INTERGOVERNMENTAL AGREEMENT FOR LAND ACQUISITION

THIS AGREEMENT, made and entered into as of the 9th day of August, 2004, by and between the **Village of Orland Park**, Illinois municipal corporation ("**Municipality**"), and the **Commuter Rail Division of the Regional Transportation Authority** ("**Metra**"), a division of an Illinois municipal corporation. The Municipality and Metra are hereinafter sometimes individually referred to as a "**Party**" and jointly referred to as the "**Parties.**"

RECITALS

A. The Constitution of the State of Illinois, Article VII, Section 10, provides that units of local municipalities and special districts may contract among themselves in any manner not prohibited by law or by ordinance.

B. The Intergovernmental Cooperation Act, 5 ILCS 220/l et seq., authorizes local municipalities and special districts in Illinois to exercise jointly with any other municipality or special district any power, privilege or authority which may be exercised by a unit of local government, individually, and to enter into contracts for the performance of governmental services, activities, and undertakings.

C. Metra has the authority to cooperate with other governmental agencies regarding the acquisition, construction, operation, and maintenance of commuter parking lots pursuant to 70 ILCS 3615/313.09 and the above-cited provisions. Metra desires to build and plan for commuter rail facilities (including access thereto) to address its current and future commuter rail needs.

D. The Municipality is authorized to cooperate with Metra in the exercise of its powers and to sell or lease real property to Metra pursuant to 65 ILCS 5/11-122.2-1. The Municipality desires to redevelop property located in its village to provide better transportation, housing, and business opportunities to its community and residents.

E. The Municipality currently owns or will own a parcel of vacant land located east of 108th Avenue, north of 159th Street, and adjacent to the west side of the Norfolk Southern Railroad tracks, which is identified as part of permanent index number 27-17-401-005-0000, all in Orland Park, Illinois as delineated on **Exhibit "A"** attached to and made a part of this Agreement (the **"Master Tract")** .

F. The Parties desire Metra to acquire fifteen (15) acres of the Master Tract from the Municipality for commuter railroad purposes as delineated on Exhibit "A" and legally described on **Exhibit C-1 of Exhibit "C"**, which is attached to and made a part of this Agreement (the **"Parcel"**).

G. The Parties desire to cooperate in developing the Parcel as a commuter railroad parking facility ("**Parking Facility**") with related improvements to include seven hundred thirty-nine (739) parking spaces, a pedestrian tunnel and pedestrian access to such tunnel and from such tunnel to the adjacent Metra station (collectively, the "**Project**") to serve their respective residents and patrons. The Parties understand that the Project will be a long-term endeavor and will likely be comprised of various phases and each Party will materially rely upon the other Party to complete the obligations stated herein. Municipality has been advised by Metra that future phases of the Parking Facility may include expansion to a capacity of one thousand three hundred five (1,305) total parking spaces, which Municipality hereby approves. The Parties also desire to enter into an easement agreement that will provide for access to and infrastructure improvements for the Parking Facility, all as more fully provided below in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants, conditions, and agreements contained in this Agreement, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

1. **RECITALS INCORPORATED.** The Recitals set forth above are specifically incorporated as substantive and material terms and provisions of this Agreement.

2. **METRA'S OBLIGATIONS.** Metra desires to assist in the development of the Project, in part, by making the following commitments:

(a) Provided that Metra's appraisals support the following amount, Metra will purchase the Parcel from Municipality for an amount not to exceed One Million Eight Hundred Thousand Dollars ($1,800,000), subject to reduction based on a price of $120,000 per acre if and to the extent the actual acreage of the Parcel is less than fifteen (15) acres. Payment and transfer of the Parcel shall be made subject to and in accordance with the terms and provisions set forth on **Exhibit "C",** attached to and made a part of this Agreement.

(b) Metra shall construct the Parking Facility for a cost not to exceed Four Million Five Hundred Forty Thousand Dollars ($4,540,000) as reflected in the Cost Summary for the Metra Contribution attached hereto as **Exhibit "A-1"** (the "Project Budget"). Upon completion of the construction of the Parking Facility on the Parcel by Metra, Metra shall grant Municipality, and Municipality shall assume, the rights and obligations to manage, operate and maintain the Parking Facility in accordance with the Terms and Provisions For the Operation and Maintenance of a Commuter Parking Facility in the Village of Orland Park attached to and made a part of this Agreement as **Exhibit "B".**

3. **MUNICIPALITY'S OBLIGATIONS.** Municipality desires to assist in the development of the Project, in part, by making the following commitments:

(a) Municipality shall take all necessary action to transfer recordable title to the Parcel to Metra according to the terms and provisions stated in Exhibit "C," and if practical, to seek a division of the permanent index number for the Master Tract into the Parcel and a remainder parcel prior to the conveyance of the Parcel to Metra. If impractical, Municipality shall assist Metra in the division of the Master Tract into new permanent index numbers.

(b) Municipality shall take all necessary actions to create the legal descriptions for, and to provide for the development of, Park Station Boulevard, the North Extension of the Park Station Boulevard, and Jillian Road, all as depicted and labeled on the Site Plan attached hereto **Exhibit "D".**

(c) At such time as shall be sufficient to permit the timely construction of the Project, Jillian Road, Park Station Boulevard and the North Extension of the Park Station Boulevard, Municipality, at its expense, shall provide in a mutually agreeable location off of the Parcel site, the property for all detention and storm sewers (collectively, the "Detention Area") necessary for the Project, Park Station Boulevard, the North Extension of Park Station Boulevard and Jillian Road.

(d) Upon completion and acceptance of the Parking Facility, Municipality agrees that it will operate and maintain the Parking Facility for forty (40) years according to the terms and provisions of Exhibit "B."

(e) Municipality shall, on its own motion and at its sole cost and expense, obtain as quickly as is commercially reasonable, all local zoning approvals required for this Project and all approvals and permits required to construct the Detention Area, Jillian Road, Park Station Boulevard and the North Extension of Park Station Boulevard. Municipality shall also assist Metra and its contractors in expediting and obtaining all applicable Municipality permits and inspections required by the Municipality, at no cost or expense to Metra or its contractors necessary to complete, construct, and maintain the Project. Municipality and Metra shall jointly co-petition any and all local government bodies in the Municipality necessary to complete, construct, and maintain the Project. Municipality shall

support, endorse, and accompany Metra through all applicable local government permit or zoning proceedings, meetings, hearings, and inspections.

4. **JOINT OBLIGATIONS:**

(a) The Parties agree to do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in furthering the objectives of this Agreement and the intent of the Parties as reflected by the terms of this Agreement, including, without limitation, the enactment of such resolutions and ordinances, the execution of such permits, applications and agreements, and the taking of such other actions as may be necessary to enable the Parties' compliance with the terms and provisions of this Agreement, and as may be necessary to give effect to the objectives of this Agreement and the intentions of the Parties as reflected by the terms of this Agreement.

(b) The Municipality agrees to use its best effort to submit state or federal grant fund applications (if any) necessary for the completion of the construction of the commuter rail facilities intended to be used in the Village of Orland Park. Metra shall cooperate and assist the Municipality in the in the submittal or joint submittal of such state or federal grant fund applications that are necessary for obtaining funding to complete the Project.

(c) Neither Party shall assign this Agreement to any person or entity without the prior written consent of the other Party.

(d) The Parties agree that simultaneous herewith they shall enter into that certain Easement Agreement, in the form and content of **Exhibit "E"** hereto, that will provide for (i) a permanent easement for the benefit of the Parcel in, to and over the Detention Area; (ii) a temporary access easement for the benefit of the Parcel over the land between 108th Avenue and the Parcel on which Jillian Road is to be constructed; and (iii) a temporary access easement over the land between 159th Street and Jillian Road on which Park Station Boulevard and the North Extension of Park Station Boulevard are to be constructed.

(e) The Municipality and Metra agree that this Agreement is for the benefit of the Parties and not for the benefit of any third party beneficiary. No third party shall have any rights or claims against Metra or the Municipality arising from this Agreement.

5. **NOTICES.** All notices, demands, elections, and other instruments required or permitted to be given or made by either Party upon the other under the terms of this Agreement or any statute shall be in writing. Such communications shall be deemed to have been sufficiently served if sent by certified or registered mail with proper postage prepaid, hand delivered or sent by facsimile transmission, with proof of successful transmission sent by regular mail by the sending Party at 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.

(a) Notices to Metra shall be sent to:
Commuter Rail Division
547 W. Jackson Boulevard
Chicago, Illinois 60661
Attn: Director, Real Estate & Contract Management
Phone: (312) 322-8005
Fax: (312) 322-7098

(b) Notices to Municipality shall be sent to:
Village of Orland Park
14700 Ravinia Avenue
Orland Park, Illinois 60462
Attn: Village Manager
Phone: (708) 403-6155
Fax: (708) 349-4859

Such notices, demands, elections and other instruments shall be considered delivered to recipient on the third (3rd) business day after deposit in the U.S. Mail, on the day of delivery if hand delivered or on the first (1st) business day after successful transmission if sent by facsimile transmission.

6. **GENERAL.**

(a) This Agreement and the rights and obligations accruing hereunder are binding upon the Parties and their respective heirs, legal representatives, successors and assigns. No waiver of any obligation or default of either Party shall be implied from omission of the other Party 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.

(b) Section captions and headings used in this Agreement are for convenience only and shall not affect the construction or interpretation of this Agreement. 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.

(c) This Agreement shall be governed by the laws of the State of Illinois. This Agreement provides for the development, and maintenance of real estate located within the State of Illinois, and is to be performed within the State of Illinois. Accordingly, this Agreement, and all questions of interpretation, construction, and enforcement hereof, and all controversies hereunder shall be governed by the applicable statutory and common law of the State of Illinois.

(d) This Agreement, together with the exhibits attached hereto (all of which are incorporated herein by this reference), constitutes the entire Agreement between the Parties with respect to the subject matter hereof. No changes, modifications or alterations to this Agreement shall be effective without the written consent and authorization of Metra (by its Executive Director) and the Municipality.

(e) 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 was 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 the Parties. In the event of any conflict or inconsistency between the terms set forth in the body of this Agreement and the terms set forth in any exhibit hereto, the terms set forth in such exhibit shall govern and control.

(f) The execution, delivery of and performance under this Agreement is pursuant to authority, validity and duly conferred upon the Parties and signatories hereto.

(g) The Exhibits to this Agreement are as follows:

Exhibit "A"	–	Drawings Delineating the Master Tract and the Parcel and the Legal Description for the Master Tract
Exhibit "A-1"	–	Cost Summary for the Maximum Metra Contribution
Exhibit "B"	–	Terms and Provisions for Operating and Maintenance of Commuter Parking Lot
Exhibit "C"	–	Terms and Provisions for the Transfer of Real Property in Orland Park
Exhibit "C-1"	–	Legal Description of the Parcel (15 acres)
Exhibit "D"	–	Depiction of Park Station Boulevard, the North Extension of Park Station Boulevard and Jillian Road on a Site Plan
Exhibit "E"	–	Form of Easement Agreement for Access to the Project and the Detention Area

7. **METRA EXECUTIVE DIRECTOR APPROVAL.** Anything set forth in this Agreement to the contrary notwithstanding, this Agreement shall not be binding on Metra unless and until this Agreement shall have been executed by Metra's Executive Director.

8. **COUNTERPARTS.** This Agreement maybe simultaneously executed in one or several counterparts, each of which when so executed shall be deemed to be an original, and all of which counterparts, together, shall constitute one and the same instrument.

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: _____
Village Mayor

ATTEST:

By: _____
Village Clerk

COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY

By: _____
Philip A. Pagano, Executive Director

ATTEST:

By: _____
Assistant Secretary to the Board

ACKNOWLEDGMENTS ON NEXT PAGE

State of Illinois)

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 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.

Given under my hand and notarial seal this 17th day of March, 2005.

Notary Public

My commission expires: 05/01/2008

State of Illinois)

County of Cook)

"OFFICIAL SEAL"
Sharon Coleman
Notary Public, State of Illinois
My Commission Exp. 05/01/2008

The undersigned, a Notary Public in and for the above County and State, do hereby certify that President of the Village of Orland Park **("Village")** 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 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 17 day of March, 2005.

Notary Public

My commission expires:

OFFICIAL SEAL
MARY SHANAHAN
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES:01/26/09

EXHIBIT A

DRAWING DELINEATING THE PARCEL AND THE MASTER TRACT AND THE LEGAL DESCRIPTION FOR THE MASTER TRACT

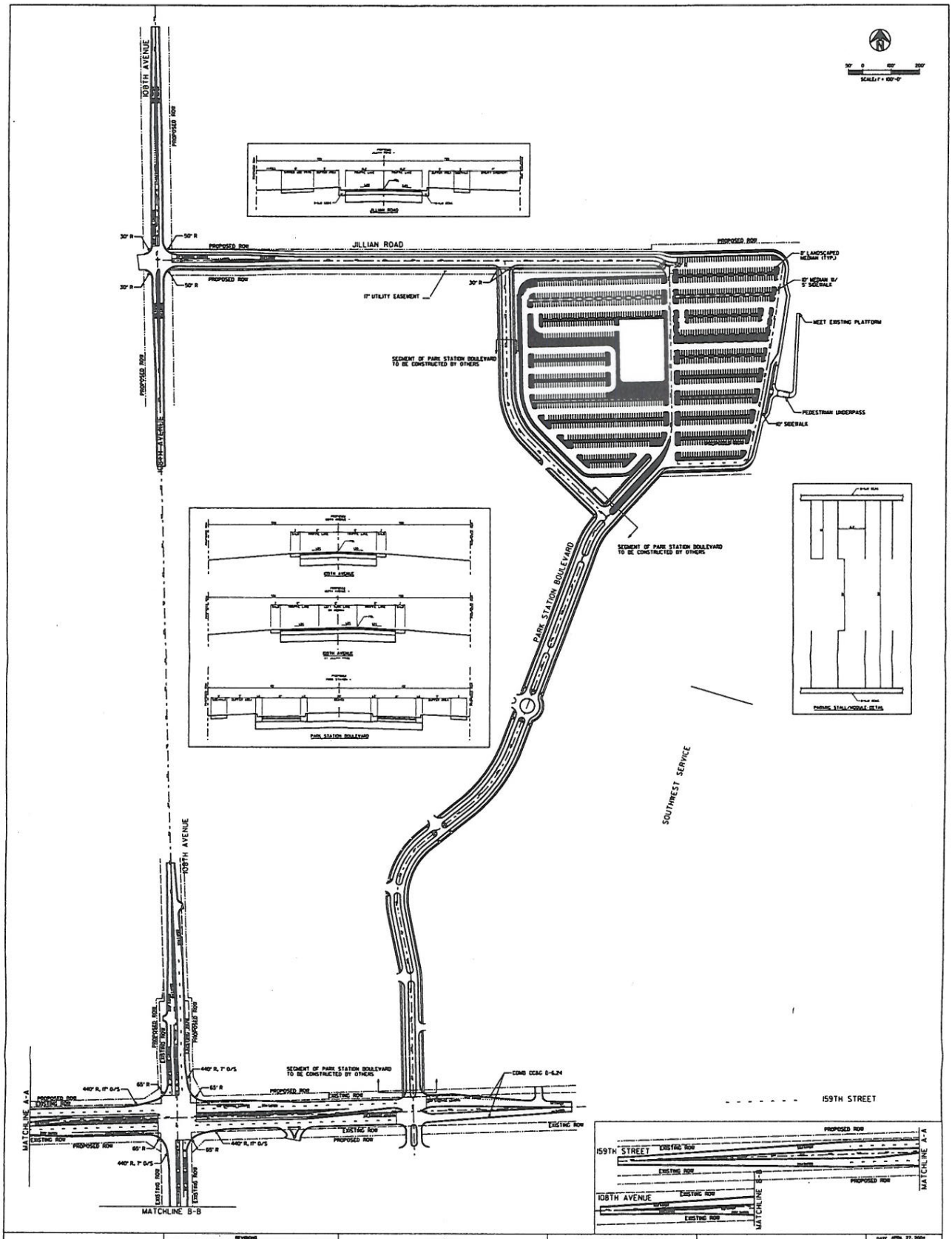

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EXHIBIT A-1

COST SUMMARY FOR THE MAXIMUM METRA CONTRIBUTION

Element	Component	Details	Village Contribution	Maximum Metra Contribution
I. Parking Lot				
	Land acquisition at a rate of $120,000 per acre not to exceed 15 acres. Purchase Price to be decreased if less than 15 acres.	Metra to purchase from Village property for parking lot only.	None	$1,800,000
	Construction of parking lot, pedestrian tunnel and station pedestrian access	Metra to complete design and construct facility	Agreed	$4,540,000
	Provide stormwater detention area	Village has authorized use of its detention facility east of the Right of way at no cost to Metra	Agreed	None
II. Park Station Blvd.				
	Land acquisition	Village will provide all Right-of-Way at no cost to Metra	Agreed	None
	Construction of base roadway	Under construction amount not to exceed $675,000	$337,500	$337,500
	North extension and lighting	Metra to complete design, construct road and install lighting	Agreed	$320,000
	Sidewalk and landscaping	Village to complete all design and construction	Agreed	None

EXHIBIT A-1

COST SUMMARY FOR THE MAXIMUM METRA CONTRIBUTION

Element	Component	Details	Village Contribution	Maximum Metra Contribution
III. Jillian Road				
	Land acquisition	Village will provide all Right-of-Way at no cost to Metra	Agreed	None
	Construction of base roadway	Metra to complete design and construct facility	Agreed	$710,000
	Sidewalk and landscaping	Village to complete all design and construction	Agreed	None
IV. 108th Access				
	Construction of turn lanes to provide station access	Metra to complete design and construct improvements	Agreed	$1,060,000
V. 159th Access				
	Construction of turn lanes to provide station access	Metra to complete design and construct improvements	Agreed	$250,000
		Acquisition Subtotal		$1,800,000
		Construction Subtotal		$7,217,500
		Grand Total		$9,017,500

EXHIBIT B

TERMS AND PROVISIONS FOR THE OPERATION AND MAINTENANCE OF A COMMUTER PARKING FACILITY AND CONSTRUCTION AND DEDICATION OF ACCESS ROADS TO SUCH PARKING FACILITY IN THE VILLAGE OF ORLAND PARK

RECITALS

A. Metra shall own the Parcel (herein referred to as the "**Premises**") and any improvements thereon as delineated on Exhibit "A".

B. Metra desires to grant to Municipality the right to manage, operate and maintain a Parking Facility on the Premises as delineated on Exhibit "A". Upon substantial completion of the plans for the Parking Facility, the Parties agree to attach a revised exhibit as **Exhibit "B-1"** to more particularly describe the Parking Facility.

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

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, maintain, restore and reconstruct the Parking Facility (and Municipality agrees to do and perform the same) 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 Parking Facility or each separate part is completed and accepted by both Parties, and shall continue in force and effect for a period of forty (40) years from said date ("Use Term") unless otherwise terminated as provided for 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 parking facility with daily rates for public parking. Municipality desires to control access to said Premises and to operate, maintain, restore and reconstruct said Premises pursuant to Section 4 herein.

(b) Parking lot fees set and collected by Municipality shall be standardized for all patrons of the Premises 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 serve basis. Metra reserves the right, at anytime, to review and approve the amount of the parking fees charged by Municipality.

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 if 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 said 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 AND ACCESS.**

(a) Municipality, at its own cost and expense, shall manage the Parking Facility (including the underground pedestrian tunnel under the existing Norfolk Southern Railroad tracks connecting the Parcel to an existing commuter railroad parking facility of Metra) 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, restoration, rehabilitation, reconstruction, excavation, demolition of structures, new construction, light standard placement and replacement necessitated by damage to or deterioration of a structure or any other part of the Parking Facility. In the event Municipality fails to manage, operate, maintain, restore or reconstruct the Parking Facility in accordance with the terms and provisions of this Agreement, Metra may 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.

(b) 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 proposed 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.

(c) Municipality shall be responsible for the **"Standard Maintenance"** of all landscaping on and along the railroad right-of-way as delineated on **Exhibit "B-1" attached** hereto and made a part hereof. 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.

(d) Municipality shall obtain all necessary zoning and permits for and Municipality and Metra shall construct, as hereinafter determined, in accordance with the specifications and design criteria attached as **Exhibit "B-3"** hereto, each of the following improvements:

(i) Park Station Boulevard, connecting the North Extension of Park Station Boulevard to 159th Street as shown on **Exhibit "D"** to this Agreement, which Municipality shall promptly construct; and

(ii) The North Extension of Park Station Boulevard, connecting Park Station Boulevard to Jillian Road as shown on Exhibit "D" to this Agreement, which Metra shall construct in conjunction with the construction of Jillian Road and Park Station Boulevard; and

(iii) Jillian Road, connecting the Parking Facility to 108th Avenue as shown on **Exhibit "D"** to this Agreement, which Metra shall promptly construct.

(e) Metra agrees to contribute the sum of Three Hundred Thirty-Seven Thousand Five Hundred Dollars ($337,500) to the cost and expense of constructing Park Station Boulevard in accordance with the Project Budget and pursuant to the plans and specifications for a road providing access from 159th Street to the North Extension of Park Station Boulevard to be approved by Metra in its commercially reasonable discretion. Municipality agrees to bear all costs and expenses of constructing Park Station Boulevard in excess of the portion thereof that Metra has agreed to pay pursuant to the preceding sentence, including, without limitation, all landscaping and road enhancements.

(f) Metra agrees to construct Jillian Road pursuant to the plan attached as **Schedule 1** to this Exhibit "B", but at a cost and expense to Metra not to exceed the sum of Seven Hundred Ten Thousand Dollars ($710,000) in accordance with the Project Budget, and Municipality agrees to bear (i) the cost and expense, if any, of performing such work in excess of the portion thereof that Metra has agreed to pay pursuant to this sentence, including, without limitation, all landscaping and road enhancements, and (ii) the entire cost and expense of constructing, installing or adding any improvements or landscaping to Jillian Road other than those items reflected in Schedule 1 to this Exhibit "B". In addition to the foregoing, Metra agrees, at its own cost and expense but in no event for an amount to exceed One Million Sixty Thousand Dollars ($1,060,000), to construct such access lanes (for right and left turns) from Jillian Road to 108th Avenue as shall be required by applicable law, all in accordance with the Project Budget.

(g) Metra agrees to construct the North Extension of Park Station Boulevard and install the lighting for Park Station Boulevard and the North Extension of Park Station Boulevard pursuant to the plan attached as **Schedule 2** to this Exhibit "B", but at a cost to Metra not to exceed the sum of Three Hundred Twenty Thousand Dollars ($320,000), in accordance with the Project Budget, and Municipality agrees to bear (i) the cost and expense, if any, of performing such work in excess of the portion thereof that Metra has agreed to pay pursuant to this sentence, and (ii) the entire cost and expense of constructing, installing or adding any improvements or landscaping to the North Extension of Park Station Boulevard other than those items reflected in Schedule 2 to this Exhibit "B".

(h) Prior to the closing of the purchase by Metra of the Parcel and the completion of construction of Park Station Boulevard, the North Extension of Park Station Boulevard and Jillian Road, Municipality shall cause Park Station Boulevard, the North Extension of Park Station Boulevard and Jillian Road to be dedicated to the Municipality pursuant to a plat of dedication, or other instrument legally sufficient to cause such dedication (hereinafter referred to as a "Plat of Dedication") approved by Metra prior to such closing. The Parties agree that the primary use of Jillian Road shall be to provide access to the Parking Facility on the Premises. Municipality agrees that it shall be responsible at all times, at its sole cost and expense, for all maintenance, restorations, reconstruction and/or replacement and snow clearance of and for Jillian Road, Park Station Boulevard and the North Extension of Park Station Boulevard.

(i) **[If Jillian Road is expanded to provide access to future developments and/or curb cuts, Municipality shall pay Metra recapture fees in amounts and on terms to be negotiated by Municipality and Metra.]**

(j) Metra agrees to contribute an amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000) to the cost and expense of additional intersection construction for 108th Avenue and 159th Street in accordance with the Project Budget.

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. 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 insurance in form and in such amounts as required by Metra's Risk Management Department (312-322-6991) 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. 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 B-2,** attached hereto **("Insurance Requirements").** To the extent permitted by law, said insurance shall show Metra, the Regional Transportation Authority ("**RTA**"), the Northeast Illinois Regional Commuter Railroad Corporation ("**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 or hereafter installed 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 Parking Facility.

8. **METRA'S TITLE.** 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 Parking 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 RTA, the NIRCRC, their respective directors, administrators, officers, employees, agents, successors, assigns, and all other persons, firms and corporations acting on behalf of or with the authority of Metra, the RTA or the NIRCRC, 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 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, 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 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 RTA, the NIRCRC or 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 RTA, the NIRCRC or 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 Metra, the RTA or the NIRCRC 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, the RTA and the NIRCRC, 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, the RTA and the NIRCRC, 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. **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.

14. **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, the rights of Municipality under this Agreement and Municipality's use of the Premises shall automatically cease and terminate.

15. **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 Parking Facility, fill all excavations that have been made by Municipality and deliver possession of the Parking Facility to Metra in as good or better condition as 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, the RTA and the NIRCRC and their respective directors, employees, agents and licensees by reason of such retention of possession or use. The provisions of this paragraph do not exclude the Metra's right of reentry or any other rights to recover use and possession of the Premises afforded Metra by law.

16. **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 Parking Facility; provided, however, that Municipality shall have the right to remove certain of Municipality's property as herein above 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.

17. **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.

18. **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.

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

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

21. **SALE OR ASSIGNMENT.** Any assignment or transfer of this Agreement by Municipality without the written consent of Metra its successors and assigns shall be void. No act of Metra, including acceptance of money by Metra from any other party, shall constitute a waiver of this provision.

22. **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.

23. **PARKING REVENUES.**

(a) All Parking fees or other revenue derived from Municipality's use of the Parking Facility, as the same may be expanded from time to time to add additional parking spaces ("Revenues") shall first be utilized for Routine Maintenance, Standard Maintenance and commercially reasonable administrative expenses incurred from the operation of the Parking Facility. The remainder shall be deposited in a capital improvement account to be used for future renovation or rehabilitation of the Parking Facility.

(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, the RTA, the 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 Revenue 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 Revenue collected and shall make its records available to Metra at mutually convenient times. Furthermore, Municipality shall immediately notify Metra if the Parking 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. Municipality agrees that all such books and records shall be maintained in Orland Park or elsewhere in the greater-Chicago Metropolitan area.

EXHIBIT B-1

DESCRIPTION OF PARKING FACILITY TO BE ATTACHED HERETO UPON SUBSTANTIAL COMPLETION OF THE PLANS FOR THE PARKING FACILITIES

EXHIBIT B-2

INSURANCE REQUIREMENTS
TO BE INSERTED HERE

SCHEDULE 1

Plan for Julian Road

SCHEDULE 2

Plan for North Extension of Park Station Boulevard

EXHIBIT C

TERMS AND PROVISIONS FOR THE TRANSFER OF REAL PROPERTY IN ORLAND PARK

RECITALS

A. Municipality is the record owner of certain real property located in Orland Park, Illinois consisting of not less than fifteen (15) acres of vacant land situated east of 108th Avenue, north of 159th Street, and west of the Norfolk Southern Railroad tracks identified as part of permanent index number 27-17-401-005-0000, delineated on Exhibit "A" and legally described on **Exhibit "C-1,"** attached to and made a part of this Agreement (**"Land"**), to be confirmed by the survey provided for in this Agreement. For purposes of this Exhibit "C", Municipality is also referred to as **"Seller"** and Metra is also referred to as **"Purchaser."**

B. Seller desires to sell, transfer and convey the Land to Purchaser and Purchaser desires to purchase the Land from Seller subject to and in accordance with the terms, covenants, conditions and provisions set forth below.

AGREEMENT

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 representations, covenants, warranties and agreements contained below, the Parties represent, covenant, warrant and agree as follows:

1. AGREEMENT FOR SALE AND PURCHASE. Seller agrees to sell, transfer and convey, and Purchaser agrees to purchase and receive, the Land together with all right, title and interest of Seller in and to all rights, privileges, easements, hereditaments and appurtenances in any way incident, appertaining or belonging to the Land and all improvements currently existing or hereafter constructed or installed on, in, over or under the Land (**"Property"**) subject to and in accordance with each of the terms and conditions set forth below.

2. CLOSING. Provided that all the contingencies and conditions precedent set forth in Section 5 below have been satisfied or waived, the closing (**"Closing"**) shall take place at the downtown Chicago offices of Chicago Title Insurance Company (**"Title Insurer"**) on _____, or such other date as may be agreed upon by the Parties (**"Closing Date"**).

3. PURCHASE PRICE. The purchase price for the Property shall be an amount not to exceed One Million Eight Hundred Thousand Dollars ($1,800,000), subject to reduction based on a price of $120,000 per acre if and to the extent the actual acreage of the Land is less than fifteen (15) acres (**"Purchase Price"**), and shall be paid by Purchaser on the Closing Date.

4. TITLE. Seller shall convey to Purchaser fee simple title to and all of Seller's right, title and interest in the Property by recordable, stamped, warranty deed acceptable to Purchaser and the Title Insurer (**"Deed"**) subject only to those title exceptions set forth on **Exhibit "C-2"** attached to and made a part of this Agreement (**"Permitted Exceptions"**).

5. CONTINGENCIES OR CONDITIONS PRECEDENT. Notwithstanding anything to the contrary which may be contained in this Agreement, Purchaser's obligation to consummate this transaction is subject to and conditioned upon satisfaction of the following express conditions precedent. Each of the conditions precedent may be waived in writing by Purchaser, such conditions being intended for the exclusive protection and benefit of Purchaser. In the event that such conditions are not satisfied or

waived by Purchaser on or before the Closing Date, then at the sole option of Purchaser, this Agreement may be either: (i) declared null and void; or (ii) extended upon the mutual agreement of the Parties.

(a) The continued validity of each and every representation, covenant and warranty contained in this Agreement.

(b) Prior to the Closing Date, at Purchaser's expense, Purchaser and/or persons of Purchaser's choice shall have the right to enter upon the Property for the purpose of obtaining an engineering report and/or an environmental survey covering the Property. Purchaser shall indemnify and hold Seller harmless from and against any loss, cost damage or expense for personal injury, including death, to any person or property damage occurring or arising as a result of Purchaser's activities on the Property pursuant to the terms of this Section 5.13. If the engineering report and/or environmental survey discloses defective or hazardous conditions with respect to the Property which Purchaser, in its sole discretion, deems unsatisfactory and so notifies Seller within ten (10) business days prior to the Closing Date and Seller is unable or refuses to remedy or commence remediation of such defects to Purchaser's satisfaction within the fifteen (15) day period following Seller's receipt of written notice of such defect from Purchaser, then Purchaser shall have the right to terminate this Agreement without further liability or obligation to Seller.

(c) Prior to the Closing Date, Seller shall remove from the Property all debris and personal property not being conveyed and to deliver possession of the Property in clean condition and otherwise in the same condition as it exists as of the date of this Agreement.

(d) Seller shall deliver to Purchaser within thirty (30) days of the date hereof, copies of the following, if any, which are in Seller's possession or control: (i) all tax bills, surveys and title policies; (ii) all engineering studies, soil tests, chemical tests, environmental reports, analyses or assessments of the Property; and (iii) all site plans, drawings, documents showing the installation of utilities, or other documents relating to the Property or the improvements thereon.

(e) INTENTIONALLY OMITTED.

(f) On the Closing Date, Seller shall deliver to Purchaser an affidavit executed by Seller, dated the same date as such Closing Date, representing and affirming that there are no recorded or unrecorded brokers', mechanics' or materialmens' liens arising by or through the actions of Seller and there has been and is no work performed or material being furnished at the request of Seller with respect to the Property and there are no payments or outstanding balances due under any agreements pertaining to the Property for which payment has not previously been fully made.

(g) On the Closing Date, Seller shall deliver to Purchaser an affidavit of title in customary form covering such Closing Date.

(h) On or before the Closing Date, Purchaser shall have received all grant monies (if any) funding necessary for acquisition of the Property in accordance with the terms of this Agreement.

(i) On or before the Closing Date, Purchaser shall have confirmed to Purchaser's satisfaction that the Property is properly zoned to be used as a commuter parking facility under applicable zoning laws, ordinances, rules and regulations.

(j) Purchaser shall be satisfied with all title and survey matters in accordance with Sections 6 and 7 below.

(k) Jillian Road and Park Station Boulevard shall have been dedicated by the Municipality pursuant to a Plat of Dedication in form and content satisfactory to and approved by Purchaser; provided, however, that if such roads have not been dedicated by the Closing Date, then Purchaser shall remain obligated to close if sufficient easements to construct such roads and use them for road purposes to provide ingress to and egress from the Parking Facility have been granted (as determined by Purchaser in its sole discretion) so that such roads either have been or can be constructed and completed for use by the date Purchaser projects the Parking Facility will be completed.

6. TITLE POLICY. Within thirty (30) days after the date hereof, Seller shall, at its sole cost and expense, provide Purchaser or Purchaser's attorney with a title insurance commitment for the issuance of an ALTA owner's title insurance policy ("Title Policy") covering the Property, issued by the Title Insurer, dated subsequent to the date of this Agreement in the amount of the Purchase Price, with extended coverage over the general exceptions contained in the Title Policy and showing title in the Seller subject only to: (a) the Permitted Exceptions, and (b) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money from Seller at the time of closing (and which Seller shall so remove at that time by using the funds to be paid upon the delivery of the Deed). On or before the Closing Date, Seller shall cause the Title Company to issue a zoning endorsement (and such other endorsements as Purchaser shall determine) to the said title commitment evidencing to Purchaser's satisfaction that development and use of the Property as a commuter parking facility is permitted under applicable zoning ordinances. On the Closing Date, Seller, at its sole cost and expense, shall cause the Title Insurer to issue: (i) the signed and binding pro-forma Title Policy covering such Closing Date, showing title in Seller subject only to the Permitted Exceptions and any unpermitted exceptions or defects in the title disclosed by the Survey (as hereinafter defined), if any, which are accepted and approved in writing by Purchaser, (ii) the zoning endorsement, and (iii) such other endorsements as Purchaser shall determine. The form and content of all title endorsements are subject to the approval of Purchaser.

7. SURVEY.

(a) Within thirty (30) days after the date hereof, Seller shall, at its sole cost and expense, deliver to Purchaser or Purchaser's attorney, a current survey of the Property and dated and prepared subsequent to the date of this Agreement by a licensed Illinois Property surveyor and certified to Purchaser and the Title Insurer to have been prepared in accordance with the ALTA/ACSM Property survey standards and with such table items as Purchaser shall require ("**Survey**"). To the extent such information may be obtained by a visual inspection of the Property or a review of the public records, the Survey shall set forth the legal description, location, acreage and dimensions of the Property and any structures or improvements located thereon, show all water lines, sanitary sewers, storm sewers, any other utilities, building lines, setback lines, easements and other restrictions affecting the Property, all encroachments onto and from adjoining properties, building lines, access to public roads and street address(es) . The Survey must be acceptable to the Title Insurer for purposes of providing extended coverage over the general title exceptions relating to matters of survey.

(b) If the Survey required to be furnished under this Section discloses encroachments over which the Title Insurer will not insure or which Purchaser is unwilling to accept even with such title insurance, or if, after reviewing such Survey, the Title Insurer raises unpermitted exceptions ("Survey Defects") on or before the Closing Date, Seller shall correct any Survey Defects; provided, however, that if Seller is unable or unwilling to correct such Survey Defects, Purchaser may elect either to terminate this Agreement or accept title to the Property subject to such Survey Defects as set forth in Section 9(c) below.

8. TRANSFER AND TRANSACTION DECLARATIONS. Seller shall pay the amount of any tamp taxes imposed by state or county law on the transfer of the title to the Property and shall furnish a completed Real Estate Transfer Declaration signed by Seller or Seller's agent in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois, and shall furnish any declaration signed by Seller or Seller's agent or meet other requirements as established by any local ordinance with regard to a transfer or transaction tax. Under present law, conveyances to Purchaser are exempt from state and local transfer and transaction taxes, however, State, County, and, if applicable, local transfer declarations must be presented to the County Recorder's Office with the Deed.

9. CLOSING PROCEDURES AND MISCELLANEOUS.

(a) When all the contingencies and conditions precedent set forth in this Agreement which are required to be satisfied prior to the Closing Date, have been satisfied or waived by Purchaser, Purchaser shall notify Seller of such and Seller shall order a later dated title commitment covering the Property from the Title Insurer and cause such commitment to be delivered to Purchaser. Provided the later dated title commitment is acceptable to Purchaser, and all other obligations of Seller set forth in this Agreement have been satisfied, the Parties will close the purchase and sale of the Property on the Closing Date. On the Closing Date, Seller shall deliver to Purchaser all documents required to be delivered at closing under the terms and conditions of this Agreement.

(b) The transaction shall be closed by means of a so-called "New York Style" closing, with the concurrent delivery of the documents of title, transfer of interests, delivery of the pro-forma Title Policy and payment of the Purchase Price. Seller, at its sole cost and expense, shall provide the standard gap undertaking **("Gap Undertaking")** to the Title Company necessary for the New York style closing to occur and any other clearance required by the Title Insurer. The cost of the closing, other than the Gap Undertaking, shall be divided equally between Seller and Purchaser.

(c) In the event that the pro-forma title policy presented at the closing discloses unpermitted exceptions or the Survey discloses Survey Defects which Purchaser is unwilling to accept, Seller shall have five (5) business days within which to have the unpermitted exceptions or Survey Defects waived or insured over and approved by Purchaser. In the event Seller is unable to have the unpermitted exceptions or Survey Defects waived, insured over and approved by Purchaser, then Purchaser shall have the option either:

(i) To terminate this Agreement; or

(ii) To extend the cure period for an additional thirty (30) days by written notice to Seller, in which event Seller shall have the right within such thirty (30) days to remove said unpermitted exceptions or Survey Defects or to insure over such unpermitted exceptions which constitute liens or encumbrances of a definite or ascertainable amount, failing which, Purchaser may terminate this Agreement in the manner set forth above or Purchaser may take title to the Property and direct Seller to pay, pursuant to the terms of this Agreement, liens or encumbrances of a definite or ascertainable amount and to proceed with the remaining terms and conditions of this Agreement.

10. POSSESSION. Possession of the Property shall be delivered to Purchaser on the Closing Date.

11. CONDEMNATION/CASUALTY. If, prior to the Closing Date, either all or a portion of the Property is taken by eminent domain or is under threat of being taken by eminent domain or is destroyed by fire or other casualty, Purchaser shall have the right, at its option, to elect to terminate this Agreement, in which event the Parties shall be relieved of and released from any further liability hereunder and thereupon this Agreement shall become null and void and of no further force and effect. If

a taking or casualty occurs prior to such Closing Date and Purchaser does not elect to terminate, this Agreement shall remain in full force and effect and Purchaser may make the purchase contemplated herein, less any interest taken by eminent domain or damaged or destroyed by fire or other casualty and with a concurrent reduction in the Purchase Price equal to the amount of any condemnation award or proceeds of insurance received by Seller with respect to such taking or casualty. In the event the taking has not yet occurred prior to the Closing Date and Purchaser does not elect to terminate this Agreement, Seller shall assign, transfer and set over to Purchaser all the rights, title and interest of Seller in and to any condemnation awards or, at the option of Purchaser, subrogate the rights of Purchaser to any and all rights of Seller in any condemnation proceeding.

12. SELLER'S REPRESENTATIONS AND WARRANTIES. Seller makes the following representations and warranties to Purchaser, which representations and warranties shall be deemed to have been remade on and shall survive the Closing Date.

(a) There are no third party leases of any portion of the Property or any other third party agreements currently in effect, nor are there any such leases or agreements for a future period, and no third party licenses or any other possessory rights exist in any person or entity with respect to the Property.

(b) No undertaking by Seller under this Agreement will constitute a default by Seller under any agreements to which Seller is a party.

(c) Seller has or will have on the Closing Date full authority and power to convey fee simple title to the Property free and clear of any liens, claims or encumbrances of third parties and has full authority and power to perform Seller's, obligations under this Agreement.

(d) No litigation, legal proceedings or administrative proceedings of any type relating to or affecting the Property (including condemnation or similar proceedings) have been instituted or, to the best of Seller's knowledge, are contemplated against Seller, the Property or any part thereof, including without limitation any claims for brokers', mechanics' or materialmen's liens.

(e) All real estate taxes assessed against the Property are currently paid and, to the best of Seller's knowledge, there are no assessed, levied, pending or contemplated special real estate taxes or regular or special assessments of any nature with respect to the Property or any part thereof.

(f) Seller has received no notice of any pollution or contamination on the Property, nor of any violations with respect to the Property including without limitation violations of zoning, conservation or environmental laws, ordinances, codes or regulations, or other laws, codes or regulations relating to public health and safety.

(g) There are no above-ground storage tanks and, to the best of Seller's knowledge, no underground storage tanks are present on the Property which contain any Hazardous Materials, as hereinafter defined, and no such tanks were previously removed from the Property.

(h) Seller has no knowledge of any hazardous or toxic materials or substances, as such terms are defined under applicable current local, state or federal laws, ordinances, rules or regulations (**"Hazardous Materials"**) that are now located on the Property and, to the best of Seller's knowledge and belief, no other person has ever caused or permitted any Hazardous Materials to be placed, held, located or disposed of, on, under, or at the Property or any part thereof. To the best of Seller's knowledge and belief after due inquiry, no part of the Property has ever been used as a manufacturing, storage or dump site for Hazardous Materials, nor is any part of the Property affected by any Hazardous Materials contamination. To the best of Seller's knowledge and belief, no property

adjoining the Property has ever been used as a manufacturing, warehousing, storage or dump site for Hazardous Materials, nor is any other Property adjoining the Property affected by any Hazardous Materials contamination. To the fullest extent Seller would be responsible by law for the existence and remediation of Hazardous Materials or Hazardous Materials Contamination, Seller shall defend, indemnify and hold harmless Purchaser from any and all liabilities (including strict liability) actions, demands, penalties, losses, costs or expenses (including, without limitation, reasonable attorneys' fees and remedial costs), suits, costs of any settlement or judgment and claims of any and every kind whatsoever which may now or in the future (whether before or after the Closing Date) be paid, incurred or suffered by or asserted against Purchaser or by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials prior to the Closing Date or arise out of or result from the environmental condition of the Property prior to the Closing Date, or the applicability of any governmental requirement relating to Hazardous Materials on the Property prior to the Closing Date (including without limitation, CERCLA or any so called federal, state or local "Superfund" or "Superlien" laws, statute, ordinance, code, rule, regulation, order or decree, (regardless of whether or not caused by or within the control of Seller).

(i) Other than as set forth in the Permitted Exceptions, to the best of Seller's knowledge, there are no ordinances, restrictions, easements or licenses, whether recorded or unrecorded, affecting any portion of the Property which will interfere with the Purchaser's intended use of the Property.

(j) There are no obligations or responsibilities of Seller that will survive the Closing Date with respect to any persons or entities involved in the operation, maintenance and management of the Property that would become the obligation or responsibility of the Purchaser, and Seller indemnifies Purchaser against any and all such obligations and responsibilities to such persons or entities, which arise before or will arise after such Closing Date.

(k) In the event of any alleged breach of any such representations, warranties, or covenants set forth above prior to the Closing Date, Purchaser shall deliver written notice of such breach to Seller, and Seller shall have thirty (30) days to cure such breach and in the event Seller is unable to cure such breach to the reasonable satisfaction of Purchaser, then Purchaser shall have the option to terminate this Agreement. In the event of any alleged breach of any such representations, warranties, or covenants subsequent to such Closing Date, Purchaser shall deliver written notice of such breach to Seller, and Seller shall have thirty (30) days to cure such breach and in the event Seller is unable to cure such breach to the reasonable satisfaction of Purchaser, then Purchaser shall have the right to require Seller to pay the amount of any damage suffered as a result of such breach. All such sums expended or damage suffered shall, from the date of loss until the date of offset, bear interest at the rate of two percent (2%) per annum over the prime rate of interest from time to time charged by the First National Bank of Chicago, its successors or assigns.

13. REAL ESTATE TAXES. All real estate taxes, levies, and charges, if any, payable shall be paid by Seller prior to closing or Seller shall provide Purchaser with a credit for such unpaid taxes, levies, and charges at closing. Real estate taxes and all other levies and charges that are assessed against or which are a lien on the property, but are not yet payable, shall be prorated through the Closing Date based on the unpaid taxes, levies, or charges. Purchaser's credit for such taxes, levies, and charges shall be an amount equal to Purchaser's Proportionate Share (as hereinafter defined) multiplied by one hundred ten percent (110%) of the most recently assessed valuation of the Land on record at the Cook County Assessor's office. (As used herein, "Purchaser's Proportionate Share" shall mean the ratio of (i) the square footage of the Property to (ii) the square footage of all of the land contained in the tax parcel of which the Property is a part.) All real estate taxes, levies and charges, if any, assessed against the Land subsequent to the Closing Date shall be paid by Purchaser. All real estate taxes, levies, and charges, if any, payable

shall be paid by Seller or Seller shall provide Purchaser with a credit for such unpaid taxes, levies, and charges at closing. Each Party shall indemnify and hold the other Party harmless for the payment of their respective portion of taxes prior to the division of the property. The representations and warranties stated in this clause shall survive the closing and the transfer of the title of the property by deed.

14. PRORATIONS. The following items shall be paid, prorated and adjusted through the Closing Date and subsequent thereto as follows:

(a) Seller shall be responsible for payment of all personal property taxes, sewer rents, water rents, transit taxes, utilities, maintenance, insurance, operating and all other charges and costs associated with or charged or assessed against the Property on or before the Closing Date.

(b) Owner's title insurance (including endorsements) and customary Seller's title and recording charges shall be paid by Seller. Customary Purchaser's title and recording charges shall be paid by Purchaser.

(c) All accounts payable, contractual and other obligations incurred by Seller prior to the Closing Date shall be paid or performed by Seller on or before such Closing Date and Purchaser assumes no obligation or responsibility for the payment or performance of such obligations.

15. DOCUMENTS FOR CLOSING. Seller shall prepare or cause to be prepared the Deed, the Seller's Closing Statement, an Affidavit of Title and any other documents required of Seller under the terms of this Agreement or deemed necessary or appropriate by Purchaser or the Title Insurer to consummate this transaction, all of which shall be in form, scope and substance reasonably acceptable to Purchaser and the Title Insurer.

16. DEFAULT.

(a) Except as specifically provided otherwise in this Agreement, in the event that Seller shall fail to comply with any of the obligations to be performed by Seller hereunder, then Purchaser shall have all rights and remedies available to it at law and/or in equity to seek additional damages and/or to strictly enforce the terms of this Agreement and thereby require conveyance of title to the Property by specific performance.

(b) Except as specifically provided otherwise in this Agreement, in the event that Purchaser shall fail to comply with any of the obligations to be performed by Purchaser hereunder, then Seller shall have all rights and remedies available to it at law and/or in equity to seek additional damages and/or require a reconveyance of title to the Property.

17. SUBSEQUENT INSPECTION. Purchaser shall have the right from time to time to periodically inspect the Property so long as Purchaser is not in default under this Agreement and this Agreement has not been terminated pursuant to its terms. Such inspections shall be made after having given notice to Seller and during the normal business hours of Seller or at such other times reasonably satisfactory to the Parties and shall be conducted in a manner so as not to unreasonably interfere with the Seller's use of the Property and Purchaser shall repair any damage to the Property caused thereby. Purchaser hereby indemnifies Seller against any loss, cost, liability or damage to person or property occurring in the course of the conduct of such inspections, tests or surveys performed by or on behalf of Purchaser.

18. POST-CLOSING OBLIGATIONS.

It is the intent of the Parties that the following obligations shall survive the closing of each transaction:

(a) Municipality shall, on its own motion and at its sole cost and expense, assist Metra and its contractors in expediting and obtaining all applicable Municipality permits, inspections, and zoning approvals required by the Municipality, at no cost or expense to Metra or its contractors, that are necessary to complete, construct, and maintain the Project on the Property, or any other future parcels adjacent or intended by either Party to be used for the Project. Municipality and Metra shall jointly co-petition any and all local government bodies in the Municipality necessary to complete, construct, and maintain the Project. Municipality shall support, endorse, and accompany Metra through all applicable local government permit or zoning proceedings, meetings, hearings, and inspections.

(b) The parties shall submit the necessary documentation to the Cook County Assessor's office to cause the County to issue a division of the Permanent Index Number ("**PIN**") to accurately reflect the terms of this Agreement. Purchaser and Seller shall cooperate in the execution of all necessary documents and shall share the cost and expense equally. Prior to the division of the applicable property into two PINS, taxes shall be paid based upon the legal description and square footage of each newly created parcel. Purchaser shall be responsible for Purchaser's Proportionate Share of the taxes and the Seller shall be responsible for assuring that the remaining share of the taxes under the existing PIN are paid by the Seller or the current owner of the remainder portion of PIN. Each Party shall be responsible for paying its proportionate share of taxes directly to the Cook County Treasurer by submitting the payment (or tax exemption information) with the proper legal description or any other documentation requested by the Treasurer. Each Party shall also send proof of payment or exemption to the other Party until a division has occurred. Seller shall defend, indemnify, and hold Purchaser harmless from any and all liabilities (including attorney fees and court costs) incurred by Purchaser for Seller's failure to pay Seller's share of real estate taxes, levies, and charges. The representations and warranties stated in this clause shall survive the closing and the transfer of the title of the property by deed.

19. MISCELLANEOUS.

The terms, conditions, provisions, covenants, representations and warranties herein contained shall survive the Closing Date and delivery of the Deed by Seller, shall not be merged into the Deed and shall extend to the successors and assigns of Seller and Purchaser.

20. BROKERAGE COMMISSION.

(a) Purchaser hereby represents and warrants to Seller that there has been no involvement of any real estate broker in connection with the purchase and sale of the Property to whom Purchaser has agreed to pay a commission. Based on the foregoing representation, the Purchaser hereby agrees to indemnify and hold Seller harmless against and from any loss or expense, including, but not limited to, attorneys' fees, arising from the alleged liability of Purchaser for brokerage commissions or finders fees claimed from persons with whom Purchaser has dealt.

(b) Seller hereby represents and warrants to Purchaser that there has been no involvement of any real estate broker in connection with the purchase and sale of the Property to whom Seller has agreed to pay a commission. Based on the foregoing representation, the Seller hereby agrees to indemnify and hold Purchaser harmless against and from any loss or expense, including, but not limited to, attorneys' fees, arising from the alleged liability of Seller for brokerage commissions or finders fees claimed from persons with whom Seller has dealt.

EXHIBIT C-1

LEGAL DESCRIPTION BY SURVEY PROVIDED FOR HEREIN

EXHIBIT C-2

PERMITTED EXCEPTIONS

1. Unpaid current general real estate taxes that are not due or payable as of the Closing.

2. Exceptions which in Purchaser's sole discretion will not render title unmarketable or otherwise interfere with Purchaser's intended use of the Property as a commuter rail parking facility.

EXHIBIT D

DEPICTION OF PARK STATION BOULEVARD, THE NORTH EXTENSION OF PARK STATION BOULEVARD AND JILLIAN ROAD ON A SITE PLAN

EXHIBIT E

FORM OF EASEMENT AGREEMENT FOR ACCESS TO THE PROJECT AND THE DETENTION AREA