

**EXHIBIT D-1**

**COMMUTER FACILITY CONSTRUCTION, OPERATION  
AND MAINTENANCE AGREEMENT**

THIS AGREEMENT ("Agreement") is entered into as of this 14<sup>th</sup> day of March, 2005, by and between the **Commuter Rail Division of the Regional Transportation Authority**, a division of an Illinois municipal corporation ("Metra") and the Village of Orland Park, an Illinois municipal corporation ("Municipality"). Metra and Municipality are hereinafter sometimes individually referred to as a "Party" and jointly referred to as the "Parties".

**RECITALS**

A. Metra owns or will own the depot (sometimes referred to as "Station" or "Station Facility") and the parking facility (sometimes referred to as "Parking" or "Parking Facility"), to be constructed by Municipality on the property delineated and described on Exhibit "D1-A" attached to and made a part of this Agreement (the "Premises"). The Station Facility and Parking Facility are hereinafter sometimes jointly referred to as the "Commuter Facility."

B. Metra desires to grant to Municipality the right to manage, operate and maintain the Commuter Facility.

C. Municipality has determined that the operation and maintenance of the Commuter Facility on the Premises is in the best interests of the public and serves a valid public purpose.

D. The terms capitalized in Exhibit D-1 Commuter Facility Construction, Operation and Maintenance Agreement shall have the same definitions as found in either the Intergovernmental Agreement for Certain Uses of Property and the Construction of a New Station and Parking Facility ("IGA") or the Commuter Facility Improvement Grant Agreement General Terms and Conditions ("Grant Agreement, Part I & II").

**NOW, THEREFORE**, for and in consideration of the foregoing Recitals, which are hereby incorporated into and made a part of this Agreement, and the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted by the Parties, Metra does hereby grant to Municipality the right to manage, operate, and maintain the Commuter Facility subject to and in accordance with the following terms covenants and conditions:

1. **TERM.** Municipality's obligations and right to use the Premises under the terms and provisions of this Agreement shall commence on the date the Commuter Facility or any separate part is completed and opened to the public for commuter use, and shall continue in force and effect for a period of forty (40) years from said date ("**Use Term**") unless otherwise terminated as provided under the terms and conditions of this Agreement.

2. **PURPOSE OF USE.**

(a) The Parties agree that the purpose of this Agreement is to insure that the Premises is protected, maintained and operated as a Commuter Facility with daily rates for public parking. Municipality desires to control access to said Premises and operate and maintain the Commuter Facility pursuant to the terms and conditions of this Agreement.

(b) Parking lot fees set and collected by Municipality shall be standardized for all patrons of the Commuter Facility and Municipality shall under no circumstances discriminate against non-residents of the Municipality in setting parking fees. The Parking Facility shall be operated as a daily fee parking lot with spaces available on a first come-first served basis. Metra reserves the right, at any time, to review and approve the amount of the parking fees charged by Municipality, which approval shall not be unreasonably withheld provided, however, that the proposed increase is consistent with regional standards for Metra parking lots.

(c) Municipality may, upon the prior written consent of Metra, sublicense space for related commuter services, such as vending and concession operations provided that such terms are acceptable to Metra.

(d) As long as adequate indemnification and insurance are provided to Metra and Metra has given Municipality prior written approval, the Municipality shall be permitted to use or allow others to use, the Parking Facility, or any lesser portion thereof, on Saturdays and Sundays for municipal or civic events sponsored by or approved by the Municipality. Prior written approval from Metra shall not be unreasonably withheld.

3. **USE BY METRA AND PUBLIC.** Metra further reserves unto itself, its successors and assigns, permittees and licensees the right to use said Premises in the general conduct of its railroad business including endeavors for the convenience of its commuters and the public. Municipality shall not interfere with or infringe upon Metra's or the public's lawful use of the said Premises so reserved. Municipality further agrees that Municipality and Municipality's employees and invitees in and about said Premises shall be subject to the general rules and regulations of Metra relating to the operation of Metra commuter facilities and to Metra's railroad operations. Metra reserves the nonexclusive right to regulate and control the people who enter said Premises and their

conduct and reserves the right to enter upon said Premises at any time and to eject therefrom any disorderly person or persons.

#### 4. MAINTENANCE, ACCESS, AND RELOCATION.

(a) **Maintenance of the Station Facility.** Except as otherwise provided herein, Municipality, shall manage the Station and shall be responsible throughout the Use Term to maintain and repair the Station Facility and all fixtures and appurtenances thereon and shall keep all of the same, and any area used in the future for commercial development, in a good state of repair, appearance and order (including, but not limited to, janitorial maintenance of floors and windows, painting, plumbing fixtures, broken glass, all utilities inside the Station Facility, and snow removal from sidewalks (leading to ramps, platforms and/or stairwells and the providing of scavenger service)), corresponding to standards that apply to Municipality's other public buildings and facilities ("**Routine Maintenance**"), except Municipality shall not be responsible for: (i) the snow removal from the platforms, ramps, and stairwells, (ii) any utilities located on or along the ramps, platforms or stairwells, or (iii) repairing or replacing any structural portion of the Station Facility (including, but not limited to, support walls, structural members, columns, floors, roof, heating plant and foundation). Metra shall repair and/or replace the structural portion of the Station Facility which has come into such a state of disrepair as to require repair or replacement. Municipality shall be responsible for notifying Metra, in writing, within thirty (30) days of the need for replacements or repairs which are to be the responsibility of Metra. For the purpose of determining what items shall be the responsibility of Municipality or Metra hereunder it is hereby agreed that any single item costing Three Thousand Five Hundred Dollars (\$3,500.00) or more, to repair or replace, shall be the responsibility of Metra ("**Metra Repair**"), and all other maintenance and repair expenses shall be the responsibility of Municipality, unless said item to be replaced or repaired is part of the structural portion of the Station Facility, in which case Metra shall be solely responsible for its replacement or repair regardless of the cost of said replacement or repair. The threshold amount to qualify as a Metra Repair shall decrease annually by fifty dollars (\$50.00) each year on the anniversary date of this Agreement. Municipality shall inspect the Station at least once each year and notify Metra if a Metra Repair will be necessary.

(b) **Maintenance of the Parking Facility.** Municipality, at its own cost and expense, shall manage the Parking Facility and shall be responsible for the performance of "**Routine Maintenance**" throughout the Use Term. For purposes of maintenance of the Parking Facility, Routine Maintenance shall include; but shall not be limited to, snow removal, insurance, lighting upkeep, sealing and patching pavement, patrolling the Parking Facility and payment of utility expenses associated with the operation of the Parking Facility. Municipality shall also be responsible for capital improvements to the Parking Facility, including but not limited to, major rehabilitation, excavation, demolition of structures, new construction, light standard placement or

replacement necessitated by damage to a structure. In the event Municipality fails to manage, operate or maintain the Parking Facility in accordance with the terms and provisions of this Agreement, Metra may, after having given the Municipality thirty (30) days prior written notice of and an opportunity to cure such failure, provide, or cause to be provided, such management, operation and maintenance services and Municipality shall reimburse Metra for the cost of said management, operation and maintenance services within thirty (30) days of Municipality's receipt of a written demand for payment from Metra.

(c) Municipality accepts the Premises subject to rights of any party, including Metra, in and to any existing roadways, easements, permits, or licenses. Municipality agrees to provide access to the Premises to Metra and the public over and through the existing roadways and easements should such access be deemed necessary by Metra. Municipality further agrees that Metra shall not be responsible for the care or maintenance (including snow removal) of said roadways.

(d) Municipality shall be responsible for the "Standard Maintenance" of all landscaping on and along the railroad right-of-way. For purposes of this Agreement, Standard Maintenance shall include without limitation watering, weeding, mowing, trimming, and mulching as dictated by the specific plantings on the Premises.

(e) Metra reserves the right to relocate the Parking Facility or any portion thereof onto other Metra property, at its own cost and expense, in the vicinity of the Premises with no liability for damages to Municipality's interest in the Parking Facility resulting from such relocation; provided, however, that Metra shall give Municipality sixty (60) days prior written notice of its intention to relocate the existing Parking Facility or portion thereof and to consent to the relocation, which consent shall not be unreasonably withheld. In the event the Municipality consents to the relocation, Exhibit D1-A of this Agreement shall be amended to reflect the Premises as relocated.

5. **SIGNS.** Municipality shall not post or place any signs on the Premises without having first received Metra's approval of the content, design and location of the sign, which approval shall not be unreasonably withheld, provided, however, that no signs shall be permitted on or about the exterior facade of the Station Facility. Metra reserves the right to post or place or to have posted or placed on the Premises, informational signs relative to the operations of Metra.

## 6. **COMPLIANCE (LEGAL AND INSURANCE).**

(a) Municipality shall not use or permit upon the Premises anything that will invalidate any policies of insurance held by Metra or Municipality now or hereinafter carried on or covering the Premises or any Improvements thereon. Municipality shall manage, operate, maintain and use the Premises and improvements thereon in

compliance with the requirements of all local, state and federal ordinances, laws, rules and regulations in effect during the Use Term.

(b) Prior to entering upon the Premises, Municipality agrees to furnish and deliver to Metra's Risk Management Department certificates of insurance or such other documentation acceptable to Metra's Risk Management Department evidencing the acquisition of the insurance required under the terms and provisions of this Agreement. Such policies of insurance or self-insurance shall include commercial general liability, automobile, workers compensation, and when required, railroad's protective liability insurance coverage as stated on **Exhibit D1-B**, attached to and made a part of this Agreement, or such other commercially reasonable coverage as required by Metra ("**Insurance Requirements**"). To the extent permitted by law, said insurance shall show Metra, RTA, the NIRCRC, their respective directors, administrators, officers, employees, agents, successors, and assigns, as additional insureds and shall be endorsed to assume the contractual obligations of Municipality as set forth in this Agreement. A duplicate copy of such insurance policy or a certificate of insurance and signed copy of a report showing established insurable value shall be furnished to Metra and must show on the insurance policy or the certificate of insurance that Metra will be properly notified in writing at least thirty (30) days prior to any modification or cancellation of such policy.

(c) Municipality and its agents shall not permit the existence of any nuisance on the Premises; shall not create dangerous or hazardous conditions on the Premises, nor allow dangerous, explosive, flammable, or combustible materials on the Premises which would increase or tend to increase the risk of fire; and further, the Municipality or its agent shall keep, observe and comply with all federal, state and local rules, regulations, ordinances, and laws having jurisdiction over the Premises. If, as a result of the Municipality's occupancy of the Premises hereunder, any such rule, regulation, ordinance or law is violated, the Municipality shall protect, hold harmless, defend and indemnify Metra, RTA and NIRCRC from and against any and all loss, penalties, fines, costs, damages or expenses, including court costs and attorneys' fees, caused by, resulting from, or connected with such violation or violations.

(d) Municipality and its agents agree to use their reasonable best efforts to prevent the occurrence of contamination, hazardous materials or any related environmental damage or condition on the Premises during the Use Term. Should any contamination or other environmental condition occur or result from Municipality's use or occupancy of the Premises, Municipality will be responsible for all costs associated with its mitigation, cleanup and any related liability. Municipality specifically agrees to indemnify, defend and hold harmless Metra, RTA and NIRCRC from all such loss, damages, costs or liabilities, including court costs and attorneys' fees, arising from Municipality's use or occupancy of the Premises.

(e) Municipality's failure to obtain or to cause its contractors to obtain proper insurance coverage or to insure Metra, the RTA or the NIRCRC as additional insureds shall not, at any time, operate as a waiver to Metra's right to indemnification and defense against any claims, damages or injuries covered under the terms and provisions of this Agreement.

7. **LOCATION OF UTILITIES.** Municipality accepts the Premises subject to rights of any party, including Metra, in and to any existing utility or other wires, cables, poles, pipes or facilities of any kind whatsoever, whether or not of record. Metra reserves the right to grant future utility easements over, under or through that portion of the Premises it owns provided such easements do not unreasonably interfere with Municipality's management, operation, or maintenance of the Commuter Facility.

8. **METRA'S TITLE.** Other than as to the operation of the Station, Metra makes no covenant for quiet enjoyment of the Premises. Municipality assumes any damages Municipality may sustain as a result of, or in connection with, any want or failure at any time of Metra's title to the Premises.

9. **LICENSE TO OPERATE.** Municipality shall pay for the cost of any licenses, permits or fees required by federal, state or local rule, regulation, ordinance or law necessary to manage, operate and maintain the Commuter Facility.

10. **INDEMNIFICATION AND WAIVER.**

(a) To the fullest extent permitted by law, the Municipality hereby assumes and agrees to release, acquit, waive any rights against and forever discharge Metra, the Regional Transportation Authority ("RTA"), the Northeast Illinois Regional Commuter Railroad Corporation ("NIRCRC"), the Norfolk & Southern Corporation ("NS"), the Norfolk & Western Railway Co. ("NWR"), their respective directors, officers, agents and employees, from and against any and all claims, demands or liabilities imposed upon them by law or otherwise of every kind, nature and character on account of personal injuries, including death at any time resulting therefrom, and on account of damage to or destruction of property, arising from any accident or incident which may occur to or be incurred by the indemnitor, its employees, officers, agents, and all other persons acting on its behalf while on the Premises except to the extent caused by the negligence of Metra, the RTA, the NIRCRC, the NS, the NWR or their respective directors, officers, agents or employees. Notwithstanding anything in this Agreement to the contrary, the waivers contained in this paragraph shall survive termination of this Agreement.

(b) To the fullest extent permitted by law, the Municipality agrees to indemnify, defend and hold harmless Metra, the RTA, the NIRCRC, the NS, the NWR, their respective directors, officers, agents and employees, from and against any and all liabilities, losses, damages, costs, payments and expenses of every kind and nature (including court costs and attorneys' fees) claims, demands, actions, suits, proceedings,

judgments or settlements, arising out of or in any way relating to or occurring in connection with Municipality's use of or the condition of the Premises, except to the extent caused by the negligence of Metra, the RTA, the NIRCRC, the NS, the NW or their respective directors, officers, agents or employees. Metra agrees to notify the Municipality in writing within a reasonable time of any claim of which it becomes aware which may fall within this indemnity provision. The Municipality further agrees to defend Metra, the Regional Transportation Authority, the Northeast Illinois Regional Commuter Railroad Corporation, the Norfolk & Southern Corporation, the Norfolk & Western Railway Co., their directors, officers, agents and employees against any claims, suits, actions or proceedings filed against any of them with respect to the subject matter of this indemnity provision, whether such claims, suits, actions or proceedings are rightfully or wrongfully made or filed; provided, however, that Metra, the Regional Transportation Authority, the Northeast Illinois Regional Commuter Railroad Corporation may elect to participate in the defense thereof at their own expense or may at their own expense employ attorneys of their own selection to appear and defend the same on behalf of Metra, the Regional Transportation Authority, the Northeast Illinois Regional Commuter Railroad Corporation, the Norfolk & Southern Corporation, the Norfolk & Western Railway Co., their directors, officers, agents or employees. The Municipality shall not enter into any compromise, or settlement of any such claims, suits, actions or proceedings without the consent of Metra, which consent shall not be unreasonably withheld. Notwithstanding anything in this Agreement to the contrary, the indemnities contained in this paragraph shall survive termination of this Agreement.

(c) The indemnification and hold harmless provisions set forth in this Agreement shall survive termination of this Agreement and shall not be construed as an indemnification or hold harmless against and from the negligence of CRD, RTA, NIRCRC, NS or NWR with respect to any party performing work on the Premises to the extent such violates the Illinois Construction Contract Indemnification for Negligence Act, 740 ILCS 35/0.01 et seq.

## **11. CONTRACTOR INDEMNIFICATION AND WAIVER.**

(a) In all contracts executed by Municipality for Routine Maintenance of the Premises (including snow removal of sidewalks) or for the construction, rehabilitation, improvement, repair or maintenance of structures, facilities or improvements located on the Premises, or to be located on such Premises, Municipality will require appropriate clauses to be inserted requiring contractors to indemnify, hold harmless and defend Metra, RTA, NIRCRC, NS and NWR, their directors, employees, agents, licensees, successors and assigns from and against any and all risks, liabilities, claims, demands, losses, and judgments, including court costs and attorneys' fees, arising from, growing out of, or related in any way to work performed by such contractor(s), or their officers, employees, agents or subcontractors, and their agents or employees.

(b) Municipality will further cause appropriate clauses to be inserted in all such contracts requiring contractors to procure and maintain comprehensive policies of insurance, insuring contractor, Metra, RTA, NIRCRC, NS and NWR, their directors, employees, agents, successors and assigns from and against any and all risks, liabilities, claims, demands, losses and judgments, including court costs and attorneys' fees, arising from, growing out of or in any way related to the work performed or to be performed by such contractor(s), whether or not any such liability, claim, demand, loss or judgment is due to or arises from the acts, omissions or negligence of such contractor(s), or their officers, employees, agents or subcontractors and their agents or employees.

12. **LIENS.** Municipality agrees not to suffer or permit any lien of mechanics or materialmen to be placed against the Premises or any part thereof and, in case of any such lien attaching to the Premises, immediately to pay off and remove the same or furnish a bond or other security satisfactory to Metra to indemnify Metra against any such lien. It is further agreed by the Parties hereto that Municipality has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Municipality, operation of law, or otherwise, to attach to or to be placed upon Metra's title or interest in the Premises, and any and all liens and encumbrances created or suffered by Municipality or its tenants shall attach to Municipality's interest only.

13. **COMPENSATION.** CRD shall own the improvements constructed on the Premises with CRD funds, including without limitation, the Station, and all other materials used to improve the Premises and related or appurtenant facilities, equipment, or fixtures, and all other Improvements, if any, subject to the easement granted to CRD in the Easement Agreement. In the event this Agreement is terminated for any reason by Municipality and CRD has not defaulted under the terms and conditions of this Agreement or Municipality defaults under the terms and conditions of the Agreement and, as a result of such Municipality default, CRD is forced to terminate this Agreement, CRD shall be compensated by Municipality for the portion of the Improvements paid for by Metra. Compensation shall be based upon the remainder of the period beginning on the date which the Improvements are first used in the facilitation of commuter services and ending on the later of the expiration of: (a) twenty (20) years from such date; or (b) if such actual useful life (as determined by CRD in its sole discretion) is more than twenty (20) years, the end of the actual useful life of such Improvements ("Use Period"). In either (a) or (b), compensation shall be in an amount equal to the average of the original cost and the replacement cost of each such Improvement taken out of service because of termination, reduced by that percentage of the Use Period which has expired before such termination. Such payment shall be made in full within ninety (90) days after Municipality's termination of this Agreement or interest at a rate of one and one-half percent (1½%) per month shall accrue on any unpaid balances due from the date payment is due until paid. In the event this Agreement is terminated for any reason by CRD and Municipality has not defaulted under the terms and conditions of

this Agreement or CRD defaults under the terms and conditions of this Agreement and, as a result of such CRD default, Municipality is forced to terminate this Agreement, Municipality shall not be required to compensate CRD for the Improvements; provided, however, that Metra may, at its sole discretion and cost, remove the Improvements including, without limitation, lighting fixtures, benches, and railings or transfer ownership (by quit claim or bill of sale) of the Improvements to the Municipality. The Municipality shall accept the transfer of the Improvements in "as is" condition.

14. **TAXES.** Municipality shall be responsible for payment of all real estate taxes and special assessments, if any, assessed against the Premises, including but not limited to real estate taxes assessed as a result of Municipality's assignment or license of all or any portion of the Premises to a third party. Municipality shall protect, indemnify, defend and forever save and keep harmless Metra, RTA, NIRCRC, and their directors, employees and agents licensees, successors and assigns against and from, and to assume all liability and expense, including court costs and attorneys' fees, for failure to pay real estate taxes or special assessments assessed against the Premises on or before the date payments of such taxes are due. Metra represents that the Premises is currently exempt from real estate taxes and Metra shall use its reasonable best efforts not to take any actions during the Use Term that would result in the loss of the tax exempt status of the Premises; provided, however, that nothing in this Agreement shall be construed to prohibit the lease or license of the Premises, or any portion thereof, to a third party as long as such third party is responsible for the payment of all real estate taxes assessed against the leased or licensed premises.

15. **CAUSE FOR BREACH.** If Municipality defaults in any of Municipality's undertakings or obligations of this Agreement and Municipality receives written notice of such default from Metra, then such event or action shall be deemed to constitute a breach of this Agreement and if such default remains uncured for thirty (30) days after notice in writing, this Agreement and Municipality's use of the Premises shall automatically cease and terminate.

16. **SURRENDER OF PREMISES.** Upon the termination of this Agreement or Municipality's use of the Premises by any manner, means, or contingency whatsoever, Municipality shall, if required by Metra, remove all of Municipality's improvements and/or property from the Premises, fill all excavations that have been made by Municipality and deliver possession of the Premises to Metra in as good a condition than that which existed immediately prior to the commencement of the Use Term, ordinary wear and tear excepted. Should the Municipality fail to perform such removal or restoration, then Metra, at its election, may either remove the Municipality's improvements and property and restore the Premises to its former state at the sole expense of Municipality or may retain the Municipality's improvements and property as Metra's sole property. Should Municipality retain possession or use of the Premises or any part thereof after the termination of Municipality's use by Metra or as otherwise provided for in this Agreement, any such holding over shall not constitute an extension of Municipality's use

and Municipality shall pay Metra all damages, incidental or consequential as well as direct, sustained by Metra, RTA and NIRCRC and their respective directors, employees, agents and licensees by reason of such retention of possession or use. The provisions of this Section 15 do not exclude the Metra's rights of reentry or any other rights to recover use and possession of the Premises afforded Metra by law.

17. **RE-ENTRY.** If Municipality shall breach or default in any of the terms of this Agreement and if such breach or default is not cured as provided in Section 14 above, or if Municipality's use of the Premises shall expire or terminate in any manner, it shall be lawful for Metra then or at any time thereafter to re-enter the Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary force for regaining possession of the Commuter Facility; provided, however, that Municipality shall have the right to remove certain of Municipality's property as hereinabove provided and to use its property in any manner that does not reasonably interfere with Metra's property rights. No termination of Municipality's use shall release the Municipality from any liability or obligation that accrued prior to said termination. If the Premises is required for railroad purposes, Metra shall have the right to partially or entirely re-enter and terminate this Agreement respectively upon ninety (90) days prior written notice.

18. **WAIVER OF REMEDIES.** No waiver of any default of either Party shall be implied from omission by the other Party to take any action on account of such default. No express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

19. **IMPROVEMENTS.** Municipality shall not make any improvements to the Premises without having first obtained the prior written consent of Metra. Municipality shall submit to Metra all plans and specifications for improvements on or to any portion of the Premises (improvements shall not include such items of Routine Maintenance and Standard Maintenance as described in Section 4 of this Agreement). Metra reserves the right to have its employees, agents or independent contractors perform such work, if required by its employment contracts or federal or state railroad regulations, and set forth in the plans and specifications it approves and Municipality agrees to pay the cost of all such improvements performed by or on behalf of Metra, whether by Metra's employees, agents or independent contractors.

20. **CUMULATIVE RIGHTS.** All rights and remedies of each party shall be cumulative, and none shall exclude any other rights and remedies allowed by law.

21. **RAIL SERVICE.** Metra makes no warranties or representations, expressed or implied, as to continued rail service to the Premises.

## 22. SALE OR ASSIGNMENT.

(a) Any assignment or transfer of this Agreement or the Premises by Municipality without the written consent of Metra its successors and assigns shall be void. Unless specifically released in writing by Metra, Municipality shall remain primarily liable to Metra regardless of Metra's consent to an assignment or sublicense by Municipality. No act of Metra, including acceptance of money by Metra from any other party, shall constitute a waiver of this provision.

(b) Vending, concessions, and general commercial activity on the Premises shall be subject to Metra's prior written consent. Metra grants Municipality the limited right to sublicense to third-parties the use of a portion of the Station Facility for commercial purposes provided that: (1) the terms and conditions of the sublicense are acceptable to Metra; (2) Municipality receives Metra's prior written consent to any third-party use; (3) Municipality is primarily liable to Metra for all sublicense obligations entered into with third parties, including but not limited to the following obligations to Metra: indemnification, insurance, use, and rent; and (4) such sublicense shall be subject and subordinate to the terms and provisions of this Agreement.

23. **USE RESTRICTIONS.** All rights not specifically granted to Municipality under the terms and conditions of this Agreement are hereby reserved in and to Metra. Municipality agrees that none of the Premises will be used, nor will Municipality permit them to be used, for parking within twenty (20) feet of the centerline of any trackage. Any portion of the Premises within twenty (20) feet from the nearest rail of any trackage shall be used only for the construction, maintenance, repair and renewal of platforms and other railroad improvements located within the railroad right of way (subject to legal clearance requirements and Metra's clearance requirements) and for no other purpose whatsoever. Any construction, rehabilitation or repair work performed on behalf of Municipality occurring within the railroad right-of-way will require flagging protection provided by Metra at Municipality's sole cost and expense. Municipality and/or its contractors shall also purchase and keep in full force and effect railroad protection liability insurance during the performance of any such work.

## 24. REVENUES.

(a) All Parking fees or other revenue derived from Municipality's use of the Commuter Facility ("Revenues") shall first be utilized for Routine Maintenance, Standard Maintenance and administrative expenses incurred from the operation of the Commuter Facility. The remainder shall be deposited in a capital improvement account to be used for future renovation or rehabilitation of the Commuter Facility. If, at the end of the Use Term, any revenues remain in the capital improvement account, said funds shall be paid to Metra within 30 days of the expiration of said Use Term.

(b) Municipality shall establish and maintain adequate accounting records of all Revenues based on generally accepted accounting principles consistent with the manner Municipality maintains records of its other accounts in order to insure compliance with this Agreement. Municipality shall permit and shall require its contractors to permit Metra, RTA, NIRCRC or any other agency authorized to perform such audit and inspection, to inspect all work, material and other data and records with regard to the Revenues collected and to audit the books and accounts of Municipality and its contractors with respect to said Revenues. Municipality shall submit to Metra an annual audit of its records relating to the Revenues collected and shall make its records available to Metra at mutually convenient times. Furthermore, Municipality shall immediately notify Metra if the Commuter Facility is to be used in a manner substantially different from that intended by this Agreement. At the option of Metra, Metra and Municipality shall conduct a yearly joint inspection of the Premises to assure compliance with the terms of this Agreement.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, this Agreement is entered into by and between the Parties hereto as of the date and year first above written.

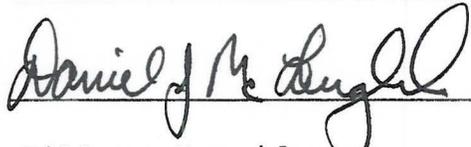
VILLAGE OF ORLAND PARK

COMMUTER RAIL DIVISION OF  
THE REGIONAL TRANSPORTATION

IN WITNESS WHEREOF, this Agreement is entered into by and between the Parties hereto as of the date and year first above written.

VILLAGE OF ORLAND PARK

COMMUTER RAIL DIVISION OF  
THE REGIONAL TRANSPORTATION  
AUTHORITY

By:   
Its: Village President

By: \_\_\_\_\_  
Philip A. Pagano,  
Executive Director

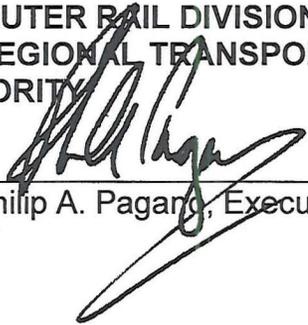
**IN WITNESS WHEREOF**, this Agreement is entered into by and between the Parties hereto as of the date and year first above written.

**VILLAGE OF ORLAND PARK**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**COMMUTER RAIL DIVISION OF  
THE REGIONAL TRANSPORTATION  
AUTHORITY**

By:  \_\_\_\_\_  
Philip A. Pagano, Executive Director

**EXHIBIT D1-A**

**PREMISES**

**EXHIBIT D1-B**

**INSURANCE REQUIREMENTS**



CONSTRUCTION INSURANCE REQUIREMENTS

REQUISITION NUMBER Village of Orland Park

SPECIFICATION NUMBER 143rd Street Station

The Contractor shall take out and maintain during the life of this contract, the following insurance as specified by the insertion of policy limits and such other insurance as the Commuter Rail Division of the Regional Transportation Authority and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation may from time to time require.

TYPE OF COVERAGE	GENERAL POLICY HOLDER RATING OF <u>A</u> OR BETTER	FINANCIAL RATING OF <u>x</u> OR BETTER <small>As Published By Best's Key Rating Guide</small>	AMOUNT REQUIRED
1. WORKERS' COMPENSATION: Coverage A - Statutory Coverage B - \$ <u>1,000,000</u>	"	"	\$ <u>1,000,000</u> Limits of Liability
2. COMPREHENSIVE GENERAL LIABILITY (BROAD FORM): Bodily Injury Liability & Property Damage Liability (combined)	"	"	\$ <u>2,000,000</u> Each Occurrence \$ <u>4,000,000</u> Aggregate
3. EXCESS COMPREHENSIVE GENERAL LIABILITY-EXCESS OF PRIMARY LIMITS (2) Bodily Injury Liability & Property Damage Liability (combined)			\$ <u>N/A</u> Each Occurrence \$ <u>N/A</u> Aggregate
4. AUTOMOBILE LIABILITY: Bodily Injury Liability & Property Damage Liability (combined)	"	"	\$ <u>1,000,000</u> Combined Single Limit
5. OWNER'S PROTECTIVE LIABILITY: Bodily Injury Liability & Property Damage Liability (combined)			\$ <u>N/A</u> Each Occurrence \$ <u>N/A</u> Aggregate
6. RAILROAD PROTECTIVE LIABILITY: Bodily Injury Liability & Property Damage Liability (combined)			\$ <u>5,000,000</u> Each Occurrence \$ <u>10,000,000</u> Aggregate
7. EXCESS RAILROAD PROTECTIVE LIABILITY:			\$ <u>N/A</u> Each Occurrence \$ <u>N/A</u> Aggregate
8. BUILDER'S RISK INSURANCE			\$ <u>N/A</u>
9. PERFORMANCE/PAYMENT BOND			\$ <u>N/A</u>
10. OTHER INSURANCE			\$ <u>N/A</u>

Additional Insured shall be as follows: The Commuter Rail Division of the Regional Transportation Authority and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation, both operating under the service mark Metra, as now or exists or may hereafter be constituted or acquired including their interests in partnerships and the Norfolk Southern Railway Company.

The Contractor shall not commence work herein until he has obtained the required insurance and has received approval of such insurance by Metra. Certificates of insurance indicating amounts and coverages in force shall be furnished to insureds, within thirty (30) calendar days after award of contract.

All policies are in effect at this time and will not be cancelled, modified, limited or allowed to expire without renewal until 30 days written notice has been given to Metra. Such notice shall be sent by certified mail to Metra, care of the Risk Management Director, 15th Floor, 547 W. Jackson, Chicago, Illinois 60661

The consultant's policy will insure all liabilities assumed by the contractor under the provisions of the Hold Harmless and Indemnity Clause contained in the contract.



INSURANCE REQUIREMENTS

REQUISITION NUMBER Village of Orland Park

SPECIFICATION NUMBER 143rd Street Station

EVENT \_\_\_\_\_

DATE OF EVENT \_\_\_\_\_

The Contractor/Tenant shall take out and maintain during the life of this contract/event, the following insurance as specified by the insertion of policy limits and such other insurance as the Commuter Rail Division of the Regional Transportation Authority and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation may from time to time require.

TYPE OF COVERAGE	GENERAL POLICY HOLDER RATING OF <u>A</u> OR BETTER	FINANCIAL RATING OF <u>x</u> OR BETTER <small>As Published By Best's Key Rating Guide</small>	AMOUNT REQUIRED
1. WORKERS' COMPENSATION: Coverage A - Statutory Coverage B - \$ <u>500,000</u>			\$ <u>500,000</u> Limits of Liability
2. COMPREHENSIVE GENERAL LIABILITY (BROAD FORM): Bodily Injury Liability & Property Damage Liability (combined)			\$ <u>1,000,000</u> Each Occurrence \$ <u>2,000,000</u> Aggregate
3. EXCESS COMPREHENSIVE GENERAL LIABILITY-EXCESS OF PRIMARY LIMITS (2) Bodily Injury Liability & Property Damage Liability (combined)			\$ _____ Each Occurrence \$ _____ Aggregate
4. AUTOMOBILE LIABILITY: Bodily Injury Liability & Property Damage Liability (combined)			\$ <u>1,000,000</u> Combined Single Limit
8. OTHER INSURANCE			\$ _____

Additional Insured shall be as follows: The Commuter Rail Division of the Regional Transportation Authority and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation, both operating under the service mark Metra, as now or exists or may hereafter be constituted or acquired including their interests in partnerships  
and the Norfolk Southern Railway Company.

The Consultant/Tenant shall not commence work herein until he has obtained the required insurance and has received approval of such insurance by Metra. Certificates of insurance indicating amounts and coverages in force shall be furnished to insureds, within thirty (30) calendar days after award of contract.

All policies are in effect at this time and will not be cancelled, modified, limited or allowed to expire without renewal until 30 days written notice has been given to Metra. Such notice shall be sent by certified mail to Metra, care of the Risk Management Director, 15th Floor, 547 W. Jackson, Chicago, Illinois 60661

The Contractor's/Tenants policy will insure all liabilities assumed by the contractor/tenant under the provisions of the Hold Harmless and Indemnity Clause contained in the contract. The Contractor/Tenant shall be responsible for arranging that all subcontractors/sub-tenants maintain the necessary insurance requirements.

**EXHIBIT D - 2**  
**PROJECT BUDGET**

EXHIBIT "D-2"  
APPROVED PROJECT BUDGET

-----  
Agreement between METRA  
and the  
Village of Orland Park

GRANT NUMBERS:  
IL-03-0217/CRD-2002-3NR2  
IL-03-0237/CRD-2004-3R2  
IL-90-X317/MET-024

PROJECT NO: 2982;2877  
CONTRACT NO: K00451

Project Description: Station and Parking Construction at 143rd and  
Southwest Highway in Orland Park

ORLAND PARK ACTIVITY	BUDGET CODES	TOTAL BUDGET
<b><u>Construction:</u></b>		
Parking, Station Area and Depot	AR2982-63302006	\$ 5,363,639.00
	CJ2982-63302006	\$ 3,554,597.00
	SQ2877-53404006	\$ 687,500.00
TOTAL		\$ 9,605,736.00

**EXHIBIT D - 4**

**EASEMENT FOR PARKING AND ACCESS**

## EXHIBIT D-4

### EASEMENT FOR PARKING AND ACCESS

**WHEREAS**, the undersigned, the Village of Orland Park ("**Grantor**"), an Illinois municipal corporation, is the owner of certain parcels of land situated in the County of Cook and State of Illinois (collectively, the "**Land**") and more fully described in Exhibit D4-A.

**WHEREAS**, Grantor desires to grant to Grantee (as defined below) and Grantee desires to acquire from Grantor, an easement for commuter parking purposes for three hundred fifty (350) parking spaces ("**Parking Spaces**"), together with access thereto, in, under, over, across, and along the Land and all improvements from time to time located on the Land (the Land and such improvements being hereinafter referred to collectively as the "**Premises**");

**NOW, THEREFORE**, for and in consideration of the sum of Ten Dollars (\$10) and other good and valuable consideration in hand paid by the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation with offices located at 547 West Jackson, Chicago, Illinois, 60661 ("**Grantee**"), the receipt and sufficiency of which consideration is hereby acknowledged, Grantor hereby gives and grants unto Grantee, and Grantee's employees, commuters, lessees, permittees, licensees, successors and assigns, the permanent exclusive easement, and the right and authority, to construct, install, use, operate, maintain, repair, replace, and renew three hundred fifty (350) Parking Spaces, and to all portions of a parking facility on the Land, along with necessary curbs, gutters, signs, drainage, pipes, poles, foundation, conduit, and other equipment on, over, under, across, and along the Land for such commuter parking purposes, together with the right of access thereto for the purpose of exercising the rights and privileges granted in this Easement; provided, however, Grantee, in its sole discretion and upon written notice to Grantor, may terminate this Easement prior to its expiration date if Grantee ceases to use the Premises for commuter parking purposes.

1. Grantor shall have the right to relocate the three hundred fifty (350) Parking Spaces either to a different improvement on the Land or to a location in the tax increment financing district ("**TIF District**") at 143<sup>rd</sup> & LaGrange Road in the Village of Orland Park, and if not located in the TIF District, in the vicinity of the Land approved in advance in writing by Grantee and such approval shall not be unreasonably withheld, and any such relocation or replacement shall be evidenced by an Amendment to Exhibit D-4A legally describing and delineating the relocated Premises.

2. This Easement and all of the terms, conditions, rights and obligations herein contained shall run with the Land, and the covenants and agreements herein contained shall inure to the benefit of and be binding upon the

Grantor and Grantee, their respective grantees, lessees, licensees, successors, assigns, and all subsequent owners of the fee title to the Premises.

3. The Grantor retains all other rights over, upon, and across the Premises and to the use, enjoyment and benefit of the surface of the Land, except that Grantor shall not diminish or unreasonably interfere with Grantee's rights hereunder.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Easement as of this 14<sup>th</sup> day of March, 2025.

ATTEST:

THE VILLAGE OF ORLAND PARK, an Illinois Municipal Corporation

By: *David P. Maher*  
Village Clerk

By: *David J. McLaughlin*  
Village President

State of Illinois )

) ss.  
County of Cook )

The undersigned, a Notary Public in and for the above County and State, does hereby certify that Daniel J. McLaughlin **Village President** of the Village of Orland Park, and David P. Maher, **Village Clerk**, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and to me personally known to be the **AVillage President** and **Village Clerk** respectfully, appeared before me this day in person and severally acknowledged signing and delivering the instrument as their free and voluntary act, and as the free and voluntary act of the Village, being thereunto duly authorized for the uses and purposes therein set forth.

Given under my hand and notarial seal this 14<sup>th</sup> day of March, 2005

  
\_\_\_\_\_  
Notary Public

My: commission expires:



IN WITNESS WHEREOF, the Parties hereto have duly executed this Easement as of this 14<sup>th</sup> day of March, 2005.

ATTEST:

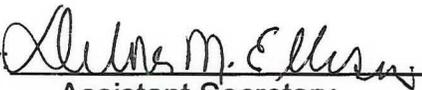
THE VILLAGE OF ORLAND PARK, an Illinois Municipal Corporation

By: \_\_\_\_\_  
Village Clerk

By: \_\_\_\_\_  
Village President

ATTEST:

COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY, a division of an Illinois Municipal Corporation

By:   
Assistant Secretary

By:   
Executive Director

State of Illinois )  
 ) ss.  
County of Cook )

The undersigned, a Notary Public in and for the above County and State, does hereby certify that \_\_\_\_\_ **Village President** of the Village of Orland Park, and \_\_\_\_\_, **Village Clerk**, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and to me personally known to be the **Village President** and **Village Clerk** respectfully, appeared before me this day in person and severally acknowledged signing and delivering the instrument as their free and voluntary act, and as the free and voluntary act of the Village, being thereunto duly authorized for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

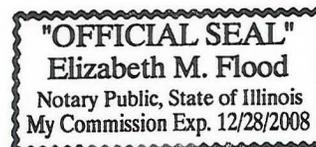
My commission expires:

State of Illinois )  
 ) ss.  
County of Cook )

The undersigned, a Notary Public in and for the above County and State, do hereby certify that Philip A. Pagano, Executive Director of the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("**Metra**") and DeLores M. Ellison, Assistant Secretary of said Metra, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, and to me personally known to be the Executive Director and Assistant Secretary respectfully, appeared before me this day in person and severally acknowledged signing and delivering the instrument as their free and voluntary act, and as the free and voluntary act of Metra, being thereunto duly authorized for the uses and purposes therein set forth.

Elizabeth M. Flood  
Notary Public

My commission expires: 12/28/08



**EXHIBIT D4-1**

**LAND**

## AGREEMENT NOTICE FORM

Plant Number		Metra Number		Effective Date	
Expiration Date				Execution Date	
County Recording No.				File Path Name	
Preparation Fee			Internal Negotiator		
Station/Nearest Station				City (Place)	
Contract Type					
Location				District	
Party Name 1			Party Address 1		
Party Name 2			Party Address 2		
Party Name 3			Party Address 3		
Party Name 4			Party Address 4		
Expiration Rev Date			Escalation Rev Date		
Review Date 3			Review Type 3		
Review Date 4			Review Type 4		
Description 1					
<b>Affirmative Duties</b>					
Metra					
Contractor					
Funding Sources					
FTA Incidental USE			FTA Incidental Desc		
Insurance					
Legal Notice To			Contact Person		
Other \$ Due to Metra			Initial Contract Amount		
Other \$ Due From Metra			PIN		
Bill/Pay Frequency					
Term for Conv				Appraisal Date	
Tax Info					
Financial Terms					
<b>Notes</b>					
<b>Preparer's Initials</b>					