

RESOLUTION 78-13

Resolution Confirming the Mayor's Authority to Sign an Agreement with the Illinois Central Gulf Railroad Company for the Establishment of a Crossing at the Intersection of Pete Ellis Drive and the Illinois Gulf Central Railroad Company Tracks.

WHEREAS, there has been and continues to be substantial development of the real estate in the vicinity of Third Street and Pete Ellis Drive in the City of Bloomington, and

WHEREAS, it is essential for the public good, safety, and convenience of the City of Bloomington that Pete Ellis Drive be extended, and

WHEREAS, the Illinois Central Gulf Railroad Company maintains and operates railroad tracks that intersect with the proposed extension of Pete Ellis Drive, and

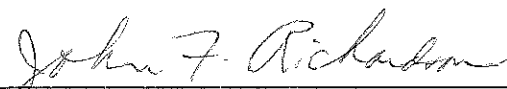
WHEREAS, I.C. 18-1-6-2 grants to the Mayor authority to sign all bonds, deeds and written contracts for the City, and

WHEREAS, the Illinois Central Gulf Railroad Company desires a resolution authorizing the official signing any Agreement with the Railroad to execute on behalf of the Governmental Body;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Bloomington that Mayor Francis X. McCloskey is hereby authorized to execute an Agreement dated _____, 1978 with Illinois Central Gulf Railroad Company, copy attached, for a railroad crossing at the intersection of Pete Ellis Drive and the Illinois Central Gulf Railroad Company tracks in the City of Bloomington, Indiana.

BE IT FURTHER RESOLVED a certified copy of this Resolution be transmitted to Illinois Central Gulf Railroad Company.

PASSED AND ADOPTED this 18 day of May, 1978, by the Common Council of the City of Bloomington, Monroe County, Indiana.


John F. Richardson, President
Bloomington Common Council

APPROVED this 19 day of May, 1978, by the Mayor.


Francis X. McCloskey, Mayor
City of Bloomington

SYNOPSIS

Resolution 78-13

The City administration wishes to extend Pete Ellis Drive from East Third Street over the Illinois Central tracks to Tenth Street. This would necessitate obtaining an easement from the Railroad and getting permission from the Public Service Commission to construct a crossing over the tracks. While Indiana law authorizes the Mayor to sign contracts on behalf of the City the Railroad has a standard policy of requiring a resolution from the governing body confirming the Mayor's authority to sign ~~any such~~ ^{this} agreement. This resolution gives such confirmation.

THIS INDENTURE WITNESSETH, that the Grantor, ILLINOIS CENTRAL GULF RAILROAD COMPANY, a corporation of the State of Delaware, for and in consideration of the sum of ONE DOLLAR (\$1.00), in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, so far as it lawfully may, to the _____

_____,
Grantee, an easement for a roadway, hereinafter for convenience referred to as the "Structure", on and across the land of the said ILLINOIS CENTRAL GULF RAILROAD COMPANY, in the vicinity of _____, more particularly described as follows:

The grant aforesaid is made solely upon the conditions and limitations hereinafter contained, and the Grantee, by its acceptance of the said grant, accepts such conditions and limitations and agrees to the full, strict and prompt observance and performance thereof.

1. The easement granted in this indenture is limited to the uses and purposes hereinbefore expressed and for no other purpose whatever.

2. The Grantor reserves to itself, its grantees (other than the Grantee named in this indenture), licensees, lessees, successors and assigns, the right not only to continue to keep and use or operate all tracks and other facilities or structures now upon or beneath the surface of, or above, the said described premises, but also the right to install and use or operate additional tracks, facilities and structures upon and beneath the surface of and above the said described premises. The Grantor reserves also the right to grant to others permission to install and use or operate other facilities and structures, including, but not limited to, underground pipes and conduits, upon and beneath the surface of the said premises, and overhead wires, cables and poles or other structures for the support of such facilities and structures which may now or hereafter be on the said premises, provided that said installations may be made without substantial interference with the use of the said premises as provided in this indenture.

3. The Grantee shall, without charge or assessment therefor against the Grantor or the Grantor's property, perform all work and furnish all material necessary for the construction, maintenance or reconstruction of the Structure, and make or cause to be made any changes or alterations in the location or construction of the Grantor's facilities that may be made necessary by this grant or by the location, construction, or use of the Structure. The Grantee shall also assume and pay all expense incurred by the Grantor incident to, or as a result of, the exercise of this grant.

4. Neither the Grantor nor its property shall be subjected to any charge, assessment, or expense, arising from, growing out of, or in

any way attributable to, the construction, maintenance, use or operation of the Structure, whether within or without the confines of Grantor's property, nor for any crossing protection thereat, nor for any highway improvement thereon if this easement is for roadway purposes. If the Grantor or its property is legally subjected to any such charge, assessment, or expense, the Grantee shall pay Grantor, as additional compensation for the rights granted in this indenture, an amount of money equal to any such charge, assessment, or expense paid by the Grantor.

5. The Grantor does not warrant title to the said described premises in which the foregoing easement is granted and does not undertake to defend the Grantee in the peaceable enjoyment thereof, but the grant of easement aforesaid shall be subject to the continuing lien of all lawful outstanding existing liens and superior rights, if any, in and to said premises.

6. If any work to be performed by or for the Grantee is let by contract, the Grantee shall require each contractor before coming upon the Grantor's tracks or waylands, to obtain from the Grantor's authorized representative permission for occupancy and use of the premises and to ascertain and comply with the Grantor's requirements for clearances, operation, and its general safety regulations. The Grantor may furnish each contractor, at such contractor's sole cost and expense, protective services and devices, including, but not limited to, switchtenders, flagmen, or watchmen as the Grantor may deem desirable for the safety and continuity of railroad traffic during the work. Each contractor shall be required by the Grantee to reimburse the Grantor promptly upon receipt of bill for such protective services and devices furnished to the contractor.

The Grantee shall withhold final payment to its contractor or contractors until the Grantor has notified the Grantee that all such bills have been settled. The Grantee shall reimburse the Grantor upon receipt of bills for any work performed for the Grantee by the Grantor.

Cost and expense for work performed by Grantor, as referred to in this indenture, shall consist of the actual cost of labor and materials plus Grantor's standard additives in effect at the time the work is performed.

7. For any work let by contract, the Grantee shall require each of its contractors to furnish evidence of Workmen's Compensation coverage and to maintain at all times during any work: (A) Contractors' Public Liability and Property Damage Liability Insurance, including automobile coverage, with limits of \$500,000/\$1,000,000 as to public liability, and \$500,000/\$1,000,000 as to property damage liability; (B) if subcontractors are involved, Contractors' Protective Public Liability and Property Damage Liability Insurance, with the limits prescribed in (A) above; and (C) Railroad Protective Public Liability and Property Damage Liability Insurance with the limits prescribed in (A) above. The Railroad Protective policy shall name the Illinois Central Gulf Railroad Company as the insured and shall include an endorsement in the form appearing in the Standard Provisions attached to and made a part of this indenture. The Grantee shall require each contractor to furnish to the Grantor the Railroad Protective policy and certificates evidencing the other insurance coverage required in this Section. The Railroad Protective policy and all insurance certificates shall be subject to the Grantor's approval before any work may be started on the Grantor's property by any contractor.

8. If the public use of the easement on the premises described in this indenture for the purposes expressed in it shall be abandoned or discontinued, or if the Grantee violates any provision of this indenture, the said easement shall thereupon cease and determine, and

the Grantee shall surrender or cause to be surrendered to the Grantor, or its successors or assigns, the peaceable possession of the said described premises, and title to the said premises shall remain in the Grantor, or its successors or assigns, free and clear of all rights and claims of the Grantee and of the public for use and occupancy of the said premises. Full and complete title, ownership and use of Grantor's premises and of the portions thereof herein involved are reserved to Grantor, its successors or assigns, subject to the right, permission and authority herein expressly granted in this indenture. Upon termination of the easement for any reason, the Grantee shall restore the Grantor's premises to a like condition as at present, insofar as such restoration may in the opinion of the Grantor's duly authorized representative be practicable.

9. Subject to the provisions of the foregoing Section 8, this indenture and the conditions contained in it shall run with the land and be binding upon the respective grantees, licensees, lessees, successors and assigns of the parties.

IN WITNESS WHEREOF, the Grantor has caused this indenture to be signed and its corporate seal affixed by its proper duly authorized officers as of the _____ day of _____, 19____.

ILLINOIS CENTRAL ^{GULF} RAILROAD COMPANY

By _____
Vice President and Chief Engineer

ATTEST:

Assistant Secretary

ACCEPTED:

By _____
Title _____

By _____
Title _____

APPROVED AS TO FORM	
Description.....	
Materials Management	
Engineering.....	
Accounting.....	
Law.....	
EXECUTION	
Law.....	

STATE OF ILLINOIS
COUNTY OF COOK

} SS

I, _____, a Notary Public in and for said
County and State, hereby certify that _____,

of the aforesaid ILLINOIS CENTRAL
GULF RAILROAD COMPANY, who is personally known to me, and known to be
such _____ of said corporation, and the

same person whose name is subscribed in the above instrument as such

appeared before me this day in
person in said State and County, and being by me duly sworn, did say
that he was on the date of the execution of the said instrument

of the said corporation, and that the seal
affixed to said instrument is the corporate seal of said corporation,
and that the said instrument was signed and sealed in behalf of said
corporation by authority of its Board of Directors, and he acknowledged
that he, being informed of the contents of the instrument as such

signed, sealed and delivered the
said instrument by signing the name of the corporation by himself
as _____ as his own free and voluntary
act as _____ and as the free and voluntary
act and deed of the said corporation for the uses and purposes therein
set forth. I further certify that the seal of said corporation as
affixed to said instrument was attested and proven before me by

_____, as Assistant Secretary of said corporation.

Given under my hand and seal of office in Chicago, Cook County,
Illinois, this _____ day of _____, 19____.

Notary Public

My Commission Expires _____.

COMMITTEE REPORT SHEET

Legislative #: Appropriation Ordinance - Ordinance - Resolution 78-13

Title: Re: Easement for Pete Ellis Drive at the Crossing of IC Railroad Tracks

Committee: Community Development Public Facilities Joint Mtg. X

Submitted by: Legal Department

Meeting Date: 5/10/78

Committee Discussion/Recommendation:

VOTE OF AYES: 3, NAYS: 0, FOR To Council RECOMMENDATION.
for Discussion
Do Pass

Signatures of Councilmembers Present:

