

Cedar Rapids Public Works Department Standard Operating Procedure



Procedure Name: 4 th Street NE/SE Right-of-Way		Approved By: Doug Wilson	
Original Author(s): Gary Petersen		Original Date Issued: 05/21/2020	
Date Revised or Reviewed: 6/19/2023	Revised or Reviewed by: Jennifer Selby	Approved By: Doug Wilson	
Published Locations (manuals/websites/etc.): Project Development and Management Manual – After any revisions to this document, replace the obsolete version stored on this webpage			

Purpose:

To document the City of Cedar Rapids’ ownership of the 4th Street NE/SE right-of-way from A Avenue NE to 12th Avenue SE.

Procedures:

Ownership of the 4th Street NE/SE right-of-way from approximately A Avenue NE to 12th Avenue SE was confirmed by the Stipulation of Consent Decree No. EQ 8505, dated November 17, 1987 and the concurrence and rights of the Chicago & Northern Transportation Company and the Cedar Rapids and Iowa City Railway Company were approved by Special Ordinance No. 96-87 dated November 25, 1987.

City Attorney David McGuire filed a lawsuit in District Court to settle ownership of the 4th Street NE/SE right-of-way from north of 1st Avenue E to south of 12th Avenue SE. Mr. McGuire sent memorandums dated October 20, 1987 and October 23, 1987 to the Mayor and City Council, advising of the Court Stipulation and the Special Ordinance.

Mayor Canney and representatives of the Chicago and Northwestern Transportation Company, and Cedar Rapids and Iowa City Railway Company signed the Stipulation of Entry of Consent Decree (No. EQ 8505) on November 17, 1987. Ordinance No. 96-87 was approved on November 25, 1987. Both the Consent Decree and Ordinance provide the following:

- Limits of the right-of-way is along 4th Street NE/SE from a point midway between First Avenue and A Avenue East, and a point on the most southerly edge of 12th Avenue SE.

- Railroad companies are granted an identical right-of-way, 15 feet either side of the center line of the existing railroad tracks, for the purpose of operating and maintaining existing railroad tracks.
- The City of Cedar Rapids has the right to make improvements for public purposes within the 80-foot wide 4th Street Corridor. City improvements, as identified in the Consent Decree and Ordinance, require written consent of the railroad companies.
- The railroad companies shall not install additional tracks without written consent of the City of Cedar Rapids by Resolution of the City Council.
- Other provisions including vacation of right-of-way, signal boxes, and signal bungalows, and others are addressed in the Consent Decree and Ordinance No. 96-87.

ORDINANCE NO. 96-87

ORDINANCE DEFINING RIGHTS OF CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY AND CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY IN 4TH STREET CORRIDOR

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA as follows:

Section 1. That the rights of the Chicago and Northwestern Transportation Company, Cedar Rapids and Iowa City Railway Company, the the City of Cedar Rapids, relating to the 4th. Street Corridor property located between a point midway between First Avenue East and "A" Avenue East, and a point on the most southerly edge of 12th Avenue S.E., Cedar Rapids, Iowa are defined as follows:

a) All prior rights-of-way granted by the City of Cedar Rapids to Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company or their predecessors in interest are hereby abolished.

b) The Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company are each hereby granted an identical right-of-way for the purpose of operating upon and maintaining the railroad tracks presently existing in this portion of the 4th Street Corridor. The rights-of-way granted herein shall be 15 feet to either side of the centerline of the presently existing railroad tracks. Attached is Exhibit A, which is a map showing these tracks within the portion of 4th Street Corridor.

c) The rights-of-way granted herein shall be subject to the presently existing buildings, structures, and improvements of the City of Cedar Rapids.

d) The City of Cedar Rapids shall have the right to make improvements for public purposes within this portion of the 4th Street Corridor (defined as the 80-foot wide 4th Street Corridor located between a point halfway between First Avenue East and "A" Avenue East, and the most southerly edge of 12th Avenue S.E.) provided that:

(i) no permanent buildings or structures shall be constructed therein without the written consent of the Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company, but such consent shall not be unreasonably withheld.

(ii) no improvements shall obstruct drainage from existing tracks, or damage or impair any existing equipment of these railroads;

(iii) no improvements shall unreasonably cause persons to enter into the rights-of-way other than at sidewalks or crossings;

(iv) no improvement shall contravene the provisions of Iowa Code Section 327F.27 (1987) or its successors.

(v) the City of Cedar Rapids shall be responsible for the cost of acquiring, constructing and maintaining any improvements it makes within this area.

(vi) no improvement shall unreasonably impede the Defendants' maintenance of and operation upon the railroad tracks.

(vii) the City of Cedar Rapids shall not vacate any property without the written consent of the Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company, but such consent shall not be unreasonably withheld.

Section 2. The Chicago and North Western Transportation Company or the Cedar Rapids and Iowa City Railway Company shall not lay any additional new tracks within the rights-of-way herein granted without the written consent of the City of Cedar Rapids, by virtue of a resolution of the City Council, but such consent will not be unreasonably withheld.

Section 3. All development within this portion of the 4th Street Corridor shall be undertaken contemplating public safety, effective operation of the railroads, and benefit to the public.

Section 4. The Chicago and North Western Transportation Company has erected various signal boxes and signal bungalows outside of the rights-of-way granted herein. The Chicago and North Western Transportation Company and its successors are granted the right to retain those structures as currently existing and to replace, repair and maintain those structures in conformity with the present uses.

Section 5. The City of Cedar Rapids may use the entire portion of this corridor of 4th. Street for all purposes not prohibited by this Agreement, subject to Defendants' rights provided in this Agreement.

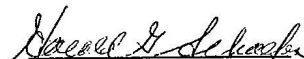
Section 6. This Ordinance is subject to acceptance in writing by the Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company and shall be binding upon and inure to the benefit of the parties assignees or other successors in interest.

Section 7. This Ordinance is intended to and does constitute a special ordinance, and shall not be included in the Municipal Code, City of Cedar Rapids, Iowa.

Section 8. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Introduced this 28th day of October, 1987.

Passed this 25th day of November, 1987.

 MAYOR
PRO-TEMPORE

ATTESTED:

 CLERK

Acceptance of terms of Ordinance No. 96-87

The undersigned companies by virtue of their authorized representatives herewith accept and agree to the provisions of this Ordinance, which shall be binding on the undersigned companies, their successors and assigned.

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY

Feb 23, 1988
DATE

BY: Richard B. V. [Signature]
AUTHORIZED REPRESENTATIVE

CEDAR RAPIDS AND IOWA CITY
RAILWAY COMPANY

12-14-87
DATE

BY: [Signature]
AUTHORIZED REPRESENTATIVE

BY: [Signature]
SECRETARY

ATTEST: [Signature]
ASSISTANT SECRETARY

STATE OF IOWA
County of Linn

SS.

NOTICE IS HEREBY GIVEN pursuant to Chapter 380 of the Code of Iowa, of the final passage of Ordinance No. 96-87 by the City Council of the City of Cedar Rapids, Iowa on November 25, 1987, as follows:

ORDINANCE NO. 96-87
ORDINANCE DEFINING RIGHTS OF CHICAGO AND NORTHWESTERN TRANSPORTATION COMPANY AND CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY IN 4TH STREET CORRIDOR

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA as follows:

Section 1. That the rights of the Chicago and Northwestern Transportation Company, Cedar Rapids and Iowa City Railway Company, the City of Cedar Rapids, relating to the 4th Street Corridor property located between a point midway between First Avenue East and "A" Avenue East, and a point on the most southerly edge of 12th Avenue SE, Cedar Rapids, Iowa are defined as follows:

a) All prior rights-of-way granted by the City of Cedar Rapids to Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company or their predecessors in interest are hereby abolished.

b) The Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company are each hereby granted an identical right-of-way for the purpose of operating upon and maintaining the railroad tracks presently existing in this portion of the 4th Street Corridor. The rights-of-way granted herein shall be 15 feet to either side of the centerline of the presently existing railroad track. Attached is Exhibit A, which is a map showing these tracks within the portion of 4th Street Corridor.

c) The rights-of-way granted herein shall be subject to the presently existing buildings, structures, and improvements of the City of Cedar Rapids.

d) The City of Cedar Rapids shall have the right to make improvements for public purposes within this portion of the 4th Street Corridor (defined as the 50-foot wide 4th Street Corridor located between a point halfway between First Avenue East and "A" Avenue East, and the most southerly edge of 12th Avenue SE) provided that:

(i) no permanent buildings or structures shall be constructed therein without the written consent of the Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company, but such consent shall not be unreasonably withheld;

(ii) no improvements shall obstruct drainage from existing tracks, or damage or impair any existing equipment of these railroads;

(iii) no improvements shall unreasonably cause persons to enter into the rights-of-way other than at sidewalks or crossings;

(iv) no improvement shall contravene the provisions Iowa Code Section 327F.27 (1987) or its successors;

(v) the City of Cedar Rapids shall be responsible for the cost of acquiring, constructing and maintaining any improvements if makes within this area;

(vi) no improvement shall unreasonably impede the Defendants' maintenance of and operation upon the railroad tracks.

(vii) the City of Cedar Rapids shall not vacate any property without the written consent of the Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company, but such consent shall not be unreasonably withheld.

Section 2. The Chicago and North Western Transportation Company or the Cedar Rapids and Iowa City Railway Company shall not lay any additional new tracks within the rights-of-way herein granted without the written consent of the City of Cedar Rapids, by virtue of a resolution of the City Council, but such consent will not be unreasonably withheld.

Section 3. All development within this portion of the 4th Street Corridor shall be undertaken contemplating public safety, effective operation of the railroads, and benefit to the public.

Section 4. The Chicago and North Western Transportation Company has erected various signal boxes and signal bungalows outside of the rights-of-way granted herein. The Chicago and North Western Transportation Company and its successors are granted the right to retain those structures as currently existing and to replace, repair and maintain those structures in conformity with the present uses.

Section 5. The City of Cedar Rapids may use the entire portion of this corridor of 4th Street for all purposes not prohibited by this Agreement, subject to Defendants' rights provided in this Agreement.

Section 6. This Ordinance is subject to acceptance in writing by the Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company and shall be binding upon and inure to the benefit of the parties assignees or other successors in interest.

Section 7. This Ordinance is intended to and does constitute a special ordinance, and shall not be included in the Municipal Code, City of Cedar Rapids, Iowa.

Section 8. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

Introduced this 28th day of October, 1987.
Passed this 25th day of November, 1987.

Harold G. Schaefer, Mayor Pro-Tempore

Attested:
Lois M. Keller, Clerk

Acceptance of terms of Ordinance No. 96-87

The undersigned companies by virtue of their authorized representatives herewith accept and agree to the provisions of this Ordinance, which shall be binding on the undersigned companies, their successors and assigns:

Chicago and North Western Transportation Company

DATE: Feb. 23, 1988

By: Richard B. Taylor
Authorized Representative
Cedar Rapids and Iowa City Railway Company

DATE: 12-14-87

By: Robert Peterson
Authorized Representative
By: J.B. Rollins, Secretary

Attest: William C. Jurgensen
Assistant Secretary
Published In The Cedar Rapids Gazette April 4, 1988.

I, J. F. HLADKY, III, being duly sworn on my oath, do say, that I am publisher of THE CEDAR RAPIDS GAZETTE, a Newspaper issued daily and printed at Cedar Rapids, in said County of Linn; that the Notice of which the annexed printed copy, was inserted and published in said newspaper in the issues of

April 4 A. D., 1988

and the reasonable fee for publishing said Notice is \$ 41.39

Lois M. Keller

Witnessed J. F. HLADKY, III, in my presence, and by him sworn to before me at Cedar Rapids, Linn County, Iowa, on this^{4th} day of April A. D., 1988

Given under my hand and Notarial Seal.

Jan. H. G. ...

Notary Public in and for Linn County, Iowa

from 19. CEDAR RAPIDS GAZETTE, INC.

By

IN THE IOWA DISTRICT COURT IN AND FOR LINN COUNTY

CITY OF CEDAR RAPIDS, IOWA,)	
)	
Plaintiff,)	NO. EQ 8505
)	
v.)	
)	
CHICAGO AND NORTH WESTERN)	STIPULATION OF ENTRY
TRANSPORTATION COMPANY,)	OF CONSENT DECREE
ILLINOIS CENTRAL GULF RAILROAD)	
COMPANY and CEDAR RAPIDS AND)	
IOWA CITY RAILWAY COMPANY,)	
)	
Defendants.)	

The parties stipulate and agree as follows:

1. An Order and Final Judgment may be entered which incorporates the provisions of this Stipulation as set forth herein.
2. This Stipulation shall be null and void unless approved by the Court as part of an Order and Final Judgment.
3. The Plaintiff, City of Cedar Rapids, is the owner in fee simple to the real estate commonly referred to as the 4th Street Corridor in Cedar Rapids, Linn County, Iowa, by virtue of the platting of the original town of Cedar Rapids, Linn County, Iowa. The dedicated public street is 80 feet wide (hereinafter referred to as the 4th Street Corridor). Title and ownership to this area is vested in the City of Cedar Rapids subject only to the rights-of-way granted to the Defendant railroad companies more fully described below and the terms and conditions of this Stipulation.
4. Defendants Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company own

certain railroad tracks located upon and within the 4th Street Corridor.

5. The Defendants and their predecessors have placed these tracks upon the 4th Street Corridor under the authority of rights-of-way granted to them or their predecessors by the City of Cedar Rapids in the past.

6. Regarding only that part of the 4th Street Corridor located between a point halfway between first Avenue East and "A" Avenue East, and the most southerly edge of 12th Avenue S.E., the parties agree as follows:

a) The agreements contained within this Paragraph 6 are to be considered in conjunction with the agreements elsewhere within this Stipulation for Entry of Consent Decree.

b) All prior rights-of-way granted by the City of Cedar Rapids to Defendants or their predecessors in interest are hereby abolished.

c) The Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company are each hereby granted an identical right-of-way for the purpose of operating upon and maintaining the railroad tracks presently existing in this portion of the 4th Street Corridor.

d) The rights-of-way granted herein shall be fifteen feet to either side of the centerline of the presently existing railroad tracks. Attached hereto as Exhibit A is a map which shows these tracks within this portion of the 4th Street Corridor.

e) The rights-of-way granted herein shall be subject to the presently existing buildings, structures, and improvements of the City of Cedar Rapids.

f) The City of Cedar Rapids shall have the right to make improvements for public purposes within this portion of the 4th Street Corridor (defined as the 80-foot wide 4th Street Corridor located between a point halfway between first Avenue East and "A" Avenue East, and the most southerly edge of 12th Avenue S.E.) provided that:

(i) no permanent buildings or structures shall be constructed therein without the written consent of the Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company, but such consent shall not be unreasonably withheld.

(ii) no improvements shall obstruct drainage from existing tracks, or damage or impair any existing equipment of these railroads;

(iii) no improvements shall unreasonably cause persons to enter into the rights-of-way other than at sidewalks or crossings;

(iv) no improvement shall contravene the provisions of Iowa Code Section 327F.27 (1987) or its successors.

(v) the City of Cedar Rapids shall be responsible for the cost of acquiring, constructing and maintaining any improvements it makes within this area.

(vi) no improvement shall unreasonably impede the Defendants' maintenance of and operation upon the railroad tracks.

(vii) the City of Cedar Rapids shall not vacate any property without the written consent of the Chicago and North Western Transportation Company and Cedar Rapids and Iowa City Railway Company, but such consent shall not be unreasonably withheld.

g) None of the Defendants shall lay additional new tracks within the rights-of-way granted herein without the written consent of the City of Cedar Rapids, but such consent shall not be unreasonably withheld.

h) All development within this portion of the 4th Street Corridor shall be undertaken contemplating public safety, effective operation of the railroads, and benefit to the public.

i) The Chicago and North Western Transportation Company has erected various signal boxes and signal bungalows outside of the rights-of-way granted herein. The Chicago and North Western Transportation Company and its successors are granted the right to retain those structures as currently existing and to replace, repair and maintain those structures in conformity with the present uses.

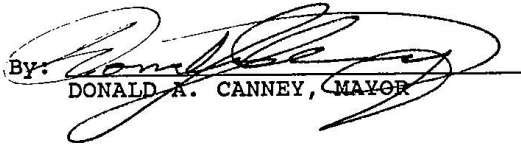
j) The City of Cedar Rapids may use the entire portion of this corridor of 4th Street for all purposes not prohibited by this Agreement, subject to Defendants' rights provided in this Agreement.

7. The Stipulation for Entry of Consent Decree shall be binding upon and inure to the benefit of the parties assignees or other successors in interest.

8. The terms of this Stipulation for Entry of Consent Decree shall be embodied in an Ordinance to be passed by the City of Cedar Rapids City Council and accepted by the Defendants.

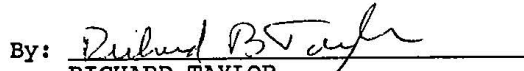
Agreed and Stipulated to:

CITY OF CEDAR RAPIDS

By: 
DONALD A. CANNEY, MAYOR


28 Oct 1987
Date

CHICAGO AND NORTH WESTERN
TRANSPORTATION COMPANY

By: 
RICHARD TAYLOR,
ASSISTANT VICE PRESIDENT FOR
REAL ESTATE AND INDUSTRIAL
DEVELOPMENT

September 18, 1987
Date

CEDAR RAPIDS AND
IOWA CITY RAILWAY COMPANY

By: 
Lee Liu
President

September 3, 1987
Date

CERTIFICATE OF SERVICE

I, undersigned hereby certifies that a copy of this document was served upon counsel of record for each party to the action by mail in compliance with Iowa R.C.P. 22(b) on the

17 day of November, 1987

(A copy of this document has been sent by United States mail to all attorneys of record in this matter.)

-5-

