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November 21, 2022
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Public Record

Before the
SURFACE TRANSPORTATION BOARD

STP Docket No. AB 1327X

FLATS INDUSTRIAL INC. D/B/A FLATS INDUSTRIAL RAILROAD COMPANY
-ABANDONMENT EXEMPTION-
IN CLEVELAND, OHIO

REQUEST FOR PUBLIC USE CONDITIONS

Pursuant to 49 C.F.R. 1152.28, the City of Cleveland, Ohio (City) respectfully requests that the Surface Transportation Board (STB) grant an issuance of a Public Use Condition barring Flats Industrial Inc. d/b/a Flats Industrial Railroad Company (FIR) from removing or destroying any and all bridges, culverts, or roadbed on the line at issue in this proceeding and from selling or otherwise transferring any interest FIR holds, if any, in the underlying real estate in the line at issue in this proceeding, other than for public uses for 180 days from the effective date of the decision authorizing the abandonment, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

CONDITION SOUGHT

As stated above, the City seeks a condition barring FIR from removing or destroying any and all bridges, culverts, or roadbed on the line at issue in this proceeding and from selling or otherwise transferring any interest FIR holds, if any, in the underlying real estate in the line at issue in this proceeding, other than for public uses for 180 days from the effective date of the decision authorizing the abandonment, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

PUBLIC IMPORTANCE OF THE CONDITION

FIR has filed to abandon approximately 1.85 miles of rail line. This rail line extends from an area of the city known as the Scranton Peninsula, in Cleveland's Cuyahoga River Valley (River Valley), south/southwest between the neighborhoods known as Duck Island and Tremont and terminates between two adjacent neighborhoods known as Ohio City and Clark Fulton. This rail line would make an excellent trail and recreational facility for residents and visitors to the

FILING FEE WAIVED

city, providing a splendid opportunity for outdoor bicycle commuting and recreational use. The line can also help resolve gaps in connectivity in the region's network, particularly to areas underserved with access to the trail network and/or waterfront in the River Valley. The City of Cleveland has worked for years with partners such as the Cleveland Metroparks, Cuyahoga County, Greater Cleveland Regional Transit Authority (GCRTA), and local organizations to plan and implement a regional trail and transportation network. Specific to this rail line, the City and Cleveland Metroparks have implemented nearby trail improvements including the Towpath Trail, which connects over 100 miles to the south, and the Cleveland Foundation Centennial Lake Link Trail which connects across the Cuyahoga River to the Lakefront. As demonstrated in the attached map, this line would augment this trail network, by providing access to the Clark Fulton and Tremont communities across significant barriers such as Interstate 90, existing active industrial rail lines, and elevation changes.

The City is particularly interested in a Public Use Condition North to Milepost 10 to enhance existing and planned public recreational trail connections and facilitate new recreational trails providing space for activity and connection specifically within the Scranton Peninsula. The City has recently adopted a plan for the River Valley directing the planning and development of new connections for people to access the riverfront. The limited number of public rights-of-way in this area create a situation where this Public Use Condition is particularly beneficial.

PERIOD OF TIME CONDITION WOULD BE EFFECTIVE

The City respectfully requests that the condition be effective for the statutory maximum of 180 days from the effective date of the decision authorizing the abandonment.

JUSTIFICATION FOR THE IMPOSITION OF THE TIME PERIOD

The time period requested will not interfere with salvage activities for the rail and ties, or with closing a transaction between the City and FIR. The City seeks to acquire the bridges, culverts, and roadbed, as well as the underlying real estate interests pursuant to 16 U.S.C. 1247(d). The City recognizes that negotiations frequently take longer than 180 days. It is therefore prudent to request the statutory maximum 180 day Public Use Condition period.

WAIVER OF FILING FEES

Pursuant to 49 CFR 1002.2(e)(1), the City requests a waiver of filing fees because it is a local government entity.

Respectfully submitted,

/s/ Jason Shachner

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CERTIFICATE OF SERVICE

A copy of the foregoing Request for Public Use Conditions was provided to counsel for Applicant, Crystal M. Zorbaugh, by email at czorbaugh@bakerandmiller.com and sent by certified mail to Crystal M. Zorbaugh, Baker & Miller, PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037 on this 21st day of November, 2022.

/s/ Jason Shachner

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