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**OFFICE OF THE MAYOR
CITY OF CHICAGO**

BRANDON JOHNSON
MAYOR

January 24, 2024

**TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO**

Ladies and Gentlemen:

At the request of the Commissioner of Transportation, I transmit herewith an ordinance authorizing a right-of-way acquisition for the Archer Avenue and Belt Railway Company of Chicago grade separation project.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in blue ink, appearing to read "BJ", with a horizontal line extending to the right.

Mayor

ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, pursuant to an unidentified ordinance (the "Original Ordinance") passed by the City Council of the City (the "City Council") on an unknown date, the City authorized the Belt Railway Company of Chicago ("Belt Railway") to cross Archer Avenue with its railroad line at a grade crossing near South Kolmar Avenue, in the City of Chicago ("Crossing"); and

WHEREAS, beginning with a Joint Statement of Understandings ("JSOU") in 2003, the Chicago Regional Environmental and Transportation Efficiency program ("CREATE Program") has resulted in joint and coordinated projects by and among the Class 1 freight railroads (including CSX), Amtrak, Metra, the Illinois Department of Transportation ("IDOT"), Cook County and the Chicago Department of Transportation ("CDOT") to restructure, modernize and expand the freight and passenger rail facilities and public highway systems and reduce environmental and social impacts of rail operations in the Chicago metropolitan area; and

WHEREAS, pursuant to the CREATE Program, IDOT, CDOT, and the Belt Railway have agreed upon a plan to remove the grade crossing and construct and install grade separation facilities at the Crossing in order to improve traffic safety, reduce railroad and traffic delays, and address other negative impacts at the Crossing ("Project"); and

WHEREAS, the Belt Railway has agreed to maintain the bridge and other railroad improvements that are components of the Project in accordance with a construction and maintenance agreement between Belt Railway and the City; and

WHEREAS, pursuant Chapter 2-102-030 of the Municipal Code of the City, the Commissioner of CDOT ("Commissioner") has the authority to manage the preparation, planning, development and monitoring of transportation system projects within the City, including the acquisition of rights of way for such projects; and

WHEREAS, the City has determined that it is useful, desirable, and necessary that the City acquire for the Project those parcels of real property as listed on the attached Exhibit A. or portions thereof (the "Acquisition Parcels"); and

WHEREAS, the General Assembly in 735 ILCS 30/25-7-103.12, has authorized the use of quick-take eminent domain proceedings by municipalities for the purposes set forth in Division 74.2 and 74.3 of Article 2 of the Illinois Municipal Code, said purposes being the redevelopment of commercial or business areas by removing commercial blight for redevelopment purposes, and for the same purposes when established pursuant to home rule powers; and

WHEREAS, the City Council has adopted the Midway Industrial Corridor TIF Redevelopment Project Area, dated February 16, 2000 (“Plan”), thereby finding that statutory criteria for blighted area eligibility were met in the area of the Crossing; and

WHEREAS, the City Council hereby finds that the Project will further and assist in the eradication and elimination of commercial blight or conservation areas containing buildings and structures that are detrimental to the health, safety and welfare of the occupants and the welfare of the urban community, consistent with Division 74.2 of Article 11 of the Illinois Municipal Code; and

WHEREAS, the City Council hereby finds that the Project will further and assist in the creation, development, improvement, maintenance, and redevelopment of business districts and involves further creation of new and lasting infrastructure consistent with Division 74.3 of Article 11 of the Illinois Municipal Code; and

WHEREAS, the City under its home rule power finds that it useful and necessary to use quick-take to acquire the Acquisition Parcels for these same purposes; and

WHEREAS, pursuant to Resolution No. 23-CDC-48 adopted on December 12, 2023, the Community Development Commission recommended that CDOT acquire the designated Acquisition Parcels listed on Exhibit A in furtherance of the Plan without further Commission action; **now, therefore**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. The Original Ordinance is hereby amended to permit the construction, maintenance and use of the Project in accordance with the terms and conditions of this Ordinance, and the Belt Railway’s occupation of the public ways at such location is hereby conditioned upon its cooperation and participation in the construction of the Project as provided in the CREATE Program, and its acceptance of ownership and maintenance of appropriate sections of such grade separation structure, pursuant to an agreement detailing the same, which agreement shall be subject to the approval of the Corporation Counsel (“Construction and Maintenance Agreement”).

SECTION 3. It is hereby determined and declared that it is useful, desirable and necessary that the City acquire the Acquisition Parcels for public purposes, including implementing the objectives of the Project and fulfilling the objectives of the Plan.

SECTION 4. The Schedule for the Project, including the acquisition of the Acquisition Parcels or portions thereof, as set forth in Exhibit B which is attached and incorporated, is hereby adopted by the City Council.

SECTION 5. The Corporation Counsel is authorized to negotiate with the owners of any interest in the Parcels for the purchase of the Acquisition Parcels or portions thereof. If the Corporation Counsel and any owner are able to agree on the terms of the purchase, including the price or interests therein, the Corporation Counsel is authorized to purchase the Acquisition Parcels or portions thereof or interests therein on behalf of the City for the agreed price with such purchase price to be paid out of legally available funds of the City, including, without limitation, the proceeds of any grants or other funds received by the City. If the Corporation Counsel is unable to agree with any owner of an Acquisition Parcel or portions thereof or interests therein on the terms of the purchase, or if an owner is unwilling or unable to enter into such a transaction with the City, or if an owner cannot be located, then the Corporation Counsel is authorized to institute and prosecute eminent domain proceedings, including a motion for immediate vesting of title, on behalf of the City for the purpose of acquiring the Acquisition Parcel or portion thereof or interest therein in accordance with the Schedule for the Project referenced above. Such acquisition efforts shall commence with the delivery of an offer letter to the owner(s) of such Acquisition Parcel within four (4) years of the date of the publication of this ordinance.

SECTION 6. The Commissioner of CDOT is authorized to (1) execute such documents as may be necessary to implement the provisions of this ordinance, including the Construction and Maintenance Agreement and other agreements with the Belt Railway, and any agreement with any property owner or other railroad impacted by the Project, and any such agreements may provide for City's indemnification of another party, (2) amend, modify, or change the Schedule for the Project including the acquisition of the Acquisition Parcels, adopted above, and (3) determine, from time to time, whether the acquisition of the each of the Acquisition Parcels, or a portion thereof, or less than fee simple title remains necessary or appropriate to implement the Project, all subject to the approval of the Corporation Counsel.

SECTION 7. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 8. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 9. This ordinance shall be effective upon its passage and approval.