

**KOCHVILLE TOWNSHIP
SAGINAW COUNTY, MICHIGAN**

RESOLUTION NO. 20-02

A RESOLUTION APPROVING THE CROSSING AGREEMENT BETWEEN LAKE STATE
RAILWAY COMPANY AND KOCHVILLE TOWNSHIP

WHEREAS, the township board of the Township of Kochville, Saginaw County, Michigan, has approved plans for an extension of their existing non-motorized pedestrian trail approximately from between Mackinaw and Center Roads to Hospital Road; and

WHEREAS, Kochville Township has been awarded a Michigan Natural Resources Trust Fund Grant for said trail extension; and

WHEREAS, Kochville Township has shown support for expanding their non-motorized pedestrian trail in the Parks and Recreation Master Plan; and

WHEREAS, the township board has duly inspected the proposed crossing agreement and considered all comments and proposed amendments thereto and has found the proposed crossing agreement, as amended, to be correct, just and reasonable;

NOW THEREFORE IT BE RESOLVED AS FOLLOWS:


1. The crossing agreement shown as "Exhibit A" shall be authorized as presented.
2. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

The foregoing resolution was offered by Supervisor Loiacano and seconded by Clerk Machata.

Upon roll call vote on the adoption of the resolution, the following voted "Aye": Supervisor Loiacano, Clerk Machata, Treasurer Knowlton, Trustee Ferrell and Trustee Thon

The following voted "Nay": None

The supervisor declared the motion carried and the resolution duly adopted.



James Loiacano
Supervisor of Kochville Township



Kevin Machata
Clerk of Kochville Township

CERTIFICATE

I, Kevin Machata, Clerk of Kochville Township, do hereby certify the foregoing to be a true copy of a resolution adopted by the Kochville Township Board at its meeting held on January 27, 2020, which was held in accordance with the Michigan Open Meetings Act.



Kevin Machata
Clerk of Kochville Township

EXHIBIT A

CROSSING AGREEMENT

THIS CROSSING AGREEMENT, made and entered into on this 5th day of February, 2020, by and between LAKE STATE RAILWAY COMPANY, a Michigan Corporation, whose address is 750 N. Washington Avenue, Saginaw, MI 48607, hereinafter referred to as RAILROAD, and KOCHVILLE TOWNSHIP, Saginaw County, Michigan, whose mailing address is 5851 Mackinaw Road, Saginaw, MI 48604, hereinafter referred to as TOWNSHIP.

WITNESSETH:

WHEREAS, RAILROAD has a permanent easement for the operation of a railroad right-of-way and all improvements thereto and CSX Transportation has ownership of the right-of-way located on the Dean Subdivision, milepost 6.75, Saginaw, Michigan; and

WHEREAS, the TOWNSHIP now wishes to construct a twelve (12) foot non-motorized pedestrian trail across the RAILROAD'S easement, but at the sole cost and expense of the TOWNSHIP; and

WHEREAS, the RAILROAD has no objection to such crossing under the terms and conditions stated herein.

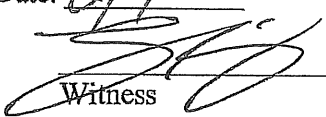
NOW THEREFORE, in consideration of the mutual covenants and benefits flowing to each, the parties do hereby agree to be bound by the following terms and conditions:

1. Said pedestrian crossing shall be installed by the TOWNSHIP using a RAILROAD approved contractor that shall be selected from list provided by the RAILROAD, at the sole cost and expense of the TOWNSHIP, in a manner and of materials in all respects satisfactory to the RAILROAD, and all incidental expenses necessarily incurred in connection therewith shall be borne by the TOWNSHIP. After said crossing has been installed, the TOWNSHIP shall maintain said crossing up to the end of the ties, including drainage, at its expense and in a manner in all respects satisfactory to said RAILROAD, and the RAILROAD shall maintain, but at TOWNSHIP'S expense, the portion of the crossing between the rails and one foot on either side of the rail.
2. If at any time in the future, the TOWNSHIP, County or any other governmental authority should determine that safety requires additional protection at said crossing other than that afforded by stop signs (the term stop sign does not include crossing gates), RAILROAD will not be relied upon or required to bear the cost or any part of the cost of furnishing, installing or maintaining any such protection; it is further understood and agreed upon that before providing any such additional crossing protection, the TOWNSHIP will first obtain approval from the RAILROAD.

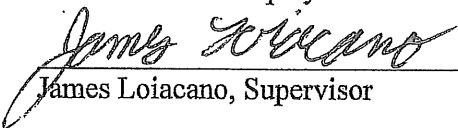
3. At such time that the RAILROAD performs maintenance or repairs to trackage at said crossing, the TOWNSHIP will, during such time and at the directions of the RAILROAD, either close said non-motorized pedestrian crossing or provide flagging protection at the TOWNSHIP'S expense. The RAILROAD shall provide the TOWNSHIP with 30 days' written notice, if possible, prior to requiring the crossing either being closed or flagging protection provided. This will allow the TOWNSHIP time to inform the public of the closure.
4. The TOWNSHIP, for and in consideration of its entering upon and altering the RAILROAD'S easement to construct and maintain crossing, agrees to indemnify and hold harmless to the extent allowed by law the RAILROAD, CSX Transportation, and their successors and assigns, from any and all claims, including attorney's fees, arising out of any suit, on account of personal injuries or damage to property of whatsoever nature arising during its maintenance or reconstruction of said crossing.
5. The TOWNSHIP agrees to provide the RAILROAD with a minimum of 30 days' written notice prior to entering upon the easement property for any construction maintenance or reconstruction of the crossing.
6. The TOWNSHIP further agrees to install and maintain pavement marking and pedestrian stops, as well as any and all other markings, signs, etc., at its sole cost and expense in the area identified as the TOWNSHIP shall maintain said crossing up to the end of the ties and the RAILROAD shall maintain, but at TOWNSHIP'S expense, the portion of the crossing between the rails and one foot on either side of the rail..
7. The TOWNSHIP shall furnish a certificate of liability insurance with a \$5,000,000 (Five Million Dollars) limit per occurrence naming the RAILROAD as an additional insured. In addition, such insurance shall contain notification provisions whereby the insurance company agrees to give thirty (30) days' notice to the RAILROAD of any change or cancellation of the policy. It is understood and agreed that the liability assumed by the TOWNSHIP shall not be limited to the insurance coverage stipulated herein.

It is understood and agreed that this Agreement shall not be binding until it has been authorized or ratified by a proper ordinance or resolution of the Township of Kochville, Michigan, a certified copy of which ordinance or resolution is attached hereto and made a part of this Agreement.

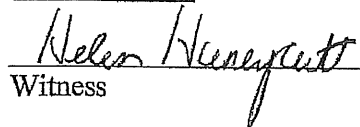
IN WITNESS WHEREOF the parties hereto have executed these presents in duplicate the day and year first above written.

Date: 2/6/2020


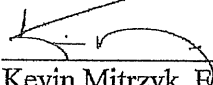
Witness

Kochville Township by


James Loiacano, Supervisor

Date: 2-05-2020


Witness

Lake State Railway Company


Kevin Mitzyk, Executive Vice President