

City of Mason City
City Administrator

Memorandum

To: The Honorable Mayor and City Council Members
From: Brent Trout, City Administrator
Date: September 11, 2015
RE: MOU for High Line Bike Trail

Recommendation:

Approval of the MOU regarding the transfer of ownership of land to create the High Line Bike Trail, and the creation of a quiet zone for the north/south line of the Union Pacific Railroad negotiated between the City of Mason City, Iowa Traction Railway, Backtrack Inc., and Union Pacific Railroad.

Review:

The Activating Mason City Pedestrian and Bicycle Trail Plan identified the High Line Bike Trail as a major improvement to the trails system that would create a bike trail that would run from the south end of Mason City to the north end along the old right of way of the Union Pacific Railroad and the old rail line currently owned by Backtrack Inc. The trail would be a great addition to the trails system given the number of existing bridges and scenic portions of the route. The new trail will add over 5 miles to our existing off road trails system.

The City has been negotiating with the parties for an extended period of time to develop the MOU presented for City Council approval. The parties have all reviewed the document and verbally approved the language. We have signed documents from the Iowa Traction Railway and sent documents for signature from Lynn Hawbaker of Backtrack Inc. Union Pacific Railroad will sign the documents after City Council approval.

The agreement will also start the process to create a quiet zone in Mason City for the Union Pacific Railroad line that runs north and south parallel to Monroe

Avenue. The quiet zone steps and time frame to complete each step is included in your packet. The process will start with the abandonment of three crossings. The two primarily traveled crossings will be 9th Street NW and 4th Street SW. The Union Pacific Railroad will then complete actions for moving electronic equipment required for a quiet zone in to new locations and the City will complete improvements at 1st Street NW, 6th Street SW and 15th Street SW to prepare for the creation of a quiet zone. Union Pacific Railroad is also making a significant economic investment in our community with a rail yard expansion project to increase their capabilities.

Budget Impact:

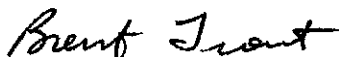
There is a limited immediate budget impact from this agreement but there are long term budget impacts for development of the trail. The City will work with the Iowa Natural Heritage Foundation to have them provide the upfront funding to purchase the trails that will hold ownership on the land until the City can secure grants or other funding sources to the pay for the land and improvements. Agreements with the Iowa Heritage Foundation will be brought forward at a future date. In the next and subsequent budgets the City will allocate funds to make the improvements to the trail through the normal capital improvement budget process. The quiet zone roadway improvement costs are approximately \$121,000 which can be funded through use of Road Use Tax funds, which can be budgeted for as a capital project.

Council Action Requested:

Approval of the MOU regarding the transfer of ownership of land to create the High Line Bike Trail, and the creation of a quiet zone for the north/south line of the Union Pacific Railroad negotiated between the City of Mason City, Iowa Traction Railway, Backtrack Inc., and Union Pacific Railroad.

Attachments:

Memorandum of Understanding
Trail Pictures
Total Acreage
Timeline for Quiet Zones Implementation



Brent Trout, City Administrator

MEMORANDUM OF UNDERSTANDING
BETWEEN UNION PACIFIC RAILROAD COMPANY
AND
MASON CITY, IOWA
REGARDING RAILROAD AND TRAIL IMPROVEMENTS

This Memorandum of Understanding ("MOU") is made as of the ____ day of _____, 2015, by and between Mason City, IA (the "City") and Union Pacific Railroad Company, a Delaware corporation, ("Union Pacific Railroad", "UP", "UPRR" or "Railroad"); Iowa Traction Railway, Inc. ("IATR") and Backtrack, Inc. ("Backtrack") together referred to as the "Parties" and each individually a "Party". UPRR and IATR are sometimes referred to as "the Railroads."

WITNESSETH THAT

WHEREAS, the Union Pacific Railroad connects 23 states in the western two-thirds of the country by rail, providing a critical link between Mason City and the global supply chain; and

WHEREAS, IATR is a shortline rail carrier serving customers in the Mason City area; and

WHEREAS, the City has requested the cooperation of UPRR and IATR in expanding the City's trail system by converting a portion of the former Minneapolis & St. Louis (M&StL) rail line between Mile Posts 152.5-157.5 to Interim Trail Use; and

WHEREAS, expansion of the trail system would enhance the City's status as a "Blue Zone," enhance the livability of the community, and provide new transportation and recreational options for local residents; and

WHEREAS, the M&StL rail line is under jurisdiction of the Surface Transportation Board (STB) as an active rail line; and

WHEREAS, UPRR owns or controls the M&StL rail line between Mile Post 155.5-157.5; and

WHEREAS, IATR and Backtrack own or control the M&StL rail line between MP 152.5-155.5; and

WHEREAS, the Railroads would be required to commence STB proceedings in order to make the M&StL line available for trail use; and

WHEREAS, UPRR is seeking the City's support for a railroad yard expansion project which will help relieve rail congestion, speed commerce and increase employment (the "Yard Project"); and

WHEREAS, UPRR is seeking to close three railroad grade crossings, one of which would be converted into a private crossing; and

WHEREAS, the Parties wish to improve the crossing at 1st St. NW in order to pursue establishment of a Quiet zone compliant with the Federal Railroad Administration Train Horn Rule; and

WHEREAS, UPRR and the City seek to establish an ongoing communications process to address City and community concerns regarding the Yard Project, and

WHEREAS, while UPRR's Yard Project is under to the jurisdiction of the Surface Transportation Board under 49 USC Sec. 10501(b) and other laws, UPRR has nevertheless agreed, with a reservation of rights, to work with the City and to develop a mutually beneficial project;

NOW THEREFORE:

The Parties enter into this MOU in order to set forth their mutual understandings, to establish processes to address community concerns, and to facilitate the negotiation of certain binding agreements enumerated below.

SECTION 1. Expansion of City's Trail System

The Parties will take the following steps to advance the City's goal of expanding its trail system:

- a. Each of the Railroads shall negotiate an Interim Trail Use Agreement for execution by the City or its designee. The City shall reimburse the Railroads for reasonable legal fees related to the Interim Train Use Agreement, subject to the City's prior approval of the applicable billing rates and total budget. The Interim Trail Use Agreements shall comply with 16 USC §1247(d), which requires that a State, political subdivision, or qualified private organization assume full responsibility for:
 - i. Management of right-of-way.
 - ii. Any legal liability arising out of such transfer or use; and
 - iii. The payment of any and all taxes that may be levied or assessed against such rights-of-way.
- b. In addition to the Interim Trail Use Agreement mentioned above, the Parties will identify any parcels, buildings and structures in the corridor to be retained by the individual Railroad or conveyed to the City.

- i. Any conveyances shall be the subject of separate definitive agreements between the City and UPRR, and the City and IATR and/or Backtrack, respectively.
 - ii. The financial and other terms of such conveyances shall be set forth in the definitive agreements.
 - iii. The Parties shall convey the bridges on the lines to the City.
 - iv. The Railroads shall salvage the track materials on the lines.
 - v. The Railroads shall remove the rails at all grade crossings and the City will be responsible for repaving.
- c. Once the City and the railroads have completed negotiation of the Interim Trail Use Agreements and applicable definitive agreements, the Railroads shall make an abandonment filing with the STB requesting the imposition of Interim Trail Use conditions. The City shall provide a letter of support for inclusion with such filings. It is anticipated that the STB filings will be in the form of a Notice of Exemption.
- d. The Railroads agree that neither will submit an Offer of Financial Assistance (49 USC §10904) or Feeder Line Application (49 USC §10907) in response to the other's abandonment application.

SECTION 2. UPRR Grade Crossing Closures and Safety Improvements

- a. In order to facilitate the UPRR Yard Project and improve the safety of local streets, the City shall close the UPRR main line grade crossings located at 4th Street SW and 9th Street NW Streets. 15th Street NW crossing shall be converted into a private crossing. The City shall take all necessary action through its Council to vacate the public way at these grade crossing locations. UPRR to contribute to the city in consideration for the closures \$85,000.
- b. Upon vacation of the public way, UPRR shall remove the grade crossing surfaces, signals appurtenances, road way approaches and City shall install and maintain appropriate barricades at 4th Street SW and 9th Street NW at the UPRR property line.
- c. The 1st Street grade crossing currently has flashing lights and gates. The City shall fund a circuitry upgrade at City's expense. UPRR will provide a circuitry upgrade at this location. To accomplish this, UPRR anticipates relocating the existing railroad signal equipment from 9th St NW once that crossing is closed.
- d. The City shall make all required improvements at City expense, in order to facilitate a Quiet Zone application. It will be the responsibility of the City to file any Quiet Zone applications with both the Federal Railroad Administration and Union Pacific Railroad.

SECTION 3. Support for UPRR Yard Improvement Project

- a. The City agrees to support UPRR's Yard Project and will work with the Railroad to facilitate any necessary government approvals.
- b. The City and UPRR will work together to address the concerns of the local community in accordance with the Communication and Public Relations plan set forth in Section 4.

SECTION 4. Communication Plan and Public Relations

- a. The City will designate a staff member as the primary point of contact on issues involving the Railroad. Union Pacific will similarly designate a staff member to be the primary point of contact for the City's designee. If the City receives any questions or complaints concerning the Railroad, it will forward them to the Railroad. Issues and concerns can be expected to periodically arise out of the ongoing relationship and the parties agree to provide the necessary representatives for timely resolution of these unanticipated matters.
- b. In the event of a safety concern or other issue of an urgent nature, local residents may also contact 888.UPRR.COP.
- c. UP will commit to attend meetings with City staff going forward to discuss community issues and update the City on railroad activities.

SECTION 5. Miscellaneous

- a. The Parties acknowledge that portions of the Yard Project and grade crossing work on the project may fall outside regular construction practices designated in applicable local codes. Because of the demands of the rail network, certain work may occur outside normal business hours. UPRR will make reasonable effort to provide advanced notice of these instances so that the City can provide notification to potentially affected residents and businesses.
- b. The Parties acknowledge that the Railroads are required by federal law and applicable Operating Rules to sound locomotive horns and other warning devices.
- c. The City and UPRR shall cooperate with respect to the permitting requirements and will mutually support efforts intended to expedite the design, review and construction of the Parties' respective project elements.
- d. This MOU represents the current understanding of the Parties. The terms are not all-inclusive and are subject to modification or cancellation. All parties acknowledge

that the definitive written agreements will include additional terms and conditions and that such terms and conditions must be acceptable to each party, in each party's sole discretion. This MOU is not intended to (and will not) be a binding agreement or offer, and this MOU will not give rise to any right or obligation based on any legal or equitable theory (including any right to continue negotiations or to negotiate in good faith); and only subsequent definitive written agreements executed by the appropriate parties will bind the parties as to any matter that is the subject of this MOU.

SECTION 6. Goals for Execution of Definitive Agreements

The Parties are committed to executing definitive agreements by _____ [?]

SECTION 7. Exhibits

Exhibit A attached hereto is hereby made a part of this MOU:

Exhibit A - Mason City Rail Line Overview

IN WITNESS WHEREOF the Parties have hereunto set their respective hands and seals on the day and year first above writ.

UNION PACIFIC RAILROAD COMPANY MASON CITY

By: _____ By: _____

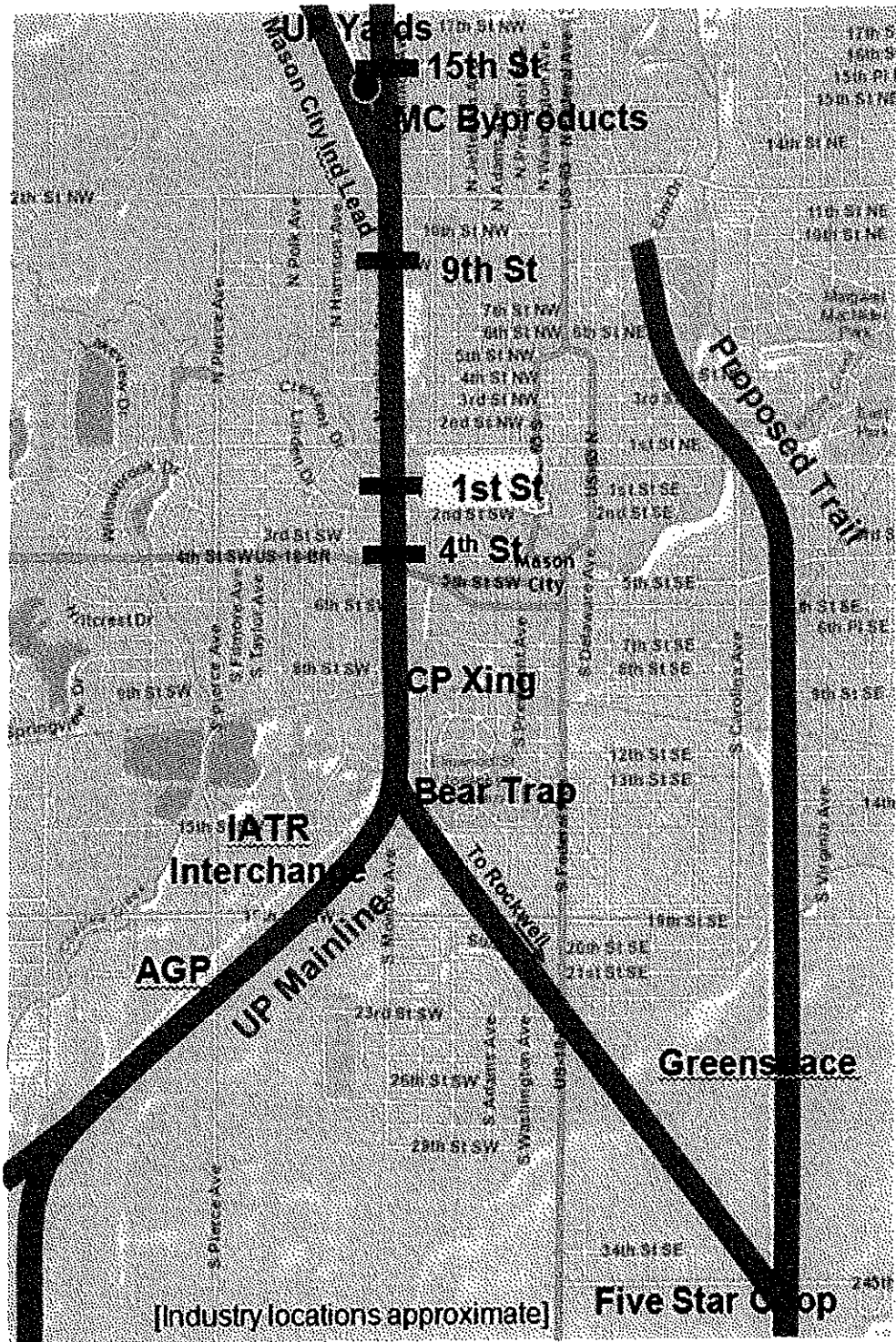
Title: _____ Title: _____

IOWA TRACTION RAILWAY, INC. BACKTRACK, INC.

By: _____ By: _____

Title: _____ Title: _____

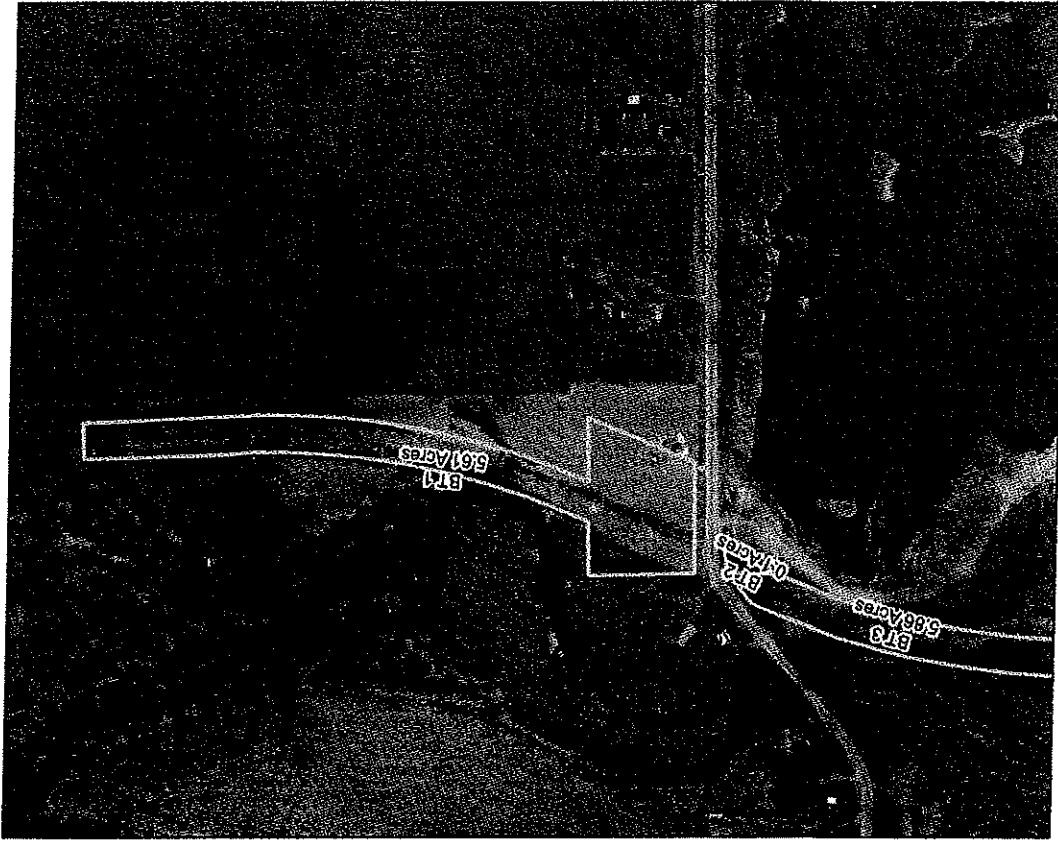
EXHIBIT A - Mason City – Rail Line Overview



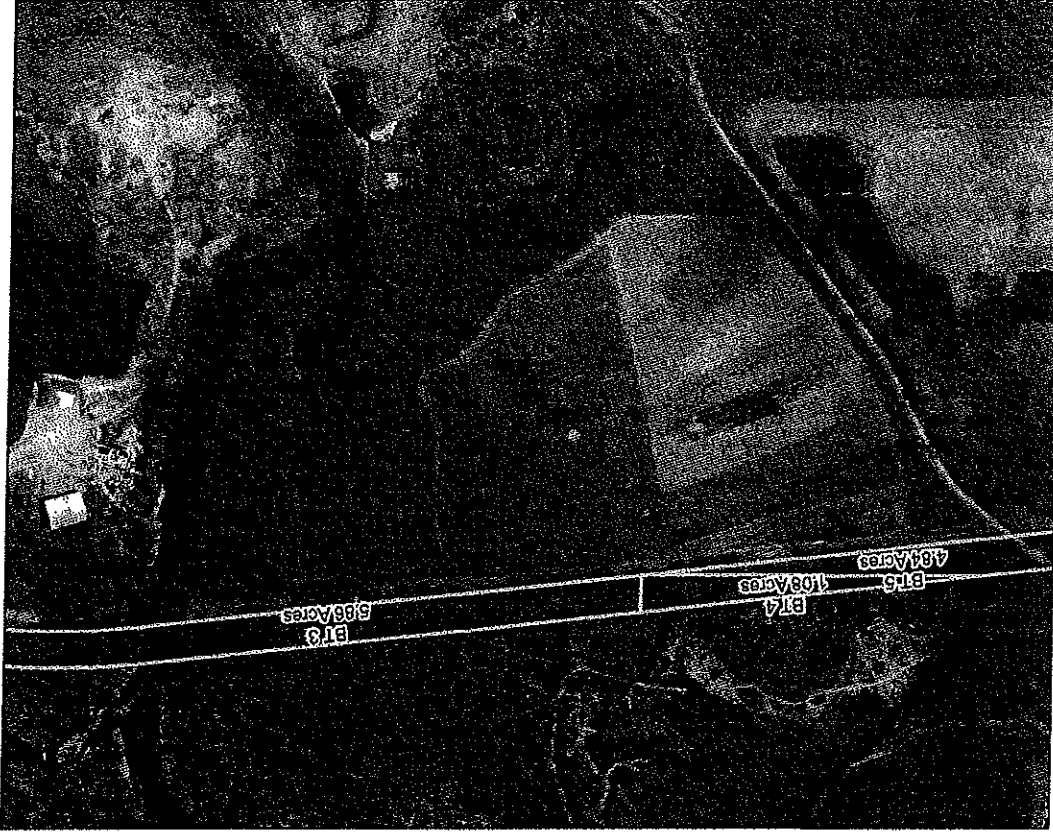
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BACKTRACK INC	0.09728187220	2
BACKTRACK INC	5.85715772855	3
BACKTRACK INC	1.08319159415	4
BACKTRACK INC	4.84159036908	5
BACKTRACK INC	6.08163990945	6
BACKTRACK INC	6.13783302490	7
BACKTRACK INC	2.61661280207	8
BACKTRACK INC	2.78898290853	9
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Union Pacific Railroad	1.68714745783	10
Union Pacific Railroad	1.21262903702	11
Union Pacific Railroad	3.44818008685	12
Union Pacific Railroad	2.79149673285	13
Union Pacific Railroad	4.16945013999	14
Union Pacific Railroad	3.84643520601	15
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Union Pacific Railroad	0.21036817116	17
Union Pacific Railroad	6.10897112409	18
Union Pacific Railroad	1.21239178383	19
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Railroad Trail Maps



Railroad Trail Maps



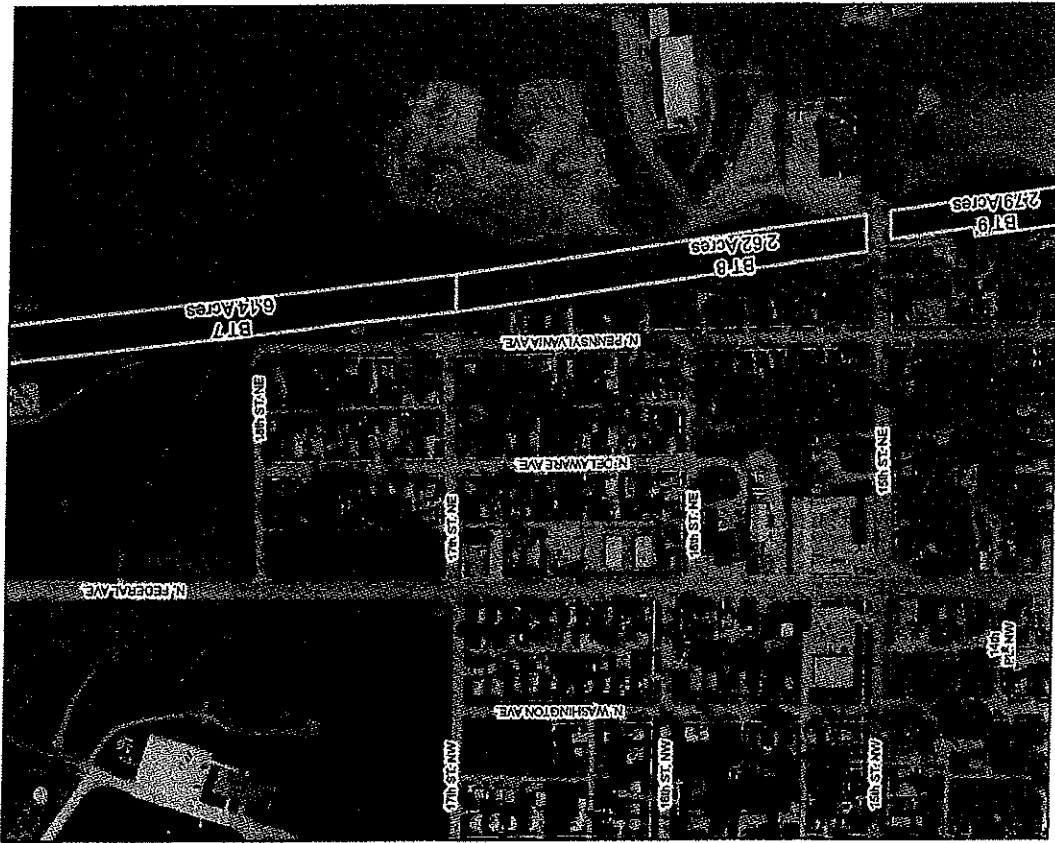
Railroad Trail Maps



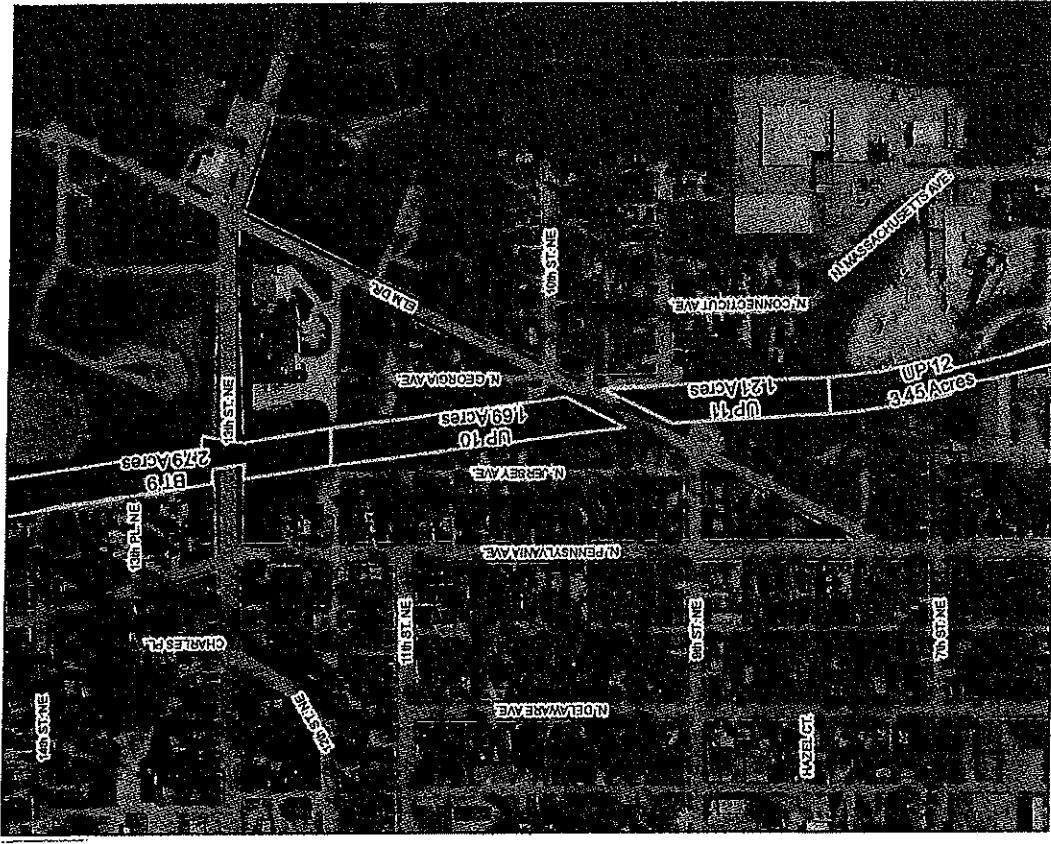
Railroad Trail Maps



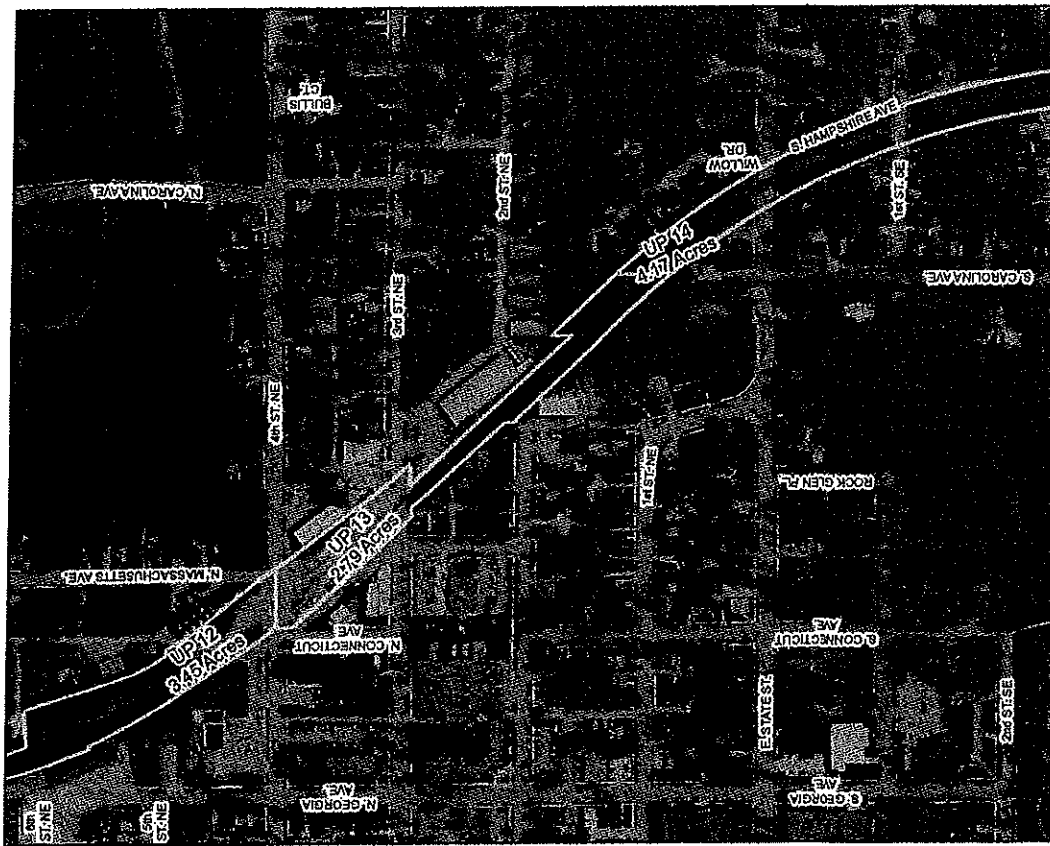
Railroad Trail Maps



Railroad Trail Maps



Railroad Trail Maps

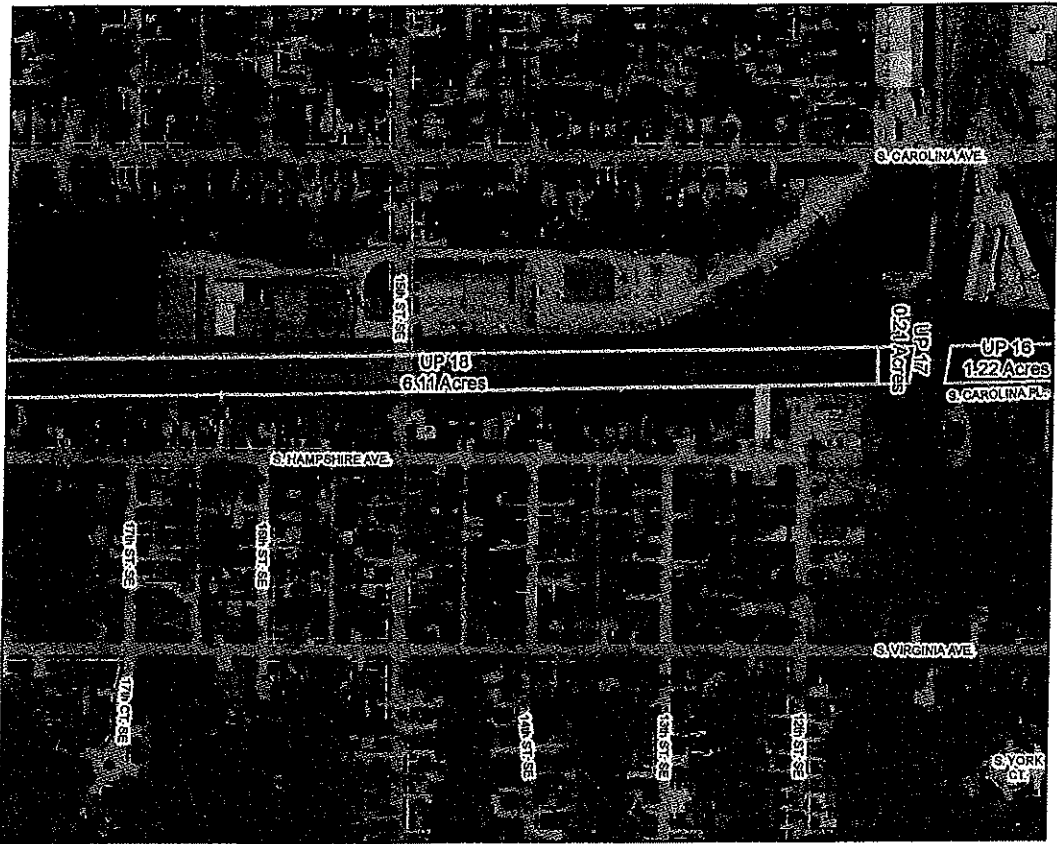


Railroad Trail Maps



Railroad Trail Maps

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Railroad Trail Maps

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Roadway Vacations

Receive request for vacation of road which will include plats and description of area requested. Council will either accept the request or deny. Council follows roadway vacation statute requirements, notification of adjoining land owners, publication of notices and holding the public hearings. Resolution for vacation of roadways (with certain terms) adopted by council.

UPRR Process

Resolution for vacation and closure provided to UPRR. Agreement prepared between UPRR and City of Mason City with terms for the contribution and improvements that are requested at 1st Street. Costs of improvements at 1st will be paid out of the contribution amount for the closures. Document returned to city for execution with invoice and W-9. Document will be fully executed by UPRR.

This process will be 6+- weeks.

City

Install barricades and remove roadway approaches. During this time will be creating estimate for relocation of electronics from 9th Street to 1st Street. Once both streets are barricaded and approaches removed and UPRR notified, and UPRR has removed crossing surface and signal equipment, payment will be processed. UPRR should be able to remove crossings and equipment within 2 to 3 weeks.

UPRR

When estimate received will prepare agreement for equipment relocation and transmit to city for execution. 2 weeks. City will execute and return to UPRR for final execution. When agreement fully executed, will process and request signal construction to schedule completion (work is scheduled to signal construction on first come first served basis) I would estimate completion of work at 1st street within 6 – 10 months. During this time the city could be installing medians and reworking commercial accesses or if ASM's are used, FRA concurrence would be required.

The notice of intent could be served after the quiet zone diagnostic. The diagnostic will review and discuss all issues with each location, with this discussion the city will have to develop the plan for treatments at all the crossings of the quiet zone and once agreed upon develop plans that can be submitted to all parties with the NOI. The NOI will be reviewed by UPRR and any concerns with the cities plans will be noted and you will receive this information as we will provide to the FRA.

Once all work is completed by UPRR at 1st Street and all work by the agency is completed in accordance with the plans submitted with the NOI. The city then requests the notice of establishment. There is 20 days that will elapse and the quiet zone will be implemented. This time will be used by UPRR to inspect the elements installed at each location to verify that they meet the submission with the NOI and meet the requirement of the Train Horn Rule. On the day of the establishment all signs required by the Train Horn Rule will have to be displayed. UPRR will notify all operating crews on the establishment of a quiet zone in the area requested in the notice of establishment.

RESOLUTION NO. 15 -

A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF MASON CITY, THE UNION PACIFIC RAILROAD COMPANY, IOWA TRACTION RAILWAY INC. AND BACKTRACK INC., REGARDING TRAIL IMPROVEMENTS AND THE CREATION OF A QUIET ZONE FOR THE NORTH/SOUTH LINE OF THE UNION PACIFIC RAILROAD

WHEREAS, the City of Mason City has negotiated a Memorandum of Understanding between the City, the Union Pacific Railroad Company, Iowa Traction Railway Inc. and Backtrack Inc., regarding trail improvements and the creation of a quiet zone, and

WHEREAS, The Activating Mason City Pedestrian and Bicycle Trail Plan identified the High Line Bike Trail as a major improvement to the trails system that would create a bike trail running from the south end of Mason City to the north end along the old right of way of the Union Pacific Railroad and the old rail line currently owned by Backtrack Inc. and

WHEREAS, the trail would be a great addition to the trails system, and

WHEREAS, the Memorandum of Understanding would also be in the process of creating a quiet zone in Mason City for the Union Pacific Railroad line that runs north and south parallel to Monroe Avenue.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mason City, Iowa:

Section 1: That said Memorandum of Understanding Agreement between the City of Mason City, the Union Pacific Railroad Company, Iowa Traction Railway Inc. and Backtrack Inc., be and the same is hereby approved.

Section 2: That the Mayor is authorized and the Clerk hereby directed to execute the necessary documents.

PASSED AND APPROVED this 15th day of September, 2015.

Eric Bookmeyer, Mayor

ATTEST:

Brent Trout, City Clerk