

ORDINANCE NO. 002-38

AN ORDINANCE APPROVING
ACCEPTANCE OF A GRANT OF
EASEMENT FOR LAND NEEDED TO
STRAIGHTEN THE HARRISON CURVE

WHEREAS, Pursuant to the Metropolitan Transit Authority Act, 70 ILCS 3605/1 et. seq., the Chicago Transit Authority ("Authority") is authorized to acquire, construct, own, operate and maintain a public transportation system in metropolitan Chicago, and has the power to acquire by purchase, condemnation or otherwise any property useful for its purpose; and

WHEREAS, The South Loop Connector rapid transit elevated structure at South Wabash Avenue and East Harrison Street, utilized by the Green and Orange Line trains, includes two tight curves which are an impediment to efficient rapid transit service; and

WHEREAS, The Authority's engineering staff has inspected this location and has determined that it is necessary to realign these structural curves to improve rapid transit operations ("Harrison Curve project");

WHEREAS, The Harrison Curve project will permit the Authority to reduce travel times for the Orange and Green elevated trains at this location because the trains will be able to travel at faster speeds, which will permit the Authority to run more trains into, around and out of the Loop per hour and thus carry significantly more passengers; and

WHEREAS, In order to proceed with the Harrison Curve project, the Authority is required to possess a portion of the real property located at the northwest corner of South Wabash Avenue and East Harrison Street, consisting of approximately 42,368 square feet, commonly known as 516-38 South Wabash Avenue, as described on Exhibit A and depicted on Exhibit B, attached hereto and incorporated herein ("Property"); and

WHEREAS, Construction of the Harrison Curve project is anticipated to take no more than eighteen (18) months and the Authority requires use of the Property for the entire construction period; and

WHEREAS, The Property is owned by Thomas Baryl, beneficiary of Chicago Title Land Trust Company, an Illinois Corporation, as Trustee under a Trust Agreement dated December 10, 1981, and known as Trust Number 1081135 ("current property owner") and

WHEREAS, The City Council of the City of Chicago ("City") filed a complaint to condemn the Property on April 28, 2000; and

WHEREAS, Pursuant to Ordinance No. 001-140, dated September 5, 2001, the Authority authorized entry into an Intergovernmental Agreement with the City, authorized the

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City to pursue acquisition of all, or a portion of the Property, and requested that the City utilize its quick-take condemnation powers, if necessary, to acquire the Property; and

WHEREAS, Pursuant to City Council approval, the City filed a motion for immediate vesting of fee simple title to the Property on November 26, 2001; and

WHEREAS, Pursuant to Ordinance No. 001-140, staff commenced negotiations with the City and the current property owners for the land needed by the Authority for the Harrison Curve project; and

WHEREAS, The parties have agreed to a settlement of the City's condemnation action; and

WHEREAS, Pursuant to the settlement, the current property owners will transfer a reversionary interest in Holden Court to the City; and

WHEREAS, The settlement agreement to be entered into between the City and the current property owners imposes additional obligations on the City regarding the use of the property by the Authority, which require that the Intergovernmental Agreement be amended; and

WHEREAS, The current property owners have agreed to transfer possession of the Property to the City for a period not to exceed eighteen (18) months and pursuant to the Amended IGA with the Authority, the City will agree to transfer possession of said Property to the Authority so that the Authority may undertake and complete construction of the Harrison Curve project; and

WHEREAS, The Amended IGA will also provide that the Authority will indemnify the current property owners during the construction period and pay late fees if construction is not completed with eighteen (18) months; and

WHEREAS, As part of the settlement of the condemnation action, the current property owners have agreed to grant a permanent easement to the Authority for a portion of the Property, as described on Exhibit C and depicted on Exhibit D hereto, for the amount of Seven Million Dollars (\$7,000,000); and

WHEREAS, After completion of construction by the Authority, the current property owners will resume operation of a public parking lot on their adjacent property and shall be permitted to park cars on the Authority's easement area as long as the current property owners do not interfere with the operation, maintenance and repair of the Authority's transportation system; and

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WHEREAS, The current property owners shall also be permitted to construct future improvements over and adjacent to the easement area to the extent allowed by applicable codes and regulations and so long as such improvements do not interfere with the operation, repair or maintenance of the Authority's transportation system; and

WHEREAS, The grant of easement provides that the Authority shall have access to its transportation facilities on twenty-four (24) hours' notice, except in the event of an emergency when no notice shall be required; and provides for cross indemnification; now, therefore:

**BE IT ORDAINED BY THE CHICAGO TRANSIT BOARD
OF THE CHICAGO TRANSIT AUTHORITY:**

SECTION 1. That the Chicago Transit Board hereby approves acceptance of the grant of permanent easement for a portion of the property located at 516-38 South Wabash Avenue, Chicago, Illinois, as described on Exhibit C and depicted on Exhibit D, from Thomas Baryl, beneficiary of Chicago Title Land Trust Company, an Illinois Corporation, as Trustee under a Trust Agreement dated December 10, 1981, and known as Trust Number 1081135, substantially on the terms set forth in the Grant of Permanent Easement attached hereto as Exhibit E.

SECTION 2. In the event that a review appraisal is obtained by Authority staff within ten (10) days that affirms the property value of the easement as being no less than Seven Million Dollars (\$7,000,000), the Chicago Transit Board authorizes payment to the City, in settlement of the litigation, the amount of Seven Million Dollars (\$7,000,000).

SECTION 3. That the Authority agrees to amend the Intergovernmental Agreement to require that the City of Chicago transfer the temporary construction easement to the Authority and the Authority agrees to indemnify the current property owners and pay any late fees owed to the current property owners should the construction period extend beyond eighteen (18) months.

SECTION 4. That the Chairman of the Chicago Transit Board, or her designee, is hereby authorized to execute the Amended Intergovernmental Agreement as well as all documents required to effectuate the transfer of the property interests identified herein to the Authority.

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SECTION 5. This ordinance shall be in full force and effect from and after its passage.

APPROVED:

PASSED:

Chairman

Assistant Secretary

March 6, 2002

March 6, 2002