

EMERGENCY RESOLUTION NO. 22-2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ASSIGNMENT AGREEMENT BY AND BETWEEN THE CITY OF MONROE, BUTLER COUNTY COMMISSIONERS, AND CSX TRANSPORTATION, INC., AND DECLARING AN EMERGENCY.

WHEREAS, Butler County currently owns the rights to a sanitary lateral underground conduit under the CSX railroad tracks that services the Monroe Bicentennial Commons Park; and

WHEREAS, Butler County is requiring the City to accept responsibility of this conduit since it provides service to City property.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The City Manager is hereby authorized to enter into an assignment agreement by and between the City of Monroe, Butler County Commissioners, and CSX Transportation, Inc. pursuant to the term and conditions set forth on Exhibit "1" attached hereto and made a part hereof.

SECTION 2: This measure is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare and further for the reason that Council would like to avoid any delay in opening up the Monroe Bicentennial Commons Park by Labor Day in 2021. Therefore, this measure shall take effect and be in full force from and after its passage.

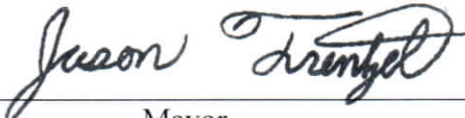
PASSED: April 13, 2021

ATTEST:

APPROVED:



Clerk of Council



Mayor

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.

I, the undersigned Clerk of Council of the city of Monroe, Ohio, hereby certify the foregoing (ordinance or resolution) was published as required by Section 7.16 of the Charter of the City of Monroe.



Clerk of Council
City of Monroe, Ohio



Carrie Kurosko
Real Estate Specialist

February 2, 2021
500 Water St, J180
Jacksonville, FL 32202
904-279-3867
Carrie_Kurosko@csx.com

Agreement No.: **BO L56256**

City Of Monroe
Attn: Gary Morton
233 S Main Street
Monroe, OH 45050

Dear Gary Morton,

Attached is the proposed Assignment Agreement (herein "Agreement"), to assign the agreement(s) listed on "Schedule A" from BUTLER COUNTY COMMISSIONERS (Assignor) to CITY OF MONROE (Assignee).

After carefully reviewing the attached Important Notices, please arrange for execution of the Agreement on behalf of the Assignor and Assignee, and return the executed documents to me in triplicate along with a check in the amount of FIVE HUNDRED DOLLARS AND NO CENTS (\$ 500.00), to cover the preparation fee and/or any other fee(s) as noted on the Statement of Fees.

In order to provide you with the quickest turnaround time possible, it is important that you provide the following:

1. Agreement, all copies, **with authorized original signatures in triplicate.**
2. Payment of the fee(s) summarized in the attached Statement of Fees. All payments and/or fees listed on the Statement of Fees, the Agreement, and/or the Schedule A must be made in U.S. dollars.
3. Certificate of Insurance which states "**CSX Transportation, Inc. as additional insured**" **with the agreement number(s) listed on the certificate.**

Your Prompt response is appreciated. If the Agreement is not executed and returned within twenty-five (25) days, this will serve as a final notice that we are closing our file on **February 27, 2021**, and may consider our options relative to removal of the encroachment or termination of the agreement(s). Thank you for the cooperation.

Sincerely,

A handwritten signature in black ink, appearing to be 'Carrie Kurosko', written over a horizontal line.

AGREEMENT EXECUTION

- ◆ Sign signature page in order to execute the Agreement. One of the following should apply:

Execution on behalf of a CORPORATION should be accomplished by the President, Vice President or an officer authorized by Board Resolution to execute legal documents on behalf of the Corporation. (Copy of Board Authorization should be furnished for anyone signing, other than the President or Vice President.) If the Corporate name is set out erroneously in the Agreement, the document should be executed and the name corrected and initialed where it appears. (Municipal Corporation, furnish copy of such Resolution.

If the Agreement is with a PARTNERSHIP, all general members of the partnership should execute the document unless one member of the firm has been designated managing partner or expressly by the partnership to execute the Agreement. (Furnish copy of such authority.)

The signature(s) must be WITNESSED by ONE (1) witness in the space(s) provided.

- ◆ NAME(S) and TITLE(S) of person(s) executing the agreement must be typed or printed in ink directly beneath signature(s).
- ◆ **A copy of Insurance Certificate naming CSX Transportation, Inc. as additional insured is required.**
- ◆ Be sure to provide and/or verify an emergency contact number located in the "Notice" provision of the Agreement(s). This should be a number by which someone can be contacted should an emergency arise outside of normal business hours.



CSX Federal ID No. : 54-6000720
CSX Canadian ID No. :1022382868

Statement of Fees

Agreement No.: BO L56256
Statement Date: February 2, 2021
Due Date: Upon Receipt

City Of Monroe
Attn: Gary Morton
233 S Main Street
Monroe, OH 45050

Preparation Fee	\$1,000.00
Total Outstanding Bills	\$.00
New Fee(s)	\$.00
Total	\$1,000.00
Credit	-\$ 500.00
Total Due	\$ 500.00

**SIGNED AGREEMENTS, INSURANCE, AND PAYMENT
SHOULD BE REMITTED COLLECTIVELY TO:**

CSX Transportation, Inc.
Attn: Carrie Kurosko
500 Water St, J-180
Jacksonville, FL 32202

Due Date	Upon Receipt
Agreement No.	BO L56256
Amount Due	\$ 500.00

If you have any questions concerning this Statement of Fees or if you need to correct your name or address, please contact Carrie Kurosko at 904-279-3867 or Carrie_Kurosko@csx.com.

ASSIGNMENT

This Assignment ("Assignment") is made and effective as of April 26, 2021 ("Effective Date"), by and among BUTLER COUNTY COMMISSIONERS, a municipal corporation, political subdivision or state agency, under the laws of the State of Ohio, whose mailing address is 315 High Street, Butler, OH 45011, herein after called ASSIGNOR and CITY OF MONROE, a municipality of the State of Ohio, whose mailing address is 233 S Main Street, Monroe, OH 45050, herein after called ASSIGNEE and CSX TRANSPORTATION, INC., a corporation of the State of Virginia, whose mailing address is 500 Water Street, Jacksonville, FL 32202, known as "LESSOR," "LICENSOR," or "RAILROAD," depending on agreement type, herein after called "CSXT."

In consideration of the mutual covenants contained herein and other good and sufficient consideration, the parties hereto agree as follows:

1. ASSIGNOR assigns and transfers to ASSIGNEE those agreements listed and identified on "Schedule A" attached hereto, covering the property or rights therein described, herein after referred to as "the Agreement(s)"
2. ASSIGNOR covenants and warrants it is the lawful and sole owner of the Agreements; that its interest in the Agreement(s) is free from encumbrances; and that all duties and obligations have been performed; and all payments made under the terms and conditions of the Agreement(s).
3. ASSIGNEE agrees to assume and perform all the obligations required by the terms of the Agreement(s) and pay all rents or fees due from and after the Effective Date.
4. ASSIGNEE shall have no right of refund for any cause whatsoever with respect to any rents or fees paid to CSXT.
5. CSXT hereby consents and agrees to the Assignment, as of the Effective Date, provided that; this Consent shall not be construed by any party as a waiver of consent to any further or subsequent assignment, sublease, sublicense, or transfer of the rights or duties and/or obligations, in whole or in part, of the Agreement(s).
6. This Assignment may be executed in counterpart originals, each of which when duly executed and delivered shall be deemed as an original and all of which when taken together shall constitute one instrument. Electronic counterpart signatures to this Assignment will be acceptable and binding.
7. ASSIGNEE shall procure and shall thereafter maintain during continuance of the Agreement(s), at its sole cost and expense, Commercial General Liability (CGL) Insurance, naming CSXT as additional insured and covering liability assumed by ASSIGNEE under the Agreement(s). Coverage of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) Combined Single Limit per occurrence, for bodily injury and property damage, is required as a prudent minimum to protect ASSIGNEE's assumed obligations hereunder. The CGL certificate, along with this Assignment, shall be mailed to CSX Transportation, Inc., Speed Code J180, 500

Water Street, Jacksonville, FL 32202. Each successive year, ASSIGNEE shall mail the renewal certificate or previously mentioned notice to CSXT at the address shown in this paragraph.

In the event ASSIGNEE finds it necessary to perform construction or demolition operations within fifty feet (50') of any railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, for any of the Agreement(s), ASSIGNEE shall: (a) notify CSXT; and (b) procure and maintain during the period of construction or demolition operations, at no cost to CSXT, Railroad Protective Liability (RPL) Insurance, naming CSXT, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 01 96) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period, with Pollution Exclusion Amendment (ISO CG 28 31 11 85) if an older ISO Form CG 00 35 is used. The original of such RPL policy shall be sent to and approved by CSXT prior to commencement of such construction or demolition. CSXT reserves the right to demand higher limits.

At ASSIGNEE's option, in lieu of purchasing RPL insurance from an insurance company (but not CGL insurance), ASSIGNEE may pay CSXT, at CSXT's current rate at time of request, the cost of adding the construction and/or demolition activities to CSXT's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at CSXT's discretion and may not be available under all circumstances.

The minimum insurance coverage required herein is subject to periodic review, adjustment and increases.

ASSIGNEE assumes sole responsibility for, and shall pay directly (or reimburse CSXT) any annual taxes, periodic governmental assessments, and/ or special assessments levied against CSXT or CSXT's property as covered by the Existing Agreements or based upon ASSIGNEE's use or occupation thereof, whenever assessed or levied, regardless of any portion of the year(s) prior to this Assignment.

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In witness whereof, CSXT, ASSIGNOR, and ASSIGNEE have executed this Assignment as of the Effective Date.

Witness for ASSIGNOR:

BUTLER COUNTY COMMISSIONERS

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the ASSIGNOR to the terms and conditions of this Assignment.

Print/Type Name: _____

Print/Type Title: _____

Witness for ASSIGNEE:

CITY OF MONROE

By: _____

Who, by the execution hereof, affirms that he/she has the authority to do so and to bind the ASSIGNEE to the terms and conditions of this Assignment.

Print/Type Name: _____

Print/Type Title: _____

Witness:

CSX TRANSPORTATION, INC.

By: _____

Print/Type Name: _____

Print/Type Title: _____

Approved as to Form Only



03/29/2021

Kevin J. Gerrity
Assistant Prosecuting Attorney

ASSIGNOR: BUTLER COUNTY COMMISSIONERS

ASSIGNEE: CITY OF MONROE

Schedule A

Contract Number	Contract Date	Location	Contract Type	Use Code	Rent Amount	Index Amount	Frequency	Payment Date	Terms/Notice
BO 1.56256	6-Jun-75	BED 8.31, LE SOURDSVILLE, BUTLER COUNTY, OH	PISWX: PIPELINE - SEWER - CROSSING	ENCROACHMENT W&P	\$1,900.00	\$0.00	LUMP SUM	NA	TW30

Assignment Fee = \$1,000.00