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ENTERED
Office of Proceedings
October 11, 2022
Part of
Public Record

October 11, 2022

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, SW
Washington, DC 20024

RE: Butler County, Kansas Abandonment Exemption
STB Docket No. AB-870X

Dear Ms. Brown:

As legal counsel for the City of Augusta, KS, I write to supplement the *Joint Petition for Substitution of Train Manager* filed February 22, 2022.

First, a new Statement of Willingness to Assume Financial Responsibility from the City of Augusta is attached to this letter as **Exhibit A**, along with accompanying maps of the right of way. This is intended to correct any potential defect in the Statement of Willingness previously filed with the *Joint Petition*. See 49 C.F.R. § 1104.10(b) (“The Board may ... accept the [deficient] material for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.”).

Second, the Governor of the State of Kansas recently announced that Augusta has been selected to receive over three million dollars in federal funds to construct a bridge over U.S. 54/400 in order to make the trail right-of-way continuous at that point. See KDOT Transportation Alternatives Award Letter attached as Exhibit B. As noted in the award letter, August will be paying 20%, or \$821,744.00, of the total project cost to complete the trail.

This intervening development is material to the point raised by HMA Properties in its “reply” filed on March 14, 2022, alleging that “[a]t the western end of the Line Segment, the railroad bridge over US Highway 54/400 has been removed, along with the pier and abutments, with no retained rights or promises to reinstall a railroad bridge.” The Board should consider this point given the recent grant award.

John Gibson Michelle Watson Andrew Marino Richard Samaniego Justen Phelps
Patricia Dengler Sarah Newell Nolan Wright Shannon Holmberg

301 N. MAIN, STE. 1300 | WICHITA, KS 67202-4813 | P. 316.264.7321 | F. 316.264.8614
www.gibsonwatsonlaw.com

I certify that a copy of this letter has been sent to all parties of record shown on the attached list by email (where indicated) or US first class mail, postage prepaid.

Very Truly Yours,

GIBSON WATSON MARINO LLC



G. Andrew Marino
andrew@gwmks.com
Attorneys for City of Augusta

CC: City of Augusta

The following parties of record:

Terrence L. Huelskamp
Huelskamp Law, P.A.
550 N 159th St E, Ste 104
Wichita, KS 67230-7521
terrence@huelskamplaw.com

U.S. Department of Defense
720 Thimble Shoals Boulevard, Suite 130
Newport News, VA 23606-2574

Kansas State Historical Society
6425 S W 6Th Avenue
Review & Compliance Coordinator
Topeka, KS 66615-1099

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-003

Kansas State Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Butler County Commissioners
205 West Central Street
El Dorado, KS 67042

Kansas Department of Transportation
700 SW Harrison Street
Topeka, KS 66603-3754

National Oceanic and Atmospheric Administration, N/Ngs12
1315 East-West Highway
Silver Spring, MD 20910-3282

Mike Wheeler
121 S Gordy
El Dorado, KS 67042

U.S. Army Corps of Engineers
2710 N.E. Shady Creek Access Road
El Dorado, KS 67042

Kansas Department of Health and Environment
1000 SW Jackson
Topeka, KS 66612-1367

Governor of Kansas
State Capitol Building
Topeka, KS 66612

Eric Hocky
2001 Market Street, Suite 2620
Philadelphia, PA 19103
Attorney for HMA Properties, LLC

Derek S. Casey
2959 North Rock Road, Suite 300
Wichita, KS 67226
Attorney for City of Andover

"EXHIBIT A"

STB Docket No. AB-870X

**BUTLER COUNTY, KANSAS
- ABANDONMENT EXEMPTION -
IN BUTLER COUNTY, KANSAS**

**STATEMENT OF WILLINGNESS TO
ASSUME FINANCIAL RESPONSIBILITY**

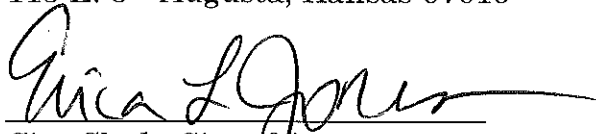
In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29 with respect to the right-of-way owned by Butler County, Kansas and operated by the same before abandonment to Interim Trail Manager Butler County, Kansas specifically, Butler County, Kansas's Department of Economic Development in in Docket No. STB AB-870X, the City of Augusta, Kansas is willing to assume financial responsibility for: (1) Managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right of way. The property extends from railroad milepost 485.2 near Augusta, Kansas, to railroad milepost 488.35, near Andover, Kansas, 3.15 miles in Butler County, Kansas. The right-of-way is part of a line of railroad abandoned in Docket No. STB AB-870X. A map of the property depicting the right-of-way is attached.

The City of Augusta, Kansas, acknowledges that use of the right-of-way is subject to the City of Augusta continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad(s) on the same date it is being served on the Board.

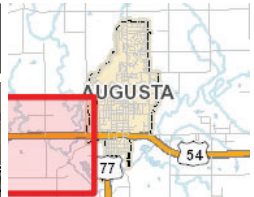


Mike Rawlings, Mayor
City of Augusta, Kansas
113 E. 6th, Augusta, Kansas 67010

Date signed and served: 10-11-22


City Clerk, City of Augusta

Augusta, KS

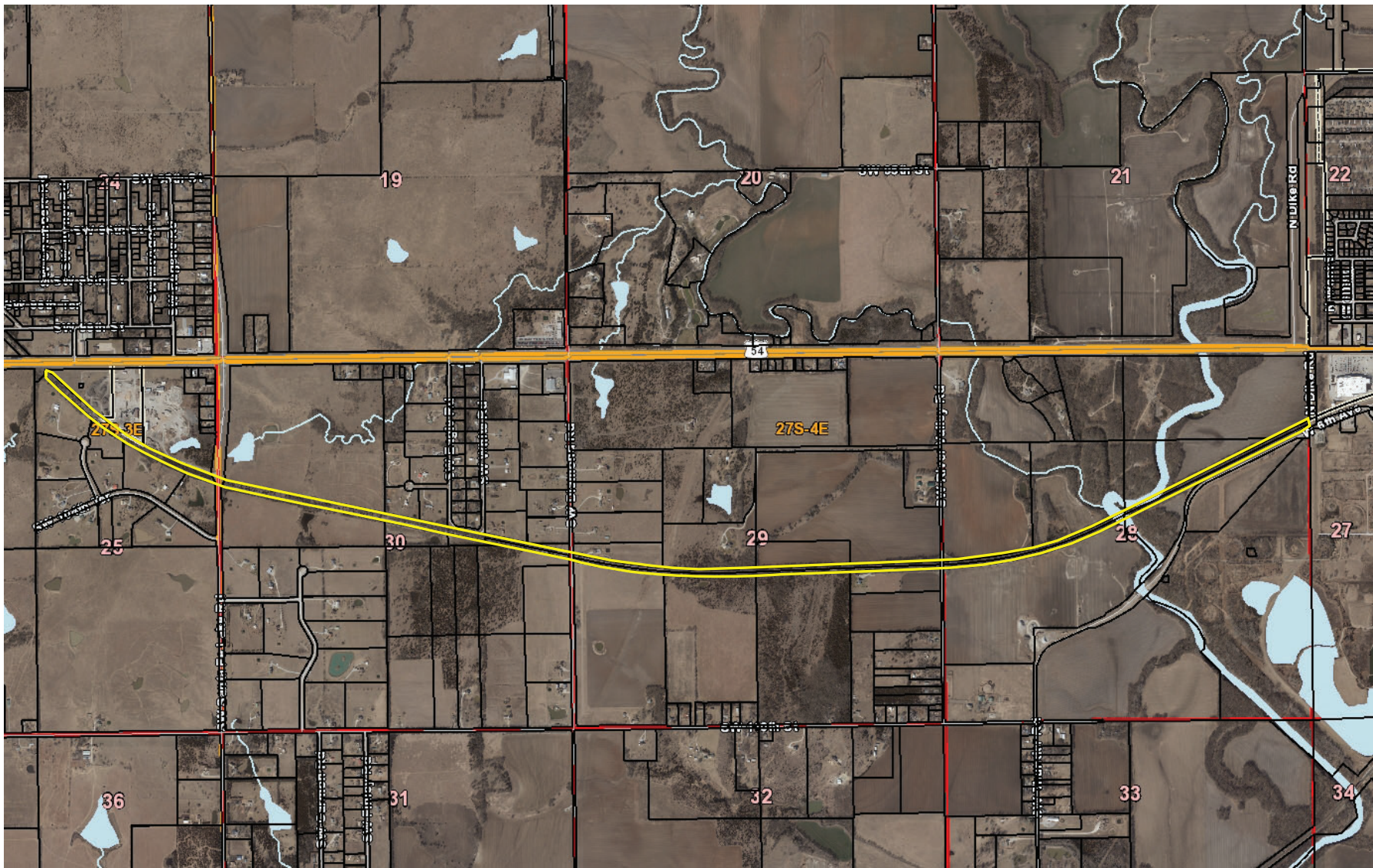


- Legend**
- ☐ Parcel
 - ☐ Street
 - ☐ <all other values>
 - ☐ Interstate
 - ☐ US Hwy
 - ☐ State Hwy
 - ☐ Street
 - ☐ Corporate Limit Line
 - ☐ Stream
 - ☐ Water Boundary
 - ☐ Sections
 - ☐ Township
 - ☐ County Boundary

1 in. = 1365ft.



Notes



2,730.4 0 1,365.22 2,730.4 Feet

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.
THIS MAP IS NOT TO BE USED FOR NAVIGATION



Dwight D. Eisenhower State Office Building
700 S.W. Harrison Street
Topeka, KS 66603-3745

Julie L. Lorenz, Interim Secretary
Michael J. Moriarty, Chief



Phone: 785-296-3841
Fax: 785-296-8168
kdot#publicinfo@ks.gov
<http://www.ksdot.org>
Laura Kelly, Governor

July 29, 2022

Josh Shaw
jshaw@augustagov.org
City of Augusta
113 E. 6th Avenue
August, KS 67010
316-425-4508

Re: KDOT Transportation Alternatives Award for Federal Fiscal Years 2023-24

Dear Mr. Shaw,

I am pleased to inform you that your project is selected to receive federal funds and will be included in our state's Transportation Alternatives (TA) Program.

Project Title	Estimated Total Construction/CE Costs	Federal TA Award (80%)	Local Share (20%)
Redbud Trail - Connection to Augusta	\$4,108,718	\$3,286,974	\$821,744

The project referenced above is selected to receive a federal award of **\$3,286,974** and is expected to aid in the completion of **"Redbud Trail - Connection to Augusta"** as proposed in your project application. Based on an 80:20 matching ratio to participating costs, it is estimated that the City 20% match on participating items will be approximately \$821,744.

You are now encouraged to immediately begin work on the following items:

- Project consultant selection, PE and Design work
- Request for Project Form 1302 – complete, sign, and submit
- DUNS number and SAM registration updates and confirmation – save screenshots or confirmation emails to submit
- KDOT Info Sheet – complete and submit

Please submit all items listed above to Jenny.Kramer@ks.gov to add to your project file. Once you submit your Form 1302, we will program your project, assign a KDOT Project Number, and begin drafting a City/State Agreement which you will later receive for review and signatures.

Please remember that you are 100% financially responsible for the following items:

- 20% local cash match on participating items (construction and CE)
- Preliminary Engineering (PE) and Design
- Right-of-Way

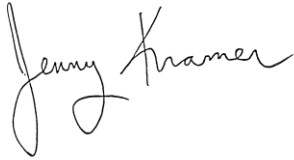


- Utilities
- Other non-participating items

If you have any questions, please feel free to contact me by email at Jenny.Kramer@ks.gov or by phone at 785-296-5186. A paper copy of this letter will be sent via mail for your records.

We look forward to working with you on this project.

Sincerely,

A handwritten signature in cursive script that reads "Jenny Kramer". The signature is written in black ink and is positioned above the typed name and contact information.

Jenny Kramer
Bicycle & Pedestrian Coordinator
Bureau of Transportation Planning
Kansas Department of Transportation
700 SW Harrison Street
Topeka, KS 66603
Phone: 785-296-5186
Email: Jenny.Kramer@ks.gov