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## WIRELINE EASEMENT AGREEMENT

The Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("**Metra**"), whose address is 547 West Jackson Boulevard, Chicago, Illinois 60661, hereby grants to The Village of Orland Park, a municipality of Illinois with offices located at 14700 South Ravinia Avenue, Orland Park, Illinois ("**Grantee**"), a non-exclusive easement, being ten (10) feet in width for wireline purposes ("**Easement**") and no other purpose, along the right of way and tracks (or track, as the case may be) of Metra located just north of 143<sup>rd</sup> Street, adjacent to the Metra Station delineated on the plat attached to and made a part of this Easement as Exhibit "A" ("**Premises**") together with the right of reasonable access thereto for the purpose of exercising the rights and privileges granted in this Easement. Metra and Grantee are hereinafter sometimes individually referred to as a "**Party**" and collectively referred to as the "**Parties**".

That for and in consideration of payments to be made to Metra by Grantee, as hereinafter set forth, and also of the covenants and agreements hereinafter stated, Metra hereby grants to Grantee the right to install one (1) 12kV circuit consisting of wires strung separately or contained in a cable or conduit, which shall carry electric current no greater than 12,000 volts, together with the necessary poles, cross arms, guy wires, braces, conduits or other fixtures appurtenant thereto (collectively the "**Wireline**"), and thereafter to maintain, repair, operate and renew the same during the continuance of this Easement.

This Easement is granted upon the following express conditions, terms and covenants to be observed, kept and performed by Grantee:

1. (a) As one of the considerations for this Easement, Grantee agrees to pay to Metra the sum of \$1,500.00 for the cost of preparing this Easement, payable in advance.

(b) Additionally, Grantee shall pay to Metra as fair and reasonable compensation an Easement fee in the amount of \$27,500 ("**Easement Fee**").

2. Said Wireline shall be constructed in accordance with the specifications and notes set forth on Exhibit "A". The installation of said Wireline, including but not limited to the digging and filling of any trench and the time and manner of doing all of the work or of any maintenance, repairs, replacements or renewals upon the Premises, shall be as directed by Metra's authorized representatives. Grantee agrees to construct and at all times maintain the Wireline so as to protect all electrical features (whether or not connected with communication or signal facilities) on the Premises, or any other Metra property, or any electrical facilities which Metra may hereafter construct or permit to be constructed thereon, from any induced, foreign or return voltages and currents and Grantee shall make such changes in the construction of its own electrical features as are necessitated by such foreign or return currents as is from time to time required by Metra. All of said work shall be done at Grantee's sole cost and expense, in a good and workmanlike manner, and in accordance with the requirements of the National Electrical

Safety Code and the plans, specifications, and profiles to be prepared by Grantee and submitted for approval to Metra's authorized representative(s), and until such approval is given, said work shall not be commenced by Grantee.

3. Upon completion of the initial installation and construction of the Wireline, and upon completion of any subsequent installation, reconstruction, maintenance, repair or replacement of the Pipeline, Grantee, at its own cost and expense, shall remove any debris and restore, or cause to be restored to the reasonable satisfaction of Metra, the Premises and any other affected portion of Metra's property ("**Property**") as nearly as may be, to the same or better condition than that which existed immediately prior to commencement of such activities by Grantee. In the event Grantee fails to cause the Premises and the Property to be restored to the reasonable satisfaction of Metra as provided for herein, Metra shall have the right to restore the Premises and the Property and Grantee shall reimburse Metra for all costs and expenses incurred by Metra in its performance of the obligations imposed upon Grantee hereunder.

4. Metra shall permit Grantee reasonable right of entry to the Premises for the purpose of installing; constructing, replacing, repairing, maintaining and operating said Wireline. Metra may, however, restrict the location of entry points or access on or over the Premises.

5. Any rights to the Premises not specifically granted to Grantee herein are reserved to Metra and its successors and/or assigns. The Wireline shall be installed, constructed, repaired, maintained and operated in a manner so as not to interfere with efficient rail operations or any other business operations or activities being conducted by Metra or Metra's tenants or permittees on the Premises and so as not to prevent or unreasonably interfere with use and enjoyment of the Premises by Metra, its employees, agents or permittees for the purpose(s) to which the Premises is now, or may hereafter be committed by Metra. Metra shall have the right to retain the existing tracks and other improvements at the location of this Wireline on or adjacent to the Premises and also shall have the right at any and all times in the future to construct, maintain and operate over, under, across or parallel to said Wireline such additional track or tracks as it may from time to time elect. Nothing shall be done or caused to be done by Grantee that will in any manner impair the usefulness or safety of the tracks and other improvements of Metra, or such track or tracks and other improvements as Metra may in the future construct or cause to be constructed over, under, across, or parallel to said Wireline. This Easement is expressly subject to the rights of third parties to maintain utility and other improvements permitted by Metra on the Premises and the Property. Metra reserves the exclusive right to grant future easements and licenses over, under, across or parallel to the said Wireline, provided such easements and licenses do not interfere with the Wireline and the rights granted Grantee pursuant to this Agreement, as determined by Metra in its sole discretion.

6. Grantee agrees that it will bear and pay the entire cost of constructing, maintaining, repairing, replacing and operating said Wireline. Grantee shall install, construct, maintain, repair, replace, and operate the Wireline in accordance with all applicable federal, state and local municipal laws, ordinances, rules and regulations promulgated by governmental authorities. Grantee shall not commence work upon the Premises until Metra shall have approved

Grantee's plans, specifications and profiles, such approval not to be unreasonably withheld or delayed. Metra's approval of Grantee's plans, specifications and profiles, shall not relieve Grantee of the duty to verify that the plans, specifications and profiles, and all amendments thereto, are in compliance with the requirements of this paragraph.

7. Grantee shall give to Metra reasonable advance written notice of the time when Grantee will commence any construction, replacement, repair or maintenance of said Wireline in order that Metra may, if it so desires, have its representative(s) present for the purpose of directing said work so that the same may be done in a manner satisfactory to Metra. Metra in no way waives any rights by failing to have said representative present.

8. Grantee shall not place, keep, store or otherwise permit to be placed, kept or stored on the Premises or the Property any equipment or materials except during such time as Grantee's employees, agents or contractors are physically present and conducting activities permitted under the terms of this Easement. Grantee agrees that it shall not operate or cause to be operated any vehicle of any kind on the Premises, on any track or on the Property without prior authorization from Metra's authorized representative; provided, however, that Grantee shall not be prohibited from operating Grantee's vehicles and equipment on any public crossing of Metra's tracks and rights of way. To the extent that in the reasonable opinion of Metra or its designee, flagging and supervisory services are deemed necessary by reason of the installation, construction, repair, renewal, alteration or removal of said Wireline, Grantee shall, upon receipt of a bill or invoice therefore, reimburse Metra or its designee for the reasonable cost and expense of furnishing such flagging and supervisory services.

9. Grantee agrees that before and during the installation, construction, replacement, repair, maintenance, or operation of said Wireline, or at any other time, Metra shall have the right to provide such safe and temporary structures as it may deem necessary for safely caring for and preserving its tracks, buildings or other improvements and Grantee agrees to pay to Metra the entire cost of putting in or removing such temporary structures and of restoring the Premises and the Property as near as may be to the same condition that existed before the commencement of said work.

10. Grantee agrees that it will, immediately upon receipt of a statement showing the amount thereof, pay all costs of any and all work performed upon the right of way and tracks of Metra which shall be made necessary by the construction, maintenance, repair, replacement, renewal or presence thereon of said Wireline.

11. Grantee agrees that should the construction, maintenance, operation, repair or presence of the Wireline necessitate any change or alteration in the location or arrangement of any other Wirelines, appurtenances or other improvements located on the Premises or the Property, the cost of such change or alteration shall be paid by Grantee within thirty (30) days of presentation of a bill by Metra. Grantee further agrees that if, at any time, Metra shall desire to change the location or grade of its track or tracks or shall desire to use or allow third party railroads to use its right of way at said point of crossing or at any point along a parallel course

with the Wireline for any purpose whatsoever, including but not limited to track installations by Metra or third parties, Grantee, at its own cost and expense, shall alter, relocate or make all changes to the Wireline required by Metra. If Grantee shall fail, neglect or refuse to relocate or make such change(s) to the Wireline for a period of ninety (90) days after the receipt of written notice from Metra, then Metra may make or cause to be made such relocation or change(s) at the expense of Grantee.

12. Grantee shall at all times install, construct, replace, repair, maintain and operate said Wireline in a secure, safe and sanitary condition and in accordance with all applicable laws, ordinances, rules and regulations. Grantee shall take all reasonable safety precautions to adequately secure the Premises, warn of risks and ensure the safety of the public during periods of construction, reconstruction, replacement, repair, maintenance and operation of the Wireline. If the manner of installing, constructing, repairing, maintaining, replacing or operating said Wireline shall at any time be in violation of any applicable law, ordinance, rule, or regulation promulgated by governmental authority, then Grantee shall, at no cost or expense to Metra, upon receipt of appropriate notice from a governmental agency having enforcement jurisdiction over the Premises, make such changes or repairs as shall be necessary. Failure or refusal of Grantee to make the required changes or repairs within the time prescribed by said agency shall terminate this Agreement, and Grantee's rights and interest shall revert to Metra; provided, however, that this Agreement shall not terminate as long as Grantee, in good faith and by pursuit of appropriate legal or equitable remedies, enjoins, defends against, appeals from or pursues other lawful measures to avoid the enforcement of said laws, ordinances, rules or regulations or so long as Grantee is diligently pursuing compliance..

13. To the fullest extent permitted by law, Grantee hereby assumes and agrees to release, acquit and waive any rights against and forever discharge Metra, the Regional Transportation Authority ("RTA") and the Northeast Illinois Regional Commuter Railroad Corporation ("NIRCRC"), their respective directors, administrators, officers, employees, agents, successors, assigns and all other persons, firms and corporations acting on their behalf or with their authority 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, or on account of damage to or destruction of property arising out of or in any way relating to or occurring in connection with, the use of the Premises or the Property for the purposes set forth in this Agreement, or which may occur to or be incurred by Grantee, its employees, officers, agents and all other persons, firms and corporations acting on Grantee's behalf or with Grantee's authority while on the Premises or the Property, or arising from the condition of the Premises or the Property during the term of this Agreement, whether or not such injuries or damages are caused by the actions, omissions or negligence of Metra, the RTA, or the NIRCRC. Notwithstanding anything in this Easement to the contrary, the releases and waivers contained in this paragraph shall survive termination of this Easement.

14. To the fullest extent permitted by law, Grantee agrees to indemnify, defend and hold harmless Metra, the RTA and the NIRCRC, their respective directors, administrators, officers, agents, employees, successors, assigns and all other persons, firms and corporations

acting on their behalf or with their authority, from and against any and all injuries, liabilities, losses, damages, costs, payments and expenses of every kind and nature (including court costs and attorneys' fees) as a result of claims, demands, actions, suits, proceedings, judgments or settlements, arising out of or in any way relating to or occurring in connection with, the use of the Premises or the Property for the purposes set forth in this Agreement, or the condition of the Premises or the Property, or which may occur to or be incurred by Grantee, its employees, officers, agents, and all other persons, firms and corporations acting on Grantee's behalf or with Grantee's authority while on the Premises or the Property, whether or not such injuries, liabilities, losses, damages, costs, payments or expenses are caused by the actions, omissions or negligence of Metra, the RTA or the NIRCRC. Metra agrees to notify Grantee in writing within a reasonable time of any claim of which it becomes aware which may fall within this indemnity provision. Grantee further agrees to defend Metra, the RTA, the NIRCRC, their respective directors, administrators, 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 RTA and the NIRCRC, 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 RTA, the NIRCRC, and their respective directors, administrators, officers, agents or employees. Grantee shall not enter into any compromise, or settlement of any such claims, suits, actions or proceedings without the consent of Metra, the RTA and the NIRCRC, which consent shall not be unreasonably withheld. Notwithstanding anything to the contrary contained in this Agreement, the indemnities contained in this paragraph shall survive termination of this Easement and the indemnification and hold harmless provisions set forth in this Agreement shall not be construed as an indemnification or hold harmless against and from the negligence of Metra, the RTA or the NIRCRC with respect to any construction work performed by Grantee or those performing on behalf of or with the authority of Grantee in violation of the Illinois Construction Contract Indemnification for Negligence Act.

15. Prior to entering upon the Premises, Licensee agrees to furnish insurance in form and in such amounts as required by Metra's Risk Management Department (312-322-6997) and shall 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 required insurance to construct, install, use, maintain, repair, replace, operate and renew the Wireline in accordance with the terms of this Easement.

To the fullest extent permitted by law, during all periods that Grantee or those persons authorized by or acting on behalf of Grantee are on the Premises to perform or cause to be performed any installation, construction, maintenance, or repair with respect to the Wireline, Grantee shall cause the Commuter Rail Division of the Regional Transportation Authority and its affiliated separate public corporation known as the Northeast Illinois Regional Transportation Authority, both operating under the service mark Metra, as now exists or may hereafter be constituted or acquired, including their interests in partnerships, and any other railroads operating on Metra property, to be designated as additional insureds on all insurance policies relating to the

Premises and shall provide proof thereof to Metra prior to entering upon the Premises. At a minimum, Grantee shall obtain and keep in force the following insurance relating to the Premises:

- a. Worker's Compensation (Coverage A) in an amount no less than required under State law. Additionally, Employer's Liability (Coverage B) in an amount no less than Five Hundred Thousand Dollars (\$500,000.00 – each accident, \$500,000.00 – each disease and \$500,000.00 policy limit-disease);
- b. Business Automotive Liability Insurance with coverage of no less than One Million Dollars (\$1,000,000) combined single limit;
- c. Commercial General Liability with coverage of no less than Two Million Dollars (\$2,000,000) per occurrence; and Four Million Dollars (\$4,000,000.00) aggregate. The Commercial General Liability insurance policy shall not include any exclusion for leakage, seepage or pollution emanating from the pipeline(s).

d. Railroad Protective Public Liability Insurance (AAR-AASHTO form) in the name of The Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation, both operating under the service mark Metra, as now exists or may hereafter be constituted or acquired, and the Regional Transportation Authority, an Illinois municipal corporation (additional railroad(s) at Metra's discretion), providing for a limit of no less than Five Million Dollars (\$5,000,000.00) single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of any person in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence. Grantee will furnish such insurance with an aggregate of no less than Ten Million Dollars (\$10,000,000.00) for all damages as a result of more than one occurrence.

Grantee or its contractor(s) shall not commence any work until it has obtained and provided the required insurance and has received approval of same by Metra. All policies must be in full force at the time of submission and shall not be canceled, modified, limited or allowed to expire without having given Metra thirty (30) days prior written notice of such. Notice must be sent via certified mail to: Metra, Attention: Director, Risk Management, 15th Floor, 547 West Jackson Boulevard, Chicago, Illinois 60661.

Grantee's failure to obtain or to cause its contractors to obtain proper insurance coverage or to insure Metra, the NIRCRC or the RTA as additional insureds shall not, at any time, operate as a waiver of each Grantor's right to indemnification and defense against any claims, damages or injuries covered under the terms and provisions of this Agreement. During the term, Metra may make commercially reasonable increases in the amount of insurance required by Grantee or its contractor(s) and/or sub-contractor(s) under the terms and provisions of this Agreement.

16. This Easement may be terminated by Metra effective sixty (60) days after giving notice to Grantee if the Premises, or any portion thereof, is needed for any Metra or railroad purposes as determined by Metra in its sole discretion or immediately upon notice to Grantee if Grantee ceases to operate or maintain the Wireline or violates any of the terms, conditions or provisions set forth in this Easement. In case of termination, Grantee shall remove from the Premises said Wireline and shall restore said Premises to the same or better condition than that which existed prior to the construction and installation of said Wireline; or upon failure, neglect or refusal of Grantee to do so, Metra may make or cause to be made such removal and restoration, and the total cost hereof shall be paid by Grantee; or, if Metra shall so elect, it may treat the said Wireline as abandoned by Grantee and may make such disposition thereof as it may see fit. All rights and interest in and to said Premises shall revert to Metra if Grantee vacates, abandons or ceases to use the Premises for a period of twelve (12) consecutive months. In such event, Grantee shall, upon Metra's request, execute appropriate documents releasing Grantee's interests.

17. This Easement and all of the terms, conditions, rights and obligations herein contained shall inure to and be binding upon the Parties, their respective legal representatives, lessees, permittees, successors and/or assigns whether hereinabove so stated or not; but it is distinctly agreed that Grantee shall not assign its rights under this Easement without first having received the prior written consent of Metra. It is Grantee's responsibility to give Metra notice of any change in the identity of the Grantee. In the event Grantee fails to obtain the required consent to assign its rights or fails to notify Metra of a change in the Grantee under this Agreement, Metra may terminate this Agreement or, alternatively, charge Grantee a fee of Fifty Dollars (\$50) per day from the date of the actual assignment or change in Grantee until the date Grantee furnishes to Metra the request for consent to the assignment or notice of the change in Grantee.

18. All payments required to be made by Grantee to Metra under the terms; conditions or provisions of this Easement shall be made within sixty (60) days of Grantee's receipt of any demand or invoice from Metra evidencing the amount of the indebtedness due. Payments not made within said sixty (60) day period shall accrue interest at a rate of one and one half percent (1 ½%) per month or the highest amount permitted by Illinois law, whichever is less, from the date payment is due until paid.

19. All notices, demands and elections required or permitted to be given or made by either Party upon the other under the terms of this Easement or any statute shall be in writing. Such communications shall be deemed to have been sufficiently served if sent by certified or registered mail, return receipt requested, with proper postage prepaid, facsimile transmission or hand delivered to the respective addresses shown below or to such other party or address as either Party may from time to time furnish to the other in writing. Such notices, demands, elections and other instruments shall be considered delivered to recipient on the second business day after deposit in the U.S. Mail, on the day of successful transmission if sent by facsimile transmission or on the day of delivery if hand delivered.

- (a) Notices to Metra shall be sent to:

Commuter Rail Division  
547 W. Jackson Boulevard  
Chicago, Illinois 60661  
Attn: Real Estate & Contracts, Director  
Phone: (312) 322-6696  
Fax: (312) 322-6698

- (b) Notices to Grantee shall be sent to:

Village of Orland Park  
Attn: Village Manager  
14700 South Ravinia Avenue  
Orland Park, Illinois 60462  
Phone: (708) 403-6155  
Fax: (708) 349-4859

20. This Agreement shall be governed by the internal laws of the State of Illinois. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word or the application thereof is held invalid, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law provided that the Agreement, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of either of the Parties. No waiver of any obligation or default of Grantee shall be implied from omission by Metra to take any action on account of such obligation or default and no express waiver shall affect any obligation or default other than the obligation or default specified in the express waiver and then only for the time and to the extent therein stated. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable. In the event the time for performance hereunder falls on a Saturday, Sunday or holiday, the actual time for performance shall be the next business day. This Easement constitutes the entire agreement between the Parties with respect to the subject matter hereof.

GRANTEE ACKNOWLEDGES THAT INSTRUMENTS OF RECORD, COURT DECISIONS, OR THE LAWS OF THE STATE IN WHICH THE EASEMENT PREMISES ARE LOCATED MAY LIMIT THE QUALITY OF METRA'S TITLE. GRANTEE FURTHER ACKNOWLEDGES THAT GRANTEE PURCHASES THE EASEMENT SUBJECT TO THESE POSSIBLE LIMITATIONS ON THE TITLE AND ASSUMES ALL RESPONSIBILITY FOR INVESTIGATING THE TITLE TO THE EASEMENT PREMISES AND THE APPLICABLE LAWS OF THE STATE.



**IN WITNESS WHEREOF**, the Parties hereto have duly executed this Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST: \_\_\_\_\_

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

By: \_\_\_\_\_  
Executive Secretary

By: \_\_\_\_\_  
Alexander D. Clifford  
Executive Director/CEO

ATTEST: \_\_\_\_\_

**VILLAGE OF ORLAND PARK:**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ILLINOIS )  
  ) SS.  
COUNTY OF COOK  )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Alexander D. Clifford, personally known to me to be the Executive Director/CEO of the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, and \_\_\_\_\_, personally known to me to be the Executive Secretary of said Corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as Executive Director/CEO and Executive Secretary of said Corporation, they signed and delivered the said instrument in their official capacities pursuant to authority given by the Board of Directors of said Corporation and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

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

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Notary Public

(SEAL)

STATE OF ILLINOIS )  
  ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of the Village of Orland Park, an Illinois municipality, and \_\_\_\_\_ personally known to me to be the \_\_\_\_\_ of said Municipality, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as \_\_\_\_\_ and \_\_\_\_\_ of said Municipality, they signed and delivered the said instrument in their official capacities pursuant to authority given by the Board of Directors and as the free and voluntary act and deed of said Municipality, for the uses and purposes therein set forth.

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

\_\_\_\_\_  
Notary Public  
  
(SEAL)