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Public Utilities
Commission of Ohio

2010 JUN 14 PM 12:51

PUCO

Memo

To: Docketing Division
From: George Martin, Grade Crossing Planner, Rail Division
Re: In the matter of the authorization of the Cleveland Commercial Railroad to begin a consolidation project in the City of Bedford, Cuyahoga County
Date: June 14, 2010

On February 10, 2010 Commission staff entered into an agreement (attached) with the Ohio Rail Development Commission (ORDC), Cleveland Commercial Railroad (CCRL), the City of Bedford (City), and the Wheeling & Lake Erie Railway (as owner of the rail line), to close to vehicular and pedestrian traffic the following crossings:

Monroe Street, DOT# 475-968S

S. Park Street, DOT# 475-969Y

In exchange for the closures, the crossings at Powers Street (524-342Y), Willis Street (475-971A), and N. Park Street (475-970T) will be upgraded with new mast-mounted flashing lights and roadway gates. The grade crossing signals at Powers Street will also be interconnected with the traffic signals. The timing requirements for the traffic preemption are attached to this document.

These projects are federally funded. ORDC has encumbered \$1.3 million, part of which will be applied to grade crossing surface reconstruction. Staff requests an Entry with plans and estimates to be submitted to the Commission and ORDC with 90 days, and completion within one year. Upon approval of the plans and estimates by ORDC, construction may commence. A suggested case coding and heading would be:

PUCO Case No. 10- 821 -RR-FED In the matter of the authorization of the Cleveland Commercial Railroad to begin a consolidation project in the City of Bedford, Cuyahoga County

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician DR Date Processed 6-14-2010

C: Legal Department

Please serve the following parties of record

Ms Susan Kirkland

Ohio Rail Development Commission

1980 West Broad St

Columbus, Oh 43223

Mr Mike Kole

Cleveland Commercial Railroad

29930 Pettibone Rd

Glenwillow, Oh 44139

Mr Kenneth Schuman

City Manager

165 center Rd

Bedford, Oh 44146

Mr Dan Reinsel

Wheeling & Lake Erie Railway

100 E First St

Brewster, OH 44613

First Energy Legal Dept.

76 S main St

Akron, Oh 44308

**OHIO RAIL DEVELOPMENT COMMISSION
INTER-OFFICE COMMUNICATION**

TO: George Martin, Planner, Railroad Division, PUCO
FROM: Susan Kirkland, Manager, Safety Section, ORDC
BY: Cathy Stout, Safety Section, ORDC *Cathy*
SUBJECT: Cuyahoga County, City of Bedford, Consolidation Project,
Cleveland Commercial Railroad (CCRR)
DATE: June 10, 2010

The Ohio Rail Development Commission (ORDC), Public Utilities Commission (PUCO), Cleveland Commercial Railroad (CCRR), Wheeling & Lake Erie Railway Company (WLE) and City of Bedford have entered into a consolidation agreement for the closure of two grade crossings and the improvement of three grade crossings.

The crossings to be closed are CCRR grade crossings located on Monroe Street (475 968S), and South Park Street (475 969Y). The crossings to be improved are CCRR grade crossings on Powers Street (524 342Y), Willis Street (475 971A), and North Park Street (475 970T), which will be improved by modernizing the active warning devices to flashing lights and roadway gates and reconstructing the grade crossing surfaces as approved by ORDC.

The installation of lights and gates at the Powers Road (524 342Y) crossing necessitate advanced preemption of traffic signals in accordance with the new preemption standard published in the current edition of the Traffic Engineering Manual (TEM). Timing requirements for the traffic signal preemption are attached. Please have copies of the timing requirements and the Subsidy Agreement added to the PUCO formal docket and distribute copies of the forms to the CCRR with the PUCO Order.

Please issue an Order for the improvements outlined above. This construction authorization is made with the stipulation and understanding that any field work needs prior approval before the work begins. This authorization is made with the stipulation and understanding that an approved estimate may contain entries for items or activities that may be cited and found to be ineligible for federal participation during the project audit.

Thank you for your assistance with these matters.

Attachments (2): Subsidy Agreement, Railroad Configuration and Timing Requirements.

c: M. Fortè (file)

IN THE MATTER OF THE REQUEST FOR A
CONSOLIDATION PROJECT FOR THE
INSTALLATION OF WARNING DEVICES,
GRADE CROSSING SURFACE
RECONSTRUCTION, AND GRADE
CROSSING CLOSURES TO VEHICLES IN
THE CITY OF BEDFORD, CUYAHOGA
COUNTY, OHIO

AGREEMENT NO. 15416

SUBSIDY AGREEMENT

THIS SUBSIDY AGREEMENT is entered into on this 10th day
of February, ~~2009~~²⁰¹⁸ by and among the Public Utilities Commission of Ohio ("PUCO"), Ohio Rail
Development Commission ("ORDC"), Cleveland Commercial Railroad ("CCRR"), Wheeling & Lake Erie
Railway Company ("WLE"), and the City of Bedford ("CITY"),

WITNESSETH:

WHEREAS, Rule 4901-1-30 of the Ohio Administrative Code provides that any two or more
parties to a proceeding may enter into a written or oral stipulation concerning the issues presented in such
proceeding; and

WHEREAS, ORDC has statutory authority to develop, promote, and support safe, adequate, and
efficient rail service throughout the State of Ohio; and

WHEREAS, PUCO has statutory authority to regulate and promote the welfare and safety of
railroad employees and the traveling public pursuant to Ohio Revised Code Section 4905.04; and

WHEREAS, PUCO has authority to order closure of public grade crossings to vehicular traffic
within governmental limits pursuant to Ohio Revised Code Section 4907.474; and

WHEREAS, the Federal Aid Highway Safety Act of 1973 and the Transportation Equity Act for
the 21st Century and subsequent amendments thereto provide funding for the cost of installing warning
devices to eliminate hazards at public grade crossings, which funding is administered jointly by PUCO
and ORDC pursuant to Ohio Revised Code Section 4907.476; and

WHEREAS, the parties hereto propose to facilitate the improvements identified in this Subsidy
Agreement in accordance with the Federal Aid Policy Guide ("FAPG") and applicable provisions of Title
23 of the United States Code pursuant to the terms hereof; and

WHEREAS, the CITY hereby declares it to be in the public interest that the consent of the CITY
be and such consent is hereby given to ORDC/PUCO to facilitate the installation of the grade crossing
upgrades described in Section III of this Subsidy Agreement in accordance with plans, specifications and
estimates to be approved by ORDC/PUCO; and

WHEREAS, the parties, intending to be legally bound, further agree that the public grade
crossings identified in Section II of this Subsidy Agreement should be permanently closed to vehicular
traffic as part of the corridor safety project to be implemented by this Subsidy Agreement; and

NOW THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. PURPOSE

There are numerous public highway/railroad grade crossings located within the limits of the CITY. The purpose of this Subsidy Agreement is to enhance the safety of the traveling public who are required to regularly travel through these public grade crossings. This Subsidy Agreement implements a "corridor" approach whereby a designated grouping of public grade crossings located within the CITY have been identified for improvements or for permanent closure to vehicular traffic.

II. CROSSING CLOSURES

The CITY agrees to permanently close, to all vehicular and pedestrian traffic of any kind, CCRR's at-grade crossings located on Monroe Street (U.S. DOT AAR 475 968S), and South Park Street (U.S. DOT AAR 475 969Y).

CCRR shall remove highway pavements and crossing surfaces at the two grade crossing areas to a minimum distance of ten feet (10') from the center of the track to a maximum distance to the railroad Right of Way and dispose of removed materials. The warning devices shall also be removed.

Barricade materials selected by the CITY will be installed at the two grade crossings to be closed; Monroe Street, and South Park Street. Appropriate signage will be used to mark the barricades.

These closures will not occur before the upgrades listed in Section III of this Subsidy Agreement are completed. At the CITY's discretion, the closures can occur prior too the grade crossing upgrades.

The CITY acknowledges that closure of the aforementioned public grade crossings will further the public safety without unreasonable inconvenience to the public, and that vehicular traffic may be easily diverted to other nearby public grade crossings. Following receipt of public input, the CITY has enacted an Ordinance numbered 8099-08, that expresses these acknowledgments, the form and substance of which are acceptable to ORDC and PUCO.

III. GRADE CROSSING UPGRADES

In consideration of the commitment by the CITY to permanently close the grade crossings to all vehicular and pedestrian traffic of any kind designated in Section II of this Subsidy Agreement, the improvements will be accomplished as specified below (the "improvements"):

The CCRR grade crossings on Powers Street (U.S. DOT AAR 524 342Y), Willis Street (U.S. DOT 475 971A), and North Park Street (U.S. DOT AAR 475 970T), will be improved by modernizing the active warning devices and reconstructing the grade crossing surfaces as approved by ORDC.

CCRR shall prepare plans showing signal and control house locations, surface lengths and other relevant items. These plans shall be accompanied by an estimate detailing the required labor and materials for the work proposed and shall be submitted to ORDC/PUCO for approval before work is commenced on the improvements.

The CITY shall furnish advance warning signs and pavement markings as specified in the Manual of Uniform Traffic Control Devices ("MUTCD") and shall assume all costs to maintain such signage and markings in the future. Existing signs and pavement markings shall be deemed acceptable if those items are in good condition.

IV. COST ALLOCATION; BILLING

The actual costs for the removal of crossing materials and warning devices set forth in Section II of this Subsidy Agreement shall be borne one hundred percent (100%) by CCRR.

The cost of the barricade material and installation of such set forth in Section II of this Subsidy Agreement shall be borne one hundred percent (100%) by the CITY.

The actual costs for the improvements set forth in Section III of this Subsidy Agreement shall be borne one hundred percent (100%) by ORDC for the warning devices and the grade crossing reconstruction.

The actual costs for the improvements set forth in Section III of this Subsidy Agreement shall be borne one hundred percent (100%) by the CITY for the sidewalk and highway approach concrete work, and utility relocation.

The actual costs for the improvements borne by ORDC set forth in Section III of this Subsidy Agreement shall not exceed One Million, Three Hundred Thousand Dollars (\$1,300,000.00).

The cost of the advance warning signs and pavement markings set forth in Section III of this Subsidy Agreement shall be borne one hundred percent (100%) by the CITY.

The costs assigned to ORDC shall be satisfied through the expenditure of Federal funds administered by ORDC and subject to approval by the Federal Highway Administration ("FHWA"). In the event that delays or difficulties arise in securing necessary Federal approvals which, in the opinion of ORDC, render it impracticable to utilize Federal funds for the construction of this project, then at any time before CCRR or is authorized to purchase or furnish the items included under this Subsidy Agreement, ORDC may serve formal notice of cancellation upon CCRR and the CITY, and this Subsidy Agreement shall become null and void. ORDC/PUCO shall reimburse CCRR and the CITY for all costs and expenses reasonably incurred on account of the improvements prior to such cancellation, consistent with the terms and conditions of this Subsidy Agreement.

CCRR shall be responsible for initially paying all of their actual costs to install the warning devices and reconstruct the grade crossings as detailed in Section III. However, ORDC shall be legally bound to reimburse CCRR for one hundred percent (100%) of such costs in Section III upon proper application therefor by CCRR, consistent with the terms of this Subsidy Agreement and in accordance with all applicable Federal regulations.

All plans, specifications, estimates of costs, acceptance of work, and procedures in general, to facilitate the construction of the safety improvements described above, shall conform in all respects to Federal laws, rules, regulations, orders, and approvals applicable to Federal-Aid projects. ORDC shall reimburse CCRR in accordance with FAPG 140, Subchapter B. and 23 C.F.R., Part 646, or any subsequent amendments thereto, in such amounts and form as are proper and eligible for payment from Federal-Aid highway funds., CCRR shall render its billings to ORDC in accordance with said rules and regulations, and CCRR shall also provide and furnish such itemized records of and substantiating data for such costs as may be required.

CCRR may bill ORDC monthly or periodically for its costs when costs exceed \$1,000.00. CCRR shall submit two (2) copies of its bill and in accordance with said rules and regulations as they have been issued or as thereafter may be supplemented or revised. A final bill covering actual cost and showing all details shall be submitted to ORDC within ninety (90) days after completion of, the improvements, ORDC shall pay all bills within sixty (60) days after receipt thereof, except that ORDC may hold a retainer on all bills not to exceed eight percent (8%) until final payment. Final payment for all amounts due CCRR shall be made by ORDC within sixty (60) days after a final audit has been performed and approved by ORDC. CCRR agrees to cooperate and assist, as requested, in any such audit.

At any time during normal business hours upon three (3) days written notice and as often as ORDC/PUCO may deem necessary and in such a manner as not to interfere with the normal business operations, CCRR shall make available to ORDC, for examination, and to appropriate state agencies or officials, all of its records with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment and shall permit ORDC to audit, examine and make excerpts or transcripts from such records.

In the event of a controversy as to the eligibility for reimbursement of any charges claimed against the improvement as set forth in Section III of this Subsidy Agreement, the decision of the ORDC regarding same shall be final.

No work requiring reimbursement under this Subsidy Agreement shall be commenced by the parties until all of the following have occurred: (1) this Subsidy Agreement shall have been approved by ORDC/PUCO; (2) all financial obligations of ORDC/PUCO, as provided for in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code and shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by ORDC; (3) CCRR has been notified by ORDC/PUCO to proceed with construction of the improvements. Work on the improvements shall commence within 30 days of the occurrence of events (1), (2) and (3) described herein. Buying and assembling of materials shall be construed as compliance with the foregoing thirty (30) day provision. Said work shall be pursued diligently by CCRR until completed.

V. NOTIFICATION

All notices, consents, demands, requests and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by facsimile and confirmed by telephone or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

If to PUCO:	Public Utilities Commission of Ohio Railroad Division 180 East Broad Street, 14 th Floor Columbus, Ohio 43215-3793
If to CCRR:	Cleveland Commercial Railroad Company, LLC 29930 Pettibone Road Glenwillow, Ohio 44139
If to WLE:	Wheeling & Lake Erie Railway Company 100 East 1 st Street Brewster, Ohio 44613
If to CITY:	City of Bedford 165 Center Road Bedford, Ohio 44146
If to ORDC:	Ohio Rail Development Commission 1980 West Broad Street, 2 nd Floor Columbus, Ohio 43223

CCRR shall furnish notification to ORDC/PUCO and the CITY at least five (5) working days prior to the date work is scheduled to start at the project site of the improvements so arrangements can be made for inspection. CCRR shall also notify ORDC/PUCO and the CITY of any stoppage and resumption of the work activity, and the reasons therefor, and the date the project work on the improvements was completed.

CCRR shall furnish written or FAX notification to the CITY at least fourteen (14) working days prior to starting any work requiring the establishment of a detour for highway traffic.

CCRR shall notify ORDC/PUCO of any changes in the scope of work, cost overruns, materials, etc, which are not in the approved plans and estimates and secure approval of same before the work is performed.

VI. TERMINATION

Said Agreement shall terminate at the end of the present biennium, June 30, 2011. If construction covered under this Agreement is not completed by that date, it is the expressed intention of the parties to renew this Subsidy Agreement on each successive biennium period until such time as all work contemplated under this Agreement has been satisfactorily completed. If it appears to ORDC/PUCO that CCRR or the CITY has failed to perform satisfactorily any requirements of this Subsidy Agreement, or if CCRR or the CITY is in violation of any provision of this Agreement, or upon just cause, ORDC/PUCO may:

- (a) Terminate the Agreement after providing CCRR or the CITY with written notice, in accordance with the notice provisions of this Agreement, of its failure to perform satisfactorily any requirement of this Subsidy Agreement (the "Notice"), which shall provide CCRR or the CITY with a thirty (30) day period to cure any and all defaults under this Subsidy Agreement; or

- (b) Immediately terminate the Agreement.

During the thirty (30) day cure period, CCRR or the CITY shall incur only those obligations or expenditures which are necessary to enable CCRR or the CITY to achieve compliance as set forth in the Notice. If it is determined that CCRR or the CITY cannot cure its default, CCRR or the CITY shall immediately cease work under this Subsidy Agreement, take all necessary or appropriate steps to limit disbursements and minimize costs, and CCRR or the CITY shall provide a report, as of the date of receipt of the Notice, setting forth the status of the work completed, the cost of the work completed and such other information as ORDC/PUCO shall deem pertinent.

This Agreement and any renewal thereof is subject to the determination by ORDC that sufficient funds and the authority to spend funds have been provided by the Ohio General Assembly to ORDC for the purposes of this Agreement and to the certification of funds by the Office of Budget and Management as required by the Ohio Revised Code, Section 126.07. If ORDC determines that sufficient funds have not been appropriated for the purposes of this Agreement, or if the Office of Budget and Management fails to certify the availability of funds, this Agreement shall be terminated.

VII. REPRESENTATIONS AND WARRANTIES

A. CCRR: CCRR represents and warrants the following:

- (1) CCRR has the power and authority to enter into this Agreement; and
- (2) CCRR has the authority to carry out its obligations under this Agreement; and
- (3) No personnel of CCRR, any subcontractor of CCRR, public official, employee or member of the governing body of the particular locality where this Agreement shall be completed, who exercises any functions or responsibilities in connection with the review or approval of the work completed under this Agreement, shall prior to the completion of said work, voluntarily or involuntarily acquire any personal monetary interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Any person who, prior to or after the execution of this Agreement, acquires any personal monetary interest, involuntarily or voluntarily, shall immediately disclose his interest to ORDC/PUCO in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless the ORDC/PUCO determines that, in light of the personal monetary interest disclosed, his participation in any such action would not be contrary to the public interest.

ORDC/PUCO: ORDC/PUCO represents and warrants that it has the power and authority to enter into this Agreement and to carry out its obligations under this Agreement.

VIII. OHIO ETHICS LAW REQUIREMENTS

CCRR affirms that it is not in violation of Ohio Revised Code §102.04, as that section is applicable to this Agreement and CCRR.

IX. FALSIFICATION OF INFORMATION

CCRR and the CITY affirmatively covenant that they have made no false statements to ORDC/PUCO in the process of obtaining this grant of funds. If CCRR or the CITY have knowingly made a false statement to ORDC/PUCO to obtain this grant of funds, the CCRR and the CITY shall be required to return all funds immediately pursuant to Ohio Revised Code Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to O.R.C. Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to O.R.C. Section 2921.13(D)(1), which is punishable by a fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

CCRR and the CITY further warrant that they are not subject to an "unresolved" finding for recovery under O.R.C. 9.24. If the warranty is deemed to be false, this Agreement is void *ab initio* and the CITY and/or CCRR must immediately repay to the PUCO/ORDC any funds paid under this Agreement.

X. EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Ohio Revised Code Section 125.111, CCRR agrees that CCRR, any subcontractor, and any person acting on behalf of CCRR or subcontractor, shall not discriminate, by reason of race, color, religion, sex, age, disability, national origin, or ancestry against any citizen of this state in the employment of any person qualified and available to perform the work under this Subsidy Agreement. CCRR further agrees that the contractor, and any subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Subsidy Agreement on account of race, color, religion, sex, age, disability, national origin or ancestry. If applicable, CCRR will file a written affirmative action program for the employment and effective utilization of disadvantaged persons and will file a description of that program and a progress report on its implementation, annually, with the Ohio Civil Rights Commission and the minority business development office.

XI. OHIO ELECTIONS LAW

CCRR affirms that, as applicable to the vendor, no party listed in Division (I) or (J) of Section 3517.13 of the Revised Code or spouse of such party has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of \$1,000.00 to the Governor or his campaign committees.

XII. DRUG FREE WORKPLACE

In the event that work performed pursuant to the terms of this Agreement will be done while on state property, CCRR hereby certifies that all of its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

IX. FALSIFICATION OF INFORMATION

CCRR and the CITY affirmatively covenant that they have made no false statements to ORDC/PUCO in the process of obtaining this grant of funds. If CCRR or the CITY have knowingly made a false statement to ORDC/PUCO to obtain this grant of funds, the CCRR and the CITY shall be required to return all funds immediately pursuant to Ohio Revised Code Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to O.R.C. Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to O.R.C. Section 2921.13(D)(1), which is punishable by a fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

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Initial: RM
Date: 2/10/10

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CCRR and the CITY affirmatively covenant that they have made no false statements to ORDC/PUCO in the process of obtaining this grant of funds. If CCRR or the CITY have knowingly made a false statement to ORDC/PUCO to obtain this grant of funds, the CCRR and the CITY shall be required to return all funds immediately pursuant to Ohio Revised Code Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to O.R.C. Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to O.R.C. Section 2921.13(D)(1), which is punishable by a fine of not more than One Thousand Dollars (\$1,000) and/or a term of imprisonment of not more than six (6) months.

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2/10/2010
J. Remmel

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In the event that work performed pursuant to the terms of this Agreement will be done while on state property, CCRR hereby certifies that all of its employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

XIII. HOLD HARMLESS PROVISION

CCRR covenants and agrees to indemnify and hold the CITY, ORDC/PUCO and their agents and employees harmless from and against any loss, claim, cause of action, damages, liability (including, without limitation, strict or absolute liability in tort or by statute imposed), charge, cost or expense (including, without limitation, counsel fees to the extent permitted by law), predicated on personal injury or death, or loss of or damage to property, and arising from any work performed pursuant to this Subsidy Agreement and caused by CCRR's negligent, intentional, willful or wanton actions or inactions, or such actions or omissions by any subcontractors that may be hired by CCRR under this Subsidy Agreement.

In case any action involving any work covered by this Agreement is brought by or against any party or parties, said party or parties shall promptly notify the other party or parties of such action.

XIV. PUCO ORDER

The Parties hereto agree that this Subsidy Agreement does not represent any admission of liability on the part of any party hereto, nor does it necessarily reflect the positions that the parties would have taken had this case been litigated before the PUCO. If the ORDC/PUCO rejects all or any part of this Subsidy Agreement, any party may, in writing submitted within ten days of the PUCO'S Order, elect to withdraw it's consent to the agreement, in which event this Subsidy Agreement shall be deemed a nullity, and shall not constitute any part of the record in this proceeding. This Subsidy Agreement shall not be used for any purpose whatsoever by any party hereto, in any other proceeding.

The undersigned respectfully join in recommending that the PUCO issue an Order approving and adopting this Subsidy Agreement in accordance with the terms set forth herein.

XV. DUPLICATE COUNTERPARTS

This Subsidy Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which taken together shall be deemed to constitute a single agreement.

XVI. UNUSUAL CIRCUMSTANCES AFFECTING PERFORMANCE

In the event that CCRR or the CITY cannot meet any or all of the obligations placed upon it by the terms of this Subsidy Agreement, (1) CCRR or the CITY shall immediately notify ORDC/PUCO in writing, and (2) ORDC/PUCO may, at its sole discretion, make reasonable efforts to assist CCRR or the CITY in meeting its obligations under the Agreement. Any revisions to this Agreement shall be made in writing and agreed upon by all parties. Any such revision must be approved and adopted by an Order issued by the PUCO.

If CCRR is unable to complete the project and activate the automatic warning devices within the time period set forth in the Order issued by the PUCO, CCRR must request an extension of time to complete the project and activate the devices. All such requests must be submitted to the PUCO in writing and must include a statement setting forth the reasons prompting the request and the time within which the project will be completed. Extensions for up to 30 days may be granted by the PUCO's

attorney examiner. Any request for an extension in excess of 30 days will be considered and decided by the PUCO's commissioners. No request for an extension of time to complete a project will be considered unless it is received prior to the completion date previously established by the PUCO and unless the reasons for the request are clearly set forth therein.

XVII. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS

CCRR and the CITY agree to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. CCRR accepts full responsibility for payments of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by CCRR on the performance of the work authorized by this Subsidy Agreement.

XVIII. DISPUTE RESOLUTION

In the event CCRR or the CITY desires clarification or explanation of, or disagrees with, any matter concerning the Subsidy Agreement, or the interpretation or application of any and all federal or state statutes, rules, regulations, laws or ordinances, the matter must be submitted in writing to ORDC/PUCO. After review and consultation with CCRR or the CITY, ORDC/PUCO shall decide the matter. If the dispute cannot be resolved, CCRR or the CITY may file a petition or request with the PUCO for formal resolution of the matter in dispute. Any appeal from the decision of the PUCO rendered in response to a petition or request as filed above, must be in accordance with Rule 4901-1-35, Ohio Administrative Code.

XIX. NO WAIVER

No delay or omission to exercise any right or option accruing to Grantor upon any breach by CCRR or the CITY shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed necessary by ORDC/PUCO. Further, if any term, provision, covenant or condition contained in this Subsidy Agreement is breached by either party and thereafter such breach is waived in writing by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

XX. CONSTRUCTION

This Subsidy Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to, matters of validity, construction, effect and performance.

XXI. PRIMARY ROLES AND RESPONSIBILITIES

The document, "Railroad Construction Contract Administration for Federally Funded Projects, Primary Roles and Responsibilities" is incorporated by reference as if included in this Subsidy Agreement in its entirety.

XXII. BUY AMERICA

CCRR shall furnish steel and iron products that are made in the United States according to the applicable provisions of Federal regulations stated in 23 CFR 635.410 and State of Ohio laws, and ORC 153.011 and 5525.21, including furnishing ORDC with proper documents certifying the domestic origin of any steel or iron products that fall under this section. "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

XXIII. FORUM AND VENUE

All actions regarding this Subsidy Agreement shall be forumed and venued in a court of competent subject matter jurisdiction in Franklin County, Ohio.

XXIV. SEVERABILITY

Whenever possible, each provision of this Subsidy Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Subsidy Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Subsidy Agreement.

XXV. ENTIRE AGREEMENT

This Subsidy Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

XXVI. CAPTIONS

The captions in this Subsidy Agreement are for the convenience of reference only and in no way define, limit or describe the scope or intent of this Subsidy Agreement or any part hereof and shall not be considered in any construction hereof.

XXVII. AMENDMENTS OR MODIFICATIONS

Any party may at any time during the term of this Subsidy Agreement request amendment or modification. Requests for amendment or modification of this Subsidy Agreement shall be in writing to the other parties and shall specify the requested changes and the justification for such changes. All parties shall then review the request for modification. Should the parties all agree to modification of the Subsidy Agreement, then an amendment shall be drawn, approved, and executed in the same manner as this Subsidy Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Subsidy Agreement to be executed as of the date and year set forth below.

WHEELING & LAKE ERIE RAILWAY
COMPANY

By Dan Reinsel
Print Name DAN REINSEL
Title S&C Supervisor
Date 12/23/2009

PUBLIC UTILITIES COMMISSION
OF OHIO

By _____
Print Name _____
Title _____
Date _____

CLEVELAND COMMERCIAL RAILWAY
COMPANY, LLC

By _____
Print Name _____
Title _____
Date _____

APPROVED AS TO FORM WITH REGARD
TO OHIO RAIL DEVELOPMENT
COMMISSION ONLY:

Alan H. Klodell
Assistant Attorney General Alan H. Klodell

Date 12/11/09

CITY OF BEDFORD

By _____
Print Name _____
Title _____
Date _____

OHIO RAIL DEVELOPMENT COMMISSION

By Matthew R. T. Smith
Print Name Matthew R. T. Smith
Title Executive Director
Date November 30, 2009

IN WITNESS WHEREOF, the parties hereto have caused this Subsidy Agreement to be executed as of the date and year set forth below.

WHEELING & LAKE ERIE RAILWAY
COMPANY

CITY OF BEDFORD

By _____

By _____

Print Name _____

Print Name _____

Title _____

Title _____

Date _____

Date _____

PUBLIC UTILITIES COMMISSION
OF OHIO

OHIO RAIL DEVELOPMENT COMMISSION

By _____

By Matthew R. T. Smith

Print Name _____

Print Name Matthew R. T. Smith

Title _____

Title Executive Director

Date _____

Date November 30, 2009

CLEVELAND COMMERCIAL RAILWAY
COMPANY, LLC

By Michael J. Kole

Print Name MICHAEL J. KOLE

Title PRESIDENT

Date 1-29-10

APPROVED AS TO FORM WITH REGARD
TO OHIO RAIL DEVELOPMENT
COMMISSION ONLY:

Alan H. Klodell
Assistant Attorney General Alan H. Klodell

Date 12/1/09

IN WITNESS WHEREOF, the parties hereto have caused this Subsidy Agreement to be executed as of the date and year set forth below.

WHEELING & LAKE ERIE RAILWAY
COMPANY

CITY OF BEDFORD

By _____

Print Name _____

Title _____

Date _____

By Kenneth S. Guman

Print Name Kenneth S. Guman

Title City Manager

Date 2/3/10

PUBLIC UTILITIES COMMISSION
OF OHIO

OHIO RAIL DEVELOPMENT COMMISSION

By R. H. Mc

Print Name DIRECTOR ROBERT MAZUR

Title DIRECTOR

Date 12/22/09

By Matthew R. T. J. J.

Print Name Matthew R. T. J. J.

Title Executive Director

Date November 30, 2009

CLEVELAND COMMERCIAL RAILWAY
COMPANY, LLC

By _____

Print Name _____

Title _____

Date _____

APPROVED AS TO FORM WITH REGARD
TO OHIO RAIL DEVELOPMENT
COMMISSION ONLY:

Alan H. Klodell
Assistant Attorney General Alan H. Klodell

Date 12/11/09



OHIO DEPARTMENT OF TRANSPORTATION
OHIO RAIL DEVELOPMENT COMMISSION

HIGHWAY-RAIL GRADE CROSSING WARNING SYSTEM INTERCONNECTION

RAILROAD CONFIGURATION AND TIMING REQUIREMENTS

SEPTEMBER 15, 2009 - ISSUED

Revision 0

Railroad: _____ Cleveland Commercial _____

DOT: _____ 524 342Y _____

Crossing Name: _____ Powers Road _____

Date: _____ 6/8/2010 _____

Issued By: _____ ORDC _____

This crossing warning system is proposed to be interconnected with an adjacent highway traffic control signal. In some cases, the warning system may be interconnected with two highway traffic control signals, usually one on each side of the grade crossing. The #2 Interconnect circuits are only required if indicated below.

The purpose of this document is to advise the railroad of the number of interconnection circuits required and the type and timing requirements of each circuit. The railroad should refer to the OHIO DOT HIGHWAY-RAIL GRADE CROSSING WARNING SYSTEM INTERCONNECTION STANDARD Part 5 for details concerning the requirements of the interface to be provided by the railroad.

	INTERCONNECT #1	INTERCONNECT #2
TYPE OF INTERCONNECTION		
ADVANCE	X	
SIMULTANEOUS		
NOT REQUIRED		X
ADVANCE PREEMPTION TIME PER AREMA 3.3.10	20	