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BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36638

PIONEER INDUSTRIAL RAILWAY CO.
— CHANGE IN OPERATOR EXEMPTION —
IN PEORIA COUNTY, IL

ENTERED
Office of Proceedings
October 3, 2022
Part of
Public Record

**VERIFIED NOTICE OF EXEMPTION OF
PIONEER INDUSTRIAL RAILWAY CO.
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

FILED

**October 3, 2022
SURFACE
TRANSPORTATION BOARD**

Robert A. Wimbish
Fletcher & Sippel LLC
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**ATTORNEY FOR PIONEER
INDUSTRIAL RAILWAY CO.**

Dated: October 3, 2022

FEE RECEIVED

**October 3, 2022
SURFACE
TRANSPORTATION BOARD**

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PIONEER INDUSTRIAL RAILWAY CO.
— CHANGE IN OPERATOR EXEMPTION —
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**VERIFIED NOTICE OF EXEMPTION OF
PIONEER INDUSTRIAL RAILWAY CO.
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Pioneer Industrial Railway Co. (“PIRY”), a Class III rail carrier, hereby files this Change of Operator Notice of Exemption (“Notice”) pursuant to 49 C.F.R. § 1150.41, *et seq.*, to lease, and to provide common carrier service (pursuant to the terms of the lease) over, certain railroad lines owned by the City of Peoria, Illinois (the “City”).

The two, interconnected City-owned railroad lines (collectively, the “Lines”) that are the subject of this Notice are as follows: (1) an approximately 2.24-mile line of railroad known as the Western Connection, extending from a point of connection with the Peoria Subdivision of the Union Pacific Railroad Company (“UP”) at approximately milepost 71.5 to a point a short distance west of University Avenue in Peoria, and extending from there approximately another 1,800 feet to a point of connection between the Western Connection and a railroad line known as the Kellar Branch;¹ and (2) an approximately 1.5-mile portion of the

¹ The City in 2001 purchased the 1.9-mile Western Connection from UP. *City of Peoria, IL – Acquisition & Operation Exemption – Union Pac. R.R.*, FD 34066 (STB served July 25, 2001). Subsequently, the City of Peoria, IL, d/b/a/ Peoria, Peoria Heights & Western Railroad, sought and obtained authorization to construct the 1,800 feet of

aforementioned Kellar Branch² between mileposts 8.50 and 10.0 (the “North Line”). The Lines – a total of roughly 3.74 route miles – are located entirely in Peoria County, in the City of Peoria, Illinois, and they are owned, but are not operated, by the City, a non-carrier.³ PIRY currently possess, by way of an arrangement with an inactive leasehold operator of the Lines (discussed below), non-exclusive local trackage rights over both of these railroad line segments, along with a third, City-owned railroad line segment (a disconnected portion of the Kellar Branch) that is excluded from the scope of the present transaction and corresponding Notice.⁴

The Lines were previously leased and operated by the Central Illinois Railroad Company (“CIRY”). The City has terminated the lease with CIRY. Moreover, CIRY has not provided service over the Lines since 2010, and PIRY understands that CIRY was involuntarily dissolved in 2011. Through this Change in Operator Exemption, PIRY will replace CIRY and will become the exclusive service provider on the Lines by assuming the subject leasehold.

connecting track. *City of Peoria, IL, d/b/a/ Peoria, Peoria Heights & W. R.R. – Constr. of Connecting Track Exemption – in Peoria Cnty., IL*, FD 34395 (STB served Feb. 23, 2004).

² The history of the Kellar Branch is discussed in *City of Peoria and the Village of Peoria Heights, IL – Adverse Discontinuance – Pioneer Indus. Ry. Co.*, AB 878 (STB served Nov. 19, 2007) at 1-2. See also *City of Peoria, IL, d/b/a/ Peoria, Peoria Heights & W. R.R. – Constr. of Connecting Track Exemption – in Peoria Cnty., IL*, FD 34395 (STB served Feb. 23, 2004).

³ As the Board has previously recognized, while “the Cities have used the ‘d/b/a’ name Peoria, Peoria Heights & Western Railroad in connection with the line[s], the Cities have not obtained any authority from us, nor do they perform rail operations.” *Cent. Ill. R.R. – Operation Exemption – Rail Line of the City of Peoria & the Vill. of Peoria Heights in Peoria & Peoria Heights, Peoria Cnty., IL*, FD 34518, *et al.* (STB served Feb. 23, 2005) at 2.

⁴ *Pioneer Industrial Ry. Co. – Trackage Rights Exemption – Central Illinois R.R.*, FD 35341 (STB served Jan. 14, 2010).

Pursuant to the requirements at 49 C.F.R. §§ 1150.42-1150.44, PIRY submits the following information:

Full name and Address of Applicant: 49 C.F.R. § 1150.43(a)

Pioneer Industrial Railway Co.
5619 DTC Parkway, Suite 650
Greenwood Village, CO 80111

Applicant's Representative: 49 C.F.R. § 1150.43(b)

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500
rwimbish@fletcher-sippel.com

Statement Regarding Agreement: 49 C.F.R. § 1150.43(c)

PIRY recently entered into a lease agreement (the "Lease") with the City, which, once the transaction encompassed by that Lease is consummated, will enable PIRY to assume leasehold operations over the Lines in place of CIRY. The Lease (Exhibit A) is offered in accordance with *Anthony Macrie – Continuance in Control Exemption – New Jersey Seashore Lines, Inc.* FD 35296 (STB served Aug. 31, 2010), 3, in both public (redacted) and confidential (unredacted) form, subject to a concurrently-filed Motion for Protective Order.

Again, PIRY understands that CIRY has not provided service over the Lines since 2010, and Illinois Secretary of State records indicate that CIRY was dissolved involuntarily in 2011.⁵ CIRY's prior owners cannot be located. However, as discussed in the Verified Statement

⁵ Office of the Ill. Secretary of State, *Corporation/LLC Search/Certificate of Good Standing* (accessed July 22, 2021) (search performed for "Central Illinois Railroad"), <https://apps.ilsos.gov/corporatellc/CorporateLlcController>.

of the former Controller of CIRY, Christine Stantz, (“Stantz V.S.” – attached as Exhibit B), the Superior Court of Porter County, Indiana, ordered CIRY’s dissolution in 2010, with CIRY’s tangible assets to be transferred to a CIRY secured creditor.

Anticipating dissolution, CIRY reportedly intended formally to discontinue common carrier over all of the lines it operated, and to cease operations, as of August 31, 2010. *Id.* at 2-3. CIRY notified the Railroad Retirement Board (“RRB”) of CIRY’s plans to terminate operations. *Id.* at 3. In response, the RRB found that, effective September 15, 2010, CIRY would cease to be a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.⁶ The RRB appears to have predicated its September 15, 2010 coverage ruling on the Board’s AB 1066 (Sub-No. 2X) decision, which authorized CIRY to discontinue service over approximately 18.5 miles of BNSF Railway Company-owned rail lines.⁷ However, CIRY failed in the AB 1066 (Sub-No. 2X) proceeding to seek and secure the discontinuance authority for the Lines that are the subject of this proceeding (and all other City-owned line segments over which CIRY has previously obtained common carrier authorization), evidently due to a clerical error or oversight.⁸

PIRY understands that the City is entitled under the circumstances to arrange for a change in leasehold operator from CIRY to PIRY, as discussed in the verified statement by the City Manager, Patrick Urich (“Urich V.S.”), attached as Exhibit C. Among other practical

⁶ *Employer Status Determination Central Illinois R.R.*, Board Coverage Decision 11-37 (Feb. 9, 2011), Board Coverage Decision 11-37 (rrb.gov).

⁷ *Cent. Ill. R.R. – Discontinuance of Serv. Exemption – In Cook Cnty., IL*, AB 1066 (Sub-No. 2X) (STB served Nov. 16, 2010).

⁸ Stantz V.S. at 2.

considerations, CIRY no longer exists to object to the change of operator arrangement.⁹ The sole railroad customer located on the Lines, Carver Lumber, a past railroad service recipient, is interested in PIRY rail service going forward, and it supports this Notice. Attached as Exhibit D is a copy of Carver Lumber's letter of support.

Operator of the Property: 49 C.F.R. § 1150.43(d)

PIRY will operate and provide rail common carrier service to shippers located on the Lines as the exclusive leasehold operator in place of CIRY.¹⁰ Upon PIRY's assumption of leasehold operations, CIRY's common carrier status on the Lines will cease.

Summary of Proposed Transaction: 49 C.F.R. § 1150.43(e)

(1) Name and Address of the Railroad Transferring the Subject Property

The City, a non-carrier, owns the Lines and is leasing the right-of-way property to PIRY for continuing rail service.

The City's address is as follows:

⁹ In highly-analogous circumstances involving modified certificates of public convenience and necessity, the Board has allowed a railroad line-owning state subdivision to step in and file for discontinuance authority on behalf of a defunct railroad operator. *S.D. Ry.—Notice of Interim Trail Use & Termination of Modified Rail Certificate*, FD 31874 (STB served July 17, 2007), at 2; *Chesapeake R.R.—Certificate of Interim Trail Use & Termination of Modified Certificate*, FD 32609 (STB served Jan. 9, 2006), at 1 n.2.

¹⁰ Although PIRY long has held local trackage rights on the Lines, CIRY (as the leasehold operator) was responsible for dispatching and track upkeep, upon which PIRY service depended. See *Urich V.S.*, par. 6 and 9. With CIRY's demise, service along the line ended, including PIRY's trackage rights operations. The present transaction would rectify the suspension of service, by placing oversight and maintenance of the Lines in the hands of PIRY going forward.

City of Peoria
419 Fulton Street
Peoria, Illinois 61602

(2) Proposed Time Schedule for Consummation of the Transaction

On or after the effective date of this exemption.

(3) Mileposts of the Subject Lines Including any Branch Lines

The Western Connection, from MP 71.5 on the Peoria Subdivision of the UP to a point a short distance west of University Avenue in Peoria, Illinois, and including approximately 1,800 feet of connecting track that links the Western Connection to the North Line of the Kellar Branch; and the North Line of the Kellar Branch between MP 8.50 and MP 10.0.

(4) Total Route Miles

The present change of operator exemption involves approximately 3.74 route miles.

Map: 49 C.F.R. § 1150.43(f)

A map of the Lines is attached hereto as Exhibit E (the map also shows the South Line, over which PIRY holds trackage rights, but which is not the subject of this proceeding).

Certification: 49 C.F.R. § 1150.43(g)

PIRY certifies that its projected revenues as a result of this transaction will not exceed the maximum revenue of a Class III rail carrier.

Interchange Commitments: 49 C.F.R. § 1150.43(h)

The Lease to govern PIRY's leasehold operations over the subject Lines does not include a provision or agreement which may limit future interchange with a third-party connecting carrier.

Shipper Notice: 49 C.F.R. § 1150.42(b)

Carver Lumber, the only potential railroad customer known to be located on the Lines, supports this Notice. See Exhibit D. PIRY also hereby certifies that it has also provided a copy of this Notice to Carver Lumber in accordance with the Board's change of operator rules.

Advance Notice: 49 C.F.R. § 1150.42(e)

PIRY certifies that its operating revenues will not exceed the \$5 million threshold that would require PIRY to provide advance notice to employees and railroad unions pursuant to 49 C.F.R. § 1150.42(e). Regardless, CIRY ceased operations and went out of business over a decade ago and does not have any employees that could be notified.¹¹

Environmental and Historic Preservation: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(1), PIRY's proposed operations are exempt from environmental reporting requirements. The proposed operations will not result in changes that will exceed the environmental reporting thresholds at 49 C.F.R. § 1105.7(e) (4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), PIRY's proposed operations are exempt from historic preservation reporting requirements. The proposed transaction is for the initiation of

¹¹ The City has also determined, and hereby certifies, that since there has been no active rail service on the line for at least five years, there are no duly certified labor organizations representing employees on the lines. *Urlich V.S.*, par. 12-13. *Cf. Riverview Trenton R.R. – Adverse Abandonment – In Wayne Cnty. Mich.*, AB 1230 (STB served Apr. 10, 2015) at 4 (waiving labor organization notice when “there are no known railroad employees who have worked on the Line”).

common carrier rail service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years or older.¹²

Accordingly, no environmental or historic documentation is required.

Caption Summary: 49 C.F.R. § 1150.44

A caption summary is attached hereto as Exhibit F.

Respectfully submitted,

By: /s/ *R. A. Wimbish*

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
rwimbish@fletcher-sippel.com

**ATTORNEY FOR PIONEER INDUSTRIAL
RAILWAY CO.**

Dated: October 3, 2022

¹² If at some future point it is decided that common carrier service should cease over any of the aforementioned, City-owned track segments (including those that are the subject of this proceeding), then PIRY understands that the incumbent common carrier service provider will need only to seek and obtain Board authorization to discontinue service, thereby removing the Board's jurisdiction from the track segments that would be the subject of such a discontinuance proceeding, because the line was previously formally abandoned and because the City has never held itself out as a common carrier. *Pioneer Indus. Ry. Co. – Discontinuance of Serv. Exemption – Line in Peoria Cnty., Ill.*, AB 1056X (STB served Apr. 16, 2010) at 5 (and cases cited therein).

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36638

PIONEER INDUSTRIAL RAILWAY CO.
– CHANGE IN OPERATOR EXEMPTION –
IN PEORIA COUNTY, ILLINOIS

PUBLIC EXHIBIT A

LEASE AGREEMENT – REDACTED

RAIL LINE LEASE AGREEMENT

BY AND BETWEEN

THE CITY OF PEORIA, ILLINOIS

AND

PIONEER INDUSTRIAL RAILWAY CO.

RAIL LINE LEASE AGREEMENT

THIS RAIL LINE LEASE AGREEMENT, (hereinafter referred to as "Lease Agreement" or "Agreement"), dated as of the 10th day of May, 2022, by and between the CITY OF PEORIA, ILLINOIS ("Lessor") and PIONEER INDUSTRIAL RAILWAY CO., an Iowa corporation ("Lessee").

RECITALS

WHEREAS, Lessor and Lessee, along with the now dissolved Central Illinois Railroad Company ("CIRY"), were parties to that certain Rail Operating and Trackage Rights Agreement entered into in 2009 (hereinafter "ROTRA") for portions of the line owned by Lessor and all being in Peoria County, Illinois; and

WHEREAS, Lessor and Lessee agree that the ROTRA has been terminated and is to be replaced and superseded in its entirety with this Lease Agreement to remove the CIRY and terms therefrom that are no longer applicable, and to further modify and update its terms; and

WHEREAS, Lessor desires that a common carrier railroad maintain and provide service on the North Line and Western Connection ("Leased Premises"), as defined below and as depicted in **Exhibit A**; and

WHEREAS; Lessee desires the right to operate as a common carrier railroad on the North Line and Western Connection and in exchange for use of the Leased Premises is willing to perform maintenance on the line and provide common carrier service, and engaged in actions and obligations in accordance with the terms of this Lease Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration the adequacy of which being hereby acknowledged, the parties hereby agree that the 2009 Trackage Rights Agreement has been terminated, and replaced in its entirety by this Lease Agreement as follows:

SECTION I – LEASED PREMISES/PERMITTED USES

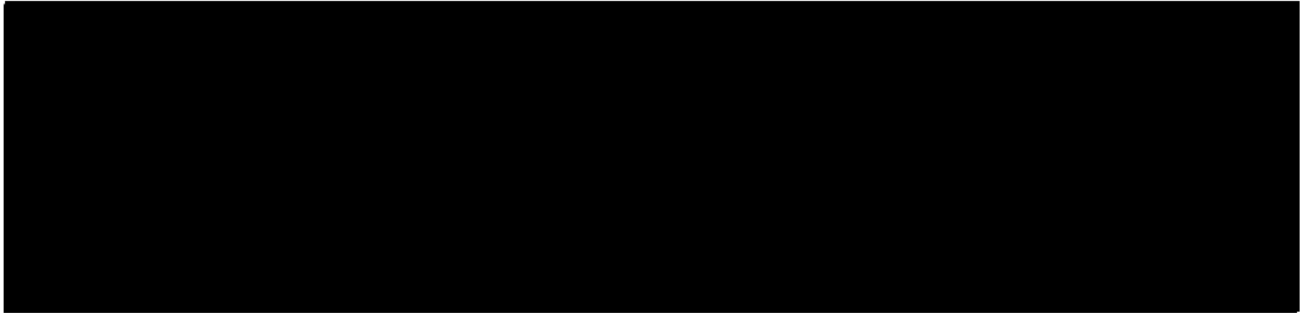
SECTION 1.01 – Lessor does hereby lease to Lessee and Lessee does hereby lease from Lessor, upon the terms and conditions set forth below, the Leased Premises as referenced in the Recitals above and as more particularly described in Sections 1.02 and 1.03 of this Lease Agreement, for the Permitted Uses as set forth in Section 1.05 of this Agreement.

SECTION 1.02 – The Leased Premises include both the North Line and the Western Connection, as defined below, and as indicated on **Exhibit A**.

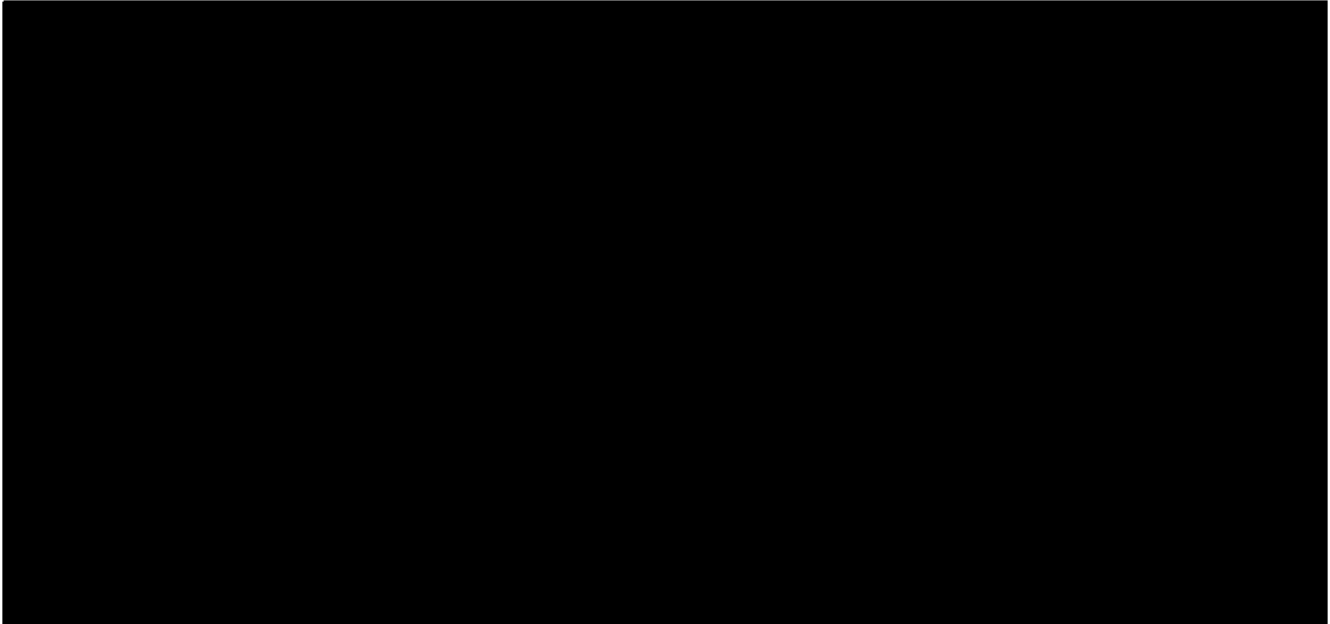
- (a) "North Line" shall mean the Kellar Branch trackage between milepost 8.50 north to the end of the Kellar Branch at milepost 10.0. The North Line does not include the portion of railroad right-of-way which is currently being used as a recreational trail, said portion being North of Pioneer Parkway.

- (b) "Western Connection" shall include the portion of the line between the Kellar Branch and the interchange with Union Pacific Railroad ("UP") at a point known as Pioneer Junction. The Western Connection runs between milepost 71.5 to the end of the track a short distance west of University Avenue, and includes approximately 1,800 feet of connecting track that links the Western Connection to the North Line.

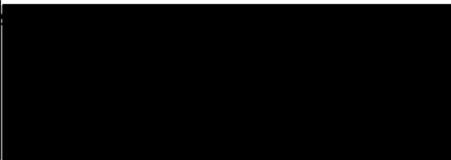
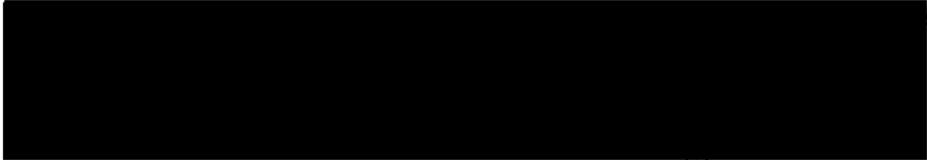
SECTION 1.03 – The Leased Premises shall include, without limitation, right-of-way, tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, buildings, crossing warning devices, and any and all improvements or fixtures affixed to the right-of-way as indicated on **Exhibit A**, but excluding any and all (a) communications equipment and related facility structures, and (b) items of personal property not owned by Lessor or not affixed to the land, including, without limitation, railroad rolling stock, locomotives, equipment, machinery, tools, inventories, materials, and supplies.



SECTION 1.05 – Lessee shall use the Leased Premises exclusively for freight railroad operating and maintenance activities pursuant to the terms hereinafter set forth and for no other purposes ("collectively, the "Permitted Uses").



SECTION II – LEASE TERM

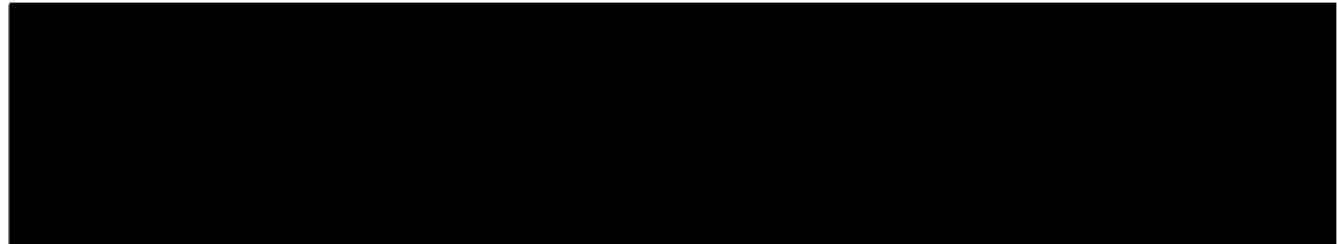


[REDACTED]

SECTION III – RAIL SERVICE

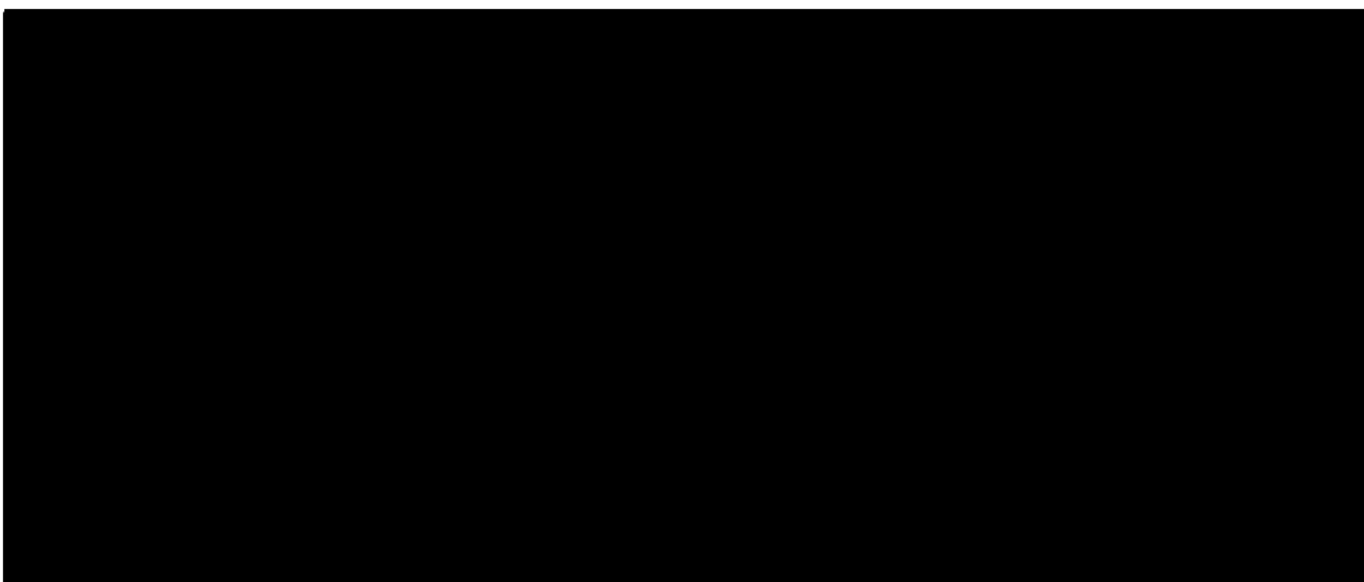
SECTION 3.01 –

[REDACTED]



SECTION 3.02 – During the Lease Term, Lessee shall at all times comply with its common carrier service obligations as required at law. Lessee will not suspend or discontinue its operation by rail over all or any part of the Leased Premises without first applying for and obtaining from the STB, and any other regulatory agency with jurisdiction, any necessary certificate of public convenience and necessity or other approvals or exemptions from regulation for such discontinuance of operations over the Leased Premises; provided, however, that Lessee shall not seek such regulatory authority, or if no regulatory authority is required, take any action to suspend or discontinue its operations on the Leased Premises, without first (i) obtaining Lessor's prior written consent for such suspension or discontinuance of service, and (ii) giving Lessor at least one hundred and eighty (180) days' notice of the date in which Lessee seeks to suspend or discontinue service over the Leased Premises.

SECTION IV – REVENUE AND FEES

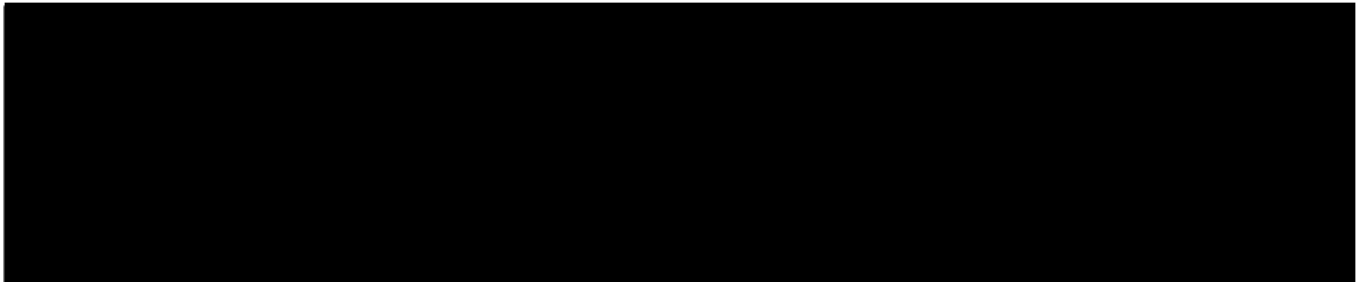


SECTION 4.02 – Lessee shall pay all Rent required by this Lease Agreement, to Lessor at City of Peoria, 419 Fulton Street, Peoria, Illinois 61602, Attn: City Manager, or at such other location or to such other individual as may be designated by Lessor in writing. Upon written request by Lessor, Lessee shall make payments electronically via EFT (Electronic Fund Transfer) or ACH (Automated Clearing House).

SECTION 4.03 – Lessee shall pay the Base Rent and all additional amounts (such Base Rent and all additional amounts being sometimes referred to hereinafter collectively as “rent” or “rental”) due pursuant to this Lease Agreement as and when the same become due and payable, without demand, set-off, or deduction. Lessee's obligation to pay Base Rent and all amounts due under this Agreement is an independent covenant and no act or circumstance, regardless of

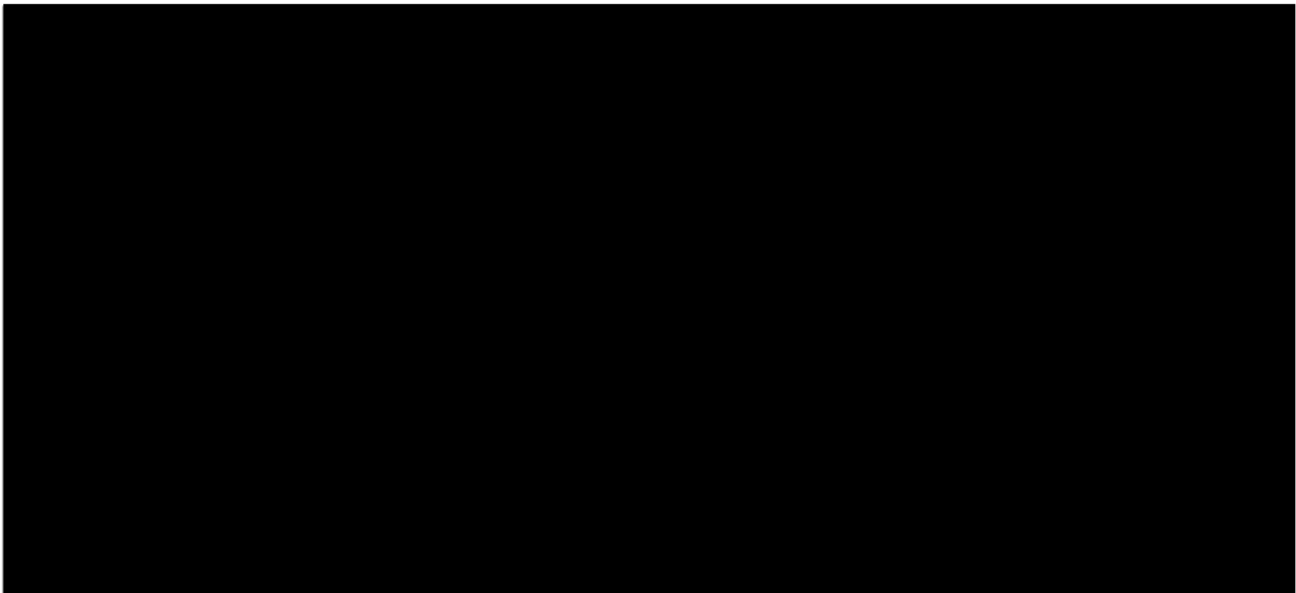
whether such act or circumstance constitutes a breach under this Lease by Lessor, shall release Lessee of its obligation to pay Base Rent and all amounts due as required by this Agreement.

SECTION 4.04 – If any Base Rent or any payment under this Lease Agreement or any other payment due by Lessee hereunder is not paid within thirty (30) days after the date the same is due, Lessor may assess Lessee a late fee (“Late Fee”) in an amount equal to two percent (2%) of the amount which was not paid when due to compensate Lessor for Lessor’s administrative burden in connection with such late payment. In addition to said Late Fee, Lessee shall pay interest on the unpaid sum from the due date thereof to the date of payment by Lessee at an annual rate equal to twelve percent (12%), or the maximum rate permitted by law, whichever is less.



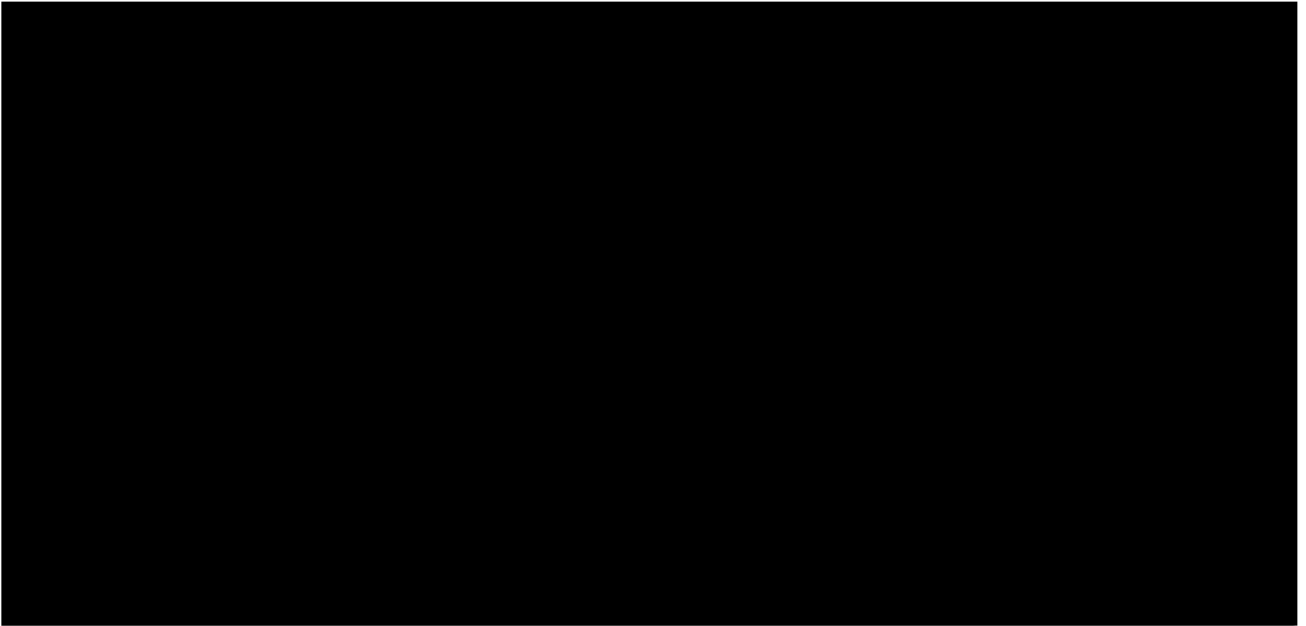
SECTION V – MAINTENANCE

SECTION 5.01 – LESSEE’S MAINTENANCE OBLIGATIONS



[REDACTED]

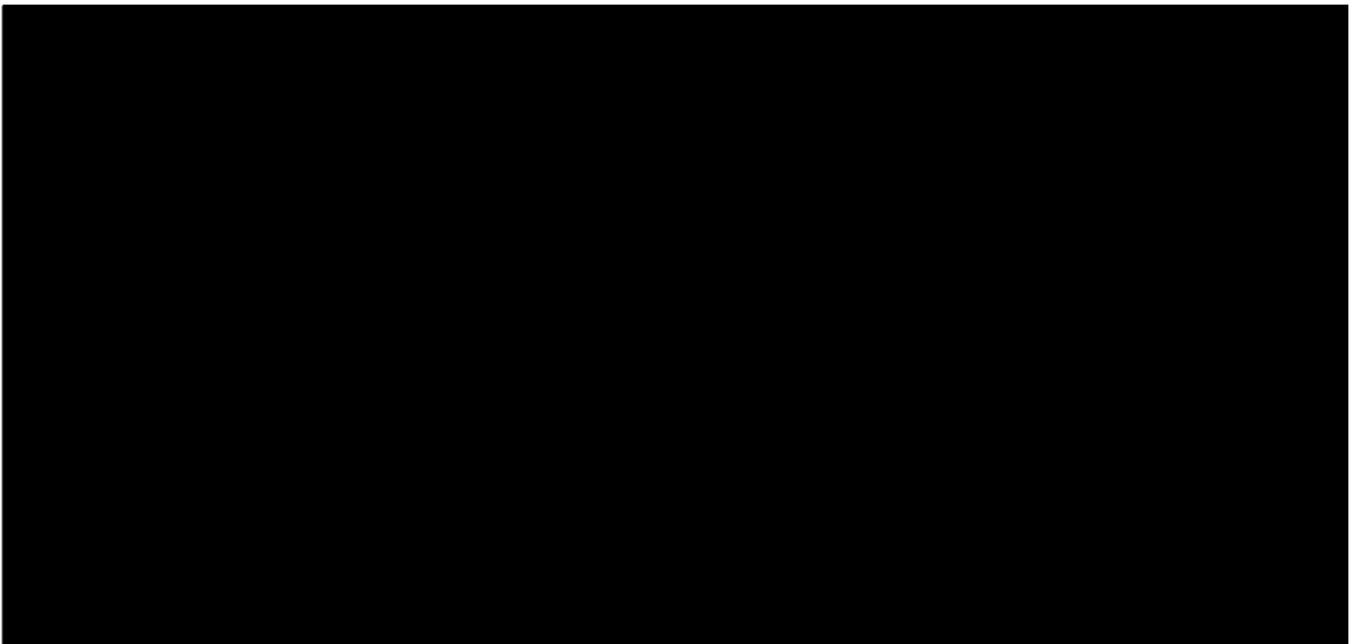
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SECTION 5.02 – LESSOR’S MAINTENANCE OBLIGATIONS. During the term



SECTION VI – SUBSURFACE RIGHTS AND RESERVED FACILITIES





SECTION VII – ACCOUNTING AND REPORTING

SECTION 7.01 – Lessee agrees to furnish to Lessor such copies of reports pertaining to Lessee and the Leased Premises, including but not limited to inspection reports, prepared in the normal course of Lessee's business as Lessor may reasonably request and Lessee may lawfully furnish.

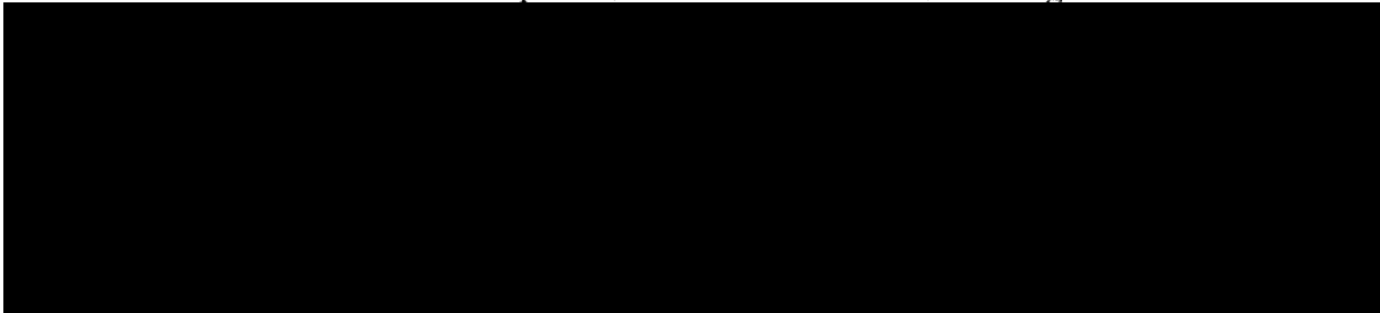
SECTION VIII – DISPUTE RESOLUTION

SECTION 8.01 – If at any time a question or controversy shall arise between the parties hereto in connection with this Lease Agreement upon which the parties cannot agree, senior representatives of the parties shall meet at least once and will attempt in good faith to resolve the dispute between their respective representatives. If following thirty (30) days after the parties first meet as provided for above, the parties remain unable resolve any claim or controversy, the parties reserve all of their rights at law to address any question or controversy. All questions concerning the interpretation or application of provisions of this Agreement shall be decided according to the laws of the State of Illinois.

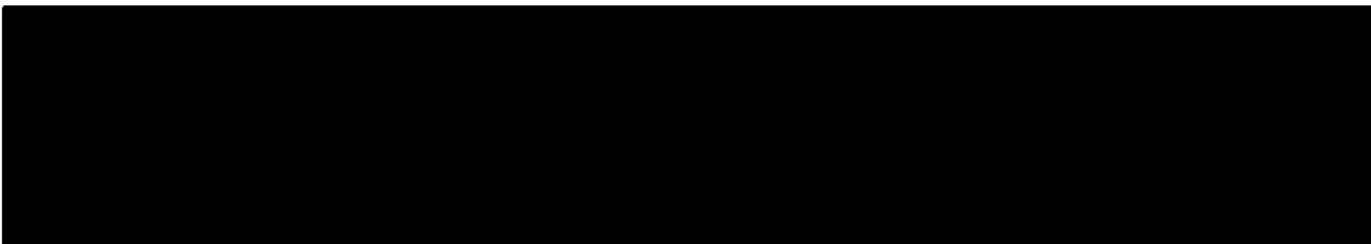
SECTION IX – REPRESENTATIONS AND WARRANTIES

SECTION 9.01 – Lessor's duties and warranties are limited to those expressly stated in this Lease Agreement, if any, and shall not include any implied duties or implied warranties, now or in the future. Lessee hereby waives any and all warranties, express or implied, with respect to the track or Leased Premises which may exist by operation of law or in equity, including, without limitation, any warranty of merchantability, habitability, or fitness for a particular purpose.

- SECTION 9.02 – Lessor represents and warrants that to its knowledge:



SECTION 9.03 – Lessee represents and warrants that:



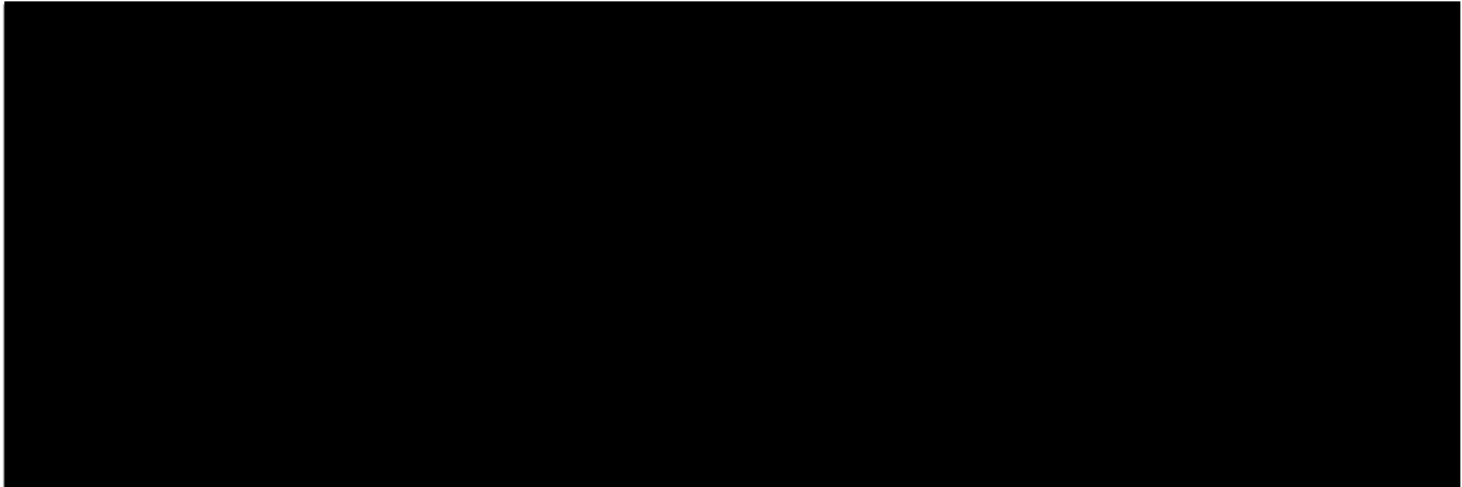
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SECTION X – OBLIGATIONS OF THE PARTIES

[REDACTED]

[REDACTED]

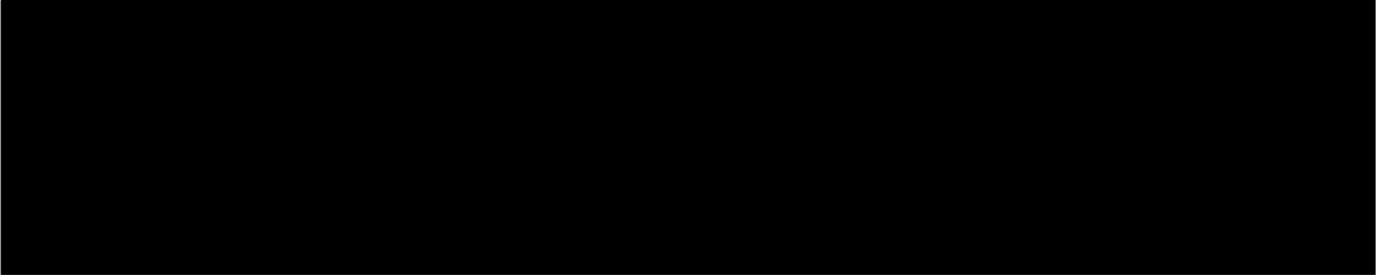
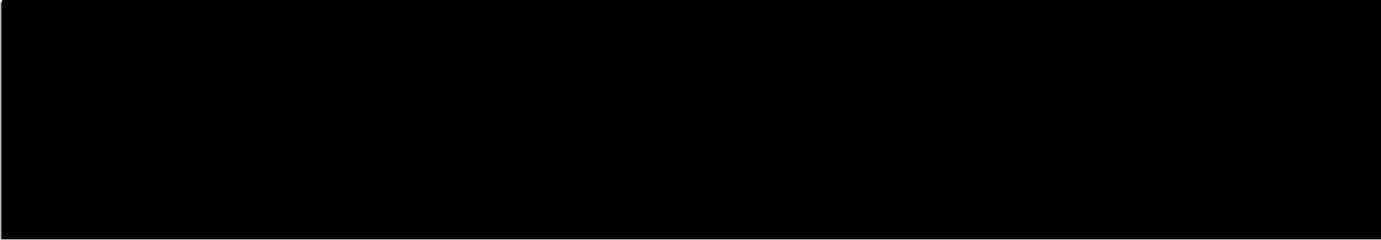
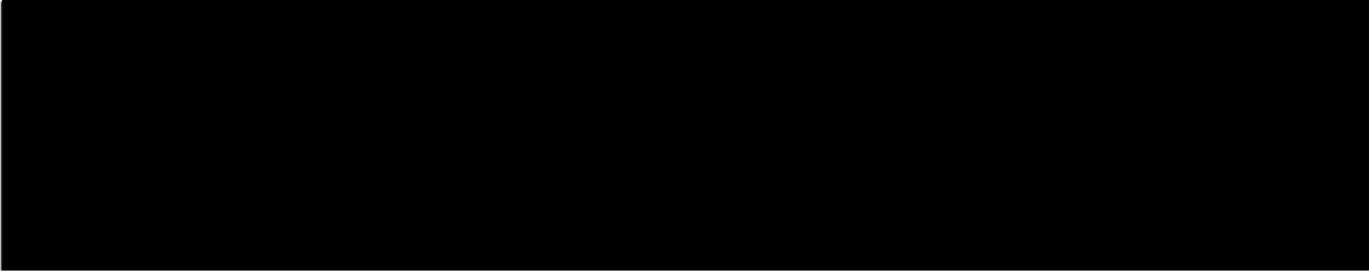
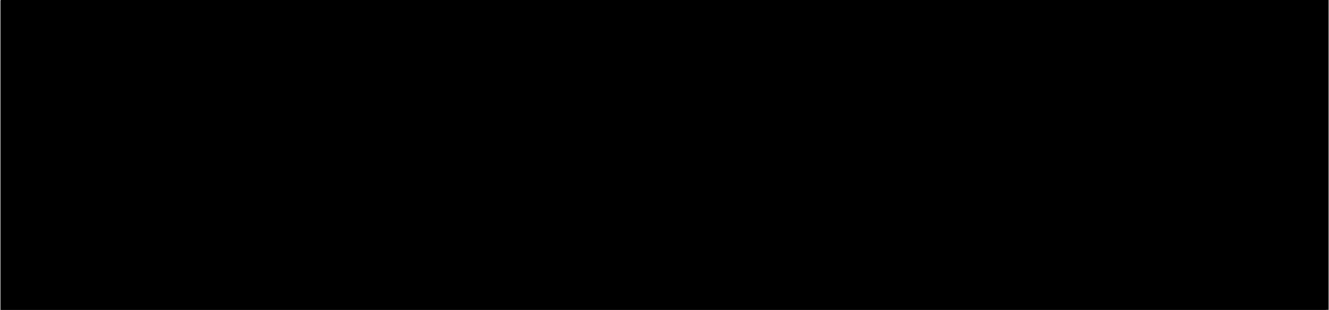


SECTION 10.04 – Lessee shall promptly furnish Lessor with written notice of any and all (i) releases of hazardous wastes or substances on, from, or affecting the Leased Premises of which it becomes aware which occur during the term of this Lease Agreement whether or not such releases are required to be reported to any federal, state, or local authority, and (ii) alleged water or air permit condition violations, (iii) any notification alleging any violation of Environmental Laws or any state, federal or local statute, ordinance, ruling, order or regulation pertaining to environmental protection and/or Hazardous Material, handling transportation or storage, and (iv) inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Lessee's use of the Leased Premises. To the extent applicable and known, such written notice will identify the substance released, the amount released, and the measures undertaken to clean up and remove the released material and any contaminated soil or water, and will identify the nature and extent of the alleged violation and the measures taken to eliminate the violation. Lessee shall use the best efforts to promptly respond to any release on, from, or affecting the Leased Premises.

SECTION 10.05 – Lessee shall not permit any liens or encumbrances on the Leased Premises unless such liens or encumbrances are approved in writing by Lessor. Lessee shall promptly, and in any case no later than ten (10) days after notice of the filing thereof, pay and discharge any and all liens arising out of any activities done, suffered or permitted to be done by Lessee on the Leased Premises, and shall indemnify, defend and hold harmless Lessor from any such liens.

SECTION XI – EMINENT DOMAIN

SECTION 11.01 – In the event that at any time during the Lease Term the whole, or any part of, the Leased Premises shall be taken by any lawful power by the exercise of the right of eminent domain for any public or quasi-public purpose the following provisions shall be applicable:



SECTION XII – INDEMNIFICATION AND INSURANCE

SECTION 12.01 – LESSEE, FOR ITSELF AND ON BEHALF OF ITS EMPLOYEES, AGENTS, CONTRACTORS, CONSULTANTS, INVITEES, OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, AFFILIATES, SUCCESSORS, AND ASSIGNS (THE “LESSEE INDEMNITEES”), SHALL ACCEPT RESPONSIBILITY AND LIABILITY FOR AND SHALL INDEMNIFY, DEFEND AND HOLD LESSOR AND ITS RESPECTIVE EMPLOYEES, AGENTS, CONTRACTORS, CONSULTANTS, OFFICERS, AND DIRECTORS, (THE “LESSOR INDEMNITEES”), HARMLESS TO THE FULLEST EXTENT PROVIDED BY LAW FROM AND AGAINST ANY AND ALL

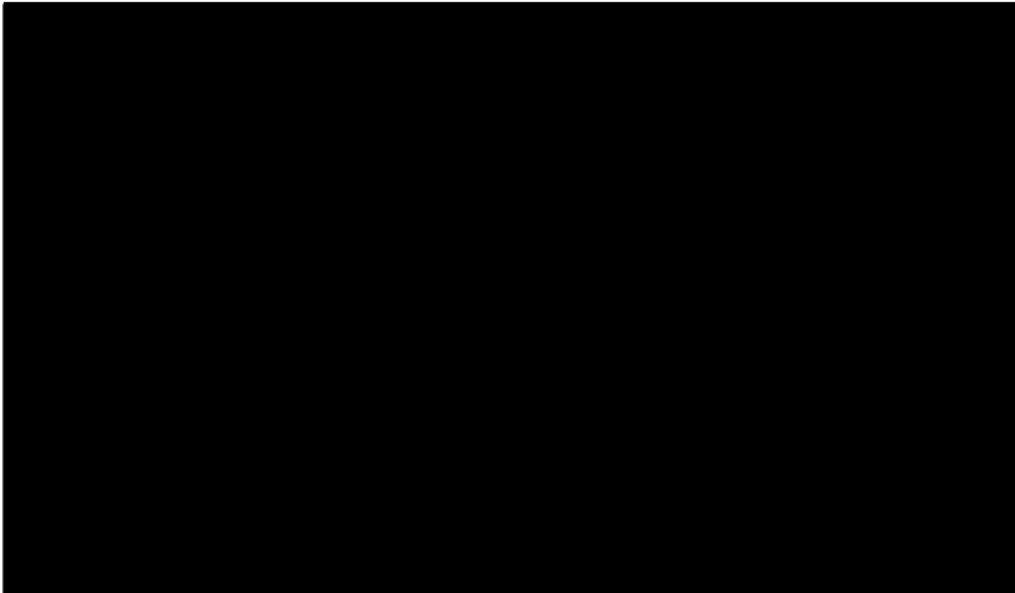
LOSSES, EXPENSES, CLAIMS, DEMANDS, JUDGMENTS, AWARDS, FINES, PENALTIES, OR ANY CAUSES OF ACTION, INCLUDING WITHOUT LIMITATION CLAIMS PURSUANT TO THE FEDERAL EMPLOYERS LIABILITY ACT (COLLECTIVELY, "LIABILITIES") FOR INJURY TO PERSONS, INCLUDING DEATH, OR FOR LOSS OF OR DAMAGE TO PROPERTY, ARISING FROM, OR RELATED TO (IN WHOLE OR IN PART) FROM LESSEE INDEMNITIES' ACTS OR OMISSIONS, ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LEASE, INCLUDING WITHOUT LIMITATION LESSEE'S OCCUPATION AND/OR USE OF THE LEASED PREMISES, OR ANY OF ITS OPERATIONS OR MAINTENANCE WORK PERFORMED ON OR ABOUT THE LEASED PREMISES OR ANY OTHER PROPERTY OF LESSOR. THE LIABILITY ASSUMED BY LESSEE SHALL NOT APPLY TO THE EXTENT LIABILITIES ARE PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY LESSOR INDEMNITEE, OR TO LIABILITIES WHOLLY CAUSED BY THE NEGLIGENCE OF ANY LESSOR INDEMNITEE, HOWEVER, THE LIABILITY ASSUMED BY LESSEE WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DEATH, OR INJURY WAS CONTRIBUTED TO BY THE NEGLIGENCE OF ANY LESSOR INDEMNITEE. THE INDEMNIFICATION OBLIGATION ASSUMED BY LESSEE INCLUDES ANY CLAIMS, SUITS, OR JUDGMENTS BROUGHT AGAINST LESSEE UNDER THE FEDERAL EMPLOYEES LIABILITY ACT INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE LOCOMOTIVE INSPECTION ACT, WHENEVER SO CLAIMED. THE LIABILITY AND INDEMNIFICATION REQUIRED BY THIS SECTION SHALL NOT BE LIMITED IN ANY WAY BY THE LIMITS, TERMS, OR CONDITIONS OF ANY INSURANCE POLICY.

SECTION 12.02 – UPON WRITTEN NOTICE FROM LESSOR TO LESSEE, LESSEE AGREES TO ASSUME THE DEFENSE OF CLAIMS OR ANY LAWSUIT OR OTHER PROCEEDING BROUGHT AGAINST LESSOR BY ANY ENTITY, RELATING TO ANY MATTER COVERED IN THIS AGREEMENT FOR WHICH THE LESSEE HAS AN OBLIGATION TO ASSUME LIABILITY FOR AND/OR SAVE AND HOLD HARMLESS LESSEE. LESSEE SHALL PAY ALL COSTS INCIDENT TO SUCH DEFENSE, INCLUDING, BUT NOT LIMITED TO, ATTORNEY'S FEES, INVESTIGATOR'S FEES, LITIGATION AND APPEAL EXPENSES, SETTLEMENT PAYMENTS, AND AMOUNTS PAID IN SATISFACTION OF JUDGMENTS.

SECTION 12.03 – NOTWITHSTANDING ANY PROVISION TO THE CONTRARY HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF THE CONDUCT OF AN INDEMNIFIED PARTY OR THE EMPLOYEES AGENTS, OFFICERS, OR CONTRACTORS OF AN INDEMNIFIED PARTY.

SECTION 12.04 – The provisions of this Section 12 are solely for the benefit of the parties to this Lease Agreement and shall not be construed for the benefit of any third parties. The provisions of this Section shall survive the termination of this Agreement.

SECTION 12.05 – Lessee shall, at its own sole cost and expense, procure, and keep in full force and effect and maintain the following kinds of insurance during the Lease Term, and promptly pay when due all premiums for that insurance:

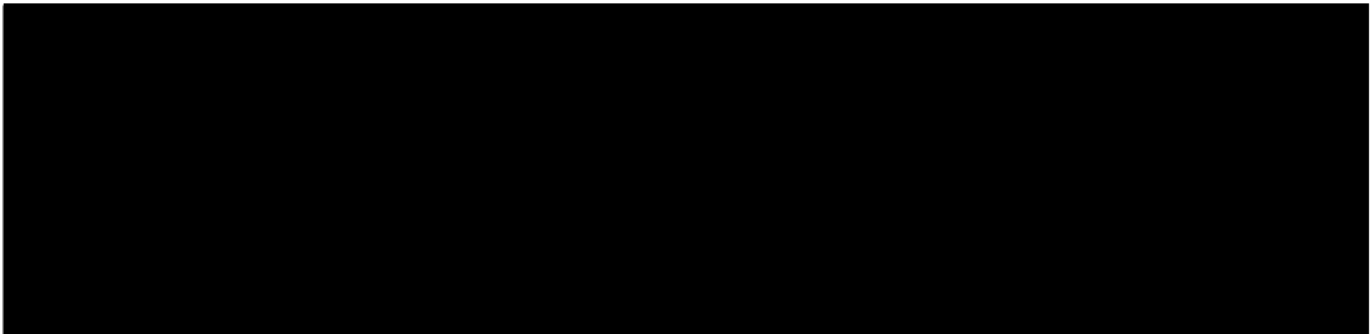


SECTION 12.06 – Lessee shall furnish to Lessor certificates of insurance evidencing the required coverage and endorsements. Lessee shall notify Lessor in writing of any material alteration including any change in the retroactive date in any "claims made" policies or substantial reduction of aggregate limits, if such limits apply, or cancellation thereof at least thirty (30) days prior thereto.

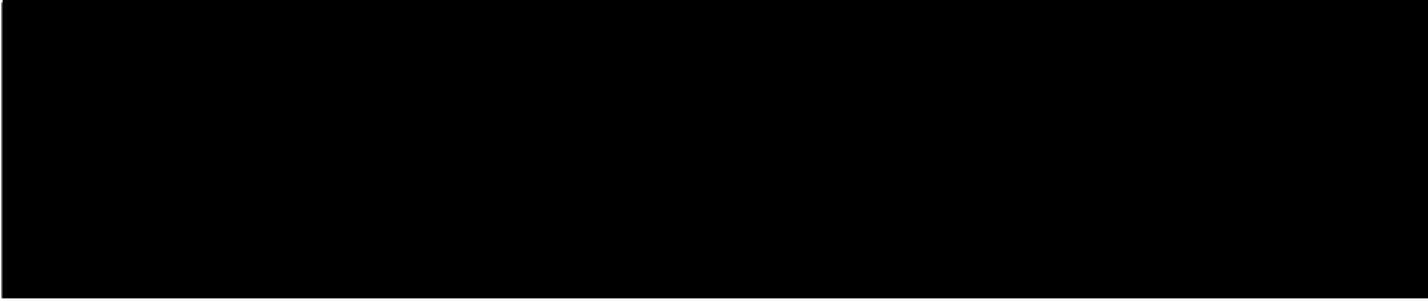
SECTION 12.07 – The insurance policy(ies) shall be written by a reputable insurance company or companies reasonably acceptable to Lessor or with a current Best's Insurance Guide Rating of A- or better. Such insurance company shall be authorized to transact business in the State of Illinois.

SECTION 12.08 – Insurance coverage provided in the amounts set forth herein shall not be construed to otherwise relieve Lessee from liability hereunder in excess of such coverage, nor shall it preclude Lessee from taking such other action as is available to it under any other provision of this Lease Agreement or otherwise in law.

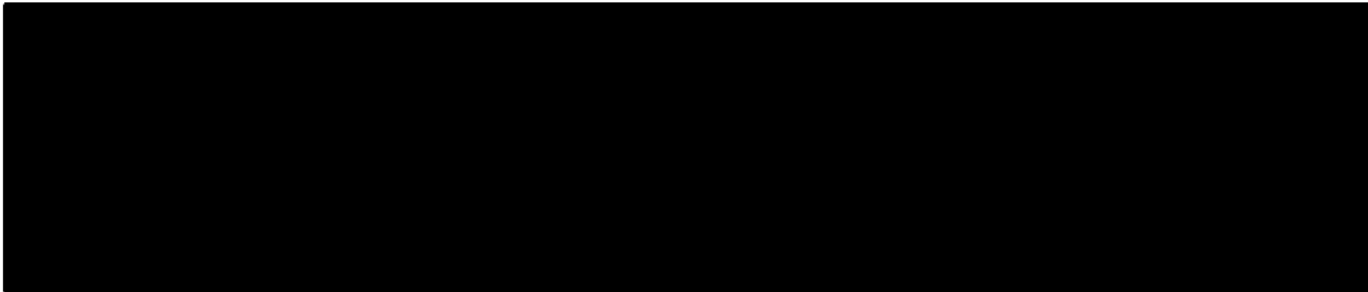
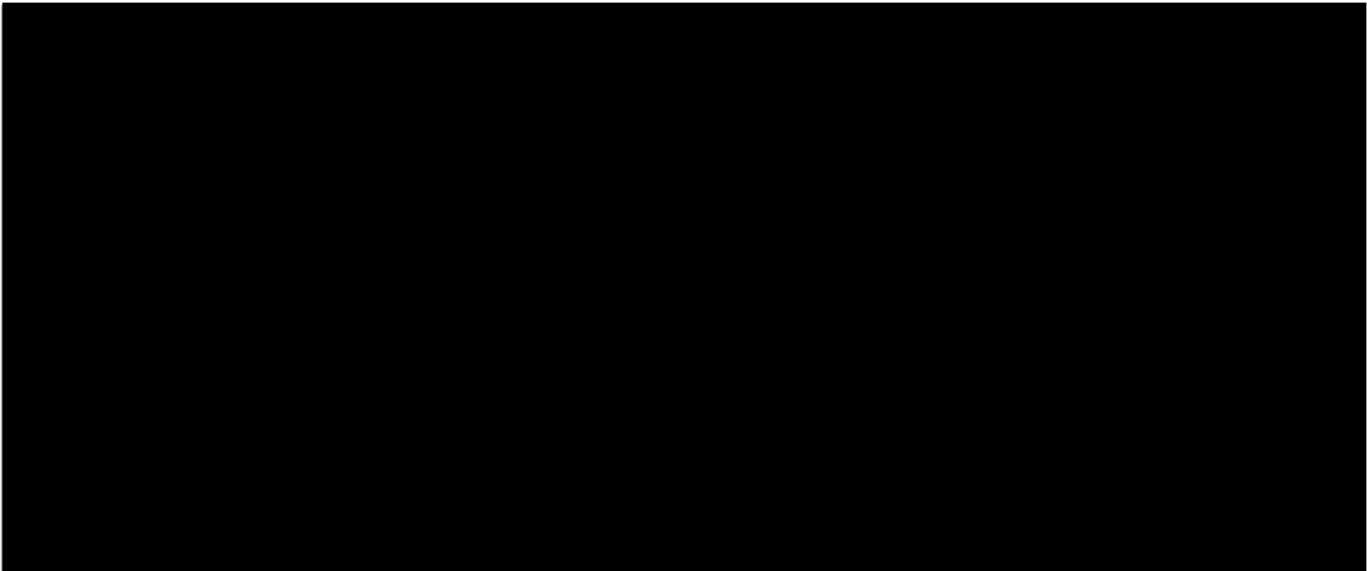
SECTION XIII – TAXES



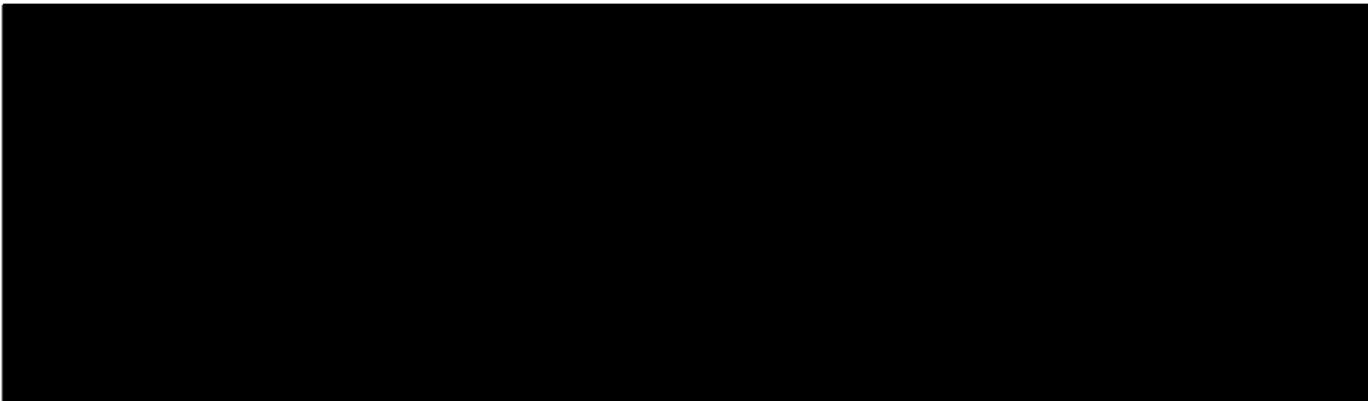
SECTION XIV – UTILITIES



SECTION XV – EASEMENTS, LEASES AND LICENSES



SECTION XVI – TERMINATION



[REDACTED]

[REDACTED]

[REDACTED]

SECTION XVII – COMPLIANCE WITH LAW

SECTION 17.01 – Lessee agrees to comply with all provisions of law, and Lessee will not knowingly do, or permit to be done, upon or about the Leased Premises, anything forbidden by law or ordinance. Lessee further agrees to secure all necessary governmental authority for its operation on the Leased Premises.

SECTION XVIII – DEFEASANCE

SECTION 18.01 – Lessee shall not make any use of the Leased Premises inconsistent with Lessor's right, title and interest therein and which may cause the right to use and occupy the Leased Premises to revert to any party other than Lessor. So long as the Leased Premises are sufficient to permit Lessee to operate between the termini described in Section 1, this Lease Agreement shall not be affected by any determination, whether by judicial order, decree or otherwise, that ownership of any portion of the Leased Premises is vested in a person other than Lessor or Lessee, and there shall be no abatement of rent on account of such determination. Lessor and Lessee shall make all reasonable efforts to defend Lessor's title to the Leased Premises against any adverse claims.

SECTION XIX – EVENTS OF DEFAULT

SECTION 19.01 – The following shall be Events of Default:



SECTION XX – BREACHES; REMEDIES

SECTION 20.01 – Upon the occurrence of any breach of any term hereof the injured party shall notify the breaching party in writing and specify the breach and what corrective action is desired to cure the breach. If, upon the expiration of thirty (30) days from the receipt of said notice, the breach has not been cured (or, if such breach cannot be cured within 30 days, steps have not been taken to effect such cure and pursued with all due diligence within said period) and is a material breach, the injured party shall have the right, at its sole option, to cure the breach if possible and be reimbursed by the breaching party for the cost thereof, including any and all reasonable attorney's fees, and for any reasonably foreseeable consequential damages. Nothing herein shall prevent the injured party from resorting to any other remedy permitted under this Lease Agreement or at law or equity, including seeking damages and/or specific performance, as shall be necessary or appropriate to make the injured party whole. Failure of the injured party to demand or enforce a cure for breach in one instance shall not be deemed a waiver of its right to do so for any subsequent breach by the breaching party.

SECTION 20.02 – The failure of any party hereto to enforce at any time any of the provisions of this Lease Agreement or to exercise any right or option which is herein provided shall in no way be construed to be a waiver of such provision(s) as to the future, nor in any way to affect the validity of this Agreement or any part hereof or the right of either party to thereafter enforce each and every such provision and to exercise any such right or option. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach.

SECTION XXI – MISCELLANEOUS

SECTION 21.01 – Entire Agreement. This Lease Agreement expresses the entire agreement between the parties and supersedes all prior oral or written agreements, commitments, or understandings with respect to the matters provided for herein, and no modification of this Agreement shall be binding upon the party affected unless set forth in writing and duly executed by the affected party.

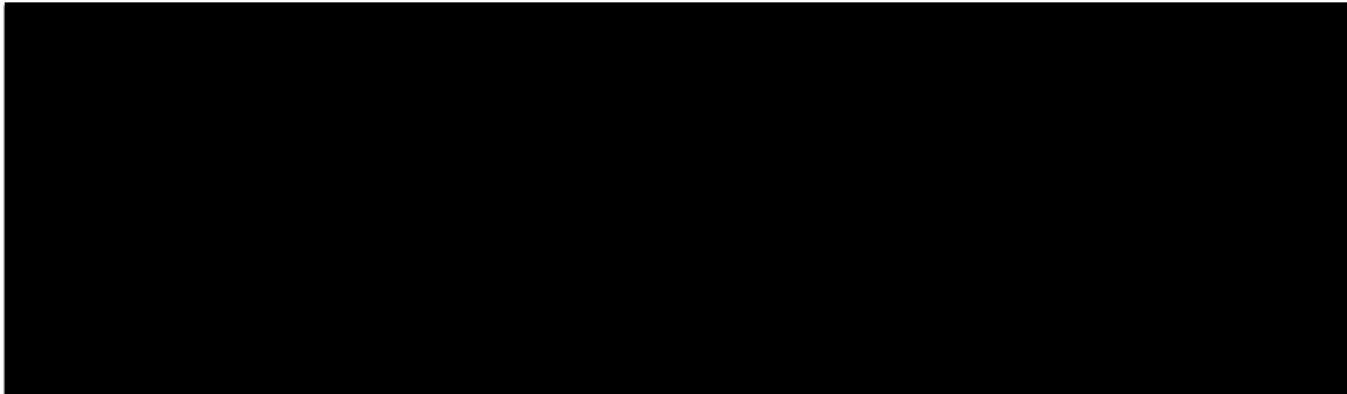
SECTION 22.02 – Notices. All notices, demands, requests or other communications which may be or are required to be given, served or sent by any party to the other pursuant to this Lease Agreement shall be in writing and shall be deemed to have been properly given or sent by (i) mailing by registered or certified mail, return receipt requested, with postage prepaid, or (ii) depositing into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Lessor: City of Peoria
419 Fulton Street
Peoria, Illinois 61602
Attn: City Manager
Email: purich@peoriagov.org

cc: City of Peoria
419 Fulton Street
Peoria, Illinois 61602
Attn: Corporation Counsel
Email: ckapustka@peoriagov.org

If to Lessee: General Counsel
Pioneer Industrial Railway Co.
5619 DTC Parkway, Suite 650
Greenwood Village, CO 80111
Email:kbevil@pioneerlines.com

SECTION 22.03 – Each notice, demand, request or communication which shall be mailed by registered or certified mail to any party in the manner aforesaid shall be deemed sufficiently given, served or sent for all purposes at the time such notice, demand, request or communication shall be either received by the addressee or refused by the addressee upon presentation. Any party may change the name of the recipient of any notice, or his or her address, at any time by complying with the foregoing procedure.



SECTION 22.05 – Neither termination nor expiration of this Lease Agreement will release either party from any liability or obligation under this Lease, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration of this Lease, or, if later, the date when the Leased Premises are restored in accordance with the applicable provisions of this Agreement or any other written agreement between the parties.

SECTION 22.06 – Except as may be elsewhere specifically provided in this Lease Agreement, if either party is delayed or hindered in, or prevented from the performance required under this Agreement (except for payment of monetary obligations) by reason of earthquakes, landslides, strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, a national health pandemic, acts of God or other reason of the like nature not the fault of the party delayed in performance of its obligation ("Force Majeure"), such party is excused from such performance for the period of delay. The period for the performance of any such act will then be extended for the period of such delay. The party claiming Force Majeure shall take commercially reasonable steps to remove the Force Majeure event, and shall promptly notify the other party within a period of five (5) days, excluding weekends and holidays, when it learns of the existence of a

Force Majeure condition and will similarly notify the other party within a period of five (5) days, excluding weekends and holidays, when a Force Majeure is terminated.

SECTION 22.07 – If fulfillment of any provision hereof or any transaction related hereto shall involve transcending the limit of validity prescribed by law, then the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provision herein contained operates or would prospectively operate to invalidate this Lease Agreement in whole or in part, then such clause or provision only shall be held ineffective, as though not herein contained, and the remainder of this Agreement shall remain operative and in full force and effect.

SECTION 22.08 – Article headings used in this Lease Agreement are inserted for convenience of reference only and shall not be deemed to be a part of this Agreement for any purpose.

SECTION 22.09 – The parties hereto acknowledge that, in the event of a default or breach of any covenant hereunder, damages may not be an adequate remedy; and either party may seek the entry of decrees for equitable relief, such as specific performance, mandatory or other injunction in favor of such party or any third party entitled to enforce the performance of the covenants and restrictions herein contained. The parties agree that exclusive legal venue for any litigation arising under this Lease Agreement shall lie in Peoria County, Illinois. This Agreement shall be governed and construed in accordance with the laws of the United States and to the extent applicable, the laws of the State of Illinois.

SECTION 22.10 – No modification, addition or amendments to this Lease Agreement or any of the Appendices shall be effective unless and until such modification, addition or amendment is in writing and signed by the parties.

SECTION 22.11 – This Lease Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this Agreement may also be exchanged electronically and any electronic version of any party's signature shall be deemed to be an original signature for all purposes.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be duly executed on their behalf, as of the date first herein written.

-SIGNATURES CONTINUED ON NEXT PAGE-

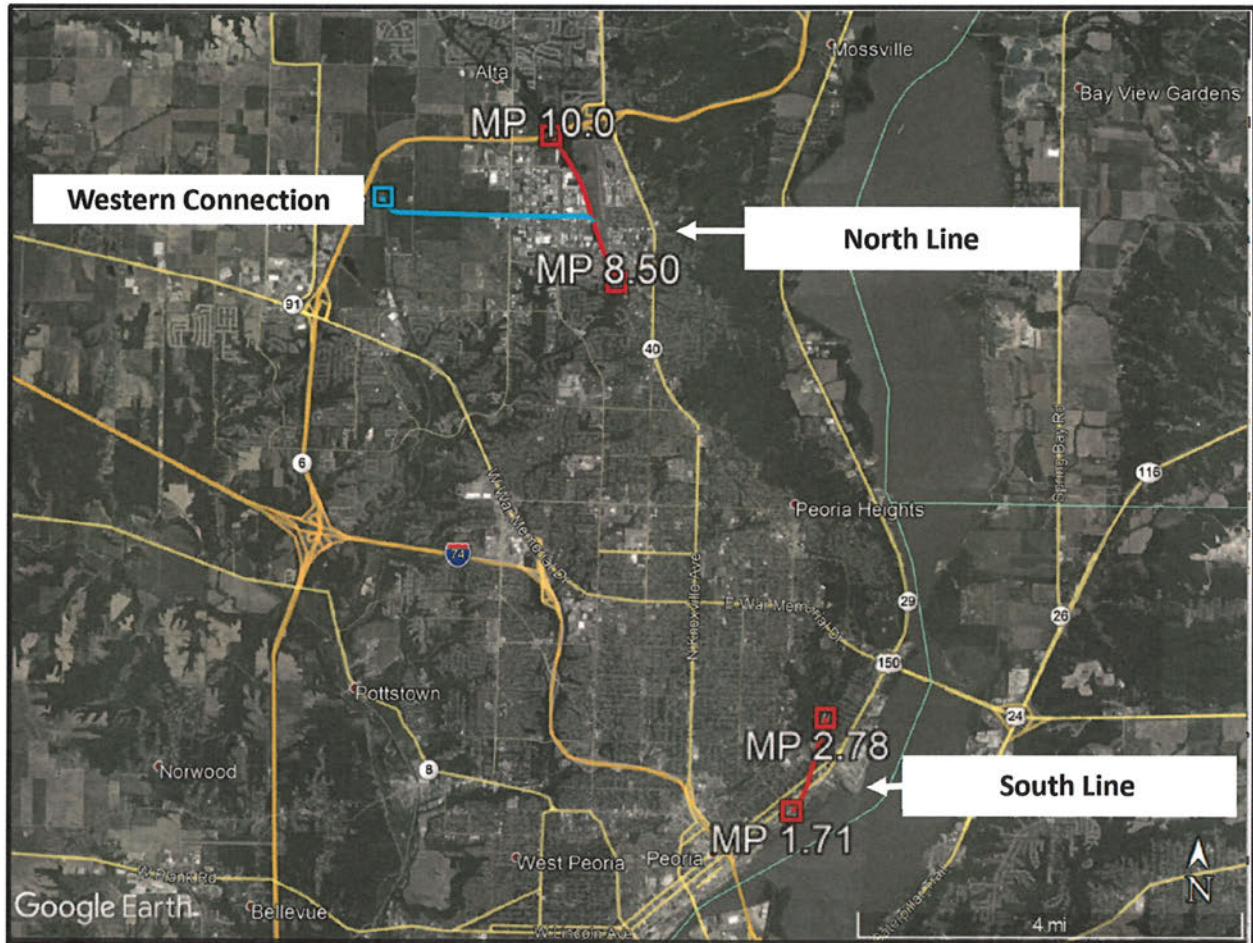
CITY OF PEORIA

By: 
Title: City Manager

PIONEER INDUSTRIAL RAILWAY CO.

By: 
Title: Chief Operating Officer

EXHIBIT A



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36638

PIONEER INDUSTRIAL RAILWAY CO.
– CHANGE IN OPERATOR EXEMPTION –
IN PEORIA COUNTY, ILLINOIS

EXHIBIT B

VERIFIED STATEMENT OF CHRISTINE STANTZ

**VERIFIED STATEMENT OF
CHRISTINE STANTZ**

I. Background

1. My name is Christine Stantz. I reside at 2512 W, Butternut Drive, LaPorte, Indiana. I served as the Controller for Central Illinois Railroad Company ("CIRY") from May 2008 until its dissolution in August 2010. I currently reside in La Porte, Indiana.

2. The purpose of this verified statement is to address CIRY's 2011 dissolution and to certify that to the best of my knowledge that it was CIRY's intent to cease all common carrier operations and to file for discontinuance over all lines that it operated subject to the Surface Transportation Board's ("Board" or "STB") jurisdiction, including all lines operated in Peoria, Illinois.

3. I graduated with a Bachelor of Science in Business Management & Administration from Indiana University in 1986.

4. I obtained my Indiana CPA license in 2007.

5. I joined CIRY in May 2008 as Controller and remained in that role until CIRY's dissolution on August 31, 2010.

6. In my role as Controller, I oversaw CIRY's business accounting, including accounts payable, accounts receivable, and payroll.

7. While I was not in charge of CIRY's railroad operations or regulatory compliance, I am aware that CIRY intended to formally discontinue service over all of the lines that it operated as a common carrier, and that it took actions to effectuate that discontinuance. This was the result of CIRY's business and financial troubles, as described further below.

8. CIRY filed a discontinuance of service exemption on July 29, 2010, with the Surface Transportation Board (“STB” or “Board”) pursuant to 49 U.S.C. § 10502.¹ CIRY proposed to discontinue its lease and all operations over approximately 5.9 miles of main line track and approximately 12.47 miles of sidetrack owned by the BNSF Railway Company (“BNSF”). CIRY was “in poor financial condition and [] operating the Lines at a financial loss.”²

9. The STB granted the exemption and allowed CIRY to discontinue its lease and service over the proposed BNSF lines.³

10. Despite CIRY’s intention to discontinue service over all lines that it operated, due to what was most likely an oversight or administrative error, I have become aware that service discontinuance was not ever sought for all lines operated by CIRY. Specifically, I have been made aware through discussions with counsel from Slover & Loftus LLP that no exemption filing was made to discontinue CIRY’s service on the rail line known as the Kellar Branch, between milepost (“MP”) 1.71 and MP 2.78 (“Southern Segment”) and between MP 8.50 and MP 10.0 (“Northern Segment”), and an approximately 1.9-mile rail line from a point of connection with the Peoria Subdivision of the Union Pacific Railroad Company (“UP”) at approximately MP 71.5 to a point a short distance west of University Avenue in Peoria, Illinois (“Western Connection”) (collectively, the “Lines”).

¹ *Cent. Ill. R.R. – Discontinuance of Serv. Exemption – In Cook Cnty., IL*, AB 1066 (Sub-No. 2X) (filed July 29, 2010).

² *Id.* at 6.

³ *Cent. Ill. R.R. – Discontinuance of Serv. Exemption – In Cook Cnty., IL*, AB 1066 (Sub-No. 2X) (STB served Nov. 16, 2010).

11. As indicated in CIRY's petition for discontinuance of operations on leased track,⁴ CIRY was operating at a financial loss and faced insolvency. Prior to ceasing operations, CIRY was subject to a civil proceeding, *Leaders Bank v. Central Illinois Railroad*, Cause: 64D01-0912-PL-12477 at the County of Porter Superior Court, Indiana. The Porter Superior Court in this proceeding issued an order denying receivership on July 20, 2010, denied CIRY's request to appoint a receiver and ordered CIRY to turn its assets over to a secured creditor.⁵ A copy of this order denying receivership is attached hereto as **Attachment A**. Subsequently, all remaining tangible assets were sold to R&R Contracting on July 23, 2010.⁶

12. On August 27, 2010, I wrote a letter to the Railroad Retirement Board ("RRB"), notifying the RRB that Central Illinois Railroad Holdings LLC and all of its subsidiaries, including CIRY, had sold virtually all of their assets. I notified the RRB that all operations were to cease August 31, 2010 and that I was consequently submitting for 2010 our Form BA-3, Annual Report of Creditable Compensation, and Form BA-9, Report of Separation Allowance. A copy of this letter is attached hereto as **Attachment B**.

13. CIRY employees were terminated August 10, 2010. My last day of employment was August 31, 2010, and the last payroll for CIRY was issued September 15, 2010.

14. The RRB on February 9, 2011, issued a decision establishing that CIRY no longer possessed the characteristics of a railroad employer. The RRB found that effective September

⁴ Pet. for Exemption, *Cent. Ill. R.R. – Discontinuance of Serv. Exemption – In Cook Cnty., IL*, AB 1066 (Sub-No. 2X) (filed July 29, 2010).

⁵ *Leaders Bank v. Cent. Ill. R.R. Holdings*, 64D01-0912-PL-12477, Porter Cnty. Ind. Sup. (July 20, 2010).

⁶ *Employer Status Determination Central Illinois R.R.*, Board Coverage Decision 11-37 (Feb. 9, 2011), [Board Coverage Decision 11-37 \(rrb.gov\)](http://rrb.gov).

15, 2010, Central Illinois Railroad Company ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.⁷

15. I have not attempted to contact anyone at CIRY after my last day of employment, on August 31, 2010. However, I am aware that after CIRY was dissolved that there was an investigation by the Federal Bureau of Investigation ("FBI"), as I was contacted and questioned by the FBI regarding CIRY's finances. I have not spoken with the officers and principals of CIRY since leaving the company.

16. To the best of my knowledge, CIRY was dissolved as a business and ceased providing rail service operations over a decade ago in 2010, and its business and contractual relations all ceased to continue at the same time, including all of its contractual relations with the City of Peoria to operate the Lines.

17. To the best of my knowledge, no actions were taken by a bankruptcy court or any trustee to discontinue service on the Line. While CIRY did seek service discontinuance over certain of its lines, it appears that it neglected to do so with the Lines it operated in the City of Peoria. The failure by CIRY to file for discontinuance over lines in the City of Peoria was an oversight or administrative error. CIRY's intent to discontinue service over all its common carrier lines, including the Lines in the City of Peoria, is evidenced by CIRY selling of all tangible assets including locomotives, machinery and equipment, and its previous filings at the STB and RRB.

⁷ *Id.*

VERIFICATION

I, Christine Stantz, verify under penalty of perjury that that I have read the foregoing Statement and know the contents thereof; and that the same are true as stated, except as to those statements made on information and belief, and as to those, I believe these to be true.



Christine Stantz

Executed on: June 17, 2022

ATTACHMENTS

ATTACHMENT A

RECORDS
FILE COPY

FILED
IN OPEN COURT

JUL 20 2010

Roger V. Bradford
Porter Superior Court

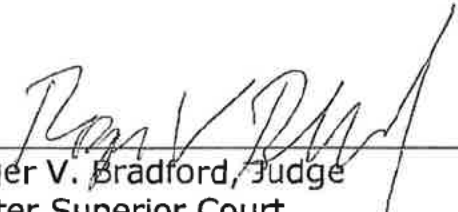
STATE OF INDIANA)
COUNTY OF PORTER) SS: COUNTY OF PORTER
CONTINUOUS TERM, 2010

THE LEADERS BANK)
VS.)
CENTRAL ILLINOIS RAILROAD) CAUSE: 64D01-0912-PL-12477

ORDER DENYING RECEIVERSHIP

Hearing on appointment of receiver concluded. Argument heard. The Court denies the appointment of a receiver. The current manager of Defendant businesses is ordered to turn over to Plaintiff all of the equipment and inventory in which Plaintiff has a security interest.

Ordered this 20th day of July, 2010.


Roger V. Bradford, Judge
Porter Superior Court

PC:
Thomas G. Burrows
KATZ & KORIN
334 N. Senate Avenue
Indianapolis, IN 46204

Henry A. Efroymsen
ICE MILLER
One American Square, Suite 2900
Indianapolis, IN 46282-0200

ATTACHMENT B



RAILROAD SERVICES GROUP

RECEIVED IN THE
BUREAU OF FISCAL
OPERATIONS

2010 SEP 13 P 3:43

RECEIVED
RRB MAILROOM

2010 SEP -2 A 10:42

August 27, 2010

US Railroad Retirement Board
844 N. Rush Street
Chicago, IL 60611-2092

Re: Central Illinois Railroad Company
Employer BA #4785

To Whom It May Concern:

Central Illinois Railroad Holdings LLC and all of its subsidiaries including Central Illinois Railroad have recently sold virtually of their assets and will be closing. All operations will cease August 31st, 2010. Consequently, I am submitting our 2010 BA3 and BA9.

Please let me know if you need further information.

Sincerely,

Christine L. Stantz
Controller

RECEIVED
ASSESSMENT AND TRAINING
2010 SEP -3 P 3:39

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36638

PIONEER INDUSTRIAL RAILWAY CO.
– CHANGE IN OPERATOR EXEMPTION –
IN PEORIA COUNTY, ILLINOIS

EXHIBIT C

VERIFIED STATEMENT OF PATRICK URICH

VERIFIED STATEMENT OF PATRICK URICH

1. My name is Patrick Urich. I am the City Manager for the City of Peoria, Illinois (the “City”). My business address is 419 Fulton, Suite 207; Peoria, Illinois 61602.
2. The purpose of this verified statement is to support the Pioneer Industrial Railway Co.’s Change of Operator Exemption and to provide information on the history and operation of the City-owned lines that are the subject of the present change of operator proceeding.
3. I became the 18th City Manager for the City of Peoria on April 13, 2011, and have served in this position for over ten (10) years.
4. The City of Peoria, Illinois operates under the Manager form of municipal government pursuant to 65 ILCS 5/5-1-1 *et. seq.*
5. As the City Manager, I am responsible for overseeing the day-to-day activities of the City of Peoria, including the \$169 million budget, 14 departments, and approximately 660 full-time and part-time employees.
6. The City-owned rail lines include the Kellar Branch, extending between mileposts 1.71 and 2.78 (“Southern Segment”) and between mileposts 8.50 and 10.0 (“Northern Segment”), and an approximately 1.9-mile rail line from a point of connection with the Peoria Subdivision of the Union Pacific Railroad Company (“UP”) at approximately MP 71.5 to a point a short distance west of University Avenue in Peoria, Illinois (“Western Connection”)¹² (collectively, the Northern Segment and the Western Connection constitute the “Lines” for purposes of the present proceeding).

¹ The Western Connection also includes 1,800 feet of connecting track that was constructed to provide a direct connection to the Kellar Branch.

7. The City entered into a Rail Operating and Trackage Rights Agreement (“ROTRA”) with the Central Illinois Railroad Company (“CIRY”) and the Pioneer Industrial Railway Company (“PIRY”) in May 2009, under which, as relevant here, CIRY assumed responsibility for operating and maintaining the Lines, and PIRY assumed trackage rights over the same.

8. To the best of my knowledge, information, and belief, CIRY has not operated or maintained the Lines for over a decade.

9. To the best of my knowledge, information, and belief, the City has had no communications with, and has been able to find or contact anyone at CIRY for over a decade, since at least 2011.

10. CIRY failed to abide by its operating, maintenance, and other responsibilities under the ROTRA, and failed to provide the City with any notice of its bankruptcy or dissolution, in 2011. The ROTRA is now terminated. Also, while PIRY possessed trackage rights under the ROTRA, it had no authority to maintain or repair the tracks, and to the best of my knowledge, information, and belief, it was unable under the circumstances to exercise its rights to operate over the Lines as a trackage rights licensee.

11. The City has recently entered into a Rail Line Lease Agreement (“Lease Agreement”) with the PIRY. Subject to the PIRY receiving the necessary operating authority from the Surface Transportation Board (“STB”), PIRY will provide service over the Lines as the leasehold operator in place of CIRY.

12. The City supports and consents to the PIRY’s Change of Operator Notice of Exemption. As indicated, there has been no service over the Lines in over a decade, and the subject class exemption proceeding is essential and necessary to allow PIRY to restore common

carrier rail service over the Western Connection and the Northern Segment of the City-owned Lines as contemplated and required under the parties' Lease Agreement.

13. The City observes that CIRY, which has no ability to register for or against the proposed transaction, was involuntarily dissolved in 2011, and no longer exists as an ongoing legal entity to the best of my knowledge, information, and belief.¹³

14. With respect to the Southern Segment – not included as part of Lines encompassed by PIRY's Change of Operator Exemption – the City is working with the sole shipper located on this segment, O'Brien Steel, to transfer certain property and restore rail service and access to the shipper by Tazewell & Peoria Railroad, which has connecting rail lines located a few hundred feet away from this shipper. Such action is also contemplated under the Lease Agreement. The City anticipates that the necessary filings to restore rail service for this shipper will be filed in the near future at the STB.

² Office of the Ill. Secretary of State, *Corporation/LLC Search/Certificate of Good Standing* (accessed July 22, 2021) (search performed for "Central Illinois Railroad"), <https://apps.ilsos.gov/corporatellc/CorporateLlcController>.

VERIFICATION

I, Patrick Urich, in my capacity as the City Manager of the City of Peoria, verify under penalty of perjury that that I have read the foregoing Statement and know the contents thereof; and that the same are true as stated, except as to those statements made on information and belief, and as to those, I believe these to be true.



Patrick Urich
City Manager, City of Peoria
419 Fulton, Suite 207
Peoria, Illinois 61602
Phone: (309) 494-8524

Executed on: September 30, 2022

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36638

PIONEER INDUSTRIAL RAILWAY CO.
– CHANGE IN OPERATOR EXEMPTION –
IN PEORIA COUNTY, ILLINOIS

EXHIBIT D

CARVER LUMBER LETTER OF SUPPORT



8700 N. UNIVERSITY AVE.
PEORIA, ILLINOIS 61615
(309) 692-2000 • FAX (309) 693-7919

May 17, 2022

BY E-FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, S.W.
Washington, D.C. 20423

Re: Support of Pioneer Industrial Railway Company's Restoration of
Rail Service in Peoria, Illinois

Dear Ms. Brown:

Carver Lumber submits this letter in support of restoration of rail service by the Pioneer Industrial Railway Company ("PIRY") over a line of railroad in Peoria, Illinois. As a shipper on the line, we have not received rail service in over a decade since the Central Illinois Railroad Company ("CIRY") ceased operations. The City of Peoria owns the line and has agreed to lease it to PIRY. Carver Lumber has been a rail user in the past and is interested in having PIRY restore rail service, and therefore supports the lease agreement between the City and PIRY.

Carver Lumber respectfully urges the Board to grant PIRY's exemption request so that rail service can be restored.

Sincerely yours,

Joseph Fontana
President
M.S. Carver Lumber Company

SURFACE TRANSPORTATION BOARD

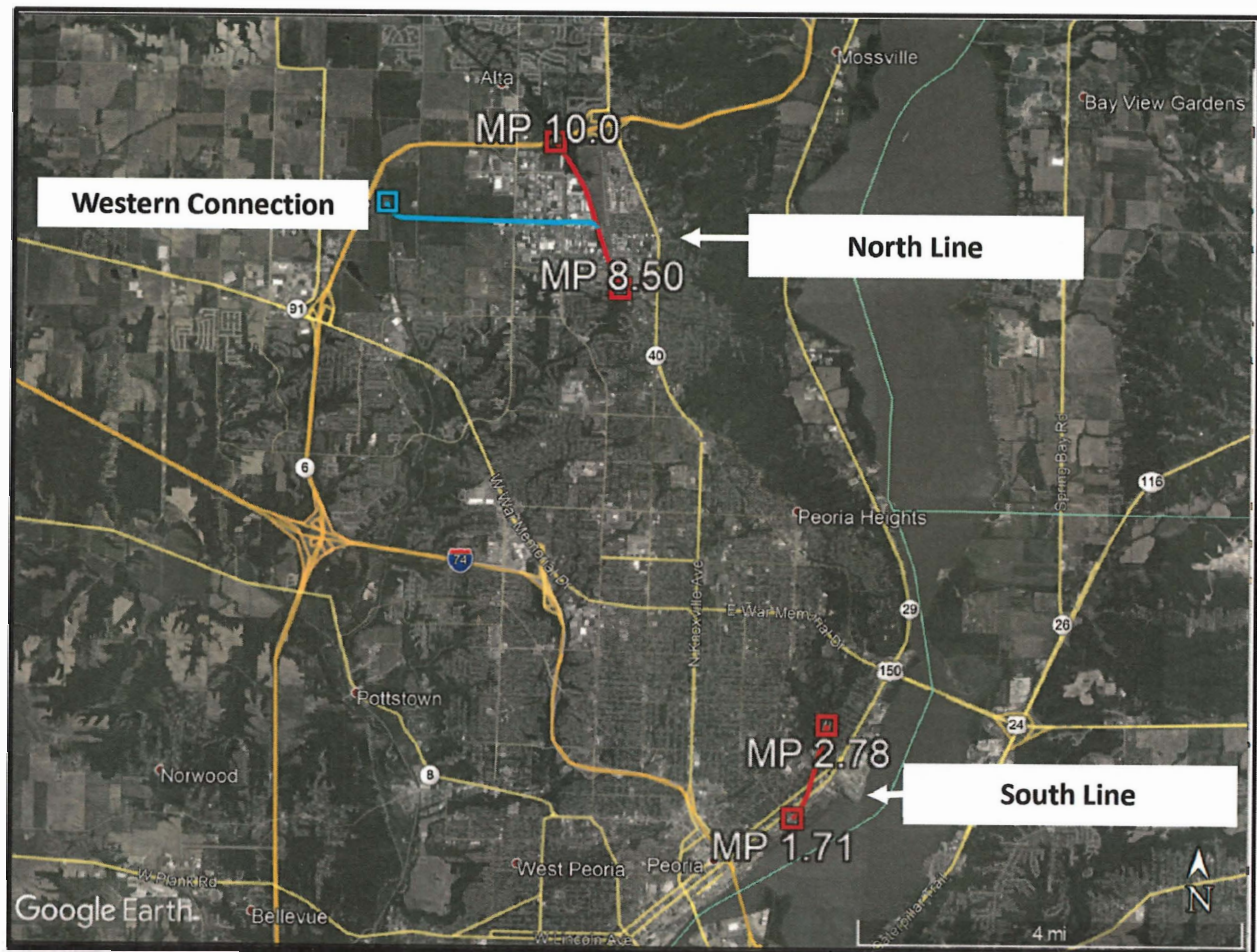
NOTICE OF EXEMPTION

DOCKET NO. FD 36638

PIONEER INDUSTRIAL RAILWAY CO.
– CHANGE IN OPERATOR EXEMPTION –
IN PEORIA COUNTY, ILLINOIS

EXHIBIT E

MAP OF THE PROPERTY



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36638

PIONEER INDUSTRIAL RAILWAY CO.
– CHANGE IN OPERATOR EXEMPTION –
IN PEORIA COUNTY, ILLINOIS

EXHIBIT F

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36638

PIONEER INDUSTRIAL RAILWAY CO.
– CHANGE IN OPERATOR EXEMPTION –
IN PEORIA COUNTY, ILLINOIS

Pioneer Industrial Railway Company (“PIRY”), a Class III rail carrier, has filed a Verified Notice of Exemption (“Notice”) to lease and assume leasehold operations over certain railroad lines (the “Lines”) owned by the City of Peoria, Illinois (the “City”).

The Lines at issue include – (1) an approximately 2.24-mile line of railroad known as the Western Connection, extending from a point of connection with the Peoria Subdivision of the Union Pacific Railroad Company (“UP”) at approximately milepost 71.5 to a point a short distance west of University Avenue in Peoria, and extending from there approximately another 1,800 feet to a point of connection between the Western Connection and a railroad line known as the Kellar Branch; and (2) an approximately 1.5-mile portion of the aforementioned Kellar Branch between mileposts 8.50 and 10.0 (the “North Line”) (collectively, the “Lines”). Through this Change in Operator Exemption, PIRY will assume exclusive leasehold operations over the Lines in place of CIRY, whose common carrier status with respect to the Lines will cease.

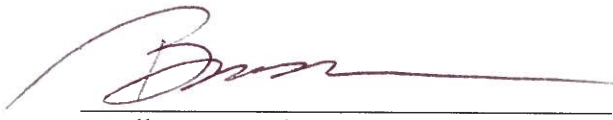
Comments must be filed with the Board and served on: Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, Illinois 60606-3208, (312) 252-1500, rwimbish@fletcher-sippel.com.

The notice is filed under 49 C.F.R. § 1150.41. If this notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Certification and Verification

I, Bradley S. Gordon, being duly sworn, state as follows:

1. I am Secretary and General Counsel of Pioneer Industrial Railway Co. ("PIRY"), and I am authorized to make this certification and verification on behalf of PIRY;
2. I certify that the anticipated annual revenues of PIRY will not exceed \$5 million annually, and, by extension, will not cause PIRY to become a Class I or Class II railroad carrier;
3. I also certify that the lease agreement governing the proposed transaction contains no restrictions on interchange with third-party connecting railroads; and
4. I hereby verify that I have read the foregoing notice of exemption, know the contents thereof, and that the same are true as stated to the best of my knowledge, information and belief.



Bradley S. Gordon

Dated: September 30, 2022