

County of Kane  
Office of County Board  
Kane County Government Center

Karen McConnaughay  
Chairman  
630-232-5930



719 Batavia Avenue  
Geneva, Illinois 60134  
Fax 630-232-9188

**DOCUMENT VET SHEET**

for

Karen McConnaughay  
Chairman, Kane County Board

Name of Document:

PERMANENT ROADWAY EASEMENT

RESOLUTION #

12-17

(Resolution must be attached!)

Submitted By:

J. PATRICK JAEGER

Date Submitted:

NOV. 6, 2012

Examined By:

J. PATRICK JAEGER

(Print Name)

[Signature]

(Signature)

11-4-12

(Date)

Post on Web:

Yes

No

Attorney Initials [Signature]

Comments:

11/6/2012 - Mr. Jaeger dropped off in person. Completed VET sheets in COB office. Emailed Resolutions to COB office.

Chairman Signed:

Yes  No

No

Date: November 7, 2012

Document Returned To:

J. Patrick Jaeger

Orig: Janet  
C: Gary S.

STATE OF ILLINOIS  
COUNTY OF KANE

RESOLUTION NO. 12 - 17

ACQUISITION OF HIGHWAY RIGHT OF WAY  
EXTENSION OF ANDERSON ROAD  
KANE COUNTY SECTION NO. 01- 00274-00-BR  
PARCEL NO. 0005

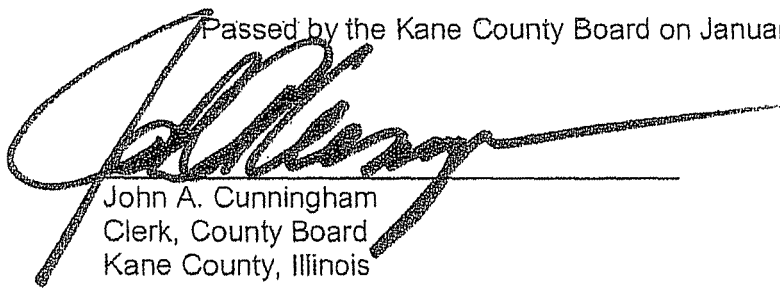
WHEREAS, the County of Kane is authorized by law, pursuant to the Illinois Compiled Statutes, 605 ILCS 5/5-801 (2010), to acquire real property for highway purposes by negotiated purchase or eminent domain proceedings; and

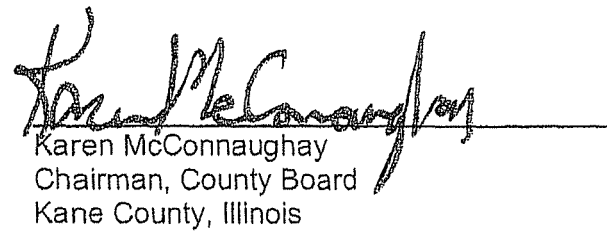
WHEREAS, the County of Kane has developed right of way plans for the extension of Anderson Road, Kane County Sec. No. 01-00274-00-BR; and

WHEREAS, the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation (hereinafter "METRA"), the property owner of Anderson Road Parcel No. 0005, which is legally described in Exhibit "A" attached hereto (a copy of which is on file in the office of the Kane County Clerk), has offered to grant, at no expense to the County of Kane, a permanent highway easement over and through said parcel which easement is necessary for the completion of the extension of Anderson Road.

NOW THEREFORE, BE IT RESOLVED by the Kane County Board that the County of Kane accept the offer of METRA, the property owner of Anderson Road Parcel No.0005 to grant a permanent highway easement in favor of the County of Kane over and through said Parcel No. 0005 at no expense to the County of Kane and the Chairman of the Kane County Board is hereby authorized and directed to execute a contract and any other agreement(s) therefor.

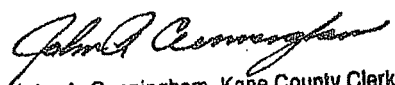
Passed by the Kane County Board on January 10, 2012.

  
John A. Cunningham  
Clerk, County Board  
Kane County, Illinois

  
Karen McConnaughay  
Chairman, County Board  
Kane County, Illinois

Vote:  
Yes 20  
No     
Voice     
Abstentions   

1ANDRSBRIW0NETRA,4PJ

STATE OF ILLINOIS  
COUNTY OF KANE  
DATE JAN 13 2012  
I, John A. Cunningham, Kane County Clerk and Keeper of the Records in Kane County, Illinois do hereby certify that the attached is a true and correct copy of the original record on file. In witness whereof, I have hereunto set my hand and affix the Seal of the County of Kane at my office in Geneva, Illinois  
  
John A. Cunningham, Kane County Clerk

**EXHIBIT A**

Parcel: 0005TE-2

Part of Lot 3 in Metra Elburn Yard and Station Subdivision of part of Sections 4 and 5 Township 39 North, Range 7 East of the Third Principal Meridian, in the Village of Elburn, Kane County, Illinois, according to the plat thereof recorded April 28, 2004 as Document 2004K052644, more particularly described as follows:

Commencing at the Southerly most corner of Lot 3 in said Metra Elburn Yard and Station Subdivision; thence North 84 degrees 23 minutes 56 seconds West, along the Southerly line of said Lot 3, 620.07 feet for a Point of Beginning; thence continuing along said Southerly line, North 84 degrees 23 minutes 56 seconds West, 80.00 feet; thence North 05 degrees 20 minutes 40 seconds East, 421.52 feet to the Southerly right of way line of the Union Pacific Railroad, as monumented and occupied; thence South 84 degrees 05 minutes 09 seconds East, along said Southerly right of way line, 80.00 feet; thence South 05 degrees 20 minutes 40 seconds West, 421.08 feet to the Point of Beginning, in Kane County, Illinois.

Said parcel containing 0.774 acres (33,704 square feet), more or less.

Parcel: 0005-PE

Part of Lot 3 in Metra Elburn Yard and Station Subdivision of part of Sections 4, and 5 Township 39 North, Range 7 East of the Third Principal Meridian, in the Village of Elburn, Kane County, Illinois according to the plat thereof recorded April 28, 2004 as Document 2004K052644, more particularly described as follows:

Commencing at the Southerly most corner of Lot 3 in said Metra Elburn Yard and Station Subdivision; thence North 84 degrees 23 minutes 56 seconds West, along the Southerly line of said Lot 3, 700.07 feet for a Point of Beginning; thence continuing along said Southerly line, North 84 degrees 23 minutes 56 seconds West, 20.99 feet to a bend point in said Southerly line; thence continuing along said Southerly line, North 83 degrees 47 minutes 19 seconds West, 99.02 feet; thence North 05 degrees 20 minutes 40 seconds East, 421.12 feet to the Southerly right of way line of the Union Pacific Railroad, as monumented and occupied; thence South 84 degrees 05 minutes 09 seconds East, along said Southerly right of way line, 120.01 feet; thence South 05 degrees 20 minutes 40 seconds West, 421.52 feet to the Point of Beginning, in Kane County, Illinois.

Said parcel containing 1.161 acres (50,569 square feet), more or less

Parcel: 0005TE-1

Part of Lot 3 in Metra Elburn Yard and Station Subdivision of part of Sections 4 and 5 Township 39 North, Range 7 East of the Third Principal Meridian, in the Village of Elburn, Kane County, Illinois, according to the plat thereof recorded April 28, 2004 as Document 2004K052644, more particularly described as follows:

Commencing at the Southerly most corner of Lot 3 in said Metra Elburn Yard and Station Subdivision; thence North 84 degrees 23 minutes 56 seconds West, along the Southerly line of said Lot 3, 721.06 feet to a bend point in said Southerly line; thence continuing along said Southerly line, North 83 degrees 47 minutes 19 seconds West, 99.02 Feet for a Point of Beginning; thence continuing along said Southerly line, North 83 degrees 47 minutes 19 seconds West, 80.01 feet; thence North 05 degrees 20 minutes 40 seconds East, 420.70 feet to the Southerly right of way line of the Union Pacific Railroad, as monumented and occupied; thence South 84 degrees 05 minutes 09 seconds East, along said Southerly line, 80.00 feet; thence South 05 degrees 20 minutes 40 seconds West, 421.12 feet to the Point of Beginning, in Kane County, Illinois.

Said parcel containing 0.773 acres (33,673 square feet), more or less.

Owner: The Commuter Rail  
Division of the Regional  
Transportation Authority, a  
Division of an Illinois  
Municipal Corporation  
Route: F.A.U. 0126  
Section: 01-00274-00-BR  
County: Kane  
Parcel No.: 0005PE  
Station: 1026+45.57 to 1030+68.28  
PIN: 11-05-426-001

### **PERMANENT ROADWAY EASEMENT**

KNOW ALL MEN BY THESE PRESENTS, on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, that the Grantor, Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("Metra"), for and in consideration of Ten Dollars (\$10) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, hereby represents that it owns the fee simple title to and hereby grants to the County of Kane, a body corporate and politic of the State of Illinois (the "County") the permanent, nonexclusive right, easement, and privilege to enter upon the property described on the attached Legal Description ("Premises") for the installation, construction, operation, maintenance, and repair of improvements to Anderson Road including a bridge over the existing rail yard ("Roadway Improvements") located on Metra's Union Pacific West Line right of way, east of the Elburn commuter facility in Kane County, Illinois.

1. The installation and construction and any subsequent reconstruction or renovation of the Roadway Improvements ("Work") shall be completed as specified in the plans and specifications prepared by the County and approved by Metra ("Plans").
2. The Work shall be done at the County's sole cost and expense, in a good and workmanlike manner, and in accordance with the requirements of the Plans.
3. The County shall require its contractors and subcontractors performing the work described in this Agreement to execute and deliver to Metra, prior to entering onto any property owned and/or controlled by Metra ("Property") a Right of Entry Permit to be obtained by contacting Metra's Right of Way Administrator.
4. The County agrees that following completion of the Work, the Premises shall be left in a neat and presentable condition. The County shall construct the Roadway

Improvements in such a manner so as not to interfere with the existing drainage of the Premises or any other adjacent Property. The County agrees to construct and at all times maintain the Roadway Improvements so as to protect any and all other improvements now or hereinafter located on the Premises or the Property.

5. Any rights to the Premises not specifically granted to the County herein are reserved to Metra and its successors and/or assigns. The Roadway Improvements shall be designed in a manner so as not to interfere with efficient rail operations or any other business operations or activities being conducted by Metra or Metra's tenants or permittees on the Premises and so as not to prevent or unreasonably interfere with use and enjoyment of the Premises by Metra, its employees, agents or permittees for the purpose(s) to which the Premises is committed by Metra. Metra shall have the right to retain the existing tracks and other improvements at the location of this Roadway Improvements over or adjacent to the Premises and also shall have the right at any and all times in the future to construct, maintain and operate over, under, or parallel to said Roadway Improvements such additional track or tracks as it may from time to time elect, provided that such right does not unreasonably interfere with the Easement herein granted, or impair the usefulness or safety of said Easement. Nothing shall be done or caused to be done by the County that will in any manner unreasonably interfere with the usefulness or safety of the tracks and other improvements of Metra, or such track or tracks and other improvements as Metra may in the future construct or cause to be constructed over, under, or parallel to said Roadway Improvements. Metra reserves the exclusive right to grant future third party rights over, under, across or parallel to the said Roadway Improvements, provided that such third party rights do not unreasonably interfere with the Easement herein granted, or impair the usefulness or safety of said Easement. This Agreement is expressly subject to the rights of third parties to maintain utility and other improvements permitted by Metra on the Premises in accordance with this paragraph 5.

6. The County shall at all times use and operate said Roadway Improvements in a secure, safe and sanitary condition and in accordance with all applicable laws, ordinances and regulations. The County shall take all reasonable safety precautions to adequately secure the Premises, warn of risks and ensure the safety of the public, when necessary, during periods of use and operation of the Roadway Improvements. If the manner of constructing, repairing, maintaining, replacing or operating said Roadway Improvements shall at any time be in violation of any applicable law, regulation or ordinance, then the County, at no cost or expense to Metra and upon receipt of appropriate notice from a governmental agency having enforcement jurisdiction over the Premises, shall make such changes or repairs as shall be necessary.

7. This Easement and all of the terms, conditions, rights and obligations herein contained shall inure to and be binding upon the Parties, their respective legal representatives, lessees, permittees, successors and/or assigns whether hereinabove

so stated or not. The County and Metra acknowledge and agree that the County may, 365 days after the opening of the Roadway Improvements to use by the general public, assign its rights, duties and obligations hereunder to the Village of Elburn, Illinois and Metra hereby consents to said assignment. Notwithstanding the foregoing it is distinctly acknowledged and agreed that the County shall not otherwise assign its rights under this Easement to any other individual or entity without first having received the prior written consent of Metra.

8. All notices, demands, elections, and other instruments required or permitted to be given or made by either Party upon the other under the terms of this Agreement or any statute shall be in writing. Such communications shall be deemed to have been sufficiently served if sent by commercial courier, certified or registered mail, return receipt requested, with proper postage prepaid or sent by facsimile transmission by Metra or the County at the respective addresses shown below or to such other party or address as either Party may from time to time furnish to the other in writing. Such notices, demands, elections and other instruments shall be considered as delivered to recipient on the day of delivery if sent by commercial courier, on the second business day after deposit in the U.S. Mail if sent by certified or registered mail or on the first business day after successful transmission if sent by facsimile transmission.

(a) Notices to Metra shall be sent to:

Commuter Rail Division  
547 West Jackson Boulevard  
Chicago, Illinois 60661  
Attn: Director, Real Estate & Contract Management  
Phone: (312) 322-6696  
Fax: (312) 322-6698

(b) Notices to Kane County Division of Transportation shall be sent to:

Kane County Division of Transportation  
41W011 Burlington Road  
St. Charles, IL 60175  
Attn: Director of Transportation Phone:  
630-584-1170  
Fax: 630-584-5265

9. This Agreement shall be governed by the internal laws of the State of Illinois. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word or the application thereof is held invalid, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law provided that the Agreement, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of either of the Parties. No waiver of any obligation or default of the County shall be implied from omission by Metra to take any action on account of such obligation or default and no express waiver shall affect any obligation or default other than the

obligation or default specified in the express waiver and then only for the time and to the extent therein stated. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable. In the event the time for performance hereunder falls on a Saturday, Sunday or holiday, the actual time for performance shall be the next business day. This Easement constitutes the entire agreement between the Parties with respect to the subject matter hereof.


10. Metra, without limiting the interest above granted and conveyed, does hereby acknowledge that upon payment of the agreed consideration, all claims arising out of the above acquisition have been settled, including any diminution in value to any remaining property of Metra caused by the opening, improving and using the above described premises for highway purposes. This acknowledgment does not waive any claim for trespass or negligence against the County or its agents that may cause damage to Metra's remaining property.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be duly executed by their duly authorized officers on this \_\_\_\_ day of \_\_\_\_\_ 2012.

GRANTOR:  
COMMUTER RAIL DIVISION OF THE  
REGIONAL TRANSPORTATION  
AUTHORITY

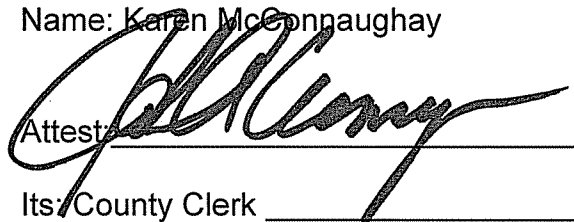
GRANTEE:  
COUNTY OF KANE

By: \_\_\_\_\_  
Alexander D. Clifford  
Executive Director/CEO

By:   
Its: County Board Chairman

Name: Karen McConaughay

Attest: \_\_\_\_\_  
Assistant Secretary

Attest:   
Its: County Clerk \_\_\_\_\_

Name: \_\_\_\_\_

Name: John Cunningham



STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF COOK     )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Alexander D. Clifford, personally known to me to be the Executive Director/CEO of the COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY, a division of an Illinois municipal corporation, and \_\_\_\_\_, personally known to me to be the Assistant Secretary of said Corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as Executive Director and Assistant Secretary of said Corporation, they signed and delivered the said instrument in their official capacities pursuant to authority given by the Board of Directors of said Corporation and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

Given under my hand a notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(SEAL)

My Commission expires \_\_\_\_\_, 20\_\_\_\_\_.



LEGAL DESCRIPTION:

Owner: The Commuter Rail  
Division of the Regional  
Transportation Authority, a  
Division of an Illinois  
Municipal Corporation  
Route: F.A.U. 0126  
Section: 01-00274-00-BR  
County: Kane  
Parcel No.: 0005PE  
Station: 1026+45.57 to 1030+68.28  
PIN: 11-05-426-001

Part of Lot 3 in Metra Elburn Yard and Station Subdivision of part of Sections 4, and 5 Township 39 North, Range 7 East of the Third Principal Meridian, in the Village of Elburn, Kane County, Illinois according to the plat thereof recorded April 28, 2004 as Document 2004K052644, more particularly described as follows: Commencing at the Southerly most corner of Lot 3 in said Metra Elburn Yard and Station Subdivision; thence North 84 degrees 23 minutes 56 seconds West, along the Southerly line of said Lot 3, 700.07 feet for a Point of Beginning; thence continuing along said Southerly line, North 84 degrees 23 minutes 56 seconds West, 20.99 feet to a bend point in said Southerly line; thence continuing along said Southerly line, North 83 degrees 47 minutes 19 seconds West, 99.02 feet; thence North 05 degrees 20 minutes 40 seconds East, 421.12 feet to the Southerly right of way line of the Union Pacific Railroad, as monumented and occupied; thence South 84 degrees 05 minutes 09 seconds East, along said Southerly right of way line, 120.01 feet; thence South 05 degrees 20 minutes 40 seconds West, 421.52 feet to the Point of Beginning, in Kane County, Illinois.

Said parcel contains 1.161 acres (50,569 square feet), more or less.