



City of Chicago



O2018-8400

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 10/31/2018

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Authorization for Chicago Department of Transportation to acquire property from Iowa Pacific Holdings LLC, (Chicago Terminal Railroad Co.) and others, within the North Branch Industrial Corridor Framework Plan for trails and transit

Committee(s) Assignment: Committee on Housing and Real Estate



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

October 31, 2018

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Transportation, I transmit herewith an ordinance authorizing an acquisition of property for a North Branch Industrial Corridor transitway and trail.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule municipality pursuant to Article VII, Section 6 (a) of the 1970 constitution of the State of Illinois and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, on May 18, 2017, the Chicago Plan Commission adopted the North Branch Industrial Corridor Framework Plan, the result of a year-long intensive planning effort, informed by widespread public input, addressing land use issues arising in the North Branch Corridor ("North Branch Framework Plan"); and

WHEREAS, Chicago Terminal Railroad Company ("Chicago Terminal"), which is owned by Iowa Pacific Holdings, LLC ("Iowa Pacific") owns or has certain interests in a line of railroad originating at Union Pacific's North Avenue Yard and proceeding east and south to Goose Island as depicted on **Exhibit A** which is attached hereto and incorporated herein, and certain extensions thereof ("Line"); and

WHEREAS, the Line runs through the area addressed in the North Branch Framework Plan; and

WHEREAS, based on the recommendations and vision for redevelopment articulated in the North Branch Framework Plan, the City's Department of Planning and Development ("DPD") and Department of Transportation ("CDOT") have jointly considered preliminary concepts for the transformation of a portion of the Line into a multipurpose trail and/or transit corridor that would provide numerous public benefits including the extension of the 606 Trail and the North Branch River Trail as outlined in the North Branch Framework Plan ("Potential Projects"); and

WHEREAS, on October 11, 2017, Alloy Property Company LLC ("Alloy") filed a petition with the Surface Transportation Board ("STB") to have a portion of the Line declared abandoned and seeking the release of all railroad rights of way running through its property as well as other rights of way which would be cut off from rail connections by such ("Abandonment Proceeding"); and

WHEREAS, based on the recommendation in the North Branch Framework Plan that freight railroad operations be eliminated, the City filed a letter in support of the termination of railroad operations in the Abandonment Proceeding; and

WHEREAS, DPD and CDOT have proposed a "rails to trails" conversion of a portion of the Line pursuant to the National Trails Systems Act, 16 U.S.C. § 1247(d) ("Trails Act"); and

WHEREAS, on February 14, 2018, the City filed a Request for Interim Trail Use to utilize a portion of the Line for interim trail use in accordance with the Trails Act; and

WHEREAS, on April 30, 2018, the STB issued a Certificate of Interim Trail Use for the Line, which invites Chicago Terminal and Iowa Pacific to negotiate with the City as a potential trail sponsor to enter into a Trail Use Agreement; and

WHEREAS, Alloy, Chicago Terminal, Iowa Pacific, DPD and CDOT have negotiated proposed terms and conditions for a settlement of the Abandonment Proceeding that would result in the development and use of a portion of the Line for the Trail ("Trail"); and

WHEREAS, the City Council of the City finds that it is useful, desirable and necessary for the City to acquire property interests in the Line substantially described in **Exhibit B** which is attached hereto and incorporated herein ("Property Interests"), for public purposes, including the development and construction of Potential Projects, and for City to enter into various agreements between and among Chicago Terminal, Iowa Pacific and Alloy; **now, therefore**,

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

SECTION 1. The above recitals, findings and statements of fact are expressly incorporated in and made part of this ordinance as though fully set forth herein.

SECTION 2. The Commissioner of the Department of Transportation or a designee of such Commissioner (together, the "Transportation Commissioner") is authorized to accept one or more conveyance of the Property Interests, and enter into an Interim Trail Use Agreement, an Alloy Segment Agreement and such agreements and instruments as may be necessary or desirable in order to effectuate the conveyance of the Property Interests to the City, with parties identified and on terms and conditions substantially described in **Exhibit C** which is attached hereto and incorporated herein, all subject to the approval of the Commissioner of the Department of Planning and Development, or a designee of such Commissioner (together, the "Planning Commissioner"), and all subject to the approval of the Corporation Counsel as to form and legality.

SECTION 3. The Transportation Commissioner is hereby authorized to terminate such rights previously granted to Chicago Terminal, Iowa Pacific, or their respective predecessors in interest, to use the public ways of the City for the Line or any extension thereof as necessary or appropriate for the Potential Projects or for the agreements or instruments described in Exhibit C, subject to the approval of the Corporation Counsel as to form and legality. The Transportation Commissioner is hereby authorized to execute such documents, filings and/or agreements as may be necessary or appropriate to implement the provisions of this ordinance, including those assuming regulatory obligations, entering into transactions or terminating public way rights, subject to the approval of the Planning Commissioner and subject to the approval of the Corporation Counsel as to form and legality:

SECTION 4. The Corporation Counsel is hereby authorized to negotiate, on behalf of the City, with any owner of any Property Interest that is not owned or held by Chicago Terminal, Iowa Pacific or Alloy ("Other Owner") for the acquisition of such Other Owner's Property Interest, or portion thereof, for purposes of completing the Potential Projects or other projects duly authorized by the City Council. If the Corporation Counsel is able to agree with the Other Owner upon the price to be paid for such Other Owner's Property Interest, then the Corporation Counsel is authorized to purchase the Other Owner's Property Interest, in the name of and on behalf of the City of Chicago for the agreed purchase price, provided that such purchase price shall be paid out of any funds of the City that are legally available for an authorized Potential Project or other projects duly authorized by the City Council ("Available Funds").

SECTION 5. If the Corporation Counsel is unable to agree with any Other Owner as to the purchase price for such Property Interest, or if the Other Owner is unable to convey clear title to their Property Interest, or if an Other Owner cannot be found, then the Corporation Counsel may institute and prosecute condemnation proceedings in the name of and on behalf of the City for the purpose of acquiring such Other Owner's Property Interest under the City's power of eminent domain with compensation payable from Available Funds.

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. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 8. This ordinance shall be in full force and effect immediately upon its passage and approval.

Attachments:

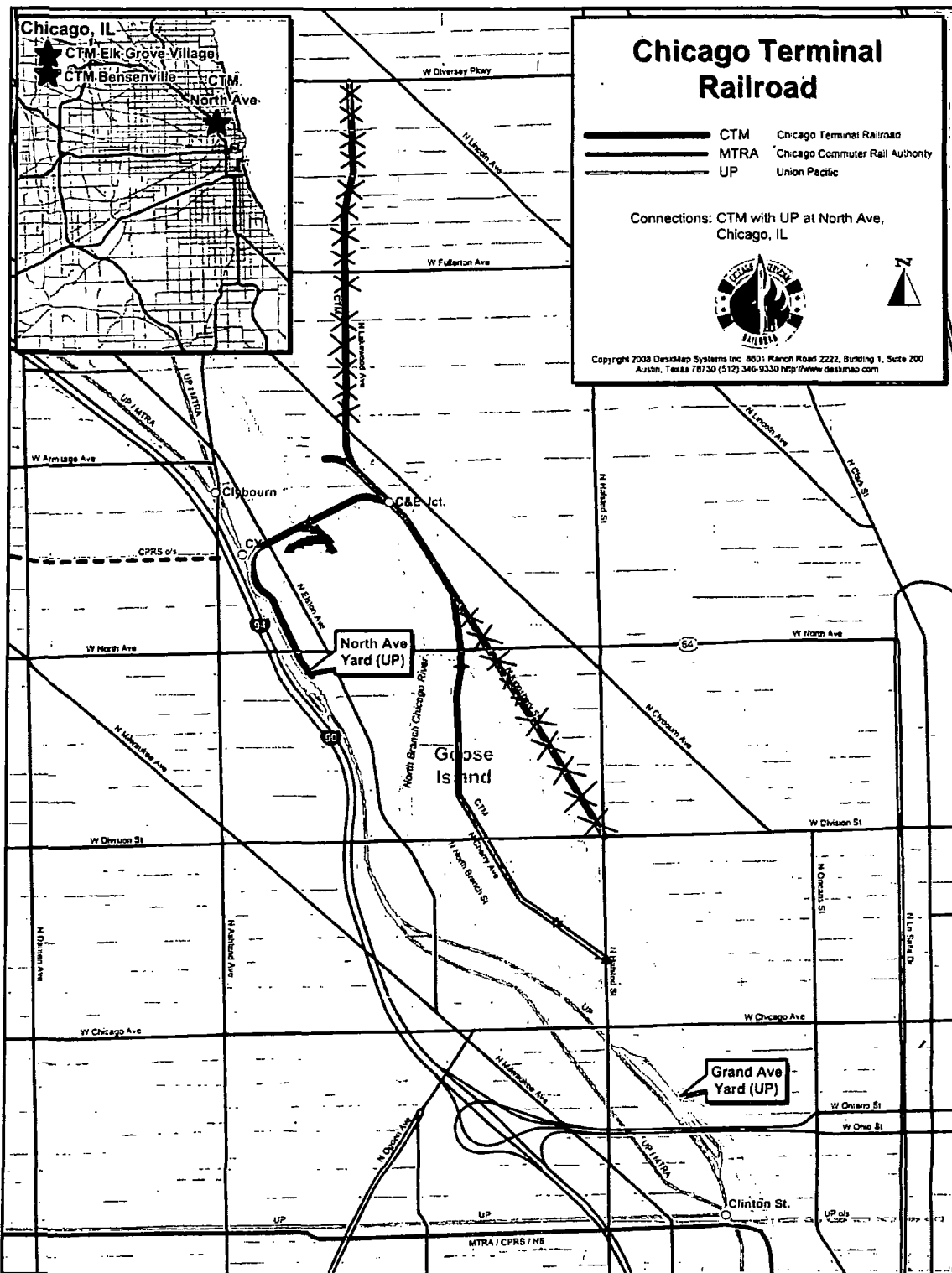
Exhibit A – Line Map

Exhibit B – Property Interests

Exhibit C – Terms and Conditions – Interim Trail Use Agreement, Alloy Segment Agreement, and Property Conveyance Transactions

EXHIBIT A

Line Map



Tracks crossed out with black Xs were abandoned in AB 1036 (June 15, 2010)

- ◆ Cherry Avenue Bridge
- ◆ Swing Bridge

- △ Tracks have been removed
- ☆ Stop sign in middle of tracks

* This map of the Line was created from the system map that CTR has published on its website at <http://www.iowapacific.com/wp-content/uploads/2016/02/ChicagoTerminalRailroadNorthAveArea.pdf>. The map is for demonstrative purposes only and some details have been omitted.

EXHIBIT B

Property Interests

Any right, title or interest in or to the Line, including the rights of Chicago Terminal, Iowa Pacific, any other railroad owning or operating any portion of the Line, or any Other Owner.

EXHIBIT C

TERMS AND CONDITIONS

Interim Trail Use Agreement (City, Chicago Terminal and/or Iowa Pacific)

1. Management, Operation, and Maintenance - As required by the Trails Act, City will assume full responsibility for the management, operation and maintenance of the applicable portion of the Line for a Trail.
2. Indemnity – As required by the Trails Act, City will assume full responsibility for any legal liability arising out of the transfer or use of such portion of the Line, including indemnifying and holding Iowa Pacific and Chicago Terminal harmless.
3. Taxes – As required by the Trails Act, City will assume full responsibility for payment of any taxes that may be levied or assessed against such portion of the Line or the Trail.
4. Reactivation of Rail Service - As required by the Trails Act, the City's acknowledgement that its use, operation and maintenance of the Line by the City for a Trail subject to the trail sponsor's responsibilities under applicable law, and subject to possible future reconstruction and reactivation of the Line for rail service.
5. Successors and Assigns – This agreement shall apply to successors and assigns of the parties.

Alloy Segment Agreement (City and Alloy)

1. Cooperation on Trail Relocation - Upon request by Alloy and consistent with the Trails Act, City will cooperate with Alloy on the relocation of rail easements and the Trail which are on the Alloy property to conform with the approved planned development ordinance for the Alloy property as amended from time to time ("Planned Development").
2. Disposition of Rail Infrastructure - City and Alloy will execute such documents as are necessary or appropriate to address the disposition of the railroad facilities and other improvements to the Line within the Alloy property as agreed by City and Alloy.
3. Swing Bridge – City may convey to Alloy the Swing Bridge that serves the Line and crosses over the Chicago River but only upon satisfaction of certain conditions deemed necessary and appropriate by the Commissioner, which may include Alloy providing a replacement structure for the Trail to cross the Chicago River, Alloy conveying to City such access and other rights necessary or appropriate for City to comply with the Trails Act, and Alloy's guarantee or satisfaction of other legal obligations, including historical preservation obligations concerning the Swing Bridge.
3. Future Trail Improvements - Subject to approval by the City, Alloy will construct, install, maintain, repair, and replace Trail improvements within the Alloy property in compliance with the Planned Development and other applicable obligations.
4. Termination– Upon substitution of other right of way and facilities for the trail purposes in accordance with the Planned Development, and upon full abandonment of the railroad

operations in the Line pursuant to STB order, the City shall release the railroad easements within the Alloy property and/or terminate the Trail within the Alloy property.

5. Compliance - City and Alloy will agree to comply at all times with all applicable law, including the Trails Act and any Notice or Certificate of Interim Trail Use applicable to the Line.

Property Conveyance Transactions (City and one or more of the following: Chicago Terminal, Iowa Pacific, Alloy)

1. Compensation - City shall not be responsible for the payment of any monetary compensation to Chicago Terminal, Iowa Pacific or Alloy for the conveyance of any Property Interests.

2. STB Approvals and Compliance – Parties shall cooperate in filing for necessary approvals from STB and in complying with all applicable orders of the STB, for the transfer of the Property Interests to City, together with all associated railroad and other improvements.

3. Title – Title in and to the Property Interests shall be subject to the approval of the Corporation Counsel.

4. Representations and Warranties – Parties shall make such commercially reasonable representations and warranties as agreed by the Parties, subject to the approval of the Corporation Counsel as to form and legality.

5. Termination of Public Way Uses – As authorized by this Ordinance, Commissioner of Transportation may terminate such rights previously granted to Chicago Terminal, Iowa Pacific, or their respective predecessors in interest, to use the public ways of the City for the Line or any extension thereof as necessary or appropriate for the Potential Projects including the Trail, and will acknowledge such termination of all such public way uses.

6. Salvage - Parties will acknowledge and waive all salvage rights in track and other railroad improvements in or on the Line, as agreed by the parties.

7. Continuing Cooperation – Parties, shall agree to cooperate in implementing all other aspects of the settlement of the STB proceeding.