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KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 02/09/2021 03:49 PM PG: 1 OF 16

COVER SHEET FOR RECORDING PURPOSES

VILLAGE OF TINLEY PARK

RESOLUTION NO. 2020-R-068

A RESOLUTION APPROVING AND ACCEPTING AN EASEMENT AGREEMENT BETWEEN THE COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY, A DIVISION OF AN ILLINOIS MUNICIPAL CORPORATION "METRA", AND THE VILLAGE OF TINLEY PARK

PIN #'s:

Portions of 28-30-500-009

Portions of 28-30-425-002

Prepared By &

Return To: Laura Godette

Village of Tinley Park

16250 S. Oak Park Avenue

Tinley Park, IL 60477

RECORDING FEE _____
DATE _____
OK BY _____
COPIES _____

STATE OF ILLINOIS)
COUNTY OF COOK) SS
COUNTY OF WILL)

CERTIFICATE

I, KRISTIN A. THIRION, Village Clerk of the Village of Tinley Park, Counties of Cook and Will and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2020-R-068, "A RESOLUTION APPROVING AND ACCEPTING AN EASEMENT AGREEMENT BETWEEN THE COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY, A DIVISION OF AN ILLINOIS MUNICIPAL CORPORATION "METRA", AND THE VILLAGE OF TINLEY PARK," which was adopted by the President and Board of Trustees of the Village of Tinley Park on July 21, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Tinley Park this 12TH day of October, 2020.


Laura Godette, Deputy Village Clerk



THE VILLAGE OF TINLEY PARK

Cook County, Illinois

Will County, Illinois

RESOLUTION

NO. 2020-R-068

**A RESOLUTION APPROVING AND ACCEPTING AN EASEMENT
AGREEMENT BETWEEN THE COMMUTER RAIL DIVISION OF THE
REGIONAL TRANSPORTATION AUTHORITY, A DIVISION OF AN
ILLINOIS MUNICIPAL CORPORATION "METRA", AND THE
VILLAGE OF TINLEY PARK**

**JACOB C. VANDENBERG, PRESIDENT
KRISTIN A. THIRION, VILLAGE CLERK**

**CYNTHIA A. BERG
WILLIAM P. BRADY
WILLIAM A. BRENNAN
DIANE M. GALANTE
MICHAEL W. GLOTZ
MICHAEL G. MUELLER
Board of Trustees**

VILLAGE OF TINLEY PARK

Cook County, Illinois

Will County, Illinois

RESOLUTION NO. 2020-R-068

A RESOLUTION APPROVING AND ACCEPTING AN EASEMENT AGREEMENT BETWEEN THE COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY, A DIVISION OF AN ILLINOIS MUNICIPAL CORPORATION "METRA", AND THE VILLAGE OF TINLEY PARK

WHEREAS, Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois provides that any municipality which has a population of more than 25,000 is a home rule unit, and the Village of Tinley Park, Cook and Will Counties, Illinois, with a population in excess of 25,000 is, therefore, a home rule unit and, pursuant to the provisions of said Section 6(a) of Article VII, may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

WHEREAS, the Village of Tinley Park ("Village"), has considered an Easement Agreement ("Easement Agreement") with the Commuter Rail Division of the Regional Transportation Authority, a Division of an Illinois Municipal Corporation ("Metra"), to allow access to, and to construct, use, operate, and maintain a new commuter shelter and storage building ("Sheler"); and

WHEREAS, a true and correct copy of said Easement Agreement is attached hereto and made a part hereof as Exhibit 1; and

WHEREAS, the Corporate Authorities of the Village of Tinley Park, Cook and Will Counties, Illinois, have determined that it is in the best interest of said Village of Tinley Park that said Easement Agreement be approved and accepted; and

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS, STATE AS FOLLOWS:

SECTION 1: The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

SECTION 2: That the President and Board of Trustees of the Village of Tinley Park hereby approve and accept the Easement Agreement, attached hereto as Exhibit 1, and the Village President and/or Village Manager are hereby authorized to execute and memorialize said Easement Agreement on behalf of the Village of Tinley Park, subject to review and revision as to form by the Village Attorney.

SECTION 3: Any policy, resolution, or ordinance of the Village that conflicts with the provisions of this Resolution shall be and is hereby repealed to the extent of such conflict.

SECTION 4: That the Village Clerk is hereby ordered and directed to publish this Resolution in pamphlet form, and this Resolution shall be in full force and effect from and after its passage, approval, and publication as required by law.

PASSED THIS 21st day of July, 2020.

AYES: Berg Brady Brennan, Galante, Glotz, Mueller

NAYS: None

ABSENT: None

APPROVED THIS 21st day of July, 2020.

ATTEST:


VILLAGE CLERK


VILLAGE PRESIDENT

EXHIBIT 1

EASEMENT AGREEMENT

EASEMENT

Prepared by:

Metra
547 West Jackson Boulevard
Chicago, Illinois 60661
Attn: Director, Real Estate and
Contract Management
Phone: (312) 322-8006

After recording return to:

Village of Tinley Park
16250 South Oak Park Avenue
Tinley Park, IL 60477
Attn: LAURA GODETTE
Phone: (708) 444-5000

PINs: portions of 28-30-500-009
and 28-30-425-002 (Cook Co.)

(Above Space for Recorder's Use Only)

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT, Metra Agreement No. **RE22400**, is entered into by and between the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("**Metra**"), and the Village of Tinley Park located at 16250 South Oak Park Avenue, Tinley Park, Illinois 60477 ("**Grantee**").

NOW, THEREFORE, for and in consideration of the payment to be made to Metra by Grantee, as hereinafter set forth, and also of the covenants and agreements hereinafter stated, Metra shall grant to Grantee a non-exclusive easement ("**Easement**"), of a portion of Metra's Rock Island District ("**RID**") right-of-way on the north side of the RID railroad tracks, east of Oak Park Avenue, south of North Street, and west of 67th Avenue (as extended) in Tinley Park as delineated and legally described on the Plat of Easement attach hereto as **Exhibit A** (the "**Easement Premises**") to allow access to, and to construct, use, operate, and maintain a new commuter shelter and storage building ("**Permitted Uses**"). The aforementioned "new commuter shelter and storage building" is hereafter referred to as the "**Shelter**."

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

1. Any rights to the Easement Premises not specifically granted to Grantee herein are reserved by and to Metra and its successors and/or assigns. The Easement Premises shall be used for the Permitted Uses 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 commuters, tenants, invitees, or permittees on the Easement Premises and so as not to prevent or unreasonably interfere with use and enjoyment of the Easement Premises by Metra, its employees, agents, commuters, invitees, or permittees, for the purpose(s) to which the Easement 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 adjacent to the Easement 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 the Easement Premises 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 the Easement Premises. This Easement is expressly subject to the rights of third parties to maintain utility and other improvements permitted by Metra on the Easement Premises and other Metra property ("**Property**"). Metra reserves the exclusive right to grant future easements over, under, across or parallel to the Easement Premises, provided such easements do not unreasonably interfere with the Grantee's use of the Easement Premises and the rights granted Grantee pursuant to this Agreement, as determined by Metra in its sole discretion. Additionally, Metra reserves the right to terminate or suspend the Easement upon notice to Grantee if Metra requires the Easement Premises, or any portion thereof, permanently or temporarily, for a use that would unreasonably interfere with the Grantee's use of the Easement Premises or causes safety concerns.

2. Grantee has examined the Easement Premises and knows the condition of the Easement Premises and acknowledges that no representations as to the condition and repair thereof have been made by Metra. Grantee accepts the Easement Premises subject to any and all existing easements, pipe lines, telephone, telegraph, communication, and signal lines or any other similar facilities whether or not owned or controlled by Metra. together with any future installations thereof, provided such future installations do not unreasonably interfere with Grantee's Permitted Use of the Easement Premises.

3. Grantee shall not make any improvements to the Easement Premises, including without limitation alterations or additions, without Metra's prior written consent, which shall not be unreasonably withheld or delayed. Grantee shall comply with Metra's requests for plans, specifications, names and addresses of contractors, copies of contracts, necessary permits, insurance, and indemnification in form and amount satisfactory to Metra to prevent or cover liens, costs, damages, and expenses of all kinds. Upon examination of the proposed activities, Metra may require Grantee or Grantee's contractor to enter into a right-of-entry agreement and/or, if deemed necessary by Metra, a railroad flagman will be provided, the cost of such services to be paid by Grantee. Grantee shall pay the costs of all such improvements if permitted by Metra and the expense of the maintenance of the Easement Premises and the improvements. All improvements and personal property on the Easement Premises shall remain the Grantee's property and may be removed by Grantee if Grantee vacates the Easement Premises.

4. In all contracts executed by Grantee for the construction, improvement, repair, or maintenance of improvements located or to be located on the Easement Premises, Grantee will require appropriate clauses to be inserted requiring contractors to indemnify, hold harmless, and defend Metra, the Northeast Illinois Regional Commuter Railroad Corporation ("NIRCRC"), the Regional Transportation Authority ("RTA"), their respective directors, officers, employees, agents, licensees, successors, and assigns from and against any and all risks, liabilities, claims, demands, losses, and judgments, including court costs and attorney's fees, arising from, growing out of, or directly related in any way to work performed by such contractor(s), or their officers, employees, agents, or subcontractors, and their agents or employees.

5. Grantee shall not place, keep, store or otherwise permit any equipment or materials to be placed, kept or stored on the Easement Premises or the Property except during such time as Grantee's employees, agents or contractors are physically present and conducting activities permitted under the terms of this Easement Agreement or the explicit consent of Metra. Grantee agrees that it shall not operate or cause to be operated any vehicle of any kind on or over any track without prior authorization from Metra; 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.

6. 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 Permitted Uses

7. Grantee agrees that should the construction, maintenance, operation, repair or presence of the Shelter on the Easement Premises shall, at any time, necessitate any change or alteration in the location or arrangement of any wires, pipes, appurtenances or other improvements located on the Easement 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.

8. Grantee shall at all times construct, replace, repair, maintain, and use said Easement Premises and all improvements thereon 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 Easement Premises, warn of risks and ensure the safety of the public during periods of Permitted Uses or any other activity(ies) of Grantee on the Easement Premises. If the Permitted Uses or any other activity(ies) of Grantee on the Easement Premises is at any time found to be in violation of any applicable law, rule, regulation, or ordinance, then Grantee, at no cost or expense to Metra and upon receipt of appropriate notice from a governmental agency having enforcement jurisdiction over the Easement Premises, shall make such changes or repairs as shall be necessary to become compliant with the applicable law, rule, regulation, or ordinance. Failure or refusal of Grantee to make the required changes or repairs within the time prescribed by said agency shall terminate this Easement Agreement, provided that it 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.

9. Grantee shall pay all real estate taxes, license fees or other charges which may be assessed against the Easement Premises or Grantee or in any manner arise from any activities conducted on the Easement Premises by Grantee (“Charges”). In the event the County Assessor’s office or other legally authorized government agency assigns a separate tax identification number to the Easement Premises and assesses taxes thereon, then Grantee shall be solely responsible for payment of such tax or taxes to the taxing agency or agencies.

10. 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 RTA and the NIRCRC, and each of 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, Grantee’s use of the Easement Premises or any other Metra 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 Easement Premises or Property or arising from the condition of the Easement 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 Agreement to the contrary, the releases and waivers contained in this paragraph shall survive termination of this Agreement.

11. To the fullest extent permitted by law, Grantee agrees to indemnify, defend, and hold harmless Metra, the RTA, and the NIRCRC, and each of 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 Easement Premises or the Property for the purposes set forth in this Agreement, or the condition of the Easement 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 Easement 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, and each of 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 each of 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 Agreement.

12. Prior to entering upon the Easement Premises, Grantee agrees to furnish insurance in form and in such amounts as required by Metra's Risk Management Department (312-322-7093) and shall deliver to Metra's Risk Management Department certificates of insurance or such other documentation acceptable to Metra's Risk Management Department. During all periods that Grantee or those persons authorized by or acting on behalf of Grantee are on the Easement Premises to perform or cause to be performed any construction, maintenance, or repair with respect to the Easement Premises, Grantee shall cause At a minimum, Grantee shall obtain and keep in force the insurance coverages, kinds, and amounts, relating to the Easement Premises as listed below (Metra may change said insurance requirements from time to time). The total cost of the premium for such insurance shall be at the expense of Grantee or its contractors and/or sub-contractor(s):

(a) **Worker's Compensation Insurance**, statutory amount/Employer's Liability of no less than Five Hundred Thousand Dollars (\$500,000);

(b) **Automotive Liability Insurance** with coverage of no less than One Million Dollars (\$1,000,000) combined single limit;

(c) **Commercial General Liability Insurance (ISO Broad Form)** with coverage of no less than One Million Dollars (\$1,000,000) per occurrence; and Two Million Dollars (\$2,000,000) aggregate.

- i. All policies must be on a Primary and Non-Contributory basis.
- ii. Provide Waiver of Subrogation for the Additional Insured in all policies.
- iii. Provide the following Additional Insured wording in all policies:

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.

13. Grantee or its contractor(s) shall not commence any work on, or use of, the Premises 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.

14. This Easement may be terminated by Metra effective immediately upon notice to Grantee if the Easement Premises, or any portion thereof, are needed for any Metra or railroad purposes as determined by Metra in its sole discretion or Grantee ceases to operate or maintain the Easement Premises or the improvements thereon or violates any of the terms, conditions or provisions set forth in this Easement. In case of termination, Grantee may be required to remove from the Easement Premises any improvements and restore the Easement Premises to the same or better condition than that which existed prior to the construction and installation of the improvements; 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 Easement Premises and improvements as abandoned by Grantee and may make such disposition thereof as it may see fit. This Easement shall be perpetual unless terminated in accordance with the terms.

15. This Easement and all of the terms, conditions, rights, and obligations herein contained shall inure to and be binding upon the parties hereto, 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.

16. 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.

17. 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, 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, or on the day of delivery if hand delivered.

(a) Notices to Metra shall be sent to:

Commuter Rail Division
547 West Jackson Boulevard
Chicago, Illinois 60661
Attn: Director, Real Estate & Contract Management
Phone: (312) 542-8189

(b) Notices to Grantee shall be sent to:

Tinley Park
16250 South Oak Park Avenue
Tinley Park, IL 60477
Attn:
Phone: (708) 444-5000

18. This Easement Agreement shall be governed by the internal laws of the State of Illinois. 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. This Easement Agreement 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.

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement
as of this 21st day of July, 2020.
3rd August

COMMUTER RAIL DIVISION OF THE
REGIONAL TRANSPORTATION
AUTHORITY d/b/a METRA:

VILLAGE OF TINLEY PARK:

By: 
James M. Derwinski
CEO/Executive Director


By: 
Name: Jacob C. Vandenberg
Title: Village President

EXHIBIT A

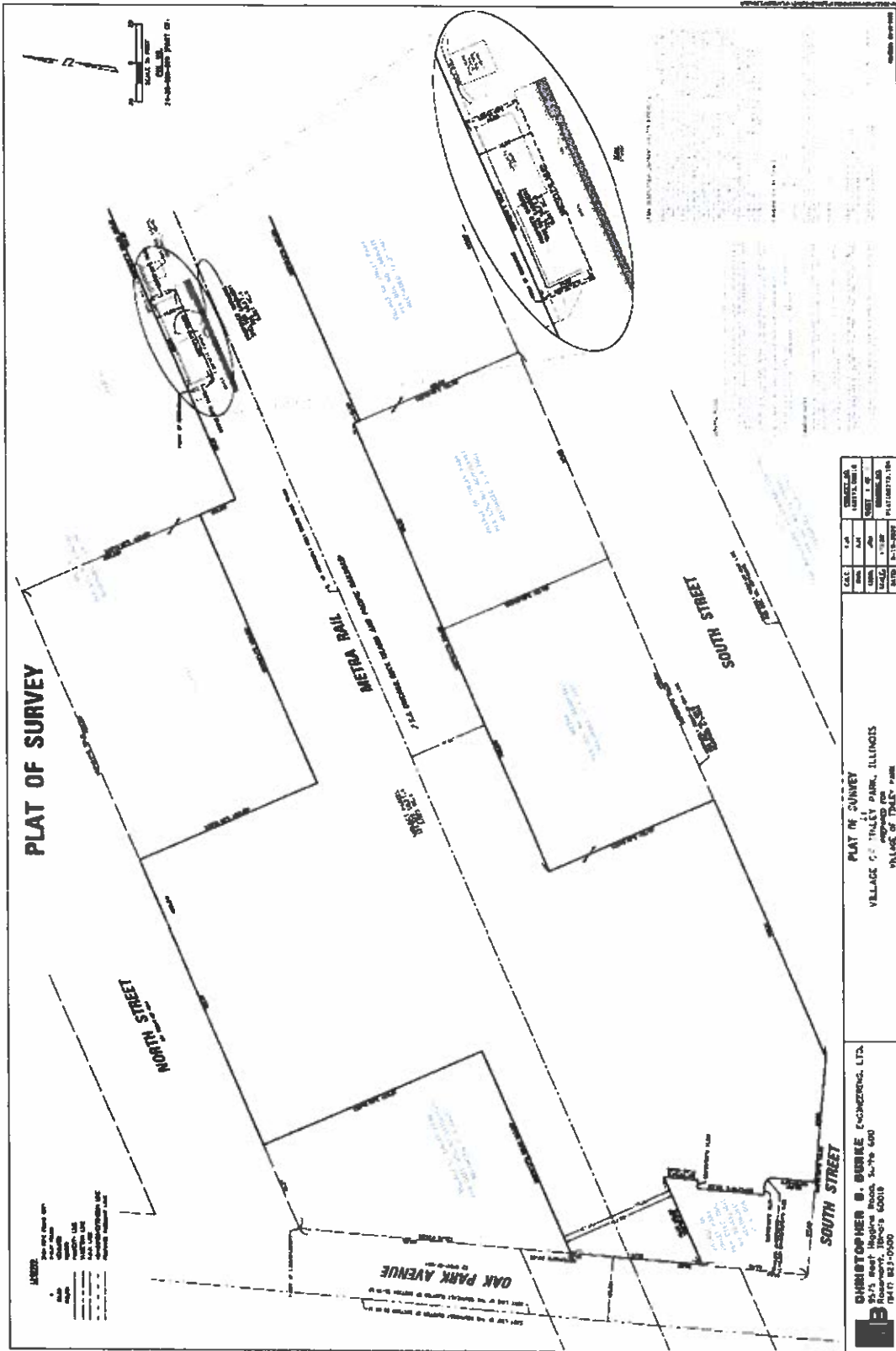
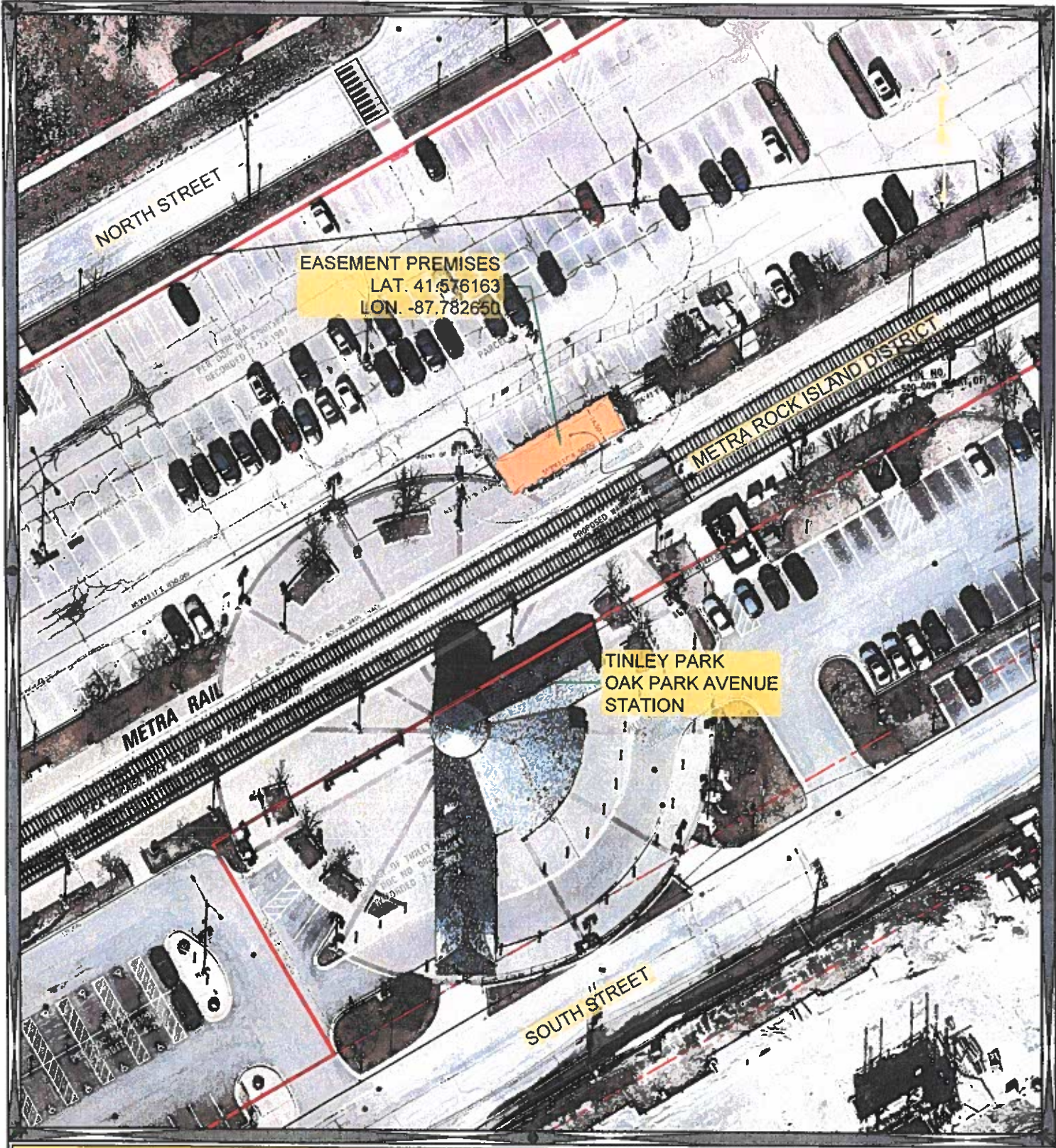


EXHIBIT A (continued)



Metra Stipulations:

A flagman is required and Metra's Signal Department must locate and mark any buried signal cables in the vicinity prior to commencement of work.

Please note that Metra has a limited number of flagging personnel. While every attempt will be made to provide flagging, if personnel are not available at the time requested, work will not be permitted.

EXHIBIT "A"



547 W. JACKSON BLVD.
CHICAGO, IL 60661