



Exhibit "A"

Activity Number: 1311952

THIS AGREEMENT, made and entered into by and between **NORFOLK AND WESTERN RAIL COMPANY (NORFOLK SOUTHERN RAILWAY COMPANY, SUCCESSOR)**, a(n) VIRGINIA corporation, hereinafter styled "Railway"; and **CITY OF MONTICELLO, ILLINOIS**, a(n) VARIOUS corporation, hereinafter styled "Licensee":

## WITNESSETH:

THAT the PARTIES HERETO agree as follows:

1. THAT, for and in consideration of the premises, payment of an annual fee of One Thousand and 00/100 DOLLARS (**\$1,000.00**), payable annually in advance during the continuance of this Agreement. The amount of the annual fee shall be increased (and not decreased) on an annual basis by the percentage of increase, if any, in the United States, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) (1982-1984 = 100) U.S. City Average, All Items (the "Index") as set forth below. If the Index has changed so that the base year differs from that used in this Paragraph, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics, to the 1982-84 base. If the Index is discontinued or revised during the term of this Lease, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised. The "Adjustment Date" shall mean the first anniversary of the Annual Fee Commencement Date and each anniversary thereof during the term of this Agreement. The Index published nearest to the Rental Commencement Date shall be the "Base Index". The Index published nearest to the date three (3) months prior to the then current Adjustment Date shall be the "Adjustment Index". On each Adjustment Date, the annual fee shall be adjusted by multiplying the annual fee payable under this Agreement at the Annual Fee Commencement Date by a fraction, the numerator of which fraction is the applicable Adjustment Index, and the denominator of which fraction is the Base Index. The amount so determined shall be the Annual fee payable under the Agreement beginning on the applicable Adjustment Date and until the next Adjustment Date (if any). Railway hereby grants unto Licensee, insofar as Railway's title enables it so to do and without warranty, the right to maintain, use and remove an existing private road crossing, hereinafter called "Crossing," upon and across, at grade, the right of way or property and track (whether more than one track) of Railway, located at Milepost C-144.28, at or near MONTICELLO, PIATT County, ILLINOIS, located substantially as shown upon Exhibit A, attached hereto and made a part hereof.

2. Railway will, for the accommodation of and at the expense of Licensee, perform the work of constructing, maintaining and removing the portion of the Crossing between the rails in said track and to the outside ends of the crossties on each side thereof, and shall revise, relocate and reconstruct signal facilities and other railway facilities in such manner as may be necessary to this project (collectively, the "Work"). Licensee will pay to Railway, promptly upon bill rendered for the work, which bill shall be submitted to Licensee within ninety (90) days of completion of the Work. The cost of the work performed by Railway in connection with the relocation of the Crossing has been estimated to be **\$42,852.00** (the "Estimate"), said Estimate being attached hereto as **Exhibit B** and made a part hereof. Railway agrees that any costs projected to exceed the Estimate by more than 10% of the Estimate shall be subject to Licensee's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Railway shall not



proceed with any Work that is projected to cause the cost of the Work to exceed the Estimate by more than 10% unless and until the Licensee grants its consent to such increased costs. In the event that the parties cannot reach an agreement on the costs then either party may terminate the Agreement pursuant to Paragraph 12 herein.

3. Licensee will, at the expense of Licensee, maintain and remove the Crossing (except the portion to be maintained and removed by Railway as aforesaid), including all necessary drainage, in all respects in accordance with the requirements of Railway looking to the safe and convenient operation and maintenance of its line of railway.

4. No person other than Licensee, its agents, employees, patrons, or invitees, shall be permitted to use the Crossing. Licensee hereby agrees that the Crossing shall be a private crossing only for the use and convenience of Licensee, its agents, employees, patrons, or invitees and shall not be, or be permitted to become, a highway for the use of the public. To the end of preventing the use of the Crossing by the public, Licensee will, at its expense, construct and maintain, at a point to be designated by the Superintendent of Railway or his duly authorized representative, a signboard clearly indicating that the Crossing is for the private purposes of Licensee.

5. In each instance when a vehicle approaches the Crossing, it shall stop and shall not proceed over said track of Railway until the driver has ascertained that no train or other rail equipment of Railway is approaching the Crossing. To that end, Licensee will, at Licensee's expense, provide for the installation and maintenance of such information, caution, traffic signs and barricades, including automatic warning devices, deemed necessary by Railway or required by any authorized public authority. At Railway's option, such protective devices may be installed and maintained by Railway at the expense of Licensee. Railway's failure to require protective signs, barricades or automatic warning devices shall not affect Licensee's liability under the terms of this Agreement.

6. Licensee accepts the privilege hereby granted with full cognizance of the risk of loss of life, personal injury and property loss or damage that may be caused by railway operations at or in the vicinity of the Crossing and by the construction, maintenance, use or removal of the Crossing by the Licensee or others. The Licensee is willing to assume this risk and covenants that the privilege hereby granted shall be used and enjoyed at the sole risk of the Licensee, and that Railway shall not have any responsibility whatever for any such loss, injury or damage. To that end, Licensee hereby agrees to indemnify and save harmless Railway, its officers, agents and employees, from and against all liability, claims, loss, damage, expense (including attorneys' fees) or costs for personal injuries (including death) and/or property damage to whomsoever or whatsoever, occurring or arising in any manner from railway operations at or in the vicinity of the Crossing and by the construction, maintenance, use or removal of the Crossing by the Licensee or others. The indemnity obligations imposed upon the Licensee by this paragraph shall be absolute and shall not be affected by the negligence, either primary or contributory, of the Railway or its officers, agents and employees.

7. In order to contribute toward the safety of train and motor vehicle operations at the Crossing, Licensee will, at all times during the life of this Agreement, keep the vegetation on its property cut in such manner and to such extent as is necessary to permit a person approaching the Crossing from either direction to see approaching trains before such person reaches a position of danger on or near the Crossing. Licensee also will prevent the erection on its premises of any



structures that would interfere with the view of approaching trains or other rail equipment operating on said track.

8. (a) Prior to entry on Railway's property or use of the Crossing, Licensee shall procure and maintain during the life of this Agreement a policy of Commercial General Liability Insurance with a combined single limit of not less than \$2,000,000 per occurrence for injury to or death of persons and damage to or loss or destruction of property. Such policy shall be endorsed to provide contractual liability coverage for liability assumed under this Agreement and shall be of a form that does not deny coverage for operations conducted within 50 feet of any railroad hazard. In addition, said policy shall be endorsed to name Railway as an additional insured and shall include a severability of interests' provision. As evidence of said insurance, a certificate of insurance shall be furnished to and approved by the Risk Manager, Norfolk Southern Corporation, 650 West Peachtree Street NW Atlanta, Georgia 30308 prior to entry on Railway's property or use of the Crossing. The certificate of insurance shall state that thirty (30) days advance written notice will be given to Railway of any material change in, or cancellation of such insurance.

(b) The insurance coverage required herein shall in no way limit Licensee's liability under this Agreement.

9. It is specifically understood that the Crossing shall not be permitted to become a public grade crossing without the written consent of Railway and unless arrangements satisfactory to the Railway are made for the installation and maintenance of protective devices, without cost or expense to Railway. If the Crossing should at any time in the future become a public grade crossing, Licensee shall bear, or shall cause such public authority as may assume responsibility for said public grade crossing to bear, the cost of furnishing, installing and maintaining automatic signals, or such other protective devices deemed necessary by Railway to protect said public grade crossing.

10. Licensee shall not assign this Agreement without the written consent of Railway.

11. The word "Railway" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Railway. Said term also shall include Railway's officers, agents and employees, and any parent company, subsidiary or affiliate of Railway and their officers, agents and employees.

12. Either party hereto may terminate this Agreement at any time hereafter by serving upon the other thirty (30) days' written notice of election so to do. If Licensee shall violate any of its covenants herein, Railway may terminate this Agreement forthwith by written notice to Licensee of its election so to do. At or before the expiration of the time limited by any notice to Licensee of Railway's election to terminate this Agreement, Licensee will discontinue use of the Crossing and will restore said right of way or property to the condition existing prior to the use of the Crossing thereupon or to such condition reasonably acceptable to Railway; or, in default thereof, in addition to any other legal remedy it may have, Railway may close the Crossing and restore the condition of said right of way or property at the sole cost and expense of Licensee.

13. Any notice given pursuant to this Agreement shall be in writing and sent by certified mail, return receipt requested; by hand delivery or by reputable overnight courier to:



(a) Railway: c/o Director Real Estate, Norfolk Southern Corporation, 650 W Peachtree St NW, Atlanta, GA 30308, or at such other address as Railway may designate in writing to Licensee.

(b) Licensee: CITY OF MONTICELLO, ILLINOIS, 210 N HAMILTON ST , MONTICELLO, IL, 61856, or at such other address as Licensee may designate in writing to Railway.

Any notice sent in the manner set forth above shall be deemed delivered three (3) days after said notice is deposited in the mail if sent by certified mail (return receipt requested), or upon receipt if sent by hand delivery or reputable overnight courier. Any change of notice address by either party shall be delivered to the other party by the manner of notice required hereby.

14. This Agreement shall take effect as of \_\_\_\_\_.

15. Signature, the parties agree that if an authorized officer of a party fully signs this Agreement in the appropriate location(s) below and then returns that signature to the other party via electronic means with a pdf or similar scanned copy of that signature, then that scanned signature shall serve as that party's signature for the Agreement, and, upon full execution of the Agreement by all parties, shall create a legally binding Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, each part being an original, as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Witness:

NORFOLK SOUTHERN RAILWAY  
COMPANY

Signature:

\_\_\_\_\_  
As to Railway

Name: Solomon Jackson

Title: Real Estate Director

Date: \_\_\_\_\_

Witness:

CITY OF MONTICELLO, ILLINOIS

Signature:

\_\_\_\_\_  
As to Licensee

Name: Terry Summers

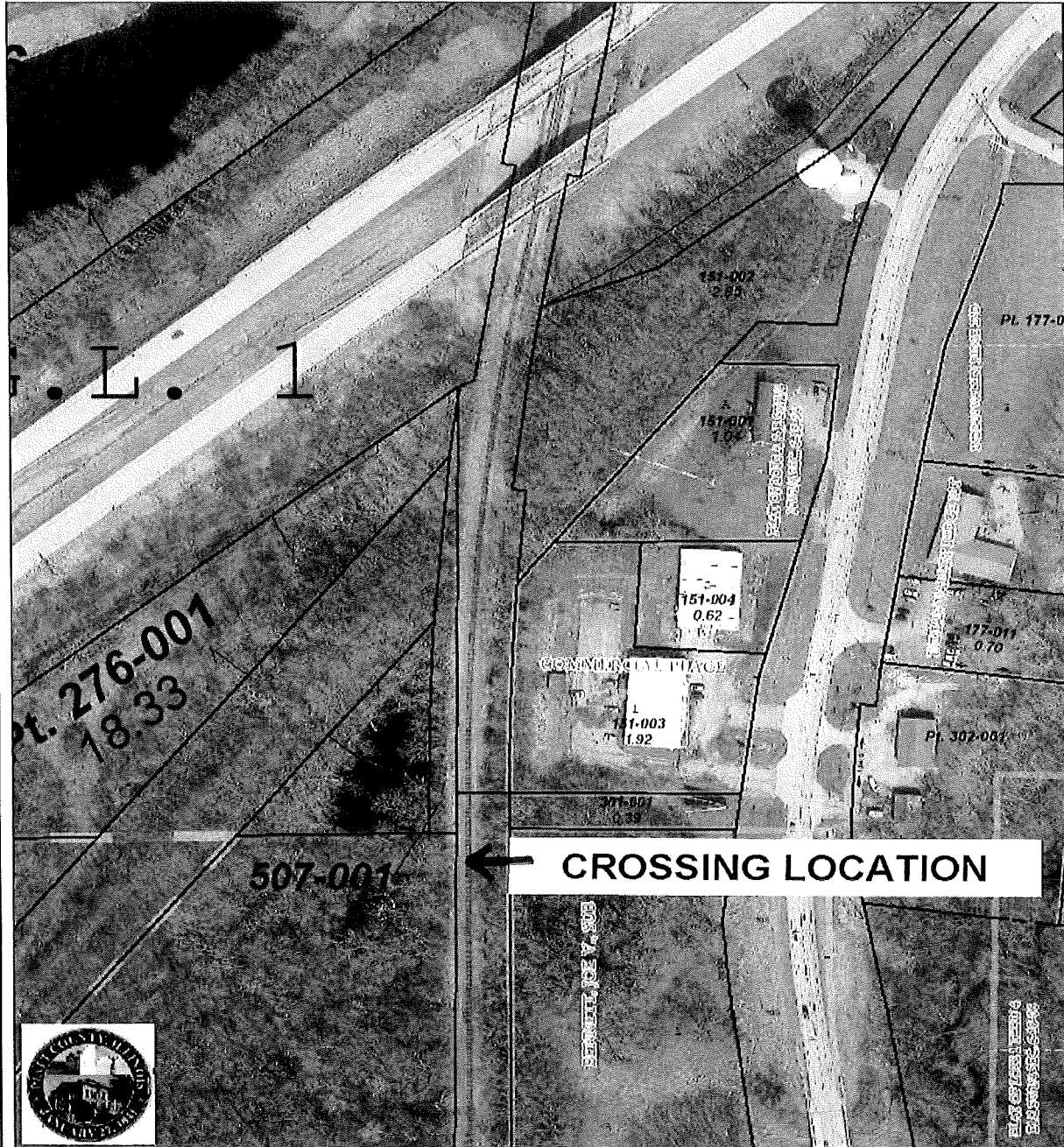
Title: City Administrator

Date: \_\_\_\_\_



**Exhibit A**

**Existing Private At-Grade Crossing to be Improved**



This map application was prepared with Platt County geographic information system (GIS) data. Platt County does not warrant or guarantee the accuracy or suitability of GIS data for any purpose. The GIS data within this application is intended to be used as a general index to spatial information and not intended for detailed, site-specific analysis or resolution of legal matters. Users assume all risk arising from the use or misuse of this application and information contained herein. The use of this application constitutes acknowledgement of this disclaimer.





## Exhibit B

**Norfolk Southern Railway Company**

 Midwest Division  
 Monticello, Platt County, Illinois

Existing Crossing

 DOT Number:  
 MP: C-144.28

**ESTIMATE FOR CROSSING IMPROVEMENT (ASPHALT SURFACE)**

	1 TRACK(S);		16 CROSSING LENGTH	
MATERIAL	QUANTITY	UNIT	UNIT COST	AMOUNT
SURFACE MATERIAL (Rubber Flangeways )	24	TRK. FT.	81.00	1,944
ASPHALT (BY CONTRACTOR)	34	TONS	396.00	13,536
RAIL, 132-LB RE	60	LIN FT.	25.00	2,000
TRANSITION RAIL	0	EA.	1171.00	0
INSULATED JOINTS	0	EA.	1355.00	0
RAIL ANCHORS	115	EA.	1.90	218
SPIKES	2.0	KEG	118.00	236
TIE PLATES	57	EA.	15.00	860
CROSTIES (10')	0	EA.	100.00	0
CROSTIES (GRADE 5)	29	EA.	55.00	1,577
TRUCKED BALLAST AND GRAVEL	70	TONS	104.00	7,280
GEOTEXTILE	38	LIN FT.	7.00	266
THERMITE WELDS	0	EA.	691.00	0
ASPHALT DISPOSAL	0	LUMPS	5000.00	0
<b>TOTAL (INCLUDES 5% INVENTORY OR TAX ADDITIVES)</b>				<b>29,312</b>
<b>LABOR</b>				
REMOVE EXISTING CROSSING	0	MAN HOURS	30.41	0
REHABILITATE TRK. STRUCTURE	40	MAN HOURS	30.41	1,216
INSTALL NEW CROSSING	40	MAN HOURS	30.41	1,216
<b>TOTAL</b>				<b>2,433</b>
<b>OTHER ITEMS</b>				
Rail	-1.5	TON	0	0
Scrap	-0.5	TON	0	0
				<b>0</b>
<b>COMPOSITE LABOR ADDITIVE (231.43%)</b>				<b>5,630</b>
<b>EQUIPMENT RENTAL &amp; TRANSPORTATION</b>				<b>1,581</b>
<b>PRELIMINARY &amp; CONSTRUCTION ENGINEERING SERVICES AND INVOICE</b>				<b>3,696</b>
<b>TOTAL (Billed to Project Sponsor)</b>				<b>\$42,852</b>

\*ESTIMATE BASED ON FULL CLOSURE OF ROAD WITH TRAFFIC CONTROL AND BARRICADES PROVIDED BY OTHERS

\*UNIT COSTS ARE ESTIMATED. ACTUAL UNIT COSTS ARE SUBJECT TO CHANGE WITHOUT NOTICE.

This estimate is valid for one (1) year after the date of estimate. If work is not performed within this time frame the Railway may revise the estimate to include work not previously deemed necessary.

This estimate shall not be considered as an approval for a temporary crossing. Information provided is an estimation of the anticipated cost for the construction of the crossing only. All temporary construction crossings require a separate approval from Norfolk Southern's General Manager and Division Superintendent, a separate stand alone temporary construction crossing agreement with associated real estate fees, and all required insurances as noted in the in the temporary construction crossing agreement.

OFFICE OF CHIEF ENGINEER DESIGN & CONSTRUCTION - ATLANTA, GEORGIA  
 Friday, April 21, 2023

File: #1311952

**Certificate Of Completion**

Envelope Id: B6E3BC3E8D21424E899035E11AC782DC  
Subject: DocuSign Subject  
Source Envelope:  
Document Pages: 6 Signatures: 0  
Certificate Pages: 2 Initials: 0  
AutoNav: Enabled  
Envelope Stamping: Enabled  
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Status: Sent

Envelope Originator:  
LaShella Glover-Church  
650 W Peachtree St NW  
Atlanta, GA 30308  
LaShella.Church@nscorp.com  
IP Address: 20.232.47.58

**Record Tracking**

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LaShella.Church@nscorp.com

Location: DocuSign

**Signer Events**

Terry Summers  
tls@cityofmonticello.net  
City Administrator  
Security Level: Email, Account Authentication (None)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign

**Signature**

**Timestamp**

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Solomon Jackson  
Solomon.Jackson@nscorp.com  
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Electronic Record and Signature Disclosure:  
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LaShella Glover-Church  
lashella.church@nscorp.com  
Security Level: Email, Account Authentication (None)  
Electronic Record and Signature Disclosure:  
Not Offered via DocuSign

**In Person Signer Events**

**Signature**

**Timestamp**

**Editor Delivery Events**

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**Agent Delivery Events**

**Status**

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**Intermediary Delivery Events**

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**Timestamp**

**Certified Delivery Events**

**Status**

**Timestamp**

**Carbon Copy Events**

**Status**

**Timestamp**

LaShella D Glover-Church  
lashella.church@nscorp.com  
Security Level: Email, Account Authentication (None)  
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**Payment Events**

**Status**

**Timestamps**