

**THIS DOCUMENT WAS
PREPARED BY:**

Carmen P. Forte Jr.
On behalf of the City Aurora
Klein Thorpe & Jenkins, Ltd.
20 North Wacker Dr., Suite 1660
Chicago, IL 60606

**AFTER RECORDING RETURN
TO:**

City of Aurora Law Department
44 East Downer Place
Aurora, IL 60507

[The above space for recording purposes]

EASEMENT AGREEMENT

This Easement Agreement made this ___ day of _____, 2015 between the City of Aurora, a municipal corporation, with offices located at 44 East Downer Place, Aurora, Illinois 60507 ("Grantor") and the BNSF Railway Company, a Delaware corporation, ("Grantee").

The Grantor is the owner in fee simple of a public way, located between Grantee's railway, Lincoln Avenue, Spring Street, and Liberty Street, in Aurora, Illinois, ("Property") and legally described as follows:

[...insert legal description...]

The Grantee is the fee simple owner of adjoining parcels of land, consisting of railroad tracks to the Northwest of said public way, in Aurora, Illinois.

This easement agreement is not intended for a railroad construction access for the purposes of installation or construction additional railroad tracks. The Grantee desires to enter the Property with vehicle and pedestrian access to said tracks to inspect and maintain existing equipment located near the intersection of New York St. and the railroad tracks, over which Grantor has jurisdiction of, and the Grantor has agreed, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which by the Grantor is acknowledged, to grant to the Grantee an Easement over an area within the Property for the uses and purposes aforesaid, as more fully set forth on the attached Exhibit "A".

The Grantee covenants with the Grantor that it and its heirs and/or assigns shall be responsible for all costs for the creating of any access driveway, roadway or pedestrian path, and ongoing maintenance for the property contained in this easement, and shall keep said area in a neat clean and orderly condition and in good repair and shall return the included property to substantially its

state as of the date hereof upon discontinuing said uses, unless otherwise approved by Grantor in writing.

Grantor shall, at all times during the life of this easement, reserve the right to modify or relocate the boundaries or portions of said easement, in the event that Grantor desires to utilize any portion of the easement property for any other purpose other than contained in this agreement. If Grantor determines that such modification or relocation is required, it shall notify Grantee ninety (90) days in advance of taking such action.

Grantee agrees to indemnify, protect, defend, and hold harmless Grantor from and against all claims to the extent such claims are directly caused by Grantee, its employees, officers, affiliates, contractors, agents or assigns in their use or occupancy of the easement area.

The Grantee is insured under Burlington Northern Santa Fe, LLC's Excess Property and Liability Policies. Its self-insured retention is in keeping with our net worth and cash flows and is consistent with that of other corporations of similar operations and size. Adequate reserves are maintained for claims within its retention.

All terms, covenants and conditions contained herein shall continue and bind all successors in interest of the Grantee.

(SIGNATURE PAGES TO FOLLOW)

EXHIBIT "A" – PLAT OF EASEMENT

WTG File Number: CIN-2015KN-1306.0
Project: Eola-Aurora, IL
Parcel:

A.L.T.A. COMMITMENT FORM

-Schedule A Continued-

ALL THAT PART OF THE FOLLOWING DESCRIBED LAND LYING WITHIN THE SOUTHEAST 1/4 OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, KANE COUNTY, ILLINOIS, TO WIT:

THAT PART OF BLOCKS 26 AND 27 AND PART OF FLAGG STREET AND LASALLE STREET OF THE ORIGINAL TOWN OF AURORA ON THE EAST SIDE OF THE FOX RIVER, AND THAT PART OF JAMES D. VANDEVELDE CATHOLIC BISHOP'S ADDITION TO AURORA AND THAT PART OF THE EAST 1/2 OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SPRING STREET, AND THE WESTERLY RIGHT-OF-WAY LINE OF LINCOLN AVENUE, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF LINCOLN AVENUE TO THE POINT OF INTERSECTION WITH A LINE DRAWN RADIAL TO BURLINGTON NORTHERN RAILROAD COMPANY'S (FORMERLY CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY'S) MAIN TRACK CENTERLINE, AS NOW LOCATED AND CONSTRUCTED, DISTANT 1590.0 FEET NORTHEASTERLY OF THE RIGHT-OF-WAY CENTERLINE OF SPRING STREET, AS MEASURED ALONG SAID MAIN TRACK CENTERLINE; THENCE NORTHWESTERLY ALONG SAID RADIAL LINE TO THE POINT OF INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND DISTANT 25.0 FEET SOUTHEASTERLY OF, AS MEASURED RADIALY AND AT RIGHT ANGLES TO, SAID RAILROAD COMPANY'S EAST TRACK CENTERLINE; THENCE SOUTHWESTERLY ALONG SAID PARALLEL LINE TO THE POINT OF INTERSECTION WITH SAID NORTHERLY RIGHT-OF-WAY LINE OF SPRING STREET; THENCE SOUTHEASTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING, IN THE CITY OF AURORA, KANE COUNTY, ILLINOIS. SITUATED IN KANE COUNTY, IN THE STATE OF ILLINOIS.

PERMANENT TAX NUMBER(S): 15-22-402-007

ISSUED BY:

Wheatland Title Guaranty Company
105 W. Veterans Parkway
Yorkville, Illinois 60560

Agent for:
Fidelity National Title Insurance Company

EASEMENT EXHIBIT

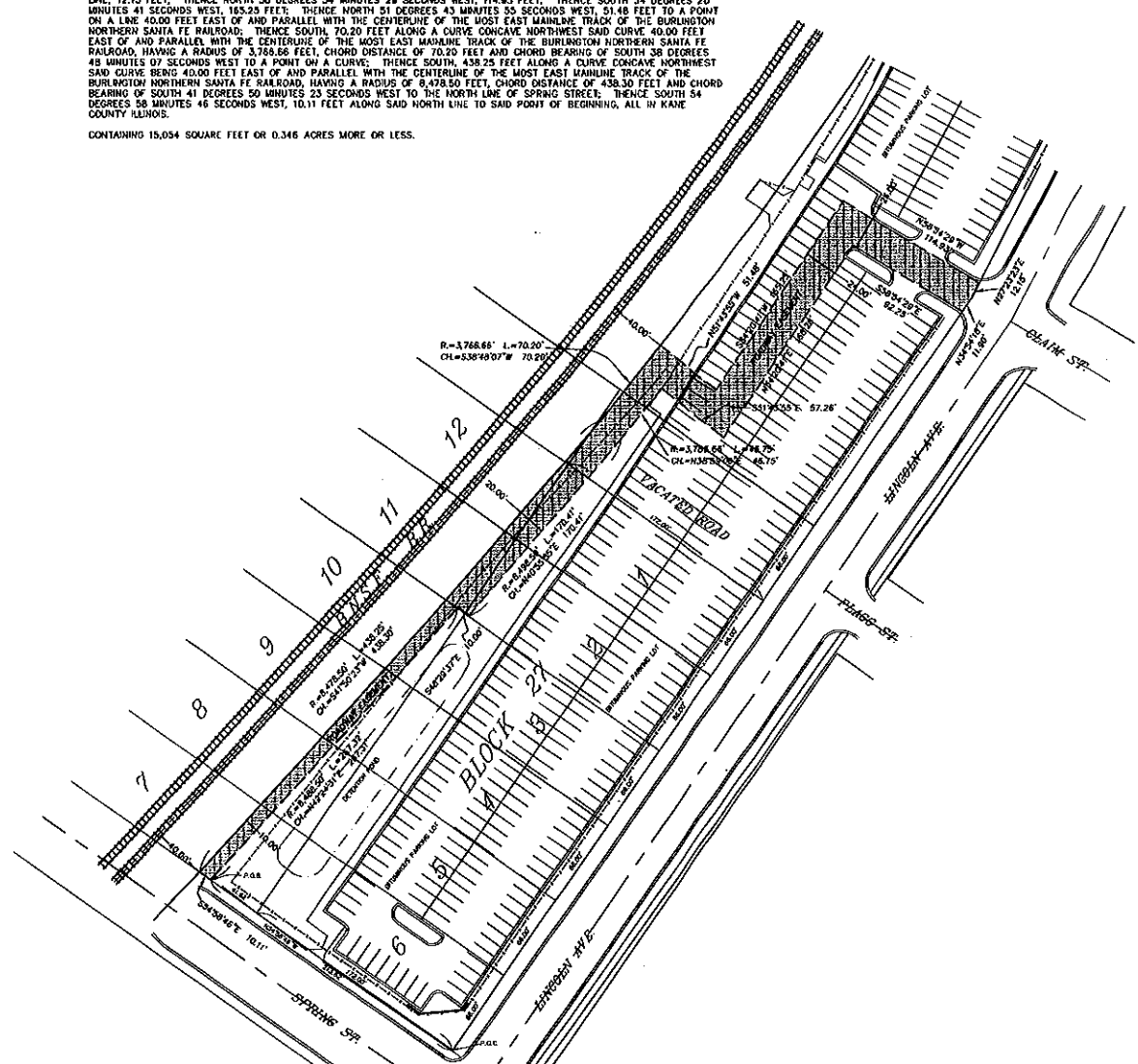
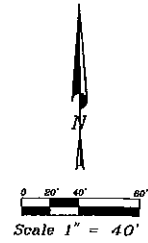
OF

LEGAL DESCRIPTION:

A ROADWAY EASEMENT OF PART OF LOTS 1-12 AND VACATED STREET IN BLOCK 27 OF THE ORIGINAL TOWN OF AURORA BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 22 TOWNSHIP 38 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 8, 1839 IN RECORD BOOK 1 PAGE 160, IN THE OFFICE OF THE KANE COUNTY RECORDER, ILLINOIS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 8 IN SAID ORIGINAL TOWN OF AURORA PLAT THENCE NORTH 54 DEGREES 58 MINUTES 48 SECONDS WEST, 213.02 FEET, ALONG THE NORTH LINE OF SPRING STREET TO THE POINT OF BEGINNING, SAID POINT ALSO LYING ON A LINE 50.00 FEET EAST OF AND PARALLEL WITH THE CENTERLINE OF THE MOST EASTERLY MAINLINE RAILROAD TRACK OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD; THENCE NORTH, 267.31 FEET, ALONG A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 8,488.50 FEET, CHORD DISTANCE OF 267.31 FEET AND CHORD BEARING OF NORTH 42 DEGREES 24 MINUTES 31 SECONDS EAST TO A POINT ON A CURVE LYING 50.00 FEET EAST OF AND PARALLEL WITH SAID BURLINGTON NORTHERN AND SANTA FE RAILROAD RAILROAD TRACK CENTERLINE; THENCE SOUTH 48 DEGREES 29 MINUTES 37 SECONDS EAST, 10.00 FEET TO A POINT ON A LINE LYING 60.00 FEET EASTERLY OF AND PARALLEL WITH SAID CENTERLINE; THENCE NORTH 170.41 FEET, ALONG A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 8,408.50 FEET, CHORD DISTANCE OF 170.41 FEET AND CHORD BEARING OF NORTH 40 DEGREES 55 MINUTES 50 SECONDS EAST ALONG SAID PARALLEL LINE; THENCE 48.75 FEET ALONG A CURVE CONCAVE NORTHWEST, HAVING A RADIUS OF 3,769.66 FEET, AND A CHORD BEARING OF NORTH 38 DEGREES 59 MINUTES 00 SECONDS EAST, 48.75 FEET, THENCE SOUTH 51 DEGREES 43 MINUTES 55 SECONDS EAST, 57.26 FEET; THENCE NORTH 34 DEGREES 20 MINUTES 41 SECONDS EAST, 168.28 FEET; THENCE SOUTH 58 DEGREES 54 MINUTES 29 SECONDS EAST, 92.25 FEET TO THE WEST LINE OF LINCOLN AVENUE; THENCE NORTH 34 DEGREES 54 MINUTES 18 SECONDS EAST, ALONG SAID WEST LINE, 11.90 FEET TO AN ANGLE POINT IN SAID WEST LINE; THENCE NORTH 27 DEGREES 23 MINUTES 23 SECONDS EAST, ALONG SAID WEST LINE, 12.15 FEET; THENCE NORTH 58 DEGREES 54 MINUTES 29 SECONDS WEST, 114.93 FEET; THENCE SOUTH 34 DEGREES 20 MINUTES 41 SECONDS WEST, 155.25 FEET; THENCE NORTH 51 DEGREES 43 MINUTES 55 SECONDS WEST, 51.48 FEET TO A POINT ON A LINE 40.00 FEET EAST OF AND PARALLEL WITH THE CENTERLINE OF THE MOST EAST MAINLINE TRACK OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD, HAVING A RADIUS OF 3,769.66 FEET, CHORD DISTANCE OF 70.20 FEET AND CHORD BEARING OF SOUTH 58 DEGREES 48 MINUTES 07 SECONDS WEST TO A POINT ON A CURVE; THENCE SOUTH, 438.25 FEET ALONG A CURVE CONCAVE NORTHWEST SAID CURVE BEING 40.00 FEET EAST OF AND PARALLEL WITH THE CENTERLINE OF THE MOST EAST MAINLINE TRACK OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD, HAVING A RADIUS OF 9,478.50 FEET, CHORD DISTANCE OF 438.25 FEET AND CHORD BEARING OF SOUTH 41 DEGREES 50 MINUTES 23 SECONDS WEST TO THE NORTH LINE OF SPRING STREET; THENCE SOUTH 54 DEGREES 58 MINUTES 48 SECONDS WEST, 10.11 FEET ALONG SAID NORTH LINE TO SAID POINT OF BEGINNING, ALL IN KANE COUNTY ILLINOIS.

CONTAINING 15,054 SQUARE FEET OR 0.346 ACRES MORE OR LESS.



SURVEY NOTES

1. BASE OF NORTH ARROW - ILLINOIS STATE PLANE EAST ZONE NORTH AMERICAN DATUM 1983 (NAD83)
2. LOCATIONS BASED ON FIELD SURVEY BY ENGINEERING RESOURCE ASSOCIATES, INC. OF OCTOBER 18, 2014.
3. DIMENSIONS SHOWN IN THIS SURVEY ARE FEET AND DECIMAL PARTS THEREOF. DIMENSIONS SHOWN IN PARENTHESES ARE RECORD DATA. ANGULAR DATA SHOWN IN THIS SURVEY INDICATES DEGREES, MINUTES AND SECONDS.
4. CHECK LEGAL DESCRIPTION WITH DEED OR TITLE POLICY AND REPORT ANY DISCREPANCY IMMEDIATELY. BEARING LINES AND EASEMENTS, IF ANY, SHOWN HEREON ARE AS SHOWN ON THE RECORDED DESCRIPTION OR AS INDICATED.
5. SURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY. NO STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OF FLAMMABLE LIQUIDS OR GASES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS TRACT.
6. NO ATTEMPT HAS BEEN MADE AS A PART OF THIS SURVEY TO OBTAIN OR SHOW DATA CONCERNING THE EXISTENCE, SIZE, NEPTAL CONDITION, CAPACITY, OR LOCATION OF ANY UNDERGROUND OR NON-DETECTABLE UTILITY OR INFRASTRUCTURE SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES. ANY UTILITY MARKINGS OF THESE UTILITIES FROM A SURFACE INSPECTION OF THE PROPERTY ARE SHOWN.
7. P.C. CORNER POINT OF CURVATURE
P.T. DEPARTURE POINT OF TANGENCY
P.O. POINTS FOUND FROM SURVEY
8. 1" IRON PIPES SET AT ALL CORNERS UNLESS OTHERWISE DENOTED

Surveyors Certificate
 State of Illinois)
 County of DuPage) SS
 I, Bradley A. Stron, an Illinois Professional Land Surveyor,
 do hereby certify that I have prepared this exhibit for the
 purpose of granting an easement to the
 Burlington Northern Santa Fe Railroad Company.
 Dated this _____ day of _____, 2015.
 Bradley A. Stron
 Illinois Professional Land Surveyor No. 35-3698
 Engineering Resource Associates