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October 13, 2009

**BY E-FILEING**

Anne K. Quinlan, Esquire  
Acting Secretary  
Surface Transportation Board  
Office of the Secretary  
395 E Street, S.W.  
Washington, DC 20423-0001

**Re: Canadian National Railway Company and Grand Trunk Corporation –  
Control – EJ&E West Company (STB Finance Docket No. 35087)**

Dear Ms. Quinlan:

Enclosed for filing in the above referenced docket please find Applicants' Reply to  
Petition to Reopen of Illinois Department of Transportation (designated as CN-59).

Very truly yours,



Paul A. Cunningham  
Counsel for Canadian National Railway Company  
and Grand Trunk Corporation

Enclosure

cc: All parties of record

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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STB Finance Docket No. 35087

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CANADIAN NATIONAL RAILWAY COMPANY  
AND GRAND TRUNK CORPORATION  
– CONTROL –  
EJ&E WEST COMPANY

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**APPLICANTS' REPLY  
TO PETITION TO REOPEN OF  
ILLINOIS DEPARTMENT OF TRANSPORTATION**

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*Counsel for Canadian National Railway Company  
and Grand Trunk Corporation*

October 13, 2009

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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STB Finance Docket No. 35087

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CANADIAN NATIONAL RAILWAY CORPORATION  
AND GRAND TRUNK CORPORATION  
– CONTROL –  
EJ&E WEST COMPANY

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**APPLICANTS' REPLY  
TO PETITION TO REOPEN OF  
ILLINOIS DEPARTMENT OF TRANSPORTATION**

Canadian National Railway Company and Grand Trunk Corporation (together “CN” or “Applicants”)<sup>1</sup> hereby reply to the Petition to Reopen (“Petition”), filed in this proceeding on September 21, 2009, by the Illinois Department of Transportation (“IDOT”). In its Petition, IDOT seeks to reopen Decision No. 16 and to modify Final Mitigation Condition 14 (“FMC 14”) in order to extend the date by which construction of two grade separations must begin if CN is to be required to bear a proportion of the costs of those projects.

Under 49 C.F.R. § 1115.4, the Board will only reopen a final decision upon a showing that its prior action involved material error, or will be affected materially because of “new evidence[] or substantially changed circumstances.” Parties seeking reopening must “bear the

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<sup>1</sup> Applicants incorporate by reference the short forms and abbreviations set forth in the Table of Abbreviations in the Railroad Control Application in this proceeding (CN-2 at 8-11).

burden of proof to sustain their claims,”<sup>2</sup> and the Board need not reopen except “in the most ‘extraordinary circumstances.’”<sup>3</sup>

As discussed below, the Petition should be denied. IDOT does not allege material error and it has waived its present argument by repeatedly ignoring prior opportunities to raise it. In any event, the basis of its Petition – the existence of appeals to Decision No. 16 – is not new evidence or changed circumstances and, even if it were, it would not justify the relief IDOT seeks.

## **BACKGROUND**

In Decision No. 16, the Board granted CN’s Application under 49 U.S.C. §§ 11323-11325 for authority to acquire control of EJ&E West Company (“EJ&EW”), a wholly owned noncarrier subsidiary of Elgin, Joliet and Eastern Railway Company.<sup>4</sup> The Board’s approval, however, was conditioned on 181 separate provisions imposed by the Board in order to mitigate potentially adverse impacts of the Transaction on the environment. Among those conditions was FMC 14, which required CN to coordinate with appropriate state and local officials for the implementation of grade separations (*i.e.*, rail overpasses or underpasses) at two locations where the EJ&E line presently crosses highways at grade: (1) the highway/rail at-grade crossing of Ogden Avenue (U.S. Route 34) in Aurora, Illinois, and (2) the highway/rail at-grade crossing of Lincoln Highway (U.S. Route 30) in Lynwood, Illinois. Decision No. 16 at 76. Further, FMC

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<sup>2</sup> *Burlington N. R.R. – Abandonment Exemption – Between Klickitat & Goldendale, WA*, Docket No. AB-6 (Sub-No. 335X), slip op. at 3 (STB served June 8, 2005) (citing 5 U.S.C. § 556(d)).

<sup>3</sup> *Omaha Pub. Power Dist. v. Burlington N. R.R.*, 3 I.C.C.2d 853, 862 (1987) (quoting *Bowman Transp., Inc. v. Ark.-Best Freight Sys., Inc.*, 419 U.S. 281, 296 (1974)).

<sup>4</sup> Decision No. 16 became effective on January 23, 2009. Shortly thereafter, Elgin, Joliet and Eastern Railway transferred most of its assets to EJ&EW, which was then acquired by CN and GTC. Elgin, Joliet and Eastern Railway then changed its name to Gary Railway, and EJ&EW adopted the name of Elgin, Joliet and Eastern Railway Company (“EJ&E”).

14 requires CN to pay 67% of the cost of the grade separation at Ogden Avenue and 78.5% of the grade separation at Lincoln Highway.<sup>5</sup> *Id.* The Board, however, did not intend “CN to be obligated indefinitely for its share of the cost of grade-separating the crossings,” and it therefore provided that CN’s cost-sharing obligation “shall only be in effect for projects where construction is initiated no later than 2015.” *Id.* at 47, 76.

Two petitions for review of Decision No. 16 were filed with the United States Court of Appeals for the District of Columbia in January 2009, before expiration of the 30-day deadline for petitions for reconsideration.<sup>6</sup> IDOT thus had a right to seek reconsideration after it was on notice that Decision No. 16 was the subject of judicial review proceedings. IDOT did not do so.<sup>7</sup>

On January 23, 2009, the City of Gary and the Illinois Commerce Commission (“ICC”) filed petitions for reconsideration of Decision No. 16. Among other things, the ICC petition sought to extend to 2020 the 2015 date after which CN’s funding obligation for grade separations mandated in FMC 14 would expire if construction has not begun. IDOT raised no concerns at that time over uncertainties caused by the various pending petitions for reconsideration and judicial review proceedings, nor did it support an extension of the 2015 deadline as sought in ICC’s petition. Pursuant to an unopposed motion filed by the Board, the court review

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<sup>5</sup> The Board required that CN “pay this percentage of the cost of the preliminary engineering and environmental analysis, final design, ROW acquisition, utility relocation, and construction costs of these grade separations,” except that CN is only required to pay for “one preliminary engineering study for each crossing.” Decision No. 16 at 76.

<sup>6</sup> The Village of Barrington filed a petition for review on January 5, and the City of Aurora and several other local governments and agencies filed a joint petition for review on January 16, 2009.

While petitions for reconsideration ordinarily must be filed within 20 days of the action for which administrative review is sought, 49 C.F.R. § 1115.3(e), the Board provided that petitions for reconsideration of Decision No. 16 would be timely if filed within 30 days (or by January 23, 2009). Decision No. 16 at 53, 55.

<sup>7</sup> Petitions for review were subsequently filed at the court of appeals by Will County and the Village of New Lenox, by the Forest Preserve District of Will County, and by CN.

proceedings were held in abeyance until the Board denied ICC's petition in Decision No. 19, served August 5, 2009.<sup>8</sup>

Most recently, Barrington filed a petition to reopen on August 27, 2009, which Will County joined on September 10, 2009. CN replied to those petitions on September 16, and they are currently pending before the Board. Pursuant once again to a motion filed by the Board without IDOT objection, the court review proceedings have been stayed pending disposition of those petitions.<sup>9</sup>

Approximately two weeks after the court's most recent stay order, IDOT, on September 21, 2009, filed its own petition to reopen, citing the various petitions for judicial and administrative review as "new evidence" and "circumstances [that] have changed substantially" (Petition at 1), and asserting that the uncertainty created by those proceedings justifies an extension of the 2015 date after which CN's funding obligation for grade separations mandated in FMC 14 will expire if construction has not begun.

## **ARGUMENT**

### **I. IDOT HAS WAIVED ITS PRESENT COMPLAINTS, WHICH, IN ANY EVENT, DO NOT ESTABLISH "SUBSTANTIALLY CHANGED CIRCUMSTANCES" JUSTIFYING REOPENING.**

IDOT repeatedly argues that the Board "did not know and could not have known" prior to issuance of Decision No. 16 that proceedings for judicial and administrative review would follow that Decision. Petition at 2-3. Given the Board's long experience with appeals from control proceedings, however, the Board was almost certainly well aware of this general

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<sup>8</sup> Prior to the Board's decision, the City of Gary reached a voluntary mitigation agreement with CN and withdrew its petition. *See* Decision No. 19 at 2 n.3.

<sup>9</sup> *Village of Barrington v. STB*, No. 09-1002, Order (D.C. Cir. Sept. 8, 2009).

possibility before it issued that decision. Just as importantly, IDOT was or should have been aware of the possibility (or likelihood) of appeals and it could have and should have acted long ago if that possibility raised legitimate concerns. Moreover, the specific issue of whether 2015 affords sufficient time for the initiation of construction has already been reconsidered by the Board, and IDOT failed at that time to raise any issue. By repeatedly failing to raise its present argument when it could have done so, IDOT waived that argument.

Review proceedings following a final decision are always a possibility in any contested case, especially one sharply opposed by a number of local communities. In this proceeding, the opponents of the Transaction had pursued every available procedural option to block or delay the Transaction, and there was no reason for IDOT to expect those efforts to cease with issuance of a final decision. In addition, CN had previously filed (and served on IDOT) a petition for a writ of mandamus,<sup>10</sup> raising issues pointing to a strong likelihood it would bring its own court appeal, which it did. Far from being a “substantially changed” circumstance, appeals of the Board’s decision was the most likely circumstance.<sup>11</sup> And that likelihood became a certainty when petitions for review were filed before the deadline for reconsideration.

If IDOT was concerned that it would not have enough time to complete preparations and begin construction by the end of 2015 as a result of appeals of Decision No. 16, there were numerous occasions long ago when it could and should have acted. Even after the possibility of review proceedings became a reality with the filing of the first petition for judicial review on January 5, 2009 – over two weeks before the deadline for seeking reconsideration – IDOT failed to act. Moreover, when ICC filed a timely petition for reconsideration challenging the adequacy

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<sup>10</sup> Petition for a Writ of Mandamus to the Surface Transportation Board, *In re Canadian National Railway Company*, No. 08-1303 (D.C. Cir. filed Sept. 18, 2008).

<sup>11</sup> As discussed further below, the precise course of those appeals is irrelevant to IDOT’s argument.

of the 2015 deadline that IDOT now challenges, IDOT not only ignored the further delays that would be caused by that petition for reconsideration, it also ignored the opportunity to argue in favor of extending the 2015 deadline in reply to ICC. Likewise, when the Board twice moved the court to hold its proceedings in abeyance pending disposition of petitions for reconsideration, IDOT raised no objection. Having failed to raise its argument months ago when it could have done so, IDOT should be held to have waived that argument. Certainly, however, IDOT cannot credibly maintain, more than eight months after the filing of the petitions for review, that the existence of judicial review proceedings that have been ongoing for months constitutes “new evidence” or “changed circumstances” sufficient to warrant reopening.

IDOT also cites as “changed circumstances” the more recent requests for reopening filed by project opponents aligned in interest with IDOT (Petition at 2-3). But IDOT has claimed it must be provided a full seven years from a final non-appealable order to “undertake the preliminary engineering, the environmental analysis, the right-of-way acquisition the utility relocation, the final design, the letting of the construction contracts and the commencement of construction.” *See id.* at 2, 4. If IDOT’s claim is correct, it is not the particulars of the course of appeals that raised the issue IDOT now seeks to argue; it was the existence of any appeals. The fact that later petitions for reconsideration were filed cannot alter the fact that IDOT knew for at least eight months before it filed its Petition that the 2015 deadline would arrive less than “seven years from the date of the final unappealable court order in this matter.” *See* Petition at 4.<sup>12</sup>

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<sup>12</sup> Furthermore, as a matter of policy, the Board should not reopen a proceeding based upon “changed circumstances” or “new evidence” that has been manufactured by a party or parties aligned in interest with the petitioner seeking reopening, as is the case here with the filing of petitions to reopen by Barrington and Will County. *See Chen v. Gonzales*, 498 F.3d 758, 759-60 (7th Cir. 2007) (alien may not by his own actions manufacture “changed circumstances” so as to qualify for asylum); *cf. Park W. Radiology v. CareCore Nat’l LLC*, 240 F.R.D. 109, 112 (S.D.N.Y. 2007) (party cannot rely on its own actions to create the risk of irreparable injury on

## **II. IDOT HAS NOT SHOWN THAT AN EXTENSION OF THE 2015 DEADLINE IS NECESSARY OR APPROPRIATE.**

As the Board noted in Decision No. 19, which rejected ICC's request to modify FMC 14 to extend the date by which construction must begin from 2015 to 2020, ICC argued in its comments on the Draft EIS (at 3) "that the Board should allow a minimum of 5 years for any grade separations to be built." Decision No. 19 at 7. The Board noted further that, although "the ICC would have preferred a 10-year time frame," the 7 years provided in Decision No. 16 "falls within the 5-10 year range suggested by the ICC itself." *Id.*

IDOT does not argue that a period of seven years is insufficient time to begin the construction process. It argues instead that given the pendency of appeals to Decision No. 16 it will not have the benefit of that full period because, it claims, it "cannot do any work on [the Ogden Avenue and Lincoln Highway] grade separation projects (preliminary or otherwise) without being certain that the Board's ruling regarding the amount of CN's contributing to the projects will not be overturned." Petition at 4. But that is demonstrably incorrect.

As can be seen on IDOT's web site (see <http://www.dot.state.il.us/descenv/ptb.html>), IDOT has included the two EJ&E grade separations as the first and second jobs listed in its Professional Transportation Bulletin 153 ("PTB 153"), which solicited statements of interest from preselected contractors due by August 27, 2009, with selection set for October 21, 2009, and "an initial meeting" of the selected Consultant and subconsultants and IDOT scheduled for October 23, 2009 (Lincoln Hwy.) and October 26, 2009 (Ogden Avenue). (Selected pages of PTB 153 are attached as Exhibit A.) The definition of the scope of work for the two grade separations is identical but for location. Taking the job listing for the Ogden Avenue (U.S.

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which to ground its request for preliminary injunction). To do so would nullify the prerequisites to relief under 49 C.F.R. § 1115.4, since aligned parties could always create the requisite "changed circumstances" or "new evidence."

Route 34) grade separation in Aurora as an example, the solicitation states: “Phase I/II engineering services are required to perform work associated with the improvement of US 34 at the EJ&E/CN Railroad in Aurora. The proposed improvement is anticipated to address grade separating the roadway and the railroad to accommodate existing and projected 2040 travel demands.” The solicitation then goes on to discuss the Phase I work and the Phase II work in some detail. It is evident from this solicitation that, contrary to IDOT’s claim, it not only can make progress toward construction of the grade crossing separations prior to a final non-appealable decision, it has already done so.

IDOT has not presented any evidence or suggested any reason that it cannot continue to progress toward construction of the grade separations prior to the completion of appeals, as opposed to preferring not to do so. IDOT points to no law or other requirement that would slow or prevent it from making sufficient progress prior to a final, non-appealable decision. Nor has IDOT submitted any affidavits or verified statements supporting such a claim. While IDOT suggests that it “would be penalized by having to bear the entire cost” of those pre-construction measures should CN prevail in its appeal (Petition at 4), it has failed to suggest any reason why it cannot continue to take all necessary steps to prepare for construction or why such preparation is not consistent with its public interest obligation. Instead, one might expect that if IDOT believes those grade separations are necessary, that it would be willing to support those projects, including bearing at least the preliminary costs of preparation for construction of the separations, even without assurance that CN will fund the major portion of it.

In sum, IDOT has shown only that it prefers additional time in order to begin construction of the two grade separations provided for in FMC 14; it has not shown that additional time is required or necessary. In the absence of such evidence, there is no ground for

reopening Decision No.16, or for extending the 7-year deadline set in FMC 14 for the beginning of construction prior to CN being relieved of funding obligations.<sup>13</sup>

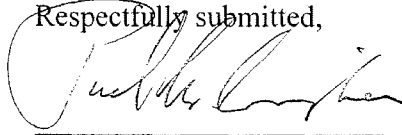
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<sup>13</sup> IDOT not only fails to show that modification of FMC 14 is appropriate; it fails to propose any reasonable alternative. The Board used the correct approach in FMC 14 to establish a reasonable sunset for CN's obligation to fund grade crossings should State authorities fail to begin construction work on those projects within the reasonable period of time established by the Board from the date of its decision. Under IDOT's proposal, however, the clock for the commencement of construction would not start running until "the date of the final unappealable court order in this matter." Petition at 4. This formulation could create a perverse incentive for IDOT (and other parties aligned in interest with IDOT) to attempt to extend the construction deadline by delaying the date by which the Board's decision is final and non-appealable through further petitions for reopening and reconsideration (IDOT's petition already represents the third round of state and local government post-decision appeals), which in the past has resulted in a stay of court review proceedings. Project opponents should not be placed in a position where they may attempt to manipulate their own deadline. Neither should the Board be required to choose between, on the one hand, allowing these parties to successfully manipulate the construction cut off and, on the other hand, foregoing the option of seeking a stay of the judicial review proceedings if a new petition for reopening is filed.

## CONCLUSION

IDOT has waived the argument raised in its Petition, and failed in any event to show material error, new evidence, or substantially changed circumstances to justify reopening Decision No. 16 or modification of FMC 14. Accordingly, the Petition should be denied.

Respectfully submitted,



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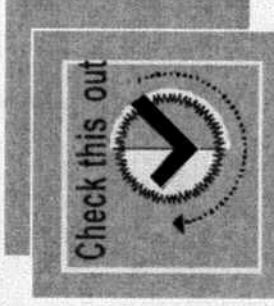
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*Counsel for Canadian National Railway Company  
and Grand Trunk Corporation*

October 13, 2009

## **EXHIBIT A**

# Professional Transportation Bulletin



**Illinois Department of Transportation**  
2300 South Dirksen Parkway, Springfield, Illinois 62764

# Introduction

STATE OF ILLINOIS  
Department of Transportation  
2300 South Dirksen Parkway  
Springfield, Illinois 62764

## PROFESSIONAL TRANSPORTATION BULLETIN #153 Publish Date August 6, 2009

This bulletin is the official notice of needed professional services for the Illinois Department of Transportation (IDOT).

This bulletin is sent to each professional consultant on IDOT's prequalified list. A Professional firm who is not prequalified may obtain the necessary information and forms to become prequalified from the INTERNET at: <http://www.dot.gov.il/Doing Business/Consultant Services/Consultant Prequalification>.

This is not an invitation for bids. Firms properly prequalified for any of the projects listed herein may indicate their desire to be considered for selection by submitting a Statement of Interest for the project to the [SOIPTB@dot.il.gov](mailto:SOIPTB@dot.il.gov) e-mail address.

IDOT shall not discriminate based on race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. IDOT shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

**STATEMENTS MUST BE RECEIVED BY THE BUREAU OF DESIGN AND ENVIRONMENT AT THE ABOVE ADDRESS AND IF APPLICABLE, THE APPROPRIATE DISTRICT ENGINEER OR BUREAU CHIEF PRIOR TO 12:00 P.M. LOCAL TIME, August 27, 2009. STATEMENTS RECEIVED AFTER THIS TIME WILL NOT BE CONSIDERED.**

The selection of professional consultants by IDOT is not based on competitive bidding but on the firm's professional qualifications, experience, and expertise of key personnel to be assigned to the project with consideration also given to:

- 1) Ability to complete the work in the time required and the firm's existing workload.
- 2) The firm's proximity to the project, when important.
- 3) Extent of work, which must be subcontracted by the firm and their proposed method of accomplishing the project objectives.
- 4) Financial evaluation of the firm and its accounting methods.
- 5) Performance rating for past work done for IDOT, if applicable.

All members of the Consultant Selection Committee will be **unavailable** to discuss specifics of projects listed herein during the two-week period preceding the Selection Committee Meeting.

Departmental procedures ensure that all members of the Consultant Selection Committee are provided with detailed information concerning all Statements of Interest submitted by all consultants. Please do not send letters expressing your interest in various projects and/or correspondence concerning your firm via Overnight/Federal Express mail to members of the Consultant Selection Committee.

1. **Job No. P-91-003-10, Phase I/II, US 34 at EJ&E/CN Railroad, DuPage County, Region One, District One.**

This project will utilize the **Cost Plus Fixed Fee (CPFF)** method of compensation.

**This project requires 15% DBE participation.**

The **Complexity Factor** for this project is **0.035**.

The Consultant who is selected for this project and all subconsultants the prime Consultant will be using are scheduled to attend an initial meeting at **October 26, 2009** on **9:00 A.M.** at the Region One, District One Office in **Schaumburg**.

Phase I/II engineering services are required to perform work associated with the improvement of US 34 at the EJ&E/CN Railroad in Aurora. The proposed improvement is anticipated to address grade separating the roadway and the railroad to accommodate existing and projected 2040 travel demands. A key planning tool will include a public involvement program based upon the principles of Context Sensitive Solutions. All work for this project will be in English units.

Phase I work may include but not be limited to data collection, preparation of base maps and mosaics, route survey, crash analysis, traffic counts and projections, traffic and access studies, traffic management analysis (both highway and railroad), extensive railroad coordination, drainage studies including possible proposed pump stations, cost estimates, and all other related work necessary to complete a Phase I Project Report anticipated to be a Categorical Exclusion.

Phase II work may include but not be limited to roadway plan preparation, structure work and design including TS&L's, addition of lighting or lighting improvements, pavement markings, drainage improvements including a pump station, geotechnical studies and any other work required to complete the project.

The department will make available to the Consultant microfilm plans, aerial photography, accident data, utility coordination and correspondence, and archaeological, historical, biological, and special waste survey and coordination.

The estimated construction cost for this project is \$50,000,000. The completion date for Phase I will be 24 months after authorization to proceed. Phase II will be negotiated near the completion of Phase I. Phase II work must be completed within 24 months after authorization to proceed with Phase II.

Key personnel listed on **Exhibit A** and **B** for this project must include:

- The person who will assume the duties of Project Manager for all aspects of the work documents (must be an Illinois Licensed Professional Engineer).
- The person who will perform the duties of Project Engineer, that individual in charge who is directly involved in the development of the contract documents (must be an Illinois Licensed Professional Engineer).

- The person who will perform/supervise the work in the area of hydraulic/drainage calculations and preparation of the Drainage/Hydraulic Reports (must be an Illinois Licensed Professional Engineer with a minimum of 5 years experience in highway related drainage problems).
- The person who will perform the work in the area of structure plan preparation (must be an Illinois Licensed Structural Engineer). In addition, the staff performing this work must be identified.
- The person who will be in charge of route surveys (must be an Illinois Licensed Professional Engineer or an Illinois Licensed Surveyor). Route Surveys prequalification category requirement may be completed by the Sub and/or Prime.
- The person(s) who will perform the QC/QA review work of all milestone submittals (must be an Illinois Licensed Professional Engineer for roadway work and an Illinois Licensed Structural Engineer for structure work with adequate plan review experience).
- The person who will perform/supervise the work in the area of geotechnical analysis and the preparation of the Structure Geotechnical Report (must be an Illinois Licensed Professional Engineer). General Geotechnical Services and Structure Geotechnical Reports (SGR) prequalification category requirements may be completed by the Sub and/or Prime.

The prime firm must be prequalified in the following categories to be considered for this project:

**Location/Design Studies (Reconstruction/Major Rehabilitation)**  
**Structures (Railroad Bridges)**  
**Hydraulic Reports (Pump Station)**  
**Highways (Roads and Streets)**

Statements of Interest, including resumes of the key people noted above, must be submitted electronically to the Central Bureau of Design and Environment at the following address: [SOIPTB@dot.il.gov](mailto:SOIPTB@dot.il.gov).

2. **Job No. P-91-003-10, Phase I/II, US 30 at EJ&E/CN Railroad, Cook County, Region One, District One.**

This project will utilize the **Cost Plus Fixed Fee (CPFF)** method of compensation.

**This project requires 15% DBE participation.**

The **Complexity Factor** for this project is **0.035**.

The Consultant who is selected for this project and all subconsultants the prime Consultant will be using are scheduled to attend an initial meeting at **1:00 P.M. on October 23, 2009** at the Region One, District One Office in **Schaumburg**.

Phase I/II engineering services are required to perform work associated with the improvement of US 30 at the EJ&E/CN Railroad in Lynwood. The proposed improvement is anticipated to address grade separating the roadway and the railroad to accommodate existing and projected 2040 travel demands. A key planning tool will include a public involvement program based upon the principles of Context Sensitive Solutions. All work for this project will be in English units.

Phase I work may include but not be limited to data collection, preparation of base maps and mosaics, route survey, crash analysis, traffic counts and projections, traffic and access studies, traffic management analysis (both highway and railroad), extensive railroad coordination, drainage studies including possible proposed pump stations, cost estimates, and all other related work necessary to complete a Phase I Project Report anticipated to be a Categorical Exclusion.

Phase II work may include but not be limited to roadway plan preparation, structure work and design including TS&L's, addition of lighting or lighting improvements, pavement markings, drainage improvements including a pump station, geotechnical studies and any other work required to complete the project.

The department will make available to the Consultant microfilm plans, aerial photography, accident data, utility coordination and correspondence, and archaeological, historical, biological and special waste survey and coordination.

The estimated construction cost for this project is \$50,000,000. The completion date for Phase I will be 24 months after authorization to proceed. Phase II will be negotiated near the completion of Phase I. Phase II work must be completed within 24 months after authorization to proceed with Phase II.

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- The person who will perform/supervise the work in the area of hydraulic/drainage calculations and preparation of the Drainage/Hydraulic Reports (must be an Illinois Licensed Professional Engineer with a minimum of 5 years experience in highway related drainage problems).
- The person who will perform the work in the area of structure plan preparation (must be an Illinois Licensed Structural Engineer). In addition, the staff performing this work must be identified.
- The person who will be in charge of route surveys (must be an Illinois Licensed Professional Engineer or an Illinois Licensed Surveyor). Route Surveys prequalification category requirement may be completed by the Sub and/or Prime.
- The person(s) who will perform the QC/QA review work of all milestone submittals (must be an Illinois Licensed Professional Engineer for roadway work and an Illinois Licensed Structural Engineer for structure work with adequate plan review experience).
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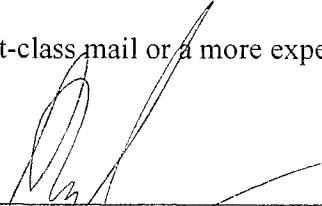
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**Location/Design Studies (Reconstruction/Major Rehabilitation)**  
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**Highways (Roads and Streets)**

Statements of Interest, including resumes of the key people noted above, must be submitted electronically to the Central Bureau of Design and Environment at the following address: [SOIPTB@dot.il.gov](mailto:SOIPTB@dot.il.gov).

### **CERTIFICATE OF SERVICE**

I certify that I have this 13th day of October, 2009, served copies of the foregoing Applicants' Reply to Petition to Reopen of Illinois Department of Transportation (CN-59) upon all known parties of record in this proceeding by first-class mail or a more expeditious method.

  
\_\_\_\_\_  
Alexander Coon