



**RESOLUTION NO. 18-005**

**A Resolution**

**Authorizing the execution of agreements with the Illinois Commerce Commission  
by the Village of Montgomery, Kane and Kendall Counties, Illinois**

**WHEREAS**, the Village of Montgomery desires to expand and grow in an orderly and planned fashion; and

**WHEREAS**, certain public improvements are necessary for the provision of the services; and

**WHEREAS**, the Illinois Commerce Commission (ICC) has entered into an agreement with the Village to provide funding for the Village to complete improvements of a certain highway rail grade crossing identified as AAR/DOT #079 574L; railroad milepost 42.39-LS1 located in and/or near the Village of Montgomery; and

**WHEREAS**, the Village, seeks to submit a petition to the ICC requesting additional grade crossing protection funds to complete the improvements of the Light Road approaches on either side of the Burlington Northern Sante Fe Right-Of-Way;

**NOW, THEREFORE, BE IT RESOLVED** by the Village President and the Board of Trustees of the Village of Montgomery as follows:

1. The Village President, Clerk and Staff are hereby authorized to petition the ICC for additional funding in the amount of \$39,330.85 to complete the improvements regarding Stipulated Agreement 1640;

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, this 26th day of February 2018.



\_\_\_\_\_  
President of the Board of Trustees of the Village of  
Montgomery, Kane and Kendall Counties, Illinois

AYES: 5

NAYS: 0

ABSENT: 1

  
\_\_\_\_\_  
Clerk, Village of Montgomery

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

BNSF Railway Company, Oswego Township Road :  
 District, Village of Montgomery, and the State of :  
 Illinois, Department of Transportation. :

Stipulated Agreement regarding improving public : T12-0082  
 safety at the Light Road highway-rail grade crossing of :  
 BNSF Railway Company's track in Montgomery, :  
 Kendall County, designated as crossing AAR/DOT :  
 #079 574L, railroad milepost 42.39-LS1.

IN RE PETITION OF THE VILLAGE OF MONTGOMERY )  
 FOR SUPPLEMENTAL ORDER FOR ADDITIONAL FUNDS )  
 FOR LIGHT ROAD )  
 GRADE CROSSING PROJECT )

PETITION FOR SUPPLEMENTAL ORDER

NOW COMES the Village of Montgomery ("Village"), an Illinois municipal corporation located in the counties of Kane and Kendall, Illinois, and petitions the Illinois Commerce Commission ("Commission") for an additional funds for a Project involving safety improvements at the Light Road highway-rail grade crossing of the BNSF Railway Company's track in Kendall County (next to and just outside the Village boundaries) designated as crossing AAR/DOT #079 574L ("Grade Crossing").

In support thereof, the Village states as follows:

1. A Stipulated Agreement was entered into between the Commission, the Illinois Department of Transportation ("IDOT"), BNSF Railway Company, Oswego Township Roadway District and the Village for certain improvements to be made to improve the public safety at the Grade Crossing.
2. On June 6th, 2012, the Commission entered an Order accepting the Stipulated Agreement and directing work to proceed on the project.
3. The increase in time needed to complete construction is based on many factors, including:
  - A) In August 2012, the fact that Light Road did not have dedicated right-of-way on either side of the BNSF railway was brought to the Village's attention. The Village notified IDOT and all partners to this project immediately.

- B) On February 27, 2013 the Village filed a Supplemental Petition requesting additional assistance for acquisition of the necessary Right-of-Way which was passed by an Order of the Commission on March 20, 2013.
- C) On May 21, 2013 the Village filed a Supplemental Petition requesting a 6 month completion deadline extension from June 6, 2013 to December 6, 2013 which was passed by an Order of the Commission on June 5, 2013.
- D) The Right-of-Way acquisition appraisals were completed on August 12, 2013 and the appraisal review certifications were completed on September 25, 2013.
- E) On December 2, 2013 the Village filed a Supplemental Petition requesting an 8 month completion deadline extension from December 6, 2013 to August 6, 2014 which was passed by an Order of the Commission on January 23, 2014.
- F) The Village's engineering consultant, Engineering Enterprises, Inc., is currently in the process of completing the R.O.W acquisition and verbally agreed to settlements with the three property owners.
- G) On August 18, 2014 the Village filed a Supplemental Petition requesting additional funding and a completion deadline extension to August 6, 2015 which was passed by an Order of the Commission on December 10<sup>th</sup>, 2014.
- H) On August 10, 2015, the Village filed its Fifth Supplemental Petition requesting and Extension of Time to complete the project by August 6, 2016.
- I) On April 20, 2016, attempts to come to agreement with one of the three property owners from which right of way was required for this project proved impossible without eminent domain proceedings which the Village is choosing not to exercise. Right of way was acquired from the other 2 affected property owners.
- J) On June 22, 2016, one of the property owners from which right of way was acquired agreed to the conveyance of additional property that would forego the need to acquire right of way from the unwilling property owner. This change in right of way also necessitated a change in the plan and profile design of the approach and crossing improvements.
- K) On August 1, 2016 the Village filed its Sixth Supplemental Petition requesting an Extension of Time to complete the project by August 6, 2017 which was passed by an Order of the Commission on August 24, 2016.
4. The increase in funds requested is based on the following reasons listed below:
- A) The improvements were redesigned due to the failure to come to an agreement with one of the three property owners. The plans and specifications were changed, the plat of highways was changed and additional land acquisition coordination was needed to accommodate the design changes. The resulting increase in design engineering and land

acquisition fees is \$24,483.06 for a total design engineering and land acquisition cost of \$93,045.06.

B) The engineer's cost estimate dated March 27, 2017 was submitted to District three of the Illinois Department of Transportation. The cost estimate was updated to reflect significant changes to the project design due to the failure to come to an agreement with one of the three property owners. Bids were opened on April 20, 2017 and the project was awarded to the low bidder. Construction of the project is complete and final quantities are agreed to with the Contractor. The resulting increase in construction cost is \$8,347.79 for a total construction cost of \$82,315.79.

C) The construction engineering cost estimate was based on the original design. The redesign of the project has increased the anticipated duration of construction and additional construction engineering costs are anticipated. The resulting increase in construction engineering is \$6,500.00 for a total of \$15,500.00.

WHEREFORE, the Village of Montgomery prays that the Illinois Commerce Commission enter a supplemental order for an additional funds in the amount \$39,330.85 for a total of \$190,860.85 to complete the necessary design, land acquisition, construction and construction engineering of the project.

Respectfully submitted,  
VILLAGE OF MONTGOMERY

Dated: \_\_\_\_\_

APPROVED BY THE VILLAGE BOARD ON FEBRUARY 26, 2018

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Matthew T. Brolley, Village President

Attest:

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Penny FitzPatrick, Village Clerk