

STATE PROPERTIES REVIEW BOARD

Minutes of Meeting Held On April 4, 2022 – remotely via telephone conference –

Pursuant to Governor Lamont's Executive Order No. 7B regarding suspension of In-Person Open Meeting requirements, the State Properties Review Board conducted its Regular Meeting at 9:30AM on April 4, 2022 remotely via telephone conference at (866)-692-4541, passcode 85607781.

Members Present:

Edwin S. Greenberg, Chairman
Bruce Josephy, Vice Chairman
John P. Valengavich, Secretary
Jack Halpert
Jeffrey Berger
William Cianci

Members Absent:

Staff Present:

Dimple Desai
Thomas Jerram

Guests Present

Jason York, CGA Press Aide to Representative Geoff Luxenberg, 12th Assembly District

Mr. Valengavich moved and Mr. Halpert seconded a motion to enter into Open Session. The motion passed unanimously.

OPEN SESSION

1. ACCEPTANCE OF MINUTES

Mr. Valengavich moved and Mr. Berger seconded a motion to approve the minutes of the March 31, 2022 Meeting. The motion passed unanimously.

2. COMMUNICATIONS

3. REAL ESTATE- UNFINISHED BUSINESS

PRB #	22-031
Transaction/Contract Type:	RE – Administrative Settlement
Origin/Client:	DOT/DOT
DOT Project #:	076-220-001
Grantor:	Connecticut Southern Railroad, Inc.
Property:	Manchester, Main Street (RT 83) to Oakland St & Intersections
Project Purpose:	Safety & Operational Concerns on Route 83
Item Purpose:	Administrative Settlement

At 9:32 Mr. York joined the Meeting to participate in the Board's continued discussion of this Proposal. Mr. York left the meeting at 9:55.

DAMAGES/SETTLEMENT: \$455,000/\$1,381,350 (plus STB filing & Equip. Removal - \$151,000)

At the State Properties Review Board meeting held on March 31, 2022, the Board voted to suspend this file pending receipt of a communication from the DOT Commissioner regarding:

- Substantiate spending \$7.5 million in tax payers funds for the construction project as the only

- option available to DOT or spending \$1,381,350 in acquisition costs
- Provide traffic data/report that shows the traffic concerns at this rail road crossing that are being addressed by DOT

It was agreed at the meeting that the responses provided by Terry Obey, Director of Rights and Way as it relates to the huge divergence (300%) between the DOT and CSO appraisers will serve as justification for not correcting the DOT appraisal or seeking a new appraisal. Therefore, this topic will not be covered in the Commissioner's letter to the Board.

DOT had forwarded the requested communication from DOT Commissioner Giulietti to SPRB Members and Staff on April 1, 2022. In addition, Representative Luxenberg had forwarded a communication to SPRB Members and Staff, received on March 31, 2022. Both communications follow.

RECOMMENDATION: At the meeting, staff recommended **APPROVAL** of the proposal after discussion among the members based on their review of the two communications regarding the DOT's Proposal to purchase this railroad corridor in the amount of \$1,381,350 (plus estimated \$151,000 expense reimbursement) as an alternative to expending \$7,500,000 for the DOT-approved Project. Safety of the residents of Manchester was taken into consideration in approving this proposal. The information provided by Rep. Luxenberg and DOT Commissioner was valuable in reaching to this conclusion.



STATE OF CONNECTICUT
DEPARTMENT OF TRANSPORTATION
2800 BERLIN TURNPIKE, P.O. BOX 317546
NEWINGTON, CONNECTICUT 06131-7546



Office of the
Commissioner

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March 31, 2022

Mr. Edwin S. Greenberg
Chairman
State Properties Review Board
450 Columbus Boulevard, Suite 202
Hartford, Connecticut 06103

Dear Mr. Greenberg,

Subject: File No.: 076-220-001
Owner(s): Connecticut Southern Railroad, Inc. (CSO)
Property Address: Manchester Rail Corridor
Town: Manchester, Connecticut

This letter will serve to provide you with the information you requested so the State Properties Review Board (SPRB) may render a decision of approval for the purchase of a portion of a freight rail line in the town of Manchester for \$1,316,340.

In response to the municipality's request for assistance, the Department of Transportation (Department) reviewed the high number of crashes at the four-way intersection at Oakland Street and Woodland Street in Manchester. The northern approach of this local intersection (Oakland Street) is uncontrolled while the other three approaches are stop controlled. Having this one approach of the intersection uncontrolled creates driver confusion, resulting in crashes. In the last three-year period that data was available for the local intersection there were 26 crashes with five resulting in injuries. This is significant for a local road with stop control conditions. The simple solution would be to make the northern approach stop controlled. However, this is not feasible due to the proximity of the at-grade rail crossing.

To remedy this safety issue the Department designed a roundabout solution for the local intersection. The solution worked but caused a backup on State Route 83 just to the north. A second roundabout was proposed to remedy the traffic situation at Route 83 and Oakland, which resulted in additional improvements at the intersection to the west at Route 83 and North Main Street. The proposed design provided a solution to the local intersection but with significant costs to address the subsequent impacts on the state route. The total project cost was last estimated at \$7,500,000. Even with this solution, the at-grade crossings still present a traffic problem as school busses and other vehicles are required by state law to stop at the rail crossing. This contributes to more traffic and driver confusion.

Mr. Edwin S. Greenberg

-2-

March 31, 2022

As an alternative, the Department determined that removing the rail crossing at the local intersection would allow for the uncontrolled northern approach to become stop controlled. A more typical 4-way stop controlled intersection would solve driver confusion and crashes. It would also rid the area of two at-grade crossings that contribute to traffic back-ups. The Department approached the rail owner and inquired on a purchase price for a portion of the rail corridor that would remove the at-grade crossings. After extensive discussions the owner returned with the \$1,316,340 sales price. Given the cost savings of the purchase of the rail corridor versus the proposed highway project, the Department is pursuing the purchase of the rail line to remedy the safety concerns at the local intersection.

The Federal Highway Administration, which would provide eighty percent (80%) of the funding for the proposed roundabout project, has also agreed to provide eighty percent (80%) of the funding for the purchase of the rail corridor due to the inherent savings of tax dollars.

I trust this information is sufficient for SPRB to support the purchase of the rail corridor. If you have any questions please contact the Department's Director of Rights of Way, Mr. Terrence J. Obey, at 860-594-2462.

Sincerely,

Joseph J.
Giulietti

Digitally signed by Joseph J.
Giulietti
Date: 2022.03.31 17:20:33
-04'00'

Joseph J. Giulietti
Commissioner

cc:
Thomas Jerram at thomas.jerram@ct.gov
Dimple Desai at dimple.desai@ct.gov



REPRESENTATIVE GEOFF LUXENBERG
12TH ASSEMBLY DISTRICT

LEGISLATIVE OFFICE BUILDING
CELL: (860) 335-2023
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HOUSE MAJORITY CAUCUS CHAIR
DEPUTY MAJORITY LEADER

MEMBER
CHILDREN'S COMMITTEE
GENERAL LAW COMMITTEE
INSURANCE AND REAL ESTATE COMMITTEE
JUDICIARY COMMITTEE

March 31, 2022

Dear SPRB Members and Director Desai:

I want to extend my sincere thanks and gratitude to the SPRB for allowing me to come before you during today's meeting to discuss your agenda item #3 titled: PRB # 22-031 Transaction/Contract Type: RE – Administrative Settlement Origin/Client: DOT/DOT DOT Project #: 076-220-001 Grantor: Connecticut Southern Railroad, Inc. Property: Manchester, Main Street (RT 83) to Oakland St & Intersections Project Purpose: Safety & Operational Concerns on Route 83 Item Purpose: Administrative Settlement.

This project represents the culmination of an extraordinary amount of hard work, negotiating savvy, technical expertise, local, state and federal government collaboration and team-work and community input that has occurred for as long as I have been involved in local and State Government. It is hard to over-state the environmental, economic development, public safety and community benefits that will be unlocked when this 10 plus year project comes to fruition. The impact for the community I represent and the entire North-end of Manchester will be transformative if you were to approve this multi-stakeholder purchase. This stretch of land is literally the lynchpin to connecting a vast series of trail-ways that extend well beyond Manchester and throughout the entire region, and this sale will unlock the most affordable and advantageous way to finally fix the most dangerous traffic intersection in the Town of Manchester on Woodbridge Street.

In addition to the tremendous public safety, environmental, quality of life and economic development benefits that can't be unlocked without an SPRB approval, there is also an issue of social justice and equity imbedded in this proposal. The reality is that the north-end of Manchester, where this parcel of land sits, is the section of Manchester that is populated by a racially and ethnically diverse and working class constituency whose neighborhoods have long suffered from neglect and under-investment as compared to some of our more affluent and less racially diverse sections of Town. More recently there is some momentum in transforming this section of Manchester for the communities benefit. The Whiton Library was saved from being closed and made ADA accessible through State Bond funding and has recently been designated a polling location to make it easier for residents in this area of town to vote if they do not have transportation. Center Springs Park which is not far from this area is undergoing a 3

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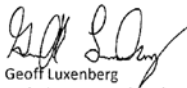
million dollar upgrade with state investment dollars. This neighborhood of Manchester also acts as an important gateway to both the Buckland Hills Mall which is a major economic driver of our town and major transportation connectors that allow the people of Manchester to access jobs throughout Greater Hartford and Eastern Connecticut, safely get to school, and to enjoy public access to recreation. A nearby recreation area has become one of the top Cricket fields in the State of Connecticut for a growing diverse population and has become an attraction for those outside of Manchester to visit our town. Robertson School - one of the most socio-economically and racially diverse elementary schools and a Title 1 School, is also right there and is a key educational stakeholder in this section of Town as well.

You have an opportunity here to leverage 80 percent federal dollars to finalize a local, state and federal collaboration that will be transformative for the people of Manchester beyond the 12th House District and the region and solve the number one traffic safety issue in Town all with one stroke of the pen. Within that context, I feel confident the State of Connecticut taxpayers and the Town of Manchester resident benefits that will be unlocked by SPRB approval of this sale far outweigh the risks of further delay or inaction. This section of Manchester has languished as an eye-sore and impediment to progress as an unattractive, abandoned, and out of use neglected space. We can change that with your approval, partnership and support.

Furthermore, the only way to address the dangerous Woodbridge intersection without your approval would cost 5-6 times what this proposal costs. I want to address the public safety issue in the most economically affordable way for the taxpayers.

I thank the SPRB for the thoughtful due diligence you have done, not just for this project, but for so many projects throughout the State of Connecticut and for your thankless service to the citizens and taxpayers of our State. I applaud the judicious, diligent and balanced use of your oversight authority as it relates to this matter. If you have any questions - I can be reached at 860-335-2023 or at Geoff.Luxenberg@cga.ct.gov. Thank you again for your thoughtful consideration.

With gratitude,



Geoff Luxenberg
Majority Caucus Chair & Deputy Majority Leader
Connecticut General Assembly
Manchester's 12 House District

From 3-31-2022 Meeting

At 9:32 Representative Geoff Luxenberg, Mssrs. Gilligan, Hunter and Cullen from Genesee & Wyoming RR and Mssrs. Obey, Degen and Melzen from DOT joined the Meeting to participate in the Board's discussion of this Proposal. All left the meeting at 11:06AM.

Director Desai opened the discussion with a summary of the outstanding issues before the Board regarding this Proposal, as follows:

- 1) The real estate appraisal obtained by DOT was based on incorrect information, as acknowledged by DOT, as follows:
 - a) The Appraiser's Intended Use of the Market Value based on the use of the term 'abandoned' and not "live" as described by DOT; and
 - b) The actual land to be acquired totals 9.297 acres (11,650 sf & 9.03 acres), less than the land areas utilized in the appraisal reports obtained by DOT and the Grantor (CSO)
- 2) Upon DOT's recognition of their independent Appraiser's conclusions, DOT made no effort to either update their existing appraisal with correct information or obtain a new appraisal given the significant divergence – over 300% difference - of the two appraisals;
- 3) DOT provided no formal review of the Grantor's appraisal report, or the Corridor Sales (a major factor in the differences in valuations) utilized by the Grantor's Appraiser to ascertain if those sales utilized by the Grantor's appraiser are even remotely comparable to the subject rail corridor;

Regarding the appraisal issues in the three items above, DOT acknowledges the incorrect assumption but continued to refer back to previous responses that have been incorporated into the Memo received by the Board Members. DOT's position is that this is a purchase and that the owner has set a purchase price. There is no more room to negotiate. Therefore, any update to the appraisal or second appraisal will not change the outcome of the price offered by CSO.

- 4) DOT's insistence that DOT's only options are:
 - a) Expend \$7.5 million on a road construction Project;
 - b) Pay \$1,381,350 (plus reimbursements) to the Grantor, over 300% above their own appraiser's estimate; and
 - c) Do nothing.

DOT indicated there are no other options. DOT did not respond to a SPRB inquiry regarding what other construction options were considered.

It appears DOT did not exhaust all alternative options available (eg. statutory options).

Mr. Obey had reiterated that the Commissioner of DOT has authorized the proposed \$7.5 million Project to proceed if the State fails to purchase the rail corridor. DOT did not provide the SPRB with any other alternatives that the DOT may have considered to address the Safety and Operational Concerns prior to presenting this Proposal to the SPRB. Rep. Luxenberg provided his own account of safety concerns at these intersections. He also pointed out other local aspects of improving this project and his support of approving this proposal by the Board at today's meeting. He indicated that he will be sending a letter to the Board.

- 5) The Board is unclear with respect to the DOT's urgency in acting on this acquisition now as this Project has been in the planning stages for over 8 years. DOT responded that the Grantor (CSO) stated that delays would result in them updating their appraisal. DOT believes a new appraisal may result in a higher valuation.

Representative Luxenberg informed the SPRB that he believed this Project may date back to 2010 and that this was of great concern to the Town of Manchester for a variety of reasons beyond the DOT's Safety and Operational Concerns. Mr. Obey had reiterated that the urgency was centered around potential delays and what future actions may be taken by the Grantor.

- 6) DOT had not responded to the Board's inquiry regarding the provision of a traffic report addressing issues of traffic and safety concerns, which DOT is trying to address.

It was requested of Mr. Obey to have a communication prepared by DOT Commissioner summarizing prior safety issues that had led to this Project, as well as what alternatives were considered. After a lengthy discussion Mr. Obey will work to produce this communication in a timely manner for review by the SPRB. The Board assured that the project will be put on the agenda for action as soon as the communication is received by Friday (4/1/2022) noon.

DAMAGES/SETTLEMENT: \$455,000/\$1,381,350 (plus STB filing & Equip. Removal - \$151,000)

March 15, 2022 Update

At its Meeting held on March 10, 2022 the State Properties Review Board reviewed this Proposal. No formal vote was taken by the Board that day as the Proposal was identified on the Agenda as "***For Discussion Purposes Only.***" In addition to the Board Members and SPRB Staff, attending the Meeting were: Terry Obey, DOT Director of Rights of Way; Steven Degen, DOT Transportation Principal Property Agent; and Joseph Arsenaault, DOT Transportation Supervising Engineer. The Board reviewed the DOT Proposal and Staff Memo and then reviewed ten (10) issues with the Proposal, along with DOT's written responses to those issues (see 3-10-2022 Meeting Minutes). Upon conclusion of the Board's review of the Proposal, the Board invited the DOT Staff to provide comments relative to the Proposal.

During the Meeting DOT explained the proposed acquisition was in conjunction with a DOT Project to address Safety & Operational Concerns on Route 83 in Manchester. DOT explained to the Board that traffic traveling north/south on Oakland Street requires a railroad crossing near the intersection of Old North Main Street and Apel Place, as well as a second railroad crossing to the west at Main Street. DOT

stated that certain commercial vehicles and school buses are required by statute to stop prior to the rail corridor crossing (15-50 feet), creating the safety issues. To address the safety concerns DOT determined that the construction of two roundabouts, both on Oakland Street, and other highway modifications nearby will rectify the safety concerns. The Project was estimated to cost \$7.5 million. Furthermore, DOT explained that the rail corridor, if abandoned and removed, would eliminate the need for the \$7.5 million Project and the safety concerns can then be addressed with nominal expense. DOT did not provide any further insight to how many, if any, other engineered solutions were considered as part of the Project. DOT relayed to the Board that in light of the type of property involved, the DOT was unable to utilize the condemnation process. The property to be acquired is an active (not abandoned) railroad corridor, impacting DOT's normal acquisition process (friendly acquisition vs condemn/court proceeding). This process led to a lively discussion regarding DOT's process, from appraisal to proposed settlement.

Much of the Board's discussion focused on, among others, the significant differences in the Real Estate Appraisal Reports obtained by the DOT and Grantor as well as the Appraisers' conclusions with respect to their estimate of Market Value: \$455,000 (DOT) vs. \$1,381,350 (Grantor-adjusted for west of Main St). The salient facts of each report are as follows:

Appraisal	DOT	Grantor
As of	June 4, 2018	May 15, 2019
Market Value	\$455,000	\$1,316,350 \$1,381,350 (adj. to reflect 0.26 acre)
Land Area	11.2 acres	10.62 (0.26 ac west of Main St not valued & subsequently adjusted)
Use	Former rail line abandoned for active railroad use	Rail corridor
Highest and Best Use	Maintenance of the continuity of the corridor as this corridor, if acquired, would extend the 20± Hop River linear State Park trail system.	Continued use as multimodal corridor providing transportation, utility or recreational connectivity.
Commercial Land Value	1.7 ac x \$6.00/sf = \$444,312	1.54 ac x \$5.74/sf = \$385,000
Industrial Land Value	4.4 ac x \$1.00/sf = \$191,664	5.81 ac x \$1.26/sf = \$319,550
Residential Land Value	5.1 ac x \$3.00/sf = \$666,468	3.72 ac x \$2.75/sf = \$392,400
ATF Calculation	\$1,302,444	\$1,096,950
Corridor Factor	.35	1.2
Market Value	\$455,855	\$1,316,350 (subsequently adjusted)

On Friday, March 11, 2022, Terry Obey, DOT Director of Rights of Way sent the following email communication (below) to SPRB Chairman Greenberg.

Others receiving the email were:

SPRB Staff:	DOT Staff:
Director Dimple Desai	Scott Hill, DOT Bureau Chief and Chief Engineer
Thomas Jerram	James Fallon, DOT Assistant Chief Engineer
	Steven Degen, DOT Transportation Principal Property Agent
	Thomas Melzen, DOT Supervising Property Agent

Gentlemen,

There was much debate at yesterday's meeting regarding the DOT's proposed acquisition of a portion of a rail line in Manchester and this will serve to clarify DOT's position on the matter.

In lieu of designing and constructing a \$7.5M project in Manchester, the DOT initiated dialogue with CSO to acquire a portion of the rail line that contains two at-grade crossings. As was explained by DOT Design staff, the at-grade crossings are the source of congestion in this area on Manchester. Removing the at-grade crossings removes the need for the \$7.5M project. Once the at-grade crossings are removed the traffic congestion can be mitigated with basic traffic markings and stop signs.

The sales price of the rail corridor was established by CSO and their real estate team via appraisal and resulted in a sales price of \$1,316,340. This value was predicated on \$1,096,950 direct land value multiplied by a corridor factor of 1.2.

DOT's appraisal, which would be required by SPRB to support the sales price, valued the direct land at \$1,302,444, higher than CSO, but used a corridor factor of .35 to arrive at an overall value of \$455,000.

It is this divergence in the corridor factor that cannot be reconciled. DOT has negotiated in good faith for several years with CSO on the purchase and CSO is unwilling to move from its sales price. As previously shared, DOT has no authority to condemn against CSO and its active railroad, so a purchase would have to be agreed to.

To be clear, CSO is not moving from its sale price and is resisting updating its appraisal, which would lead to a higher sales price, in hopes of completing this transaction sooner rather than later. This leaves DOT with an option to pay the purchase price of \$1,316,340 or proceed with a \$7,500,000. That is what is presented to the State Properties Review Board.

The Town of Manchester and the DOT both favor the acquisition of the rail line at the purchase price of \$1,316,340. The acquisition prevents the design and construction of a \$7.5M project, it allows for the reduction in congestion in the town with minimal cost and disruption to traffic, and provides an opportunity to connect the trail east of the corridor with the acquired property to provide enhanced recreational trail use for the town.

All of these reasons would seem to provide the support required under CGS 4b-3 for SPRB to approve the acquisition as a way to maximize taxpayer funds.

There was significant discussion on the DOT appraisal identifying this portion of the rail line as "abandoned". The line is not officially abandoned, but rather simply looks abandoned due to the lack of use and maintenance by CSO. Had the DOT appraiser known the line was not officially abandoned, it is more than reasonable to conclude that the corridor factor in the DOT appraisal would be higher, as an active line would carry a higher factor than an abandoned line; this is an industry standard. This would only further reconcile the divergence in the corridor factor and the overall valuation between the two appraisals

It was questioned as to why DOT did not commission additional appraisals. I offer the following reasons:

- 1) CSO had already established its sales price and did not consider or care what DOT appraisals indicated the value to be. This cannot be dismissed.
- 2) The CSO appraisal and the DOT were very close in direct land values with the DOT appraisal being a little higher. The difference in the corridor factor and how that factor is established is unique to the appraisal industry and may not necessarily provide more clarity. And, CSO is not moving from its sale price.
- 3) If DOT did obtain another appraisal that had a higher corridor factor or the same as the CSO appraisal, which is unknown at the time of commissioning a 2nd report, the DOT would have two conflicting reports. Would SPRB approve the purchase if DOT relied on an appraisal with a higher corridor factor to support the sale? DOT would still have the first appraisal in its file.

- 4) If DOT obtained another appraisal and a low corridor factor was applied, the DOT would have two appraisals indicating a lower value of the CSO report and both wouldn't matter because CSO is not moving from its sale price.

If not for the unique analysis of a corridor factor, the CSO appraisal and the DOT appraisal are more similar than not. And since DOT has no condemnation authority in this instance, I would hope that a thorough vetting of this particular transaction and negotiation would result in a discussion on the best way to utilize state and federal funding.

The DOT can provide any supporting documentation required. Thank you all for your consideration on this matter.

Terrence J. Obey
Bureau of Engineering and Construction
Director of Rights of Way

In the DOT communication Mr. Obey clearly stated:

As was explained by DOT Design staff, the at-grade crossings are the source of congestion in this area on Manchester. Removing the at-grade crossings removes the need for the \$7.5M project. Once the at-grade crossings are removed the traffic congestion can be mitigated with basic traffic markings and stop signs.

The DOT rationale is that with the proposed acquisition of the railroad corridor DOT can mitigate the safety issues without a \$7.5 million expense. And, as an added benefit, the State will have the abandoned rail corridor for a future multi-use trail, connecting to existing trails located both to the west and east.

To achieve their goal, DOT is seeking the SPRB approval of their negotiated settlement with the Grantor – to acquire the railroad corridor for \$1,381,350 – plus certain additional reimbursable expenses related to the abandonment of the corridor not to exceed \$151,000.

There are several issues before the Board:

- a) Accept, as fact, the proposed \$7.5 million DOT Project is the only Project capable of mitigating safety & operational concerns on Route 83 in Manchester and that there are no alternatives;
- b) Accept, as fact, the DOT conclusion that the only solution to avoid a \$7.5 million Project is to acquire the railroad corridor;
- c) Completely ignore the significant differences in the opinions of market value as concluded by the two Appraisers: \$455,000 (DOT) vs. \$1,381,350 (Grantor-adjusted for west of Main St), highlighted earlier in this Memo;
- d) Accept, as fact, the Grantor is unwilling to negotiate with DOT under the perception that the DOT, without the ability to utilize condemnation, has no leverage in the negotiation process; and
- e) Accept DOT's rationalization that paying the Grantor \$1,381,350, plus reimbursable expenses, over 300% of their own Appraisal (\$455,000), will ultimately save the State \$6,118,650.

To address the aforementioned issues, first the Board must be familiar with relevant Connecticut Statutes governing certain vehicles that cross over a railroad corridor – DOT's root cause of the safety and operation concerns on Route 83.

The relevant state statutes follow:

Sec. 14-250. Certain motor vehicles to stop at railroad crossing. Regulations. Penalty.
https://www.cga.ct.gov/current/pub/chap_248.htm#sec_14-250

(a) The operator of each commercial motor vehicle transporting passengers, service bus or motor vehicle used for the transportation of school children and the operator of each commercial motor vehicle with a cargo tank or carrying hazardous materials, as defined in section 14-1, whether loaded or empty, before crossing at grade any track or tracks of a railroad, shall stop such vehicle not less than fifteen feet or more than fifty feet from the nearest rail of such track, and, while so stopped, shall listen and look in each direction along such track or tracks for approaching locomotives or trains before crossing such track or tracks; and such operator shall not, in any event, cross such track or tracks when warned by automatic signal, crossing gates, flagman, law enforcement officer or otherwise of the approach of a railroad locomotive or train.

(b) The operator of any commercial motor vehicle shall not attempt to cross a railroad grade crossing if such vehicle cannot be driven completely through such crossing, without shifting gears, on account of insufficient undercarriage clearance.

(c) The operator of any commercial motor vehicle shall not attempt to cross a railroad grade crossing if such vehicle does not have sufficient space to drive completely through such crossing and to clear the tracks without stopping.

(d) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section, including exemptions for certain crossings and vehicles that are allowed by the provisions of 49 CFR 392.10. (Staff emphasis)

(e) Any person who violates any provision of subsection (a) of this section shall be fined not less than one hundred fifty dollars or more than two hundred fifty dollars. Violation of any provision of subsection (b) or (c) of this section shall be an infraction.

This Statute clearly contemplated 'exemptions for certain crossings and vehicles' pursuant to Federal Regulations/Statutes.

The relevant Federal Regulations/Statutes follow:

§ 392.10 Railroad grade crossings; stopping required.

<https://www.ecfr.gov/current/title-49/subtitle-B/chapter-III/subchapter-B/part-392/subpart-B/section-392.10>

(a) Except as provided in [paragraph \(b\)](#) of this section, the driver of a commercial motor vehicle specified in [paragraphs \(a\) \(1\)](#) through [\(6\)](#) of this section shall not cross a railroad track or tracks at grade unless he/she first: Stops the commercial motor vehicle within 50 feet of, and not closer than 15 feet to, the tracks; thereafter listens and looks in each direction along the tracks for an approaching train; and ascertains that no train is approaching. When it is safe to do so, the driver may drive the commercial motor vehicle across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without a change of gears. The driver must not shift gears while crossing the tracks.

(1) Every bus transporting passengers,

(2) Every commercial motor vehicle transporting any quantity of a Division 2.3 chlorine.

(3) Every commercial motor vehicle which, in accordance with the regulations of the Department of Transportation, is required to be marked or placarded with one of the following classifications:

(i) Division 1.1

(ii) Division 1.2, or Division 1.3

(iii) Division 2.3 Poison gas

(iv) Division 4.3

(v) Class 7

(vi) Class 3 Flammable

(vii) Division 5.1

(viii) Division 2.2

(ix) Division 2.3 Chlorine

(x) Division 6.1 Poison

(xi) Division 2.2 Oxygen

(xii) Division 2.1

(xiii) Class 3 Combustible liquid

- (xiv) Division 4.1
- (xv) Division 5.1
- (xvi) Division 5.2
- (xvii) Class 8
- (xviii) Division 1.4
- (4) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any hazardous material as defined in the Hazardous Materials Regulations of the Department of Transportation, [parts 107 through 180 of this title](#).
- (5) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashpoint as determined by [§ 173.120 of this title](#).
- (6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under exemption in accordance with the provisions of [subpart B of part 107 of this title](#).
- (b) A stop need not be made at:
 - (1) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district, as defined in § 390.5 of this chapter.
 - (2) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed.
 - (3) A railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits the commercial motor vehicle to proceed across the railroad tracks without slowing or stopping.
 - (4) An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned.
 - (5) An industrial or spur line railroad grade crossing marked with a sign reading "Exempt." Such "Exempt" signs shall be erected only by or with the consent of the appropriate State or local authority.

Under these Federal Regulations, there are three exemptions that may be applicable to this Project. Notably, under #4 above the Federal Regulations do not stipulate whether the line is 'abandoned' or formerly abandoned by the Surface Transportation Board.

Regarding 'c' above, the differences in the two appraisals have been brought to the attention of DOT. After further review of the DOT Proposal, Staff revisited Issue #7 presented to DOT prior to the 3-10-22 Meeting.

1. In the Letter of Authorization to the DOT Independent Appraiser it was stated that the rail line was abandoned and that information was utilized throughout the Appraisal Report. In this Administrative Settlement it is presented to the Board that the rail line is not abandoned. Please clarify the following:
 - a) What information was utilized by DOT to inform the Appraiser the rail line was abandoned?
DOT Response: The term "abandoned" in DOT's appraisal assignment and acceptance document was used in terms of the appearance and condition of the corridor and not to suggest legal STB abandonment. A review of the corridor identified a large portion was overgrown, not currently in use and with no potential customers to suggest possible future use.
Staff Response: It appears this may conflict with the Grantor's Appraisal as no references to the rail line being "abandoned" were referenced in the Grantor's Appraisal Report.
3-15-22 Staff Response: From the DOT's "Letter of Appraisal Assignment and Acceptance" to the Independent Appraiser:

The property consists of an abandoned rail line consisting of approximately 11.2+ acres with approximately 1.7 acres in the business zone, 4.4 acres in the industrial zone and 5.1 acres in a residential zone. Please prepare a 29 Point, Total Take appraisal report on an approved Department of Transportation format to include land and a land sales adjustment chart. Submit your appraisal report as an unsigned draft copy. There is a maximum turnaround of 5 weeks for the appraisal assignment and 5 days for the corrections. Please do not contact the owners and do not send an inspection letter.

It appears this language in DOT's Letter reflecting an 'abandoned rail line' clearly affected the DOT Appraiser's development of their Appraisal and Appraisal Report resulting in Assignment Results that are factually incorrect and therefore cannot be relied upon in estimating market value. The

Appraiser did not include any Extraordinary Assumption to the effect that it is being appraised as a “former rail line abandoned for active railroad use.”

ASSIGNMENT RESULTS: An appraiser’s opinions or conclusions developed specific to an assignment. ³	89
<u>Comment:</u> Assignment results include an appraiser’s:	90
• opinions or conclusions developed in an appraisal assignment, not limited to value;	91
• opinions or conclusions, developed in an appraisal review assignment, not limited to an opinion about the quality of another appraiser’s work; or	92
• opinions or conclusions developed when performing a valuation service other than an appraisal or appraisal review assignment.	93
	94
	95

Source: 2018-2019 USPAP

118	EXTRAORDINARY ASSUMPTION: an assignment-specific assumption as of the effective date regarding uncertain
119	information used in an analysis which, if found to be false, could alter the appraiser’s opinions or conclusions.
120	<u>Comment:</u> Uncertain information might include physical, legal, or economic characteristics of the subject
121	property; or conditions external to the property, such as market conditions or trends; or the integrity of data
122	used in an analysis.

Source: 2018-2019 USPAP

b) Upon learning from the Grantor the rail line was not abandoned did DOT policy require that the Appraiser revisit their Appraisal Report and Conclusions?

DOT Response: The appraiser was not provided any information to suggest the corridor was formally abandoned by STB and the appraisal report was completed accordingly.

Staff Response: What would the impact on the DOT appraisal if the Appraiser was informed that the rail line was not “abandoned.”

3-15-22 Staff Response: While DOT’s communication did not specifically state the corridor was formally abandoned, by the Appraiser’s own words He concluded the corridor was a “former rail line abandoned for active railroad use.”

Furthermore USPAP Standard 1-2(b) requires the Appraiser to “Identify the intended use of the appraiser’s opinions and conclusions.”

Intended Use: Establish market value estimate for potential acquisition of 11.2 acres or 5,500 +/- linear foot abandoned rail line owned by Connecticut Southern Railroad, Inc. extending from Main Street at the west to Colonial Road to the north east, identified by the Manchester Assessor as 181 Colonial Road. (Assessors Map 50 Block 1230 Lot 181)

From the inception of this assignment, utilization of the word “abandoned” has resulted in the Appraiser providing an Appraisal based on a factually incorrect premises.

Please clarify if DOT was fully aware of the formal status (active) of the rail corridor, why would DOT present information to the DOT Appraiser that it was abandoned?

c) Would the Appraiser’s conclusions/opinion be different had DOT represented to the Appraiser that the railway was not abandoned?

DOT Response: Same answer as "b" above.

Staff Response: See #b above.

3-15-22 Staff Response: As discussed in the Meeting, and Staff agree, an appraisal of an ‘active’ rail corridor will likely yield a higher market value, but absent DOT re-engaging the Appraiser, or retaining a new Appraiser, the Board has no way to ascertain what the value implications are with respect to an active/inactive rail corridor.

Why hasn’t DOT asked their Appraiser to revisit the Appraisal?

d) Was a second Appraisal required under DOT policy/regulations?

DOT Response: No.

Staff Response: OK

3-15-22 Staff Response: Upon further review of the DOT's "Letter of Appraisal Assignment and Acceptance" to the Independent Appraiser:

You are requested to submit an acceptable appraisal report on the States' approved eminent domain format, and under the provisions of the executed agreement on each of the following files at the indicated fees subject to the provisions on the reverse side of this letter. If the estimated value is anticipated to exceed \$250,000 on a release appraisal, or if the damage is anticipated to exceed \$500,000 on an acquisition appraisal, please notify the Appraisal Section Supervisor immediately, so that we can assign a second appraiser for this file. All appraisals written for the State must be prepared in conformity with the Appraisal Foundation's *Uniform Standards of Professional Appraisal Practice*, except to the extent that the *Uniform Appraisal Standards for Federal Land Acquisitions* requires invocation of USPAP's Jurisdictional Exception Rule, as described in Section D-1 of the *Uniform Appraisal Standards for Federal Land Acquisitions*.

DOT requires all Appraisers to inform the Agency if the Damages are anticipated to exceed \$500,000 on an acquisition appraisal so the Agency may assign a second Appraiser to value the property. Upon learning of the Independent Appraiser's conclusions, and upon reviewing the Grantor's Appraiser's conclusions, SPRB believes a second appraisal should have been obtained for this Project.

3-15-22 Staff New Question: On Point #28 of the Appraiser's Appraisal Report (pg 72) the Appraiser referenced Title III, Section 301 (3) of Public Law 91-646. Section 301 (2) states "Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property." Please clarify why the Independent Appraiser was given the following instructions?

As per specific instructions from my client the property owner was not notified of my pending inspection for the purposes of this valuation assignment.

<https://www.govinfo.gov/content/pkg/STATUTE-84/pdf/STATUTE-84-Pg1894.pdf#page=1>
<https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter61&edition=prelim>

3-15-22 Staff New Question: In the original DOT Proposal and subsequently stated in Mr. Obey's 3-11-22 communication, the proposed acquisition was in conjunction with a project for Safety & Operational Concerns on Route 83 in Manchester. DOT advocated during the 3-10-22 SPRB Meeting for the SPRB to approve paying over three times (303%) of their appraised value to the Grantor. This was reiterated in Mr. Obey's 3-11-22 communication:

To be clear, CSO is not moving from its sale price and is resisting updating its appraisal, which would lead to a higher sales price, in hopes of completing this transaction sooner rather than later. This leaves DOT with an option to pay the purchase price of \$1,316,340 or proceed with a \$7,500,000. That is what is presented to the State Properties Review Board.

This project has been in the planning/design phase for at least eight (8) years. Please clarify the following:

What lead to this DOT Project becoming a priority for DOT?

Based on this review of the DOT 3-11-2022 response to Board inquiries, the following communication was delivered to DOT on March 25, 2022:

Thank you for your March 11, 2022 communication detailing the Department of Transportation's (DOT) response to some of the issues raised by the State Properties Review Board (SPRB) at their March 10, 2022 Meeting.

Much of your communication was pertinent to the DOT Appraisal, the Grantor's Appraisal, the significant differences in the Opinions of Market Value concluded by each Appraiser and the Grantor's position that their Selling Price is non-negotiable.

Regarding the DOT Appraisal, it appears the DOT's Letter of Appraisal Assignment and Acceptance provided information to the Appraiser that the property to be appraised was an "...abandoned rail line of approximately 11.2 acres..." clearly affected the DOT Appraiser's development of their Appraisal and Appraisal Report resulting in Assignment Results that are factually incorrect and therefore cannot be relied upon in estimating market value. Furthermore, the Appraiser did not include any Extraordinary Assumption to the effect that it is being appraised as a "former rail line abandoned for active railroad use." This is in contrast to the Grantor's Appraiser not making any reference to the term 'abandoned' in their Appraisal Report.

- 1) With respect to the issue of the Appraisals, SPRB suggests the following:
 - a) Notwithstanding your statements regarding the unknown results of any future Appraisal, the SPRB strongly suggests DOT obtain a new Appraiser to prepare an Appraisal and Appraisal Report, with DOT properly identifying the Property to be appraised and get an updated appraisal from the current appraiser.
 - b) Notwithstanding your previous statement that "DOT reviewed Grantor's appraisal and critiqued internally as is typically for any negotiation" the SPRB strongly suggest that further research into the Corridor Sales utilized by the Grantor's Appraiser be undertaken to ascertain if those sales are even remotely comparable to the subject rail corridor.
- 2) With respect to the DOT Project, it appears to have been in the planning stage since 2014, or earlier, roughly 8+ years ago.
 - a) Please clarify what transpired to create the urgency that this acquisition be acted on quickly after many years of planning/delays?
- 3) In your comments to the SPRB on March 10th, and reiterated in your March 11 communication, it was stated that "CSO is not moving from its sale price" and you further stated that DOT's only options were to expend \$7.5 million to complete the proposed Project or pay the Grantor \$1,381,350, plus any reimbursable expenses. This was a binary choice – spend \$7.5 million vs. \$1.381 million.

SPRB had previously inquired about no-build alternatives to which DOT responded "The "no build" alternative is simply not to build a "project." In order to not build a project, the crossings must be eliminated. To ensure the crossings are eliminated and never reinstalled, the rail line needs to be abandoned. The Railroad will not abandon the line without DOT agreeing to purchase."

- (a) DOT has yet to answer the SPRB inquiry regarding what other options were considered in lieu of the \$7.5 million project. Were any other options considered that were cost effective and would save tax payers' money? Were any other no-build option/s considered?
- (b) In light of DOT's perceived position that there are no other no-build alternatives, please clarify if the provisions of CGS 14-250 (d) and 49 CFR 392.10 (b) provide another low/no-cost-alternative. The SPRB believes that given the overall condition (likely unpassable in areas) of the 5,500 linear feet rail corridor in question, the lack of any rail crossings at either Main/Oakland Streets, the lack of any potential rail customer east of Main Street and the terminus of the rail corridor at Colonial Rd all contribute to potential exemptions referenced in State Statute and corresponding federal regulations.

- 4) DOT has not responded to the SPRB inquiry regarding the provision of traffic report suggesting congestion and safety concerns, which DOT is trying to address.
- 5) Based on your communication and upon further review of the Appraisal, the Appraiser, on Point #28 of the Appraiser's Report (pg 72), referenced Title III, Section 301 (3) of Public Law 91-646. Section 301 (2) states "Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property." Please clarify why the Independent Appraiser was given the following instructions?

As per specific instructions from my client the property owner was not notified of my pending inspection for the purposes of this valuation assignment.
- 6) Assuming that the Board approves this proposal, what are the next steps and schedule? How long will it take to eliminate the crossing and resume normal traffic?
- 7) Has the Grantor filed a "system diagram map" with STB? Has the Grantor filed any type of notice with the DOT Commissioner or the Governor's Office related to the abandonment of the RR crossing?

DOT's Terry Obey, Director of Rights of Way, responded to the Board Communication on 3-25-2022 as follows:

Gentlemen,

I have reviewed the questions and want to reiterate that this is a proposed purchase, not an acquisition by DOT. Therefore, there is little leverage to offset the Grantor's sales price.

DOT has already stated it cannot reconcile the corridor factor, which is the only reason for the divergence in the DOT and CSO appraisal. DOT has also already stipulated that DOT's appraisal would likely have a higher corridor factor for a "live" railroad rather than "abandoned" as stated in the DOT appraisal, this would make the DOT appraisal higher. However, I doubt that DOT would ever get an appraisal to agree with CSO's corridor factor. And I don't see how DOT obtaining another appraisal changes the sales price. While DOT's appraisal has inaccurate information, it contains valid information relative to the discussion of the sales price and CSO's appraisal. And the extrapolation of information to justify the transactions can be easily gleaned from this appraisal. Regardless, extensive discussions with CSO have occurred over several years and the sales price is the sales price.

To be clear, DOT has 3 options; 1)build the \$7.5M project, 2)purchase the section of the rail line to avoid the \$7.5M project, 3)or do nothing and leave the condition as is. There are no other options.

CSO is only abandoning this corridor as part of this purchase. Otherwise, the line will remain active. CSO has no need to notify DOT or the Governors Office if it is not selling the line. And if it sells it to the DOT, we are obviously notified.

Some preliminary activity has occurred by CSO with STB but status is unknown. Further, I don't understand how this information is relevant to SPRB for approval. All process and procedures for a successful closing occurs well after SPRB approval for all transactions. The STB process is a required process for closing. An SPRB approval does not guarantee a transaction will be consummated. It only means DOT has obtained statutory approvals.

The urgency for the transaction is due to the age of the appraisals. CSO's appraisal is several years old. CSO has indicated that delays would result in them updating their appraisal. In today's market, it is a foregone conclusion that an updated CSO appraisal will result in a higher sales price. DOT is expediting to keep the sales price down.

DOT will attend the meeting to further discuss these questions and any others that come up.

Thank you
Terry Obey
Director of Rights of Way

RECOMMENDATION: It is recommended that the Board take into consideration the responses from DOT and additional information that DOT and others may present at the meeting in determining their action on this proposal.

Action: After the review of the information in this memo and presentation from DOT including Rep. Luxenberg's background on the project, the proposal was suspended pending receipt of a communication from the DOT Commissioner regarding:

- (1) Substantiate spending \$7.5 million in tax payers funds for the construction project as the only option available to DOT or spending \$1,381,350 in acquisition costs
- (2) Provide traffic data/report that shows the traffic concerns at this rail road crossing that are being addressed by DOT

It was agreed at the meeting that the responses provided by Terry Obey, Director of Rights and Way as it relates to the huge divergence (300%) between the DOT and CSO appraisers will serve as justification for not correcting the DOT appraisal or seeking a new appraisal. Therefore, this topic will not be covered in the Commissioner's letter to the Board.

From March 10, 2022 Meeting

It is noted that this Proposal was identified on the Agenda as "For Discussion Purposes Only." Members will not be voting on this Proposal at today's Meeting.

At 9:35 Mssrs. Obey, Degen and Arsenault joined the Meeting to participate in the Board's discussion of this DOT Proposal. All left the meeting at 11:55.

DAMAGES/SETTLEMENT: \$455,000/\$1,381,350 (plus STB filing & Equip. Removal - \$151,000)

Project Background

This DOT Project will address traffic operational concerns while improving vehicular, bicycle and pedestrian safety along Route 83, Oakland Street and intersecting Roadways within the project limits.

The rail line is located between the two closely spaced four-way intersections of Oakland Street at Old North Main Street and Woodbridge Street. In addition, the rail line crosses Main Street, creating a second rail crossing a short distance to the West. The presence of the rail line and rail crossings requires vehicles to stop creating congestion and safety issues.

Various design options were considered, however the presence of the rail line posed significant challenges in realizing the project objectives. In an effort to mitigate these issues and to find a cost-effective solution, the Department chose the "no build" alternative which requires the acquisition of the Rail Corridor. This acquisition will eliminate the need for an expensive construction project and allow for inexpensive modifications to the existing intersections. As an added benefit, the acquisition of this Rail Corridor will allow the Department to close a critical gap in the existing multi-use trail network under future project activities.

Prior to electing the “no build” alternative, the DOT Project would have constructed two separate roundabouts. This option had certain design limitations and was significantly more expensive with an estimated total project cost of \$7,500,000.



Under this Proposal (PRB #22-031) DOT is seeking SPRB approval of an Administrative Settlement for the State’s acquisition of an 11.2 acre railroad right-of-way extending from approximately 250’+ west of Main Street (Rt 83) approximately 5,500 linear feet east to Colonial Road. The DOT states the negotiated price of the real estate to be acquired is \$1,381,350. Additional payments under the Administrative Settlement to the Grantor include reimbursement of an expense for the administrative process of abandoning the rail line through the federal Surface Transportation Board (estimated at \$75,000, reimbursed based on DOT review of actual bills) and reimbursement of the expense for the Grantor to remove certain railroad equipment (estimated at \$76,000, reimbursed based on DOT review of actual bills).

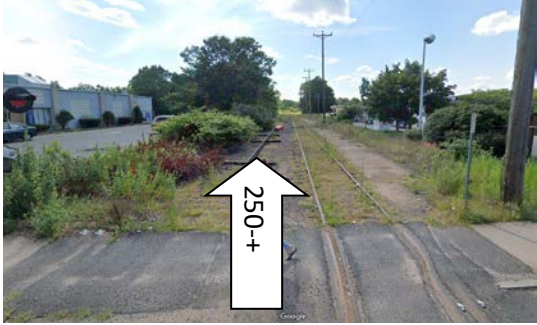







In accordance with Federal law, a common carrier rail line cannot be abandoned and rail service cannot be discontinued without prior authorization from the Surface Transportation Board (STB). This is a pre-requisite to the proposed acquisition and requires cooperation and agreement from the owner/operating railroad.

DOT also noted that the Department does not have the authority to unilaterally acquire the Rail Corridor via condemnation and to complete this acquisition negotiations with the Grantor were required.

Subject Property Description, Before the Taking: The subject property (per Appraiser) consists of a abandoned railroad corridor consisting of a 11.2-acre (487,872 square feet) strip of land approximately 5,500 feet in length the runs generally from Main Street to Colonial Road. The property is located in three different zones:

Business Zone	1.7 acres	74,052 +/- SF
Industrial Zone:	4.4 acres	191,664 +/- SF
Residential Zone	5.1 acres	222,156 +/- SF

The Appraiser utilizes the Extraordinary Assumption that ‘the subject abandoned rail corridor will continue to be subject to reserved subsurface and surface easements as specified in the deed transferring ownership to Connecticut Southern Railroad.’

 <p>RR Crossing at Main Street, looking westerly</p>	 <p>RR Crossing at Main Street, looking easterly</p>
<p>Buried railroad track looking west in residentially zoned area at Mitchell Drive</p> 	<p>Buried railroad track at Mitchell Street looking east</p> 
 <p>Oakland St intersection (courtesy: Google 10/2021)</p>	 <p>Oakland St intersection (courtesy: Google 10/2021)</p>
 <p>Terminus of acquisition at Colonial Rd</p>	 <p>Beginning of Hop River State Park Trail at Colonial Rd</p>

The Appraiser states the rail corridor is improved with ballast stone, railroad ties and welded single track rails, with one bridge span over Lydall Brook. The Appraiser also states there are no other structures, and no contributory value is allocated to any of the existing improvements. The property contains or

may contain underground communications lines, and the future use of the communication lines, existing or proposed will run with the property if sold by Connecticut Southern Railroad.

The Appraiser’s opinion of Highest and Best Use is as follows:

In my opinion the highest and best use is maintenance of the continuity of the corridor as this corridor, if acquired, would extend the 20 +/- mile Hop River linear State Park trail system. Partition to abutters in my opinion is not the highest and best use as less than fee simple rights would be acquired in any partition sales action, considering the permanent easements in place..

Before Valuation: An appraisal was prepared by independent DOT appraiser Howard Russ as of July 11, 2018.

The Appraiser utilized an “Across The Fence” (ATF) method of valuation to appraise the rail corridor. This method assumes that the value of the land within the corridor is at least as valuable as the land adjacent to the corridor.

The Dictionary of Real Estate, 5th Edition, defines the ATF method as follows; “is used to develop a value opinion based on a comparison to abutting land.”

In light of the three different zones, the Appraiser analyzed different sales of land for each of the three different zones. All comparable properties were located in Manchester. The Appraiser concluded a per square foot value for each of the zones as follows:

Commercial	\$6.00
Residential	\$3.00
Industrial	\$1.00

The Appraiser researched and provided sales of abandoned railroad corridors. Data is limited, but he identified four sales in Manchester, as follows:

178	Colonial Rd	Manchester	1.797	\$60,000	\$0.77
	Middle Tnpk	Manchester	4.01	\$55,000	\$0.31
44	Hilliard St	Manchester	0.64	\$170,000	\$6.10
265	Center	Manchester	5.30	\$107,000	\$0.46

Russ concluded the following:

In my opinion the above analysis comparing abandoned railroad corridor sales to similar time frame buildable land sales in comparable zones in Manchester would support an overall corridor factor of 35%, or a reduction of 65% from buildable sales data.

Thus the calculated value across the fence for the subject 11.2 acre corridor is as follows:

	AC	SF / AC	SF per Zone	\$ / SF ATF		Corridor Factor	VALUE Across the Fence
Commercial	1.7	43,560	74,052	\$6.00	\$444,312	0.35	\$155,509
Residential	5.1	43,560	222,156	\$3.00	\$666,468	0.35	\$233,264
Industrial	4.4	43,560	191,664	\$1.00	\$191,664	0.35	\$67,082
							\$455,855
						round	\$455,000

The Taking: DOT will acquire the property in its entirety, subject to the subterranean easements in place.

After Valuation: \$0

Staff inquired with DOT regarding the following issues:

1. Is the DOT's submission of this acquisition to the SPRB premature in that the federal Surface Transportation Board (STB) has not approved of abandoning this railway line?

DOT Response: No.

Staff Response: OK

2. Based on photographs provided in the Appraisal Reports, does DOT have any data regarding the last time the railway crossing signals were activated?

DOT Response: No

Staff Response: Pictures from the Appraisal and those available on line via Google reveal the rail line is overgrown in several areas indicating lack of use.

3. If the DOT was unable to condemn the railway land due to federal Surface Transportation Board rules/policy prohibiting abandonment of an active railway line, please clarify why DOT accepted the Grantor's Appraiser's value conclusions without critical/written review.

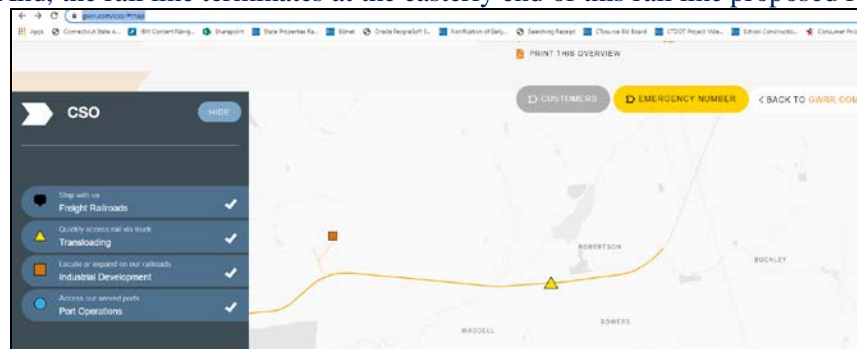
DOT Response: DOT reviewed Grantor's appraisal and critiqued internally as is typically for any negotiation.

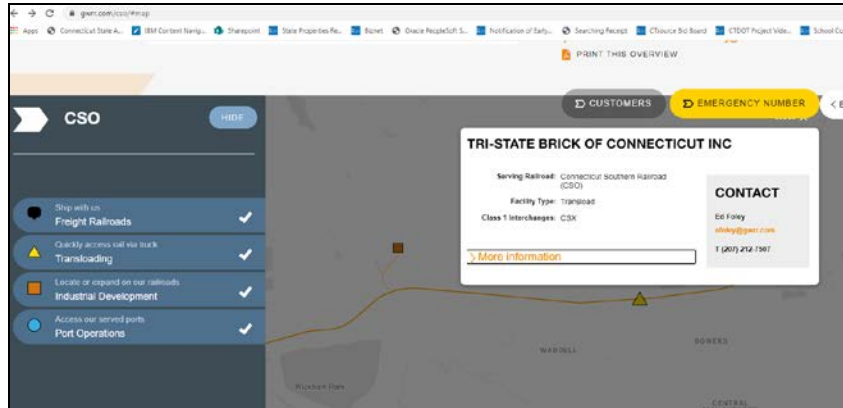
Staff Response: No Appraisal Review report of the Grantor's was provided to SPRB.

4. The original DOT Project appears to have been in the planning stage since 2014, or earlier, roughly 8+ years ago. Please clarify what other 'no-build' projects were considered as an alternative to the original Project. Were any 'no-build' projects considered under the premises that the railway line remains but is not active?

DOT Response: The "no build" alternative is simply not to build a "project." In order to not build a project, the crossings must be eliminated. To ensure the crossings are eliminated and never reinstalled, the rail line needs to be abandoned. The Railroad will not abandon the line without DOT agreeing to purchase.

Staff Response: It appears that DOT is seeking SPRB approval to expend \$1,381,350 based on value conclusions obtained by the Grantor's Appraiser that is three times more than the appraised value (\$455,000) as determined by their own independent Appraiser to effect these improvements in Manchester. It appears that the owners of the rail line have allowed this portion of the railway to become dormant – that is not currently utilized, but also not formally abandoned – as it is not economically viable to operate. Furthermore, the owner of the rail line identifies that the last point of activity on the line is at 71-R Hilliard St, which is west of the westerly-most area of the proposed acquisition. And, the rail line terminates at the easterly end of this rail line proposed for acquisition.





<https://www.gwrr.com/cso/#map>

<https://www.gwrr.com/transload/tri-state-brick-of-connecticut-inc/>

5. If the intent of the DOT Project is to effect Safety & Operational Concerns on Route 83 in Manchester, and the DOT presented this land as abandoned, why is it necessary to acquire the railroad right-of-way to implement the Project?

DOT Response: The rail line has not been formally abandoned by STB.

Staff Response: DOT is correct that the line has not been formally abandoned. However, DOT cannot quantify how many rail crossings have occurred, and possible when the last time a rail crossing occurred (see #4 above too).

6. The DOT Taking Maps prepared in 2021 identifies two areas to be acquired totaling 9.297 acres (11,650 sf & 9.03 acres). The DOT Appraiser states 11.2 acres throughout the Report and the Grantor's Appraiser 10.62 acres (+.26 ac added to account for west of Main St). Please clarify the following:

- a) How did DOT determine the land area to be acquired was 11.2 acres? Was there an earlier version of the 2021 Taking Map identifying the areas to be acquired?

DOT Response: No.

Staff Response: OK

- b) Did DOT utilizing their Mapping Software to assist in determining the areas contained within each of the three zones in Manchester?

DOT Response: No, these determination were made by the appraiser as is typical.

Staff Response: OK

- c) During the negotiations, did DOT provide the Grantor with the actual land area to be acquired as evidenced on the Taking Maps for purposes of establishing the proper facts of the acquisition?

DOT Response: Yes.

Staff Response: DOT states the actual land area to be acquired, as evidenced by the Taking Maps, was provided to the Grantor, yet continue to represent the area is 11.2 acres, not the actual 9.297. If the State were to proceed with acquiring the rail ROW is it in essence overpaying for nearly two acres of land as the Grantor's Appraiser stated 10.62 acres, but did not include 0.26 acre west of Main St?

7. In the Letter of Authorization to the DOT Independent Appraiser it was stated that the rail line was abandoned and that information was utilized throughout the Appraisal Report. In this Administrative Settlement it is presented to the Board that the rail line is not abandoned. Please clarify the following:

- e) What information was utilized by DOT to inform the Appraiser the rail line was abandoned?

DOT Response: The term "abandoned" in DOT's appraisal assignment and acceptance document was used in terms of the appearance and condition of the corridor and not to suggest legal STB abandonment. A review of the corridor identified a large portion was

overgrown, not currently in use and with no potential customers to suggest possible future use.

Staff Response: It appears this may conflict with the Grantor’s Appraisal as no references to the rail line being “abandoned” were referenced in the Grantor’s Appraisal Report.

- f) Upon learning from the Grantor the rail line was not abandoned did DOT policy require that the Appraiser revisit their Appraisal Report and Conclusions?

DOT Response: The appraiser was not provided any information to suggest the corridor was formally abandoned by STB and the appraisal report was completed accordingly.

Staff Response: What would the impact on the DOT appraisal if the Appraiser was informed that the rail line was not “abandoned.”

- g) Would the Appraiser’s conclusions/opinion be different had DOT represented to the Appraiser that the railway was not abandoned?

DOT Response: Same answer as "b" above.

Staff Response: See #b above.

- h) Was a second Appraisal required under DOT policy/regulations?

DOT Response: No.

Staff Response: OK

8. Was any formal review (per USPAP standards) of the Grantor’s Appraisal Report undertaken, including a review of the 12 sales (2002-2013) in support of the Corridor Factor?

DOT Response: No formal review was completed as its not required by USPAP. Of course DOT reviewed and critiqued Grantor's appraisal internally as is typical.

Staff Response: It is difficult to draw any conclusions with respect to the veracity of the Grantor’s data utilized in the report, as well as the corresponding Corridor Factor in the report.

Sale	Date	Location	Seller	Buyer	Sale Price	ATF Value	Length	Corridor Factor	Intended Use
1	12/2002	Columbia County New York	Peschel	Columbia Land Conservancy	\$70,000	\$52,500	1.04 miles	1.33	Recreational Trail
2	1/2004	Albany County New York	Delaware and Hudson Rail	Village of Green Island	\$329,960	\$271,000	1.18-miles	1.22	Recreational Trail
3	11/2005	Sullivan County New York	Lafarge North American	NY-NJ Trail Conference	\$223,000	\$237,500	3.20-miles	0.94	Recreational Trail
4	6/2003	Wake County North Carolina	CSX Transportation	Research Triangle Regional Publix	\$22,080,000	\$9,435,000	6.94-miles	2.34	Public Transportation
5	6/2009	Boulder, Colorado	Union Pacific Rail	Denver Regional Transportation	\$117,637,821	\$98,850,000	32.7-miles	1.19	Future Mass Transit
6	10/2008	Sudbury, Massachusetts	RR Company	Town of Sudbury	\$700,000	\$500,000 to \$583,333	1.275-acres	1.2-1.4	Recreational Trail
7	11/2000	Watertown, Massachusetts	RR Company	Comm. Of Massachusetts	\$1,700,000	\$1,416,867	5.77-acres	1.20	Urban Bike trail
8	9/2002	Scituate, Massachusetts	Town of Scituate	Mass Bay Trans. Authority	\$3,080,000	\$2,565,000	5.05-miles	1.20	Commuter Rail expansion
9	12/2011	Toledo, Maumee, Perrysburg, Ohio	CSX	Trust of Public Land	\$6,571,534	\$6,180,000	105.12-acres	1.06	Multi use trails
10	6/2012	Poughkeepsie Dutchess County New York	CSX	Dutchess County	\$1,150,000	\$932,194	0.9-miles	1.23	Link to walkway over Hudson
11	12/2010	Gilchrist County Florida	State of Florida	Trust for Public Land	\$2,787,200	\$2,229,780	9.33-miles	1.25	Recreational coast trail
12	5/2013	Watertown/Cambridge, MA	N/A	Commonwealth of MA.	\$1,300,000	\$1,920,000	0.67-miles	0.86	Urban bike trail w/ 20 telecom easement

9. Under DOT Project #131-203-001 (Southington), DOT acquired a railway bed containing 194,893 sf for \$500,000 (2-14-2020 QC Deed 1471/796). This land consisted of commercially and industrially zoned land and the DOT Appraiser utilized a .65 Corridor Factor. Please clarify if DOT inquired with their Appraiser regarding the differences in the two Corridor Factors. Please provide an explanation regarding the differences in the selection of the two Corridor Factors for Manchester and Southington?

DOT Response: No we did not. Please provide an explanation regarding the differences in the selection of the two Corridor Factors for Manchester and Southington? These are two separate appraisal reports on different projects valuing different corridors. The respective reports provide the explanation and justification for the individual valuations.

Staff Response: OK

10. The Grantor’s Appraiser utilized 12 nationwide sales (all beyond CT) in concluding a 1.2 Corridor Factor, 3.4 times that of the DOT Appraiser’s .35 Corridor Factor. Please clarify the following:
a) How does DOT reconcile the variance between the two Corridor Factors?

DOT Response: We don't. Both are based on the opinion of independent appraisers.
Staff Response: See #8 above.

- b) If the Grantor's Appraiser utilized sales that took place between 2002 and 2013, did DOT object to the fact that the Grantor's Appraiser failed to acknowledge similar market sale(s) right in the immediate market area, as evidenced by the DOT's own Appraiser?

DOT Response: Yes.
Staff Response: OK

4. REAL ESTATE – NEW BUSINESS

PRB #	22-024
Transaction/Contract Type:	RE – Release
Origin/Client:	DOT/DOT
DOT Project #:	082-287-002C
Grantee:	Stone Point Properties, LLC
Property:	Middletown, Washington St (733) @ Boston Rd
Project Purpose:	Release of Slope Easement Maintained under 082-287-002A
Item Purpose:	Release of Easement Deed

Exchange Price: \$7,000 (plus \$1,000 Administrative Fee)

Project Background

At the October 9, 2012 SPRB Meeting the Board approved, under PRB #12-235, the Sale by Public Bid proposed by DOT for the release of a 13,180 square foot parcel for \$45,000. The Release Parcel was the remainder of two residential properties acquired by DOT in 2003, via condemnation, for intersectional improvements. Two homes were demolished as part of the DOT project. The neighborhood is mostly residential on the north of Route 66, and mostly commercial on the south side of Route 66.

The Release Parcel, formally conveyed in January 2013, is irregular in shape, with 84 feet of frontage on Washington Street (access denied) and 155 feet of frontage on Boston Road (access denied along 40 feet near intersection). The land slopes up from street level. The State retained a Slope Easement along the frontage, but within the zoning setback requirements.

Previously in 2012, under PRB #12-046, the Board approved a Release of 5,903 SF of vacant land acquired for the DOT project in 2003 to the Town of Middletown for highway purposes.

Under this Proposal (PRB #22-024), DOT seeks SPRB approval to release the Slope Easement retained in 2012 over a total area of 2,320 square feet on a 13,467 square foot site (per 2013 survey). The negotiated fee for the conveyance is \$7,000 plus a \$1,000 Administrative Fee.

The property owner, identified as 733 Washington Street, LLC, acquired the property in June 2018 for \$100,000 (\$7.43/sf). The unimproved site was previously approved for construction of a two-story office building containing 2,664 square feet.



View looking southwesterly.



Southerly portion of remaining land of Corson.

Short Form/Letter Valuation – With the release of this Slope Easement, DOT Appraiser James P. Mansfield estimated the market value of the 13,467 square foot site as of July 29, 2020. The Appraiser concluded the market value of the subject property was \$8.00/square foot.

The Middletown Assessor valued the property for \$90,750, or \$6.72/sf (100%), during the last revaluation (2020).

The Appraiser then calculated the value of the land within the slope easement over the site, calculated as follows:

Item	Calculation	Value
Slope Easement Release	2,320 sf x \$8.00/sf x 35%	\$6,496
	Rounded	\$6,500

Release Negotiations

The proposed release of the Easement to Drain is located on land owned by Stone Point Properties LLC. Stone Point Properties LLC has requested the release of this Easement to Drain in order to support the development of their property located at 733 Washington Street in Middletown.

Staff appraiser Mr. James Mansfield valued the release of the Easement to Drain on July 29, 2020, whom determined the value to be \$6,500.00. This valuation was accepted and registered by the Department on August 7, 2020.

On June 25, 2021, Michael Fleischmann of Stone Point Properties LLC was presented with an asking price of \$10,000.00 for the release of the Easement to Slope. On July 1, 2021, Stone Point Properties, LLC presented the Department with a counter offer of \$4,000.00, which was reject by this office as it is not within a reasonable range of the appraised value. On July 1, 2021, Stone Point Properties LLC presented their highest and best offer in the amount of \$7,000.00 which was accepted by this office. A \$1,000.00 Administrative Fee will be collected at closing.

Staff inquired with DOT for clarification of the following issue:

- Please clarify if the Easement Deed, as drafted, can release/extinguish the easement to slope to Stone Point Properties, LLC when the parcel is currently owned by 733 Washington Street, LLC (both related entities).

Recommendation – Staff recommend the Board suspension of this Proposal pending DOT response to the aforementioned issue.

From PRB #12-235

TO: STATE PROPERTIES REVIEW BOARD

FROM: MG

DATE: October 3, 2012

SUBJECT: PRB #12-235 DOT Sale via Public Bid of 13,180 SF (0.30 acres) of land vacant land
Location: Route 66, Washington Street, at Boston Road, Middletown
Grantee: Sandro Labbadia and Theresa Spillane
Sale Price: \$45,000

Subject Property Description – The release parcel is the remainder of two residential properties acquired by DOT in 2003 for intersectional improvements. The parcel is irregular in shape, with 84 feet of frontage on Washington Street (access denied) and 155 feet of frontage on Boston Road (access denied along 40 feet near intersection). It was requested by the abutter to the west, 761 Washington St. L. L. C.

The release parcel will have access along about 113 feet of Boston Road. All public utilities are available. The land slopes up from street level. The State will retain a slope easement along the frontage, but within the zoning setback requirements.

The site was created from the remnants of two residential lots. Two homes were demolished as part of the DOT project. The neighborhood is mostly residential on the north of Route 66, and mostly commercial on the south side of Route 66.

Valuation – DOT appraised the property, with the assumption that a curb-cut would be allowed along the Boston Road frontage. The DOT appraiser, Anthony J. DeLucco, determined that the property could be developed without the necessity to assemble it to an adjacent site. The zone allows for residential or commercial uses, such as a residential business or professional offices. Mr. DeLucco compared the property to three vacant, non-residential lots ranging in size from 5,628 SF to 43,560 SF. After making adjustments for declining market conditions, the slope easement, restricted access and possible uses allowed by zoning, the sales indicated a value range between \$3.52/SF to \$5.44/SF. He concluded \$4.50/SF, or \$59,500 (10/4/2011).

The Public Bids – Mr. Obey’s memorandum to Mr. Harley (May 29, 2012) explains his office’s acceptance of a bid of \$45,000 for the property. An unsuccessful public bids was held in February 2012, when the sole response was from the requestor, who submitted a bid for \$22,100. Responding to inquiries about the property, a second bid was held in May 2012. The requestor raised his bid to \$35,000 but was out bid by this Grantee, who offered \$45,000, which is 76% of appraised value.

Recommendation - Board approval to Quit- Claim the subject 13,180 sq. ft. of vacant mixed-use land at the sale price of \$45,000 is recommended for the following reasons:

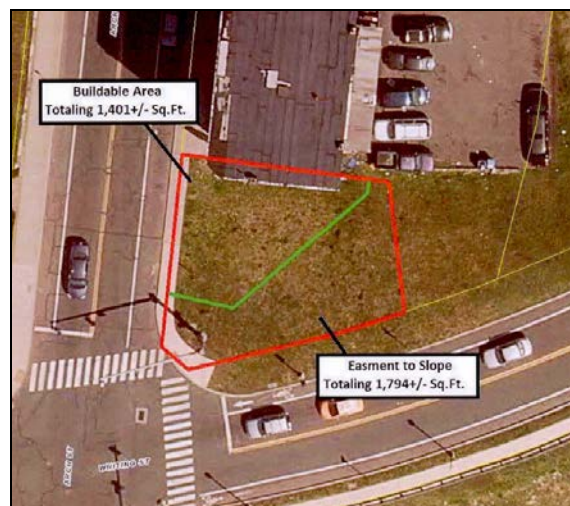
1. The proposed sale complies with Sections 4b-21, 3-14b, and 13a-80 of the CGS. In order, DPW, OPM, DDS, DECD and DEP declined an offer to acquire custody & control. The Town of Middletown declined to purchase, as did the prior owners. The legislative delegation was notified of the sale.
2. The property was adequately exposed to the market through two public bids.
3. In accepting the current proposal, the State would receive 76% of appraised value.
4. The sale would end the state’s requirement to maintain the property and the Town of Middletown would gain property tax income.



PRB # 22-025
Transaction/Contract Type: RE – Sale by Public Bid
Origin/Client: DOT/DOT
DOT Project #: 88-160-7A
Grantee: 414 Arch Street, LLC
Property: New Britain, Arch Street (414)
Project Purpose: Sale by Public Bid
Item Purpose: Quit Claim Deed

Sale Price: \$10,000 plus \$1,000 Admin Fee

Description – The release parcel consists of an irregular shaped vacant parcel that contains 3,194± square feet or 0.07± acre, with approximately 51 feet of frontage on the east side of Arch Street and an additional 47 feet of frontage on the north side of Whiting Street. The subject property is located within the CBD zone, allowing for a variety of commercial and residential uses. A slope easement in favor of the City of New Britain encompasses 1,794 square feet of the site.



Public utilities include electric, natural gas, water and sewer.

The Appraiser opined the Highest and Best Use of the property, as vacant, is for mixed use structural development within the confines of the CBD zone.

The valuation of the subject property is subject to the following Extraordinary Assumptions and Hypothetical Conditions:

6. **Extraordinary Assumptions necessary for the assignment** - The subject is remnant land that is owned by the State, and is being valued with the Extraordinary Assumption that the subject Release Parcel within the scope of work is a legal, conforming building lot and as outlined as per the DOT property map attached within this report. As per Lisa Levesque, an engineer with the Connecticut Department of Transportation, the area encompassing the Easement to Slope totals 1,794± square feet. If the assumptions made within this report are proven to deviate from what is outlined, the appraiser reserves the right to change or alter the final opinion of value. No other assumptions or conditions were necessary for the execution of this assignment.
7. **Hypothetical Conditions necessary to arrive at value** - The methodology used in this report is a standard state Land Appraisal Report format. The appraisal considers that there is a willing seller and buyer in the assemblage of the release parcel with the subject property. No other conditions were necessary to arrive at a value.

Valuation – With the release of this parcel via a Sale by Public Bid, DOT Appraiser Steven C. Miller appraised the property, as of February 4, 2020. Based on the sales comparison approach, the Appraiser utilized three similarly-zoned sales of land in New Britain that sold between 2018 and 2019, and concluded the fair market value of the property was \$1.75/square foot, or \$5,590, rounded to \$5,600.

ITEM	SUBJECT PROPERTY	COMPARABLE NO. 1		COMPARABLE NO. 2		COMPARABLE NO. 3	
Address	414 Arch Street New Britain, CT 06051	574 Arch St New Britain, CT 06051		195 Oak St New Britain, CT 06051		30 S High St New Britain, CT 06051	
Proximity to Subject		0.20 miles S		1.38 miles NE		0.42 miles N	
Sales Price	\$	\$ 2.97 per Sq. Ft.		\$ 2.61 per Sq. Ft.		\$ 6.43 per Sq. Ft.	
Price \$/Sq. Ft.	\$	\$ 37,500		\$ 34,000		\$ 48,000	
Data Source(s)	Town Records, Insp	Town Records, Vol2000Pg271		Town Records, Vol2033Pg113		Town Records, Vol2017Pg599	
ITEM	DESCRIPTION	DESCRIPTION	+(-)\$ Adjust.	DESCRIPTION	+(-)\$ Adjust.	DESCRIPTION	+(-)\$ Adjust.
Date of Sale/Time Adj.	Feb. 6, 2020	Aug. 16, 2018		Oct. 28, 2019		April 1, 2019	

Public Bid & Negotiations – The public bid was held on August 26, 2020, with an asking price of \$10,000. No responses were received. A \$10,000 offer from Spencer Tracy of 414 Arch Street, LLC was received on May 6, 2021, which was accepted by DOT.

<https://portal.ct.gov/DOT/Properties/Active-Public-Bids/088-160-007A-New-Britain-Item-No-851>

From the DOT narrative:

Attached is the deed and pertinent mapping for the proposed conveyance of 3,194± s.f. of land. The parcel is located on the northeastern side of Arch Street at Whiting Street in the city of New Britain to 414 Arch Street LLC.

The property was appraised on February 2, 2020 by staff appraiser Steven Miller who determined the value to be \$5,600.00, which was accepted and registered by the Department on February 18, 2020.

On August 26, 2020, a Public Bid was held with a minimum asking price of \$10,000.00, which resulted in no bids. On May 6, 2021 an offer was submitted from Mr. Spencer Tracy in the amount of \$10,000.00, which was accepted by this office. A \$1,000.00 Administrative Fee will be collected at closing.

Recommendation – Staff recommend approval of the proposed Sale by Public Bid in the amount of \$10,000 (plus \$1,000 Admin Fee = \$11,000 in QC Deed) for the following reasons:

- The proposed sale complies with Sections §3-14b, and §13a-80 of the CGS in that the City of New Britain declined to purchase and the legislative delegation received the required notification on January 2, 2020.
- The release value of \$10,000 is 179% of the appraised value, and it will return the property to the New Britain tax rolls and relieve the State of all future expenses.
- The description in the Quit Claim Deed is consistent with the survey map filed in the New Britain Land Records.



5. ARCHITECT-ENGINEER - UNFINISHED BUSINESS

6. ARCHITECT-ENGINEER - NEW BUSINESS

PRB # 22-047
Origin/Client: DCS/DCS
Transaction/Contract Type AE / On-Call Claims Analyst Consulting Contracts
Contract: OC-DCS-ANLY-0025
Consultant: Arcadis, U.S., Inc.
Item Purpose: Amendment for Time

PRB # 22-048
Origin/Client: DCS/DCS
Transaction/Contract Type AE / On-Call Claims Analyst Consulting Contracts
Contract: OC-DCS-ANLY-0026
Consultant: Ankura Consulting Group, LLC
Item Purpose: Amendment for Time

PRB # 22-049
Origin/Client: DCS/DCS
Transaction/Contract Type AE / On-Call Claims Analyst Consulting Contracts
Contract: OC-DCS-ANLY-0027
Consultant: Urban Engineers, Inc.
Item Purpose: Amendment for Time

Prior to beginning the review of these Proposals, the Board was informed that the On-Call Series in the Agenda should read ‘Amendment for Time,’ not ‘New On-Call Contract’ as posted.

At the State Properties Review Board meeting held on January 9, 2020, the Board approved PRB Files #19-267 to #19-269, three Consultant Contracts under the 6th series of On-Call Claims Analyst Consulting Contracts awarded by the Department of Construction Services (“DCS”) since 2004. The three (3) On-Call Contracts approved had a maximum total cumulative fee of \$500,000 per contract and a common expiration date of 4/15/2022.

Under this Proposal (22-047 to 22-049), DCS is now resubmitting these Firms to the Board for approval under Contract Amendment #1 to the On-Call Claims Analyst Consulting Contracts to extend the contract expiration date to April 20, 2023. The \$500,000 maximum cumulative fee is unchanged.

Arcadis, U.S., Inc. has been assigned the following Tasks under this On-Call Contract OC-DCS-ANLY-0025:

- None.

Ankura Consulting Group, LLC has been assigned the following Tasks under this On-Call Contract OC-DCS-ANLY-0026:

• Task Letter #1	CCSU New Engineering Building	\$85,060	(Informal)
• Task Letter #1A	CCSU New Engineering Building	\$79,290	(#21-136)
Total Fee to Date:		\$164,350	

Urban Engineers, Inc. has been assigned the following Tasks under this On-Call Contract OC-DCS-ANLY-0027:

• Task Letter #1	CCSU Kaiser Hall	\$116,131	(#21-032)
Total Fee to Date:		\$116,131	

Changes to the On-Call Claims Analyst Consulting Contracts include the following:

- Article II (A) is changed to reflect new Hourly Rates in Exhibit A;
- Article III is changed to extend the termination date to April 20, 2023;
- Expansion of Article XVIII (A) language – Non-Discrimination;
- Removal of Article XVIII (B) language – Executive Orders regarding references to XO 49;
- Expansion of Article XVIII (D) language – Summary of State Ethics Laws to reflect new laws effective July 1, 2021;
- Changes to Article XVIII (E) language – Related to an Attachment Notice for Campaign Contributions;
- Addition of Article XXX language – Large State Contract Representation for Contractor – requiring the Contractor to comply with Acting Governor Susan Bysiewicz’ Executive Order No.21-2, effective July 1, 2021 regarding gifts and the Contractor’s Principals or Key Personnel;
- Addition of Article XXXI language – Large State Contract Representation for Official or Employee of State Agency – requiring the State Official or Employee represents that the selection of a Contractor was not the result of collusion, gift, promise of a gift, etc;
- Addition of Article XXXII language – Iran Energy Investment Certification; and
- Addition of Article XXXIII language – Consulting Agreement Certification.

Arcadis, US, Inc	Existing	Proposed	Change
Executive Staff	\$350	\$350	0%
Senior Staff	\$275	\$290	5%
Professional 2	\$196	\$210	7%
Professional 1	\$160	\$175	9%
Associate 2	\$152	\$158	4%
Associate 1	\$129	\$135	5%
Technician 2	\$100	\$105	5%
Technician 1	\$0	\$0	#DIV/0!
Administrative	\$85	\$88	4%
Ankura/Navigant Consulting	Existing	Proposed	Change
Senior Managing Dir.	\$445	\$445	
Managing Director	\$395	\$395	0%
Senior Director	\$335	\$335	
Director	\$295	\$295	0%
Senior Associate	\$265	\$265	
Associate	\$235	\$235	
Analyst	\$125	\$125	0%
Urban Engineers, Inc	Existing	Proposed	Change
Project Manager	\$300.62	\$300.62	0%
Senior Claims Analyst	\$259.68	\$259.68	0%
Senior Claims Analyst	\$0.00	\$0.00	#DIV/0!
Claims Analyst	\$227.90	\$227.90	0%
Claims Analyst	\$222.04	\$222.04	0%
Claims Analyst	\$200.23	\$200.23	\$0
Schedule/Damages Analyst	\$192.88	\$192.88	
Estimator/Claims Analyst	\$154.50	\$154.50	

Staff asked following question for clarification:

1. In the most recent On-Call Series Contracts, DCS had added Article JJ language – Access to Contract and State Data – requiring the Contractor to provide information to the Client Agency and State Auditors of Public Accounts;

JJ. ACCESS TO CONTRACT AND STATE DATA.

The Contractor shall provide to the Client Agency access to any data, as defined in Conn. Gen. Stat. Sec. 4e-1, concerning the Contract and the Client Agency that are in the possession or control of the Contractor upon demand and shall provide the data to the Client Agency in a format prescribed by the Client Agency and the State Auditors of Public Accounts at no additional cost.

Please clarify if this language should be incorporated into this Amendment.

DCS Response: The language is found on page six of the Amendments.

Staff Response: Yes, the language is on page six of the Amendments.

RECOMMENDATION – Staff recommend **approval** of Amendment #1 to the three On-Call Contracts to extend the common expiration date of to 4/20/2023. The \$500,000 maximum cumulative fee is unchanged.



From PRB Files #19-267 to #19-269

This is the 6th series of On-Call Claims Analyst Consulting Contracts awarded by the Department of Construction Services (“DCS”) since 2004. The three (3) On-Call Contracts that are the subject of this memorandum have a maximum total cumulative fee of \$500,000 per contract and a common expiration date of 4/15/2022. The prior series of On-Call Claims Analyst Consulting Contracts included a total cumulative fee of \$1,000,000 and expired on 6/30/19.

DAS/DCS has made some minor revisions to the boilerplate contract for this series to include:

- Removal of references to Division of Construction Services (DCS);
- Expanded *Indemnification* language;
- Expanded *Suspension of the Work* language;
- Expanded *Termination of Contract* language; and
- Addition of *Notices* clause.

The 5th series, awarded in 2015, had a term of 24 months and a maximum total cumulative fee of \$1,000,000/contract. The on-call contract was extended for 24 months under PRB #17-049 to #17-051. Two of the three firms under this current 6th series RFP submittal have been previously approved for *Claims Analyst Consulting On-Call Contracts*. Arcadis, U.S., Inc. and Urban Engineers, Inc. have previously been awarded a contract under the 5th series. Ankura Consulting Group, LLC acquired Navigant Consulting which was part of the 5th series.

A Request for Qualifications (RFQ) for the consultant services was released on July 12, 2019 and elicited four (4) responses. All respondents were considered “responsive” to the submittal requirements and as such interviewed. The State Selection Panel consisted of three members and rated each firm based upon a weighted ranking system.

At the completion of the State Selection Panel process; DCS Management Team reviewed the results and recommended the approval of three firms under this series.

This proposal before the SPRB is for review and approval of the following three (3) firms under this series.

PRB 19-267 – Arcadis, U.S., Inc. (“AUI”) located in Middletown, established in 1998, has a local staff of 50± employees including 2 project executives, 10+ professional engineers, 9 construction project managers and 4 cost estimators. DCS reports AUI was awarded 12 contracts within the past 5 years with a total \$7,441,502 volume of work.

Over the prior two years, AUI has been awarded the following contracts:

OC-DCS-ANLY-0021

- | | | | |
|-------------------|---------------------------------------|-----------|------------|
| • Task Letter #2 | NWCC Joyner Hall | \$93,836 | (Informal) |
| • Task Letter #3 | ECSU – Fine Arts Instructional Center | \$90,453 | (Informal) |
| • Task Letter #3A | ECSU – Fine Arts Instructional Center | \$123,750 | (#18-014) |

OC-DCS-CA-0025

- | | | | |
|-------------------|----------------------------------|-----------|------------|
| • Task Letter #2 | Silver Sands State Park Phase IB | \$339,969 | (#18-030) |
| • Task Letter #2A | Silver Sands State Park Phase IB | \$10,560 | (#19-121) |
| • Task Letter #3 | Aerospace Elementary School | \$389,460 | (#18-149) |
| • Task Letter #4 | SOB – Renovation & New Garage | \$87,404 | (Informal) |
| • Task Letter #2B | Silver Sands State Park Phase IB | \$75,770 | (#19-246) |

Aon Insurance Company reported that AUI has had 49 professional policy or general liability claims during the past 5 years. Nineteen of these claims are identified as “still open” and did not identify a policy provision reserve. None of these claims are related to State of Connecticut projects. AUI scored a total of 300 out of a possible 310 points and was identified as the most qualified firm.

PRB 19-268 – Ankura Consulting Group, LLC (“ACG”) originally established in 2014 is headquartered in Washington, DC and entered the Connecticut market with its acquisition of Navigant Consulting, Inc (OC-DCS-ANLY-0023). Ankura has a local staff of 11 employees including 2 project executive, 1 professional engineer and 3 cost estimators/schedulers. ACG is locally located in Fairfield. The company has not been awarded an On-call Contract or formal contract with the DCS in the past two years.

The Hanover Insurance Group reported that ACG had no professional policy claims during the past 5 years. ACG scored a total of 300 out of a possible 310 points and was identified as the second most qualified firm.

PRB 19-269 – Urban Engineers, Inc. (UEI) originally established in 1960 with headquarters in Philadelphia Pennsylvania. UEI is locally located in Hartford with a staff of 20± employees including 1 corporate executive, 14 construction inspectors and 4 construction managers. The company has not been awarded an On-call Contract or formal contract with the DCS in the past two years. DCS reports UEI was awarded 1 contract within the past 5 years with a total \$98,825 volume of work.

Lyons Companies reported that the firm has experienced approximately four professional policy or general liability claims during the past 5 years. None of the claims identified involved the State or occurred on a project in Connecticut. Two claims are closed at no cost. UEI scored a total of 295 out of a possible 310 points and was identified as the 3rd most qualified firms.

A summary of the Consultants’ professional fee schedule is as follows:

Arcadis, US, Inc	Current	Proposed	Change
Executive Staff	\$305	\$350	15%
Senior Staff	\$212	\$275	30%
Professional 2	\$174	\$196	13%
Professional 1	\$143	\$160	12%
Associate 2	\$137	\$152	11%
Associate 1	\$112	\$129	15%
Technician 2	\$85	\$100	18%
Technician 1	\$78	\$0	-100%
Administrative	\$75	\$85	13%
Ankura/Navigant Consulting	Current	Proposed	Change
Senior Managing Dir.		\$445	
Managing Director	\$400	\$395	-1%
Senior Director		\$335	
Director	\$360	\$295	-18%
Senior Associate		\$265	
Associate		\$235	
Analyst		\$125	#DIV/0!
Urban Engineers, Inc	Current	Proposed	Change
Project Manager	\$270	\$300.62	11%
Senior Claims Analyst	\$195	\$259.68	33%
Senior Claims Analyst	\$190	\$0.00	-100%
Claims Analyst	\$215	\$227.90	6%
Claims Analyst	\$350	\$222.04	-37%
Claims Analyst	\$210	\$200.23	\$0
Schedule/Damages Analyst		\$192.88	
Estimator/Claims Analyst		\$154.50	

Staff has following questions for clarification:

1. The change in proposed hourly rates varies from 6% to 33% for various roles. What necessitates such increases? Is this comparable to CPI increases?
2. For Urban Engineers, why does Claims Analyst role has different hourly rates? They should create different roles just like other firms.

DCS provided satisfactory response to these issues.

RECOMMENDATION – Staff recommend **approval** of the three On-Call Contracts that have a maximum total cumulative fee of \$500,000 per contract and a common expiration date of 4/15/2022.

From PRB #17-049-#17-051

This series of On-Call Claim Analyst Consulting Contracts was approved by the Board in April 2015 under **PRB Files #15-074 through #15-076**. This was the 5th series of Claims Analyst Consulting Contracts awarded by the Department of Construction Services (“DCS”) since 2004. DCS is now resubmitting three of the four firms to the Board for approval under a contract amendment to extend the contract expiration date from July 30, 2017 until June 30, 2019. The contract for the fourth firm recommended by DCS with Marsh USA, Inc. was not executed due to “Unresponsiveness” by the firm during the contract phase. Due to time constraints and the lack of activity under this contract; DCS is requesting that these contracts be extended for an additional two years. The current maximum contract value will remain at \$1,000,000.

RECOMMENDATION – **Board approval for the following firms to have the contract expiration date extended to June 30, 2019 while maintaining the current contract value of \$1,000,000 is recommended. Each consultant has also provided the required updated Gift/Campaign and Consulting Affidavits accompanied by appropriate Corporate Resolutions.**

PRB # 17-049, Arcadis, U.S., Inc.....Contract #OC-DCS-ANLY-0021
PRB # 17-050, Navigant Consultants, Inc..... Contract #OC-DCS-ANLY-0023
PRB # 17-051, Urban Engineers, Inc.....Contract #OC-DCS-ANLY-0024

The original project submittal memo was as follows:

This is the 5th series of On-Call Claims Analyst Consulting Services Contracts awarded by the Department of Construction Services (“DCS”) since 2004. The three (3) On-Call Contracts that are the subject of this memorandum have a maximum total cumulative fee of \$1,000,000 per contract and a common expiration date of 07/30/2017. DCS has approved the selection of four firms under this series and as such it is anticipated that another firm will also be submitted under this series in the near future. This on-call series has been developed by DCS for the purposes of providing the state specialized skills in the analysis and review of delay claims, project cost estimating, contracts and construction means/methods on various state funded construction projects.

DCS has made some minor revisions to the boilerplate contract for this series to include the following: state’s rights for inspections, state ethics law, updated executive orders, new non-discrimination language and sovereign immunity language. The 4th series, awarded in 2012, had a term of 24 months and a maximum total cumulative fee of \$1,000,000/contract. Two of the three (3) selected firms under this current 5th series RFP have been previously approved for *On-Call Claims Analyst Consultant Services Contracts*. This is the first time that **Urban Engineers, Inc.**, has been awarded a contract under this series. **Arcadis, U.S., Inc.** and its predecessor firm Pinnacle One, Inc. was awarded a contract under all previous series. **Navigant Consultants, Inc.** was also awarded a contract under all the previous series.

A Request for Qualifications (RFQ) for the consultant services was released in March 2014 and elicited eight (8) responses. All of the respondents was considered “responsive” and as such were considered for review. Thereafter, the DCS selection panel began the process of evaluating all four proposals. The State Selection Panel consisted of 4 members and rated each firm based upon a weighted ranking system with the following scoring methodology:

<i>Problem Solving</i>	<i>30 Points</i>
<i>Approach to Scope & Work Effort</i>	<i>15 Points</i>
<i>Organizational / Team Structure</i>	<i>25 Points</i>
<i>Past Performance Record</i>	<i>20 Points</i>
<i>Contract Oversight Capabilities</i>	<i>10 Points</i>
TOTAL POINT VALUE	100 Points

RECOMMENDATION – Board approval of the following three (3) firms as potential claim analyst consultants for projects of various sizes and scope is recommended. All of the consultants have provided the required insurance, Gift/Campaign and Consulting Affidavits accompanied by appropriate Corporate Resolutions. The three firms recommended for approval at this time are the following. It should be noted that professional licenses are not required for this contract.

PRB # 15-074, Arcadis, U.S., Inc.....Contract #OC-DCS-ANLY-0021
PRB # 15-075, Navigant Consultants, Inc..... Contract #OC-DCS-ANLY-0023
PRB # 15-076, Urban Engineers, Inc.....Contract #OC-DCS-ANLY-0024

Arcadis, U.S., Inc. (AUI) established in 1998, has a staff of 50± employees including 2 project executives, 10+ professional engineers, 10+ construction project managers and 2 project schedulers/cost estimators. AUI is locally located in Middletown. AUI has been awarded one On-call Contract and two formal contract with the DCS in the past two years. AUI has been awarded the following Contracts:

1.	8/2013	HCC Lafayette Hall Project	PRB #13-092	\$1,485,104
2.	6/2014	Emmett O’Brien THS Project	PRB #14-073	\$2,714,316
3.	4/2015	On-Call Cost & Scheduling Services	PRB #15-052	NTE \$300,000

Aon Insurance Company reported that AUI has had over fifty (50) professional policy or general liability claims during the past 5 years. Most of these claims are identified as “still open” and did not identify a policy provision reserve. None of these claims are related to State of Connecticut projects. AUI scored a total of 300 out of a possible 300 points.

Navigant Consultants, Inc. (NCI) originally established in 1988, has a local staff of 10± employees including 1 project executive, 3+ professional engineers and 2 cost estimators/schedulers. NCI is locally located in Fairfield. The company has been awarded one On-call Contract and has not been awarded a formal contract with the DCS in the past two years.

1. 4/2015 On-Call Cost & Scheduling Services PRB #15-053 NTE \$300,000

Arch Insurance Company reported that NCI has experienced eight (8) professional policy or general liability claims during the past 5 years. All of these claims have been closed with loss reserves not identified. NCI scored a total of 300 out of a possible 300 points.

Urban Engineers, Inc. (UEI) originally established in 1960 with headquarters in Philadelphia Pennsylvania. UEI is locally located in Hartford with a staff of 25± employees including 1 corporate executive, 1 Managing Engineer and 10+ staff engineers and construction managers. The company has not been awarded an On-call Contract or formal contract with the DCS in the past two years.

General Counsel for UEI reported that the firm has experienced approximately twenty-five professional policy or general liability claims during the past 5 years. None of the claims identified involved the State or occurred on a project in Connecticut. UEI scored a total of 289 out of a possible 300 points and was identified as one of the most qualified firms.

7. OTHER BUSINESS

8. VOTES ON PRB FILE:

PRB FILE #22-031 – Mr. Valengavich moved and Mr. Halpert seconded a motion to approve PRB FILE #22-031. The motion passed unanimously.

PRB FILE #22-024 – Mr. Halpert moved and Mr. Berger seconded a motion to suspend PRB FILE #22-024. The motion passed unanimously.

PRB FILE #22-025 – Mr. Berger moved and Mr. Valengavich seconded a motion to approve PRB FILE #22-025. The motion passed unanimously.

PRB FILES #22-047, 22-048 & 22-049 – Mr. Valengavich moved and Mr. Berger seconded a motion to approve PRB FILES #22-047, 22-048 & 22-049. The motion passed unanimously.

9. NEXT MEETING – Thursday, April 7, 2022.

The meeting adjourned.

APPROVED: _____ **Date:** _____

John Valengavich, Secretary