

**BRIDGE REHABILITATION OVER RAILROAD
EAST AVENUE, OAK PARK AVENUE & HOME AVENUE
IN VICINITY OF RAILROAD MILEPOSTS DC-35.28 / 35.55 / 35.84
LOUISVILLE ZONE, ALTENHEIM SUBDIVISION
OAK PARK, COOK COUNTY, ILLINOIS
COMPANY OP NUMBER IL0520**

CONSTRUCTION AGREEMENT

This Construction Agreement (“**Agreement**”) is made as of _____, 201__, by and between THE BALTIMORE & OHIO CHICAGO TERMINAL RAILROAD COMPANY, an Illinois corporation with its principal place of business in Jacksonville, Florida (“**B&OCT**”), and the **VILLAGE OF OAK PARK**, a body corporate and political subdivision of the State of Illinois (“**Agency**”).

EXPLANATORY STATEMENT

1. Agency has proposed to construct, or to cause to be constructed, rehabilitation of the East Avenue (DOT# 163 532D, Milepost DC-35.28), Oak Park Avenue (DOT# 163 533K, Milepost DC-35.55) and Home Avenue (DOT# 163 534S, Milepost DC-35.84) bridges over B&OCT’s track and right-of-way, all located upon B&OCT’s Altenheim Subdivision of its Louisville Zone in Oak Park, Cook County, Illinois (the “**Project**”).
2. Agency has obtained, or will obtain, all authorizations, permits and approvals from all local, state and federal agencies (including Agency), and their respective governing bodies and regulatory agencies, necessary to proceed with the Project and to appropriate all funds necessary to construct the Project.
3. Agency acknowledges that: (i) by entering into this Agreement, B&OCT (or its affiliates) will provide services and accommodations to promote public interest in this Project, without profit or other economic inducement typical of other Agency contractors; (ii) neither B&OCT nor its affiliates (including their respective directors, officers, employees or agents) will incur any costs, expenses, losses or liabilities in excess of payments made to B&OCT, by or on behalf of Agency or its contractors, pursuant to this Agreement; and (iii) B&OCT and its affiliates retain the paramount right to regulate all activities affecting B&OCT’s property and operations.
4. It is the purpose of this Agreement to provide for the terms and conditions upon which the Project may proceed.

NOW, THEREFORE, in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. **Project Plans and Specifications**

- 1.1 **Preparation and Approval.** Pursuant to Exhibit A of this Agreement, all plans, specifications, drawings and other documents necessary or appropriate to the design and construction of the Project shall be prepared, at Agency’s sole cost and expense, by Agency or B&OCT or their respective contractors. Project plans, specifications and drawings prepared by or on behalf of Agency shall be subject, at B&OCT’s election, to the review and approval of B&OCT. Such plans, specifications and drawings, as prepared or approved by B&OCT, are referred to as the “**Plans**”, and shall be incorporated and deemed a part of this Agreement. Plans prepared or

submitted to and approved by B&OCT as of the date of this Agreement are set forth in Exhibit B to this Agreement.

1.2 Effect of B&OCT Approval or Preparation of Plans. By its review, approval or preparation of Plans pursuant to this Agreement, B&OCT signifies only that such Plans and improvements constructed in accordance with such Plans satisfy B&OCT's requirements. B&OCT expressly disclaims all other representations and warranties in connection with the Plans, including, but not limited to, the integrity, suitability or fitness for the purposes of Agency or any other persons of the Plans or improvements constructed in accordance with the Plans.

1.3 Compliance with Plans. The Project shall be constructed in accordance with the Plans.

2. Allocation and Conduct of Work

Work in connection with the Project shall be allocated and conducted as follows:

2.1 B&OCT Work. Subject to timely payment of Reimbursable Expenses as provided by Section 4, B&OCT shall provide, or cause to be provided, the services as set forth by Exhibit A to this Agreement. Agency agrees that B&OCT shall provide all services that B&OCT deems necessary or appropriate (whether or not specified by Exhibit A) to preserve and maintain its property and operations, without impairment or exposure to liability of any kind and in compliance with all applicable federal, state and local regulations and B&OCT's contractual obligations, including, but not limited to, B&OCT's existing or proposed third party agreements and collective bargaining agreements.

2.2 Agency Work. Agency shall perform, or cause to be performed, all work as set forth by Exhibit A, at Agency's sole cost and expense.

2.3 Conduct of Work. B&OCT shall commence its work under this Agreement following: (i) delivery to B&OCT of a notice to proceed from Agency; (ii) payment of Reimbursable Expenses (as provided by Section 4.1) as required by B&OCT prior to the commencement of work by B&OCT; (iii) issuance of all permits, approvals and authorizations necessary or appropriate for such work; and (iv) delivery of proof of insurance acceptable to B&OCT, as required by Section 9. The initiation of any services by B&OCT or its affiliates pursuant to this Agreement, including, but not limited to, the issuance of purchase orders or bids for materials or services, shall constitute commencement of work for the purposes of this Section. The parties intend that all work by B&OCT or on B&OCT property shall conclude no later than **December 31, 2019**, unless the parties mutually agree to extend such date.

3. Special Provisions. Agency shall observe and abide by, and shall require its contractors ("Contractors") to observe and abide by the terms, conditions and provisions set forth in Exhibit C to this Agreement (the "Special Provisions"). To the extent that Agency performs Project work itself, Agency shall be deemed a Contractor for purposes of this Agreement. Agency further agrees that, prior to the commencement of Project work by any third party Contractor, such Contractor shall execute and deliver to B&OCT Schedule I to this Agreement to acknowledge Contractor's agreement to observe and abide by the terms and conditions of this Agreement.

4. Cost of Project and Reimbursement Procedures

- 4.1 Reimbursable Expenses. Agency shall reimburse B&OCT for all costs and expenses incurred by B&OCT in connection with the Project, including, without limitation: (1) all out of pocket expenses, (2) travel and lodging expenses, (3) telephone, facsimile, and mailing expenses, (4) costs for equipment, tools, materials and supplies, (5) sums paid to B&OCT's consultants and subcontractors, and (6) labor in connection with the Project, together with labor overhead percentages established by B&OCT's affiliate pursuant to applicable law (collectively, "**Reimbursable Expenses**"). Reimbursable Expenses shall also include expenses incurred by B&OCT prior to the date of this Agreement to the extent identified by the Estimate provided pursuant to Section 4.2.
- 4.2 Estimate. B&OCT has estimated the total Reimbursable Expenses for the Project as shown on Exhibit D (the "**Estimate**", as amended or revised). In the event B&OCT anticipates that actual Reimbursable Expenses for the Project may exceed such Estimate, it shall provide Agency with the revised Estimate of the total Reimbursable Expenses, together with a revised Payment Schedule (as defined by Section 4.3.1), for Agency's approval and confirmation that sufficient funds have been appropriated to cover the total Reimbursable Expenses of such revised Estimate. B&OCT may elect, by delivery of notice to Agency, to immediately cease all further work on the Project, unless and until Agency provides such approval and confirmation.
- 4.3 Payment Terms.
- 4.3.1 Agency shall pay B&OCT for Reimbursable Expenses in the amounts and on the dates set forth in the Payment Schedule as shown on Exhibit E (the "Payment Schedule", as revised pursuant to Section 4.2). B&OCT (or its affiliate) agrees to submit invoices to Agency for such amounts and Agency shall remit payment to B&OCT at the later of thirty (30) days following delivery of each such invoice to Agency or, the payment date (if any) set forth in the Payment Schedule.
- 4.3.2 Following completion of the Project, B&OCT (or its affiliate) shall submit to Agency a final invoice that reconciles the total Reimbursable Expenses incurred by B&OCT against the total payments received from Agency. Agency shall pay to B&OCT the amount by which Reimbursable Expenses exceed total payments as shown by the final invoice, within thirty (30) days following delivery of such invoice to Agency. In the event that the payments received by B&OCT from Agency exceed the Reimbursable Expenses, B&OCT shall remit such excess to Agency.
- 4.3.3 In the event that Agency fails to pay B&OCT any sums due B&OCT under this Agreement: (i) Agency shall pay B&OCT interest at the lesser of 1.0% per month or the maximum rate of interest permitted by applicable law on the delinquent amount until paid in full; and (ii) B&OCT may elect, by delivery of notice to Agency: (A) to immediately cease all further work on the Project, unless and until Agency pays the entire delinquent sum, together with accrued interest; and/or (B) to terminate this Agreement.
- 4.3.4 All invoices from B&OCT shall be delivered to Agency in accordance with Section 16 of this Agreement. All payments by Agency to B&OCT shall be made by certified check and mailed to the following address or such other address as designated by B&OCT's notice to Agency:

CSX Transportation, Inc.
P.O. Box 530192
Atlanta, GA 30353-0192

- 4.4 Effect of Termination. Agency's obligation to pay to B&OCT Reimbursable Expenses in accordance with Section 4 shall survive termination of this Agreement for any reason.
5. Appropriations Agency represents to B&OCT that: (i) Agency has appropriated funds sufficient to reimburse B&OCT for the Reimbursable Expenses encompassed by the Estimate attached as Exhibit D; (ii) Agency shall use its best efforts to obtain appropriations necessary to cover Reimbursable Expenses encompassed by subsequent Estimates approved by Agency; and (iii) Agency shall promptly notify B&OCT in the event that Agency is unable to obtain such appropriations.
6. Easements and Licenses
- 6.1 Agency Obligation. Agency shall acquire all necessary licenses, permits and easements required for the Project.
- 6.2 Temporary Construction Licenses. Insofar as it has the right to do so, B&OCT hereby grants Agency a nonexclusive license to access and cross B&OCT's property, to the extent necessary for the construction of the Project (excluding ingress or egress over public grade crossings), along such routes and upon such terms as may be defined and imposed by B&OCT and such temporary construction easements as may be designated on the Plans approved by B&OCT.
- 6.3 Permanent Easements. Insofar as it has the right to do so, B&OCT shall grant, without warranty to Agency, easements for the use and maintenance of the Project wholly or partly on B&OCT property as shown on the Plans approved by B&OCT, if any, on terms and conditions and at a price acceptable to the parties. Upon request by B&OCT, Agency shall furnish to B&OCT descriptions and plat plans for the easements.
7. Permits At its sole cost and expense, Agency shall procure all permits and approvals required by any federal, state, or local governments or governmental agencies for the construction, maintenance and use of the Project, copies of which shall be provided to B&OCT.
8. Termination
- 8.1 By Agency. For any reason, Agency may, as its sole remedy, terminate this Agreement by delivery of notice to B&OCT. Agency shall not be entitled to otherwise pursue claims for consequential, direct, indirect or incidental damages or lost profits as a consequence of B&OCT's default or termination of this Agreement or Work on the Project by either party.
- 8.2 By B&OCT. In addition to the other rights and remedies available to B&OCT under this Agreement, B&OCT may terminate this Agreement by delivery of notice to Agency in the event Agency or its Contractors fail to observe the terms or conditions of this Agreement and such failure continues more than ten (10) business days following delivery of notice of such failure by B&OCT to Agency.

8.3 Consequences of Termination. If the Agreement is terminated by either party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical for them to immediately stop the Work. Accordingly, they agree that, in such instance a party may continue to perform Work until it has reached a point where it may reasonably and safely suspend the Work. Agency shall reimburse B&OCT pursuant to this Agreement for the Work performed, plus all costs reasonably incurred by B&OCT to discontinue the Work and protect the Work upon full suspension of the same, the cost of returning B&OCT's property to its former condition, and all other costs of B&OCT incurred as a result of the Project up to the time of full suspension of the Work. Termination of this Agreement or Work on the Project, for any reason, shall not diminish or reduce Agency's obligation to pay B&OCT for Reimbursable Expenses incurred in accordance with this Agreement. In the event of the termination of this Agreement or the Work for any reason, B&OCT's only remaining obligation to Agency shall be to refund to Agency payments made to B&OCT in excess of Reimbursable Expenses in accordance with Section 4.

9. Insurance In addition to the insurance that Agency requires of its Contractor, Agency shall acquire or require its Contractor to purchase and maintain insurance in compliance with B&OCT's insurance requirements attached to this Agreement as Exhibit F. Neither Agency nor Contractor shall commence work on the Project until such policy or policies have been submitted to and approved by B&OCT's Risk Management Department.

10. Ownership and Maintenance

10.1 By Agency. Agency shall own and, without cost to B&OCT, maintain, repair, replace and renew, or cause same to be done, in good condition and repair to B&OCT's satisfaction, the highway overpass structure, the roadway surfacing, the roadway slopes, the retaining walls, and the highway drainage facilities. In the event that Agency fails to properly maintain such structures and improvements and such failure, in the opinion of B&OCT, jeopardizes the safe and efficient operation of its property, B&OCT shall be entitled to remedy such failure and recover from Agency the costs incurred by B&OCT in doing so. Upon the cessation of use of the Project by Agency, Agency shall remove the bridge structure and restore B&OCT's property to its original condition, at Agency's sole cost and expense, to B&OCT's satisfaction.

10.2 Alterations. Agency shall not undertake any alteration, modification or expansion of the Project, without the prior approval of B&OCT, which may be withheld for any reason, and the execution of such agreements as B&OCT may require.

11. Indemnification

11.1 Generally. To the maximum extent permitted by applicable law, Agency and its Contractors shall indemnify, defend, and hold B&OCT and its affiliates harmless from and against all claims, demands, payments, suits, actions, judgments, settlements, and damages of every nature, degree, and kind (including direct, indirect, consequential, incidental, and punitive damages), for any injury to or death to any person(s) (including, but not limited to the employees of B&OCT, its affiliates, Agency or its Contractors), for the loss of or damage to any property whatsoever (including but not limited to property owned by or in the care, custody, or control of B&OCT, its affiliates, Agency or its Contractors, and environmental damages and any related remediation brought or recovered against B&OCT and its affiliates),

arising directly or indirectly from the negligence, recklessness or intentional wrongful misconduct of the Contractors, Agency, and their respective agents, employees, invitees, contractors, or its contractors' agents, employees or invitees in the performance of work in connection with the Project or activities incidental thereto, or from their presence on or about B&OCT's property. The foregoing indemnification obligation shall not be limited to the insurance coverage required by this Agreement, except to the extent required by law or otherwise expressly provided by this Agreement.

- 11.2 Compliance with Laws. Agency shall comply, and shall require its Contractors to comply, with any federal, state, or local laws, statutes, codes, ordinances, rules, and regulations applicable to its construction and maintenance of the Project. Agency's Contractors shall indemnify, defend, and hold B&OCT and its affiliates harmless with respect to any fines, penalties, liabilities, or other consequences arising from breaches of this Section.
- 11.3 "B&OCT Affiliates". For the purpose of this Agreement, B&OCT's affiliates include CSX Corporation and all entities, directly or indirectly, owned or controlled by or under common control of B&OCT or CSX Corporation and their respective officers, directors, employees and agents.
- 11.4 Notice of Incidents. Agency and its Contractor shall notify B&OCT promptly of any loss, damage, injury or death arising out of or in connection with the Project work.
- 11.5 Survival. The provisions of this Section 11 shall survive the termination or expiration of this Agreement.
12. Independent Contractor The parties agree that neither Agency nor its Contractors shall be deemed either agents or independent contractors of B&OCT or its affiliates. Except as otherwise provided by this Agreement, B&OCT shall exercise no control whatsoever over the employment, discharge, compensation of, or services rendered by Agency or Agency's Contractors, or the construction practices, procedures, and professional judgment employed by Agency or its Contractor to complete the Project. Notwithstanding the foregoing, this Section 12 shall in no way affect the absolute authority of B&OCT to prohibit Agency or its Contractors or anyone from entering B&OCT's property, or to require the removal of any person from its property, if it determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on or about the Project exist.
13. "Entire Agreement" This Agreement embodies the entire understanding of the parties, may not be waived or modified except in a writing signed by authorized representatives of both parties, and supersedes all prior or contemporaneous written or oral understandings, agreements or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.
14. Waiver If either party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.
15. Assignment B&OCT may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. Upon assignment of this Agreement by

B&OCT and the assumption of B&OCT's assignee of B&OCT's obligations under this Agreement, B&OCT shall have no further obligation under this Agreement. Agency shall not assign its rights or obligations under this Agreement without B&OCT's prior consent, which consent may be withheld for any reason.

16. Notices All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered upon personal delivery, upon the expiration of three (3) days following mailing by first class U.S. mail, or upon the next business day following mailing by a nationally recognized overnight carrier, to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other party:

If to B&OCT: c/o CSX Transportation, Inc.
500 Meijer Drive, Suite 305
Florence, KY 41042
ATT: Amanda J. DeCesare, Project Manager II - Public Projects

If to Agency: Village of Oak Park
201 South Boulevard
Oak Park, Illinois 60302
Attention: Bill McKenna, PE – Village Engineer

17. Severability The parties agree that if any part, term or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable federal, state, or local law or regulation, such part, term or provision shall be severable, with the remainder of the Agreement remaining valid and enforceable.
18. Applicable Law This Agreement shall be governed by the laws of the State of Illinois, exclusive of its choice of law rules. The parties further agree that the venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Duval County, Florida, and the parties agree to submit to the personal jurisdiction of any State or Federal court situated in Duval County, Florida.

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BY SIGNING THIS AGREEMENT, I certify that there have been no changes made to the content of this Agreement since its approval by the CSXT Legal Department on September 13, 2018.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, each by its duly authorized officers, as of the date of this Agreement.

VILLAGE OF OAK PARK, ILLINOIS

By: _____
Name: _____
Title: _____

**THE BALTIMORE & OHIO CHICAGO
TERMINAL RAILROAD COMPANY**

By: _____
Name: Steven Armbrust
Title: Assistant General Counsel

EXHIBIT A
ALLOCATION OF WORK

Subject to Section 2.1, work to be performed in connection with the Project is allocated as follows:

- A. Agency shall let by contract to its Contractors:
 - 1. Maintenance of Traffic Control Plan installation, maintenance & removal.
 - 2. Maintenance of Traffic Control Plan installation, maintenance & removal.
 - 3. Rehabilitation of bridge structures over B&OCT, including all work incidental thereto.
 - 4. Restoration of B&OCT right-of-way.
- B. B&OCT shall perform or cause to be performed:
 - 1. Preliminary engineering services.
 - 2. Changes in communication and signal lines.
 - 3. Flagging services and other protective services and devices as may be necessary.
 - 4. Construction engineering and inspection to protect the interests of B&OCT.

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EXHIBIT B

PLANS AND SPECIFICATIONS

Plans, Specifications and Drawings:

As of the date of this Agreement, the following plans, specifications and drawings have been submitted by Agency to B&OCT for its review and approval:

SHEET	DESCRIPTION	PREPARER	DATE
1 of 17	Cover Sheet	BLA, Inc.	07/27/18
2 of 17	Index of Sheets, General Notes	BLA, Inc.	08/17/18
3-4 of 17	Summary of Quantities	BLA, Inc.	08/16/18
5-12 of 17	Structural Plans	BLA, Inc.	08/17/18
13-15 of 17	Structural Plans – Alternate	BLA, Inc.	07/17/18
16-17 of 17	ADA Ramp Plans	BLA, Inc.	08/16/18
	District Details		

EXHIBIT C

B&OCT SPECIAL PROVISIONS

DEFINITIONS:

As used in these Special Provisions, all capitalized terms shall have the meanings ascribed to them by the Agreement, and the following terms shall have the meanings ascribed to them below:

“B&OCT” shall mean The Baltimore & Ohio Chicago Terminal Railroad Company, Inc., its successors and assigns.

“B&OCT Representative” shall mean the authorized representative of Baltimore & Ohio Chicago Terminal Railroad Company, Inc.

“Agreement” shall mean the Agreement between B&OCT and Agency dated as of _____, 2018, as amended from time to time.

“Agency” shall mean the Village of Oak Park, Illinois.

“Agency Representative” shall mean the authorized representative of Village of Oak Park, Illinois.

“Contractor” shall have the meaning ascribed to such term by the Agreement.

“Work” shall mean the Project as described in the Agreement.

I. AUTHORITY OF B&OCT ENGINEER

The B&OCT Representative shall have final authority in all matters affecting the safe maintenance of B&OCT operations and B&OCT property, and his or her approval shall be obtained by the Agency or its Contractor for methods of construction to avoid interference with B&OCT operations and B&OCT property and all other matters contemplated by the Agreement and these Special Provisions.

II. INTERFERENCE WITH B&OCT OPERATIONS

- A. Agency or its Contractor shall arrange and conduct its work so that there will be no interference with B&OCT operations, including train, signal, telephone and telegraphic services, or damage to B&OCT’s property, or to poles, wires, and other facilities of tenants on B&OCT’s Property or right-of-way. Agency or its Contractor shall store materials so as to prevent trespassers from causing damage to trains, or B&OCT Property. Whenever Work is likely to affect the operations or safety of trains, the method of doing such Work shall first be submitted to the B&OCT Representative for approval, but such approval shall not relieve Agency or its Contractor from liability in connection with such Work.
- B. If conditions arising from or in connection with the Project require that immediate and unusual provisions be made to protect train operation or B&OCT’s property, Agency or

its Contractor shall make such provision. If the B&OCT Representative determines that such provision is insufficient, B&OCT may, at the expense of Agency or its Contractor, require or provide such provision as may be deemed necessary, or cause the Work to cease immediately.

III. NOTICE OF STARTING WORK. Agency or its Contractor shall not commence any work on B&OCT Property or rights-of-way until it has complied with the following conditions:

- A. Notify B&OCT in writing of the date that it intends to commence Work on the Project. Such notice must be received by B&OCT at least ten business days in advance of the date Agency or its Contractor proposes to begin Work on B&OCT property. The notice must refer to this Agreement by date. If flagging service is required, such notice shall be submitted at least thirty (30) business days in advance of the date scheduled to commence the Work.
- B. Obtain authorization from the B&OCT Representative to begin Work on B&OCT property, such authorization to include an outline of specific conditions with which it must comply.
- C. Obtain from B&OCT the names, addresses and telephone numbers of B&OCT's personnel who must receive notice under provisions in the Agreement. Where more than one individual is designated, the area of responsibility of each shall be specified.

IV. WORK FOR THE BENEFIT OF THE CONTRACTOR

- A. No temporary or permanent changes to wire lines or other facilities (other than third party fiber optic cable transmission systems) on B&OCT property that are considered necessary to the Work are anticipated or shown on the Plans. If any such changes are, or become, necessary in the opinion of B&OCT or Agency, such changes will be covered by appropriate revisions to the Plans and by preparation of a force account estimate. Such force account estimate may be initiated by either B&OCT or Agency, but must be approved by both B&OCT and Agency. Agency or Contractor shall be responsible for arranging for the relocation of the third party fiber optic cable transmission systems, at no cost or expense to B&OCT.
- B. Should Agency or Contractor desire any changes in addition to the above, then it shall make separate arrangements with B&OCT for such changes to be accomplished at the Agency or Contractor's expense.

V. HAUL ACROSS RAILROAD

- A. If Agency or Contractor desires access across B&OCT property or tracks at other than an existing and open public road crossing in or incident to construction of the Project, the Agency or Contractor must first obtain the permission of B&OCT and shall execute a license agreement or right of entry satisfactory to B&OCT, wherein Agency or Contractor agrees to bear all costs and liabilities related to such access.

- B. Agency and Contractor shall not cross B&OCT's property and tracks with vehicles or equipment of any kind or character, except at such crossing or crossings as may be permitted pursuant to this section.

VI. COOPERATION AND DELAYS

- A. Agency or Contractor shall arrange a schedule with B&OCT for accomplishing stage construction involving work by B&OCT. In arranging its schedule, Agency or Contractor shall ascertain, from B&OCT, the lead time required for assembling crews and materials and shall make due allowance therefore.
- B. Agency or Contractor may not charge any costs or submit any claims against B&OCT for hindrance or delay caused by railroad traffic; work done by B&OCT or other delay incident to or necessary for safe maintenance of railroad traffic; or for any delays due to compliance with these Special Provisions.
- C. Agency and Contractor shall cooperate with others participating in the construction of the Project to the end that all work may be carried on to the best advantage.
- D. Agency and Contractor understand and agree that B&OCT does not assume any responsibility for work performed by others in connection the Project. Agency and Contractor further understand and agree that they shall have no claim whatsoever against B&OCT for any inconvenience, delay or additional cost incurred by Agency or Contractor on account of operations by others.

VII. STORAGE OF MATERIALS AND EQUIPMENT

Agency and Contractor shall not store their materials or equipment on B&OCT's property or where they may potentially interfere with B&OCT's operations, unless Agency or Contractor has received B&OCT Representative's prior written permission. Agency and Contractor understand and agree that B&OCT will not be liable for any damage to such materials and equipment from any cause and that B&OCT may move, or require Agency or Contractor to move, such material and equipment at Agency's or Contractor's sole expense. To minimize the possibility of damage to the railroad tracks resulting from the unauthorized use of equipment, all grading or other construction equipment that is left parked near the tracks unattended by watchmen shall be immobilized to the extent feasible so that it cannot be moved by unauthorized persons.

VIII. CONSTRUCTION PROCEDURES

- A. General
 - 1. Construction work on B&OCT property shall be subject to B&OCT's inspection and approval.
 - 2. Construction work on B&OCT property shall be in accord with B&OCT's written outline of specific conditions and with these Special Provisions.
 - 3. Contractor shall observe the terms and rules of the Safe Way manual, which Agency and Contractor shall be required to obtain from B&OCT, and in accord with any other instructions furnished by B&OCT or B&OCT's Representative.

B. Blasting

1. Agency or Contractor shall obtain B&OCT Representative's and Agency Representative's prior written approval for use of explosives on or adjacent to B&OCT property. If permission for use of explosives is granted, Agency or Contractor must comply with the following:
 - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of Agency or Contractor.
 - b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.
 - c. No blasting shall be done without the presence of an authorized representative of B&OCT. At least 10 days' advance notice to B&OCT Representative is required to arrange for the presence of an authorized B&OCT representative and any flagging that B&OCT may require.
 - d. Agency or Contractor must have at the Project site adequate equipment, labor and materials, and allow sufficient time, to (i) clean up (at Agency's expense) debris resulting from the blasting without any delay to trains; and (ii) correct (at Agency's expense) any track misalignment or other damage to B&OCT's property resulting from the blasting, as directed by B&OCT Representative, without delay to trains. If Agency's or Contractor's actions result in delay of any trains, including Amtrak passenger trains, Agency shall bear the entire cost thereof.
 - e. Agency and Contractor shall not store explosives on B&OCT property.
2. B&OCT Representative will:
 - a. Determine the approximate location of trains and advise Agency or Contractor of the approximate amount of time available for the blasting operation and clean-up.
 - b. Have the authority to order discontinuance of blasting if, in his or her opinion, blasting is too hazardous or is not in accord with these Special Provisions.

IX. MAINTENANCE OF DITCHES ADJACENT TO B&OCT TRACKS

Agency or Contractor shall maintain all ditches and drainage structures free of silt or other obstructions that may result from their operations. Agency or Contractor shall provide erosion control measures during construction and use methods that accord with applicable state standard specifications for road and bridge construction, including either (1) silt fence; (2) hay or straw barrier; (3) berm or temporary ditches; (4) sediment basin; (5) aggregate checks; and (6) channel lining. All such maintenance and repair of damages due to Agency's or Contractor's operations

shall be performed at Agency's expense.

X. FLAGGING / INSPECTION SERVICE

- A. B&OCT has sole authority to determine the need for flagging required to protect its operations and property. In general, flagging protection will be required whenever Agency or Contractor or their equipment are, or are likely to be, working within fifty (50) feet of live track or other track clearances specified by B&OCT, or over tracks.
- B. Agency shall reimburse B&OCT directly for all costs of flagging that is required on account of construction within B&OCT property shown in the Plans, or that is covered by an approved plan revision, supplemental agreement or change order.
- C. Agency or Contractor shall give a minimum of 10 days' advance notice to B&OCT Representative for anticipated need for flagging service. No work shall be undertaken until the flag person(s) is/are at the job site. If it is necessary for B&OCT to advertise a flagging job for bid, it may take up to 90-days to obtain this service, and B&OCT shall not be liable for the cost of delays attributable to obtaining such service.
- D. B&OCT shall have the right to assign an individual to the site of the Project to perform inspection service whenever, in the opinion of B&OCT Representative, such inspection may be necessary. Agency shall reimburse B&OCT for the costs incurred by B&OCT for such inspection service. Inspection service shall not relieve Agency or Contractor from liability for its Work.
- E. B&OCT shall render invoices for, and Agency shall pay for, the actual pay rate of the flagpersons and inspectors used, plus standard additives, whether that amount is above or below the rate provided in the Estimate. If the rate of pay that is to be used for inspector or flagging service is changed before the work is started or during the progress of the work, whether by law or agreement between B&OCT and its employees, or if the tax rates on labor are changed, bills will be rendered by B&OCT and paid by Agency using the new rates. Agency and Contractor shall perform their operations that require flagging protection or inspection service in such a manner and sequence that the cost of such will be as economical as possible.

XI. UTILITY FACILITIES ON B&OCT PROPERTY

Agency shall arrange, upon approval from B&OCT, to have any utility facilities on or over B&OCT Property changed as may be necessary to provide clearances for the proposed trackage.

XII. CLEAN-UP

Agency or Contractor, upon completion of the Project, shall remove from B&OCT's Property any temporary grade crossings, any temporary erosion control measures used to control drainage, all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings belonging to Agency or Contractor. Agency or Contractor, upon completion of the Project, shall leave B&OCT Property in neat condition, satisfactory to B&OCT Representative.

BRIDGE REHABILITATION OVER RAILROAD
EAST AVENUE, OAK PARK AVENUE & HOME AVENUE
IN VICINITY OF RAILROAD MILEPOSTS DC-35.28 / 35.55 / 35.84
LOUISVILLE ZONE, ALTENHEIM SUBDIVISION
OAK PARK, COOK COUNTY, ILLINOIS
COMPANY OP NUMBER IL0520

XIII. FAILURE TO COMPLY

If Agency or Contractor violate or fail to comply with any of the requirements of these Special Provisions, (a) B&OCT may require Agency and/or Contractor to vacate B&OCT Property; and (b) B&OCT may withhold monies due Agency and/or Contractor; (c) B&OCT may require Agency to withhold monies due Contractor; and (d) B&OCT may cure such failure and the Agency shall reimburse B&OCT for the cost of curing such failure.

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EXHIBIT D

INITIAL ESTIMATE
ATTACHED

ESTIMATE SUBJECT TO REVISION AFTER: 4/25/2019

DOT NO.: Multiple

CITY: Oak Park

COUNTY: Cook

STATE: IL

DESCRIPTION: Bridge Rehabilitation over CSX - East Avenue (163 532D, DC-35.28), Oak Park Avenue (163 533K, DC-35.55), Home Avenue (163 534S, DC-35.84) - (PE, CE&I & Flagging).

REGION: Louisville

SUB-DIV: Altenheim

MILE POST: Multiple

AGENCY PROJECT NUMBER: 18-14

PRELIMINARY ENGINEERING:

212	Contracted & Administrative Engineering Services	\$	11,300
	Subtotal	\$	11,300

CONSTRUCTION ENGINEERING/INSPECTION:

212	Contracted & Administrative Engineering Services	\$	22,650
	Subtotal	\$	22,650

FLAGGING SERVICE: (Contract Labor)

70	Labor (Conductor-Flagman)	10	Days @	\$ 350.00	\$	3,500
50	Labor (Foreman/Inspector)	0	Days @	\$ -	\$	-
70	Additive	153.30%	(Transportation Department)		\$	5,366
50	Additive	0.00%	(Engineering Department)		\$	-
230	Expenses		(Engineering Department)	0	Days @	\$ -
230	Expenses		(Transportation Department)	10	Days @	\$ 45.00
	Subtotal				\$	9,316

SIGNAL & COMMUNICATIONS WORK:

\$ -

TRACK WORK:

\$ -

PROJECT SUBTOTAL:

\$ 43,265.50

900	<u>CONTINGENCIES:</u>	10.00%	\$	4,326.55
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PROJECT TOTAL:

\$ 47,592.05

CURRENT AUTHORIZED BUDGET:

\$ -

TOTAL SUPPLEMENT REQUESTED:

\$ 47,592.05

DIVISION OF COST:

Agency	100.00%	\$	47,592
Railroad	0.00%	\$	-

NOTE: Estimate is based on FULL CROSSING CLOSURE during work by Railroad Forces.

This estimate has been prepared based on site conditions, anticipated work duration periods, material prices, labor rates, manpower and resource availability, and other factors known as of the date prepared. The actual cost for CSXT work may differ based upon the agency's requirements, their contractor's work procedures, and/or other conditions that become apparent once construction commences or during the progress of the work

Office of Chief Engineer Public Projects--Jacksonville, Florida

Estimated prepared by: Benesch

Approved by: A/D CSXT Public Project Group

DATE: 09/14/18 REVISED: 10/27/18

DATE: 09/24/18

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EXHIBIT E

PAYMENT SCHEDULE

Advance Payment in Full

Upon execution and delivery of notice to proceed with the Project, Agency will deposit with B&OCT a sum equal to the Reimbursable Expenses, as shown by the Estimate. If B&OCT anticipates that it may incur Reimbursable Expenses in excess of the deposited amount, B&OCT will request an additional deposit equal to the then remaining Reimbursable Expenses which B&OCT estimates that it will incur. B&OCT shall request such additional deposit by delivery of invoices to Agency. Agency shall make such additional deposit within 30 days following delivery of such invoice to Agency.

EXHIBIT F

INSURANCE REQUIREMENTS

I. Insurance Policies:

Agency and Contractor, if and to the extent that either is performing work on or about B&OCT's property, shall procure and maintain the following insurance policies:

1. Commercial General Liability (CGL) coverage at their sole cost and expense with limits of not less than \$5,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name B&OCT as an additional insured.
2. Statutory Worker's Compensation and Employers Liability Insurance with limits of not less than \$1,000,000, which insurance must contain a waiver of subrogation against B&OCT and its affiliates [if permitted by state law].
3. Commercial Automobile Liability insurance with limits of not less than \$1,000,000 combined single limit for bodily injury and/or property damage per occurrence, and such policies shall name B&OCT as an additional insured.
4. Railroad Protective Liability (RPL) insurance with limits of not less than \$5,000,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate annual limit of \$10,000,000, which insurance shall satisfy the following additional requirements:
 - a. The Railroad Protective Liability Insurance Policy must be on the ISO/RIMA Form of Railroad Protective Insurance - Insurance Services Office (ISO) Form CG 00 35.
 - b. B&OCT must be the named insured on the Railroad Protective Liability Insurance Policy. The named insured's address should be listed as:

The Baltimore & Ohio Chicago Terminal Railroad Company,
a wholly owned subsidiary of
CSX Transportation, Inc.
500 Water Street, C-907
Jacksonville, FL 32202
 - c. The Name and Address of the Contractor and of the Project Sponsor/Involved Governmental Agency must be shown on the Declarations page.
 - d. A description of operations and location must appear on the Declarations page and must match the Project description.
 - e. Terrorism Risk Insurance Act (TRIA) coverage must be included.
 - f. Authorized endorsements must include:

- (i) Pollution Exclusion Amendment - CG 28 31, unless using form CG 00 35 version 96 and later
 - g. Authorized endorsements may include:
 - (i) Broad Form Nuclear Exclusion - IL 00 21
 - (ii) Notice of Non-renewal or cancellation
 - (iii) Required State Cancellation Endorsement
 - (iv) Quick Reference or Index - CL/IL 240
 - h. Authorized endorsements may not include:
 - (i) A Pollution Exclusion Endorsement except CG 28 31
 - (ii) An Endorsement that excludes TRIA coverage
 - (iii) An Endorsement that limits or excludes Professional Liability coverage
 - (iv) A Non-Cumulation of Liability or Pyramiding of Limits Endorsement
 - (v) A Known Injury Endorsement
 - (vi) A Sole Agent Endorsement
 - (vii) A Punitive or Exemplary Damages Exclusion
 - (viii) A "Common Policy Conditions" Endorsement
 - (ix) Policies that contain any type of deductible
 - (x) Any endorsement that is not named in Section 4 (f) or (g) above that B&OCT deems unacceptable
5. All insurance companies must be A. M. Best rated A- and Class VII or better.
6. B&OCT OP# IL0520 must appear on each Declarations page and/or certificates of insurance.
7. Such additional or different insurance as B&OCT may require.

II. Additional Terms

1. Contractor must submit the complete Railroad Protective Liability policy, Certificates of Insurance and all notices and correspondence regarding the insurance policies in an electronic format to:

insurancedocuments@csx.com
2. Neither Agency nor Contractor may begin work on or about B&OCT property until written approval of the required insurance has been received from B&OCT or B&OCT's Insurance Compliance vendor, Ebix.

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SCHEDULE I

CONTRACTOR'S ACCEPTANCE

To and for the benefit of The Baltimore & Ohio Chicago Terminal Railroad Company, Inc. ("B&OCT") and to induce B&OCT to permit Contractor on or about B&OCT's property for the purposes of performing work in accordance with the Agreement dated _____, 2018, between Village of Oak Park, Illinois and B&OCT, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Exhibits C and F to the Agreement, and Sections 3, 9 and 11 of the Agreement.

Contractor: _____

By: _____

Name: _____

Title: _____

Date: _____