being eligible for reimbursement.

SECTION 9: 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 AUTHORITY, and the interested contractor (or contractors), at a time and place as designated by the CITY, 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 10: The work must not affect the AUTHORITY'S operations. The safety and continuity of operation of the traffic of the AUTHORITY shall be at all times protected and safeguarded, and the STATE shall require its contractor (or contractors) to perform the work accordingly. Whenever the work may affect the safety of trains, the method of doing such work shall first be submitted to the AUTHORITY'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 AUTHORITY'S authorized representatives shall not be considered as a release from responsibility, or liability for any damage which the AUTHORITY 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 AUTHORITY'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 AUTHORITY.

SECTION 12: The STATE shall require its contractor (or contractors) to perform its (or their) work in accordance with the "Standard Specifications for Road and Bridge Construction," adopted January 1, 2002, 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 \$6,000,000 aggregate, naming AUTHORITY as the 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 including Amendment GL-00-30-03-83.

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 AUTHORITY as follows. The CITY shall maintain that portion of the completed structure located above the superstructure (I-Beams), including, without limiting the generality of the foregoing, the structure deck, sidewalks, parapet handrails, drainage systems, utility ducts, water pipes, lighting fixtures and lighting electric cables and wires. The AUTHORITY shall maintain the portion of the completed structure below the bridge deck, including without limiting the generality of the foregoing, the superstructure (I-Beams) and abutments. The maintenance responsibility of the AUTHORITY for the structure shall not extend north beyond the north abutment or south beyond the south abutment. In the event of railway derailments, accidents or collisions growing out of the operations of the AUTHORITY, 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. 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 AUTHORITY, which approval shall not be unreasonably withheld.

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

The CITY shall have no liability of any kind, for interruption of the AUTHORITY'S operations, or otherwise, to the AUTHORITY 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 AUTHORITY'S services or operations.

The CITY agrees to defend, indemnify to the extent allowed by law and save harmless the AUTHORITY, 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 AUTHORITY's negligence.

SECTION 14: The entire new structure shall be the property of the CITY and AUTHORITY upon its completion as outlined in Section 13.

SECTION 15: In order to fulfill its maintenance obligation, the CITY shall have access to the overpass structure at all times within the area for which property rights have been acquired, for the performance of inspections, repair and maintenance. The CITY shall notify the AUTHORITY whenever such activities affect the AUTHORITY'S operations and shall secure the AUTHORITY's permission prior to the commencement of inspection, repair and maintenance work. The CITY shall secure permission from the AUTHORITY for the use and occupancy of the AUTHORITY'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: Construction-related activities on the AUTHORITY'S right-of-way shall begin on the \_\_\_\_ day of \_\_\_\_\_, 2005 and shall be conducted between the hours of 7:00 AM and 3:00 PM on weekends only, or at other times as agreed upon by the parties.

SECTION 17: In compliance with the Federal-Aid Highway Program Manual, Volume 6, Chapter 6, Section 2.1 Subsection 1 dated April 25<sup>th</sup> 1975, the railroad work as herein contemplated is of no benefit to the AUTHORITY and requires no contribution from the AUTHORITY.

SECTION 18: It is the policy of the U.S. Department of Transportation that disadvantaged business enterprises, as defined in 49 Code of Federal Regulations (CFR) Part 26, shall have the maximum opportunity to participate in the performance of agreements financed in whole or in part with Federal funds. Consequently, the disadvantaged business enterprise requirements of 49 CFR Part 26 apply to this agreement.

In the event any work is performed by other than AUTHORITY forces, the AUTHORITY agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 26, have maximum opportunity to participate in the performance of this agreement. In this regard, the AUTHORITY shall take necessary and reasonable steps, in accordance with 49 CFR Part 26, to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform

portions of this agreement. The AUTHORITY 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 AUTHORITY 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 AUTHORITY forces, the requirements of the Prevailing Wage Act approved June 26, 1941, as amended, shall prevail.

SECTION 19: 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 seven 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 STATE OF ILLINOIS, Department of Transportation, this

Day of \_\_\_\_\_, 2004

By \_\_\_\_\_  
Director of Highways

Executed by the CHICAGO TRANSIT AUTHORITY,

this \_\_\_\_\_ Day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
Chairman, Chicago Transit Board

Attest:

\_\_\_\_\_  
Secretary

Executed by the CITY OF EVANSTON,  
Acting by and through its City Council,

this \_\_\_\_\_ Day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
City Manager

EXHIBIT A

**LEGAL DESCRIPTIONS OF TEMPORARY ACCESS AREAS**

PARCEL 0.80A

That part of Lot Seven (7) in Block Three (3) in Evanston Heights, being a subdivision in the North West Quarter of Section 30, Township 41 North, Range 14, East of the Third Principal Meridian, lying West of a line parallel with and ninety (90.00) feet East of the centerline of Asbury Avenue.

PARCEL 0.801A

That part of Lot Eight (8) in Block Three (3) in Evanston Heights in the North West Quarter of Section 30, Township 41 North, Range 14, East of the Third Principal Meridian, lying West of a line parallel with and ninety (90) feet East of the centerline of Asbury Avenue.

ALSO

That part of the North one-sixth (N.1/6) of Lot Thirteen (13) in County Clerk's Division of unsubdivided lands in the North West Quarter of Section 30, Township 41 North, Range 14, East of the Third Principal Meridian, lying West of a line parallel with and ninety (90.00) feet East of the centerline of Asbury Avenue.

PARCEL 0.91A

That part of the South Half of the North East Quarter of Section 25, Township 41 North, Range 13, East of the Third Principal Meridian, described as follows: Commencing on the East line of said Section, four hundred twenty-five and seven-tenths (425.7) feet South of the North East corner of the South Half of the North East Quarter of Section 25 aforesaid; thence West ninety (90.00) feet; thence North one hundred thirty-two (132) feet; thence East ninety (90.00) feet to the East line of said Section, thence South one hundred thirty-two (132) feet to the point of beginning in Cook County, Illinois.

PARCEL 0.915A

That part of Lots 1 and 2 in the First addition to Arthur Dunas Howard Avenue being a Subdivision of part of the South Half of the North East Quarter of Section 25, Township 41, Range 13, East of the Third Principal Meridian Recorded October 2, 1923 as Document 8122208, lying East of a line parallel with and ninety (90.00) feet West of the centerline of Asbury Avenue.

EXHIBIT B

Survey of Construction Area

## EXHIBIT C

Estimate of cost for CTA Force Account work to be provided for the Asbury Avenue Bridge over the CTA Yellow Line

The following personnel and work items are anticipated. Some of this work will be performed on an overtime basis at time and a half or double time premium rates. The current fringe benefit rate is 45% of direct labor. In any case, only the actual costs plus allowable administration/accounting costs (36.4% currently) will be billed.

1) Flagging	\$44,000
2) Engineering (Review and Approval)	\$10,000
3) Construction Inspection (1 Inspector)	\$24,000
4) Facilities (Track, Phone, Signals)	\$36,000
(Safety, Real Estate, Law)	<u>\$36,000</u>
Subtotal – Labor	\$150,000
Fringe Benefits(45%)	\$67,500
Overhead (36.4%)	<u>\$54,600</u>
<b>Total Estimated Labor Cost</b>	<b>\$272,100</b>
5) Material/Other (Slow Zone Set)	<u>\$12,000</u>
<b>TOTAL ESTIMATED FORCE ACCOUNT COST</b>	<b>\$284,100</b>

Rev. 10/01/04