

ORIGINAL

**RESOLUTION NO. R-2016-12**

**A RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A PERMANENT EASEMENT AGREEMENT BETWEEN THE  
VILLAGE OF MAYWOOD AND THE COMMUTER RAIL DIVISION OF  
THE REGIONAL TRANSPORTATION AUTHORITY ("METRA")  
FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF  
THE NEW COMMUTER PARKING LOT AND NEW COMMUTER TRAIN STATION**

**(New Commuter Parking Lot and New Train Station  
Located East of 5th Avenue in Maywood, Illinois)**

**WHEREAS**, the President and Board of Trustees of the Village of Maywood (the "Village") desire to enter into an agreement entitled, "Permanent Easement Agreement Between The Village Of Maywood And The Commuter Rail Division Of The Regional Transportation Authority ("METRA") For The Construction, Maintenance And Operation Of The New Commuter Parking Lot And New Commuter Train Station (New Commuter Parking Lot and New Train Station Located East of 5th Avenue in Maywood, Illinois)" ("Agreement") relative to the Union Pacific Railroad ("UPRR") authorizing the Village to construct, operate and maintain the new commuter parking lot and new commuter train station being built by the Village east of 5th Avenue in the Village, subject to the terms, conditions and obligations as set forth in the Agreement. A copy of the Agreement is attached hereto as Exhibit "1" and made a part hereof; and

**WHEREAS**, the UPRR desires to enter into the Agreement with the Village for the purposes stated in the foregoing Whereas paragraph, subject to the terms, conditions and obligations as set forth in the attached Agreement; and

**WHEREAS**, the economic terms of the Agreement consist of the Village paying to the UPRR a one-time "easement fee" of Ten and No/100 Dollars (\$10.00). In addition, for the term of the Agreement, the Village is required to (a) maintain certain specific types of insurance coverages and certain minimum levels of those specific types insurance coverages, including Railroad Protective Liability Insurance, General Commercial Liability Insurance, Business Automobile Coverage, Workers Compensation Insurance and Employers Liability Insurance and Umbrella / Excess Insurance Coverage, (b) add the UPRR as a named additional insured under those insurance coverages, and (c) indemnify and hold harmless the UPRR for claims and liabilities arising out of or relating to the Agreement and the operation of the commuter parking lot. See, Section 5 (Indemnification), Section 6 (Contractor Indemnification) and Section 7 (Contractor Insurance) of the Agreement; and

**WHEREAS**, the President and Board of Trustees of the Village of Maywood, a home rule Illinois municipal corporation, have the authority to enter into the attached Agreement pursuant to their home rule powers as provided by Article VII, Sections 6 and 10(a) of the Illinois Constitution of 1970, and the Intergovernmental Cooperation Act

(5 ILCS 220/1 *et seq.*), and find that entering into the attached Agreement is in the best interests of the Village.

**NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAYWOOD, ILLINOIS, PURSUANT TO ITS HOME RULE POWERS AS PROVIDED BY ARTICLE VII, SECTIONS 6 AND 10(a) OF THE ILLINOIS CONSTITUTION OF 1970, AND THE INTERGOVERNMENTAL COOPERATION ACT (5 ILCS 220/1 *et seq.*) AS FOLLOWS:**

**SECTION 1:** Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

**SECTION 2:** The President and Board of Trustees of the Village of Maywood approve entering into an agreement entitled, "Permanent Easement Agreement Between The Village Of Maywood And The Commuter Rail Division Of The Regional Transportation Authority ("METRA") For The Construction, Maintenance And Operation Of The New Commuter Parking Lot And New Commuter Train Station (New Commuter Parking Lot and New Train Station Located East of 5th Avenue in Maywood, Illinois) ("Agreement"), a copy of the Agreement being attached hereto as **Exhibit "1"** and made a part hereof, and authorize and direct the Village President and the Village Clerk, or their designees, to execute and deliver the Agreement and all other instruments and documents that are necessary to fulfill the Village's obligations under the Agreement.

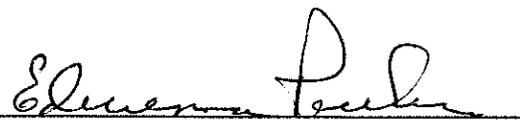
**ADOPTED** this 11<sup>th</sup> day of May, 2016, pursuant to a roll call vote as follows:

**AYES:** Mayor Edwenna Perkins, Trustee(s) H. Yarbrough, Sr., I. Brandon, A. Dorris, M. Rogers and M. Lightford.

**NAYS:** None

**ABSENT:** Trustee R. Rivers

**APPROVED** this 12<sup>th</sup> day of May, 2016, by the Village President of the Village of Maywood, and attested by the Village Clerk, on the same day.

  
\_\_\_\_\_  
Village President

**ATTEST:**

  
\_\_\_\_\_  
Village Clerk

Date: 5/12/16



**EXHIBIT "1"**

**PERMANENT EASEMENT AGREEMENT BETWEEN THE  
VILLAGE OF MAYWOOD AND THE COMMUTER RAIL DIVISION OF  
THE REGIONAL TRANSPORTATION AUTHORITY ("METRA")  
FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF  
THE NEW COMMUTER PARKING LOT AND NEW COMMUTER TRAIN STATION**

**(New Commuter Parking Lot and New Train Station  
Located East of 5th Avenue in Maywood, Illinois)**

(attached)

**PERMANENT EASEMENT**

*Prepared by and return  
after recording to:*

Commuter Rail Division  
547 W. Jackson Blvd.  
Chicago, Illinois 60661  
Attn: Director, Real Estate and  
Contract Management

(Above Space for Recorder's Use Only)

**PERMANENT EASEMENT AGREEMENT**

**THIS PERMANENT EASEMENT AGREEMENT ("Easement")** is made by and between **THE COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY**, a division of an Illinois municipal corporation with offices at 547 W. Jackson Boulevard, Chicago, Illinois, 60661 ("**Metra**" or "**Grantor**") and the **VILLAGE OF MAYWOOD**, an Illinois municipal corporation with offices at 40 Madison Street, Maywood, Illinois, 60153 ("**Municipality**" or "**Grantee**"). (Grantor and Grantee may individually be referred to as a "**Party**" and collectively as the "**Parties**" for convenience).

**RECITALS**

1. Grantor is the owner of a parcel of Property identified by PIN 15-11-144-002-0000, legally described in **Exhibit A** attached to and made part of this Easement (the "**Property**" or the "**Easement Area**").
2. Grantor built a commuter parking facility consisting of 33 parking spaces on the Property for use by commuters riding the train from the Municipality.
3. Municipality desires to build a new station facility on the Property as depicted on **Exhibit B** attached to and made part of this Easement ("**Station Facility**").
4. Grantor agrees to the conditional use of its Property as the site of the Station Facility.

**NOW THEREFORE**, In consideration for the sum of **TEN DOLLARS (\$10)**, the mutual promises and covenants contained in this Easement, and such other good and

valuable consideration, the receipt of which is hereby acknowledged, in hand paid, the Parties agree as follows:

1. **INCORPORATION OF RECITALS.** The foregoing Recitals are material to this Easement and are herein incorporated to and made a part of this Easement by reference as if fully set forth in the text below.

2. **GRANT OF EASEMENT.** Grantor hereby grants to Grantee, and Grantee's employees, commuters, lessees, permittees, licensees, successors and assigns, a permanent non-exclusive easement and the right and authority to construct, install, use, operate, maintain, repair, replace, and renew the Station Facility on the Property. The Station Facility shall include all necessary signs, walkways, railings, drainage, pipes, foundation, landscaping, and other appurtenances on, over, under, across, and along the Property. The Station Facility shall be constructed pursuant to plans approved by Grantor. Provided, however, that Grantee agrees that as a condition of using the Property for the Station Facility, Grantee shall construct, install, use, operate, maintain, repair, replace, and renew no fewer than 33 new commuter parking spaces in the vicinity of the Station Facility at a location agreed to by the Parties and pursuant to plans approved by Grantor ("CPF") (collectively the CPF and the Station Facilities are the "Improvements"). Grantee shall construct the Improvements. The cost of constructing the Improvements shall be funded by Grantee.

Grantor shall manage, operate and maintain the Property and the Improvements as commuter facilities open to the public pursuant to protocols established for Municipality's public buildings, facilities, and spaces, and any requirements of any funding agency involved in financing the Improvements.

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

3. **RELOCATION.** Grantor shall have the right to relocate the Easement Area at Grantee's sole and absolute discretion to another location in the vicinity of the Property approved in advance in writing by Grantee, and any such relocation or replacement shall be evidenced by a recordable easement agreement in form and content satisfactory to Grantee and consistent with this Easement.

4. **LIENS.** Grantee shall not cause or permit any lien or claim for lien to be placed upon the Property. In the event any such lien or claim for lien is filed or made, Grantee shall either promptly pay the same and have the lien released from the Property, or provide Grantee with a bond or other security reasonably satisfactory to Grantor to indemnify Grantor against any such lien, including, without limitation, a Title Indemnity from Chicago Title Insurance Company or another title insurance company reasonably acceptable to Metra.

5. INDEMNIFICATION.

(a) To the fullest extent permitted by law, Grantee, its successors and/or assigns hereby assumes and agrees to release, remise, acquit and waive any rights which Grantee may have against and forever discharge Metra, the Regional Transportation Authority ("RTA") and the Northeast Illinois Regional Commuter Railroad Corporation ("NIRCRC"), their respective directors, trustees, administrators, officers, employees, agents, successors, assigns and all other persons, firms and corporations acting on behalf or with their authority (collectively the "**Metra Indemnified Parties**"; or each a "**Metra Indemnified Party**") 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 therefore, and on account of damage to or destruction of property arising out of or in any way relating to or occurring in connection with the use of this Easement for the purposes of this Easement, which may occur to or be incurred by Grantee, its employees, officers, agents, invitees and all other persons acting on Grantee's behalf while on or in the Property during the term of this Easements. Notwithstanding anything in this Easement to the contrary, the releases and waivers contained in this Easement shall survive the termination of this Easement.

(b) To the fullest extent permitted by law, the Grantee agrees to indemnify, defend and hold harmless the Metra Indemnified Parties, 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, without limitation, court costs and attorneys' fees) for claims, demands, actions, suits, proceedings, judgments, settlements arising out of or in any way relating to or occurring in connection with: (i) the activities permitted under the terms and provisions of this Easement; (ii) the condition of the Property; (iii) the failure to investigate claims; or (iv) which may occur to or be incurred, by the Grantee, its employees, officers, agents, and all other persons acting on its behalf while on the Property. Grantor agrees to notify the Grantee 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, 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 provided, however, that Metra, the RTA and the NIRCRC, may elect to participate in the defense thereof at their own expense or may, at their own expense, employ attorneys of their own selection to appear and defend the same on behalf of Metra, the RTA, the NIRCRC, and their respective directors, administrators, officers, agents or employees. The 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.

(c) Notwithstanding anything to the contrary contained in this Agreement, the indemnities contained in this paragraph shall survive termination of this Agreement.

6. **CONTRACTOR INDEMNIFICATION**. In all contracts hereafter executed by the Grantee for the construction, rehabilitation, improvement, repair or maintenance of the Improvements the Grantee will require appropriate clauses to be inserted requiring its contractors to indemnify, hold harmless and defend the Metra Indemnified Parties from and against any and all risks, liabilities, claims, demands losses, and judgments, including court costs and reasonable 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 on the Property. The indemnification and hold harmless provisions by third party contractors set forth in this paragraph shall not be construed as an indemnification or hold harmless against and from the negligence of any of the Metra Indemnified Parties with respect to any party performing work on the Property to the extent such party violates the Illinois Construction Indemnification and Negligence Act (740 ILCS 35/0.01 et seq.).

7. **CONTRACTOR INSURANCE**. Prior to entering upon the Property and prior to commencement of any work to be performed thereon, Grantee agrees to furnish (or cause to be furnished) insurance in the form and in such amounts as required by Metra's Risk Management Department. To the fullest extent permitted by law, Grantee shall cause each of Metra, the NIRCRC, and RTA to be designated as additional insureds on all insurance policies. At a minimum, Grantee shall obtain and keep in force (or cause to be obtained and kept in force) the following insurance at all times work is performed upon the Property by Grantee:

(a) ***Commercial General Liability Insurance***. Grantor or its lessees, contractor(s), or permittees shall furnish evidence that, with respect to the operations it performs and the operations performed by sub-contractors, it carries Commercial General Liability Insurance containing broad form contractual liability providing for a limit of not less than Seven Million Five Hundred Thousand (\$7,500,000) single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of any person or destruction of property, including the loss of use thereof, in any one occurrence under the terms of which Grantor is named as an additional insured; with an aggregate of no less than Ten Million Dollars (\$10,000,000) for all damages occurring as a result of more than one occurrence. Coverage must include coverage for fire legal liability and products and completed operations.

(b) ***Workers' Compensation Insurance***. Grantor or its contractor(s) or permittees shall furnish evidence that, with respect to the operations it performs, it carries a workers' compensation insurance policy complying with the statutes of the State of Illinois covering all employees of Grantor or its contractor(s), as applicable. The

policy shall contain employers liability coverage with limits of not less than Five Hundred Thousand Dollars (\$500,000) each accident; One Hundred Thousand Dollars (\$100,000) each employee disease; and Five Hundred Thousand Dollars (\$500,000) policy limit – disease.

(c) ***Railroad Protective Liability Insurance.*** Grantor or its contractor(s) shall furnish evidence that, with respect to construction activities it performs and construction activities performed by contractor(s) in any area within twenty-five (25) feet of any Metra rail tracks or other appropriate circumstances, it carries a Railroad Protective Liability Insurance (AAR-AASHTO form) policy, providing for a limit of no less than Five Million Dollars (\$5,000,000) single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of any person in any one occurrence and for damage to or destruction of property, including the loss of use thereof, in any one occurrence. Grantor will furnish such insurance with an aggregate of no less than Ten Million Dollars (\$10,000,000) for all damages occurring as a result of more than one occurrence. Metra agrees to assist Grantor in obtaining such coverage, provided it shall be at no cost to Metra.

(d) ***Further Requirements.*** Metra, RTA, or NIRCRC or their successors or assigns shall be named as additional insured parties on all parties. Grantor's failure to obtain or to cause its contractor's to obtain proper insurance coverage or to insure Metra, RTA and NIRCRC or their successors or assigns as additional insureds shall not, at any time, operate as a waiver of the Metra Indemnified Parties' right to indemnification and defense against any claims, damages or injuries covered under the terms and provisions of this Easement. The Parties may agree to a commercially reasonable increase in the amount of insurance required by Grantee or its contractor(s) and/or sub-contractor(s) under the terms and provisions of this Easement. All policies must be in full force at the time of submission and shall not be canceled, modified, limited or allowed to expire in any way that would materially decrease the protection afforded provided, however, that notwithstanding the foregoing, Grantor shall comply with the insurance requirements of this Agreement. Prior to entering upon any Metra Property and prior to commencement of any work to be performed on the Property, Grantor shall provide a certificate of insurance evidencing the coverages required by this paragraph 7.

8. **RUN WITH THE PROPERTY AND ASSIGNMENT.** Except as may otherwise be provided in this Agreement, this Easement shall be perpetual and all of the terms, conditions, rights and obligations herein contained shall run with the Property for the benefit of and shall inure to and be binding upon the Parties, their respective legal representatives, lessees, permittees, successors and/or assigns whether hereinabove so stated or not; but it distinctly agreed that Grantor shall not convey the Property without the prior written consent of Metra, which consent may be granted or withheld by Metra in its sole and absolute discretion. In the event Grantor conveys title to the Property without the written consent of Metra, such conveyance shall be deemed null and void.

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

Notice to parties shall be delivered as follows:

If to Metra:

Commuter Rail Division  
547 W. Jackson Blvd.  
Chicago, Illinois 60661  
Attn: Director, Real Estate and Contract Management  
Phone: (312) 322-8006  
Fax: (312) 322-7098

If to the Municipality:

Village of Maywood  
40 Madison Street  
Maywood, IL 60153  
Attn: Director of Community Development  
Phone: 708-450-4429  
Fax: 708-450-4893

10. **MISCELLANEOUS.**

(a) This Easement shall be governed by the laws of the State of Illinois.

(b) If any provision of this Easement, or any paragraph, sentence, clause, phrase, or word or the applicatoin thereof is held invalid, the remainder of this Easement shall be construed as if such invalid part were never included and this Easement shall remain valid and enforceable to the fullest extent permitted by law provided that the Easement, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of either of the Parties.

(c) No waiver of any obligation or default of Metra 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.

[Signature page follows]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**GRANTOR**

**GRANTEE**

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

**VILLAGE OF MAYWOOD:**

By: \_\_\_\_\_  
Donald A Orseno  
Executive Director/CEO

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

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

**ATTEST:**

**ATTEST:**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Its: \_\_\_\_\_

**NOTARY BLOCK FOR VILLAGE OF MAYWOOD**

STATE OF ILLINOIS        )  
                                  ) ss.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ and \_\_\_\_\_ of the Village of Maywood, an Illinois municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledge that each signed and delivered the said instrument as the free and voluntary act of the corporation for the uses and purposes set forth.

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

\_\_\_\_\_  
[Seal]

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

**NOTARY BLOCK FOR COMMUTER RAIL DIVISION OF THE  
REGIONAL TRANSPORTATION AUTHORITY**

STATE OF ILLINOIS        )  
                                  )     ss.  
COUNTY OF COOK    )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Donald A Orseno personally known to me to be the Excecutive Director/CEO of the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, and Lisa Murphy Assistant Secretary to the Metra Board of Directors, personally known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledge that each signed and delivered the said instrument as the free and voluntary act of the corporation for the uses and purposes set forth.

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

\_\_\_\_\_

[Seal]

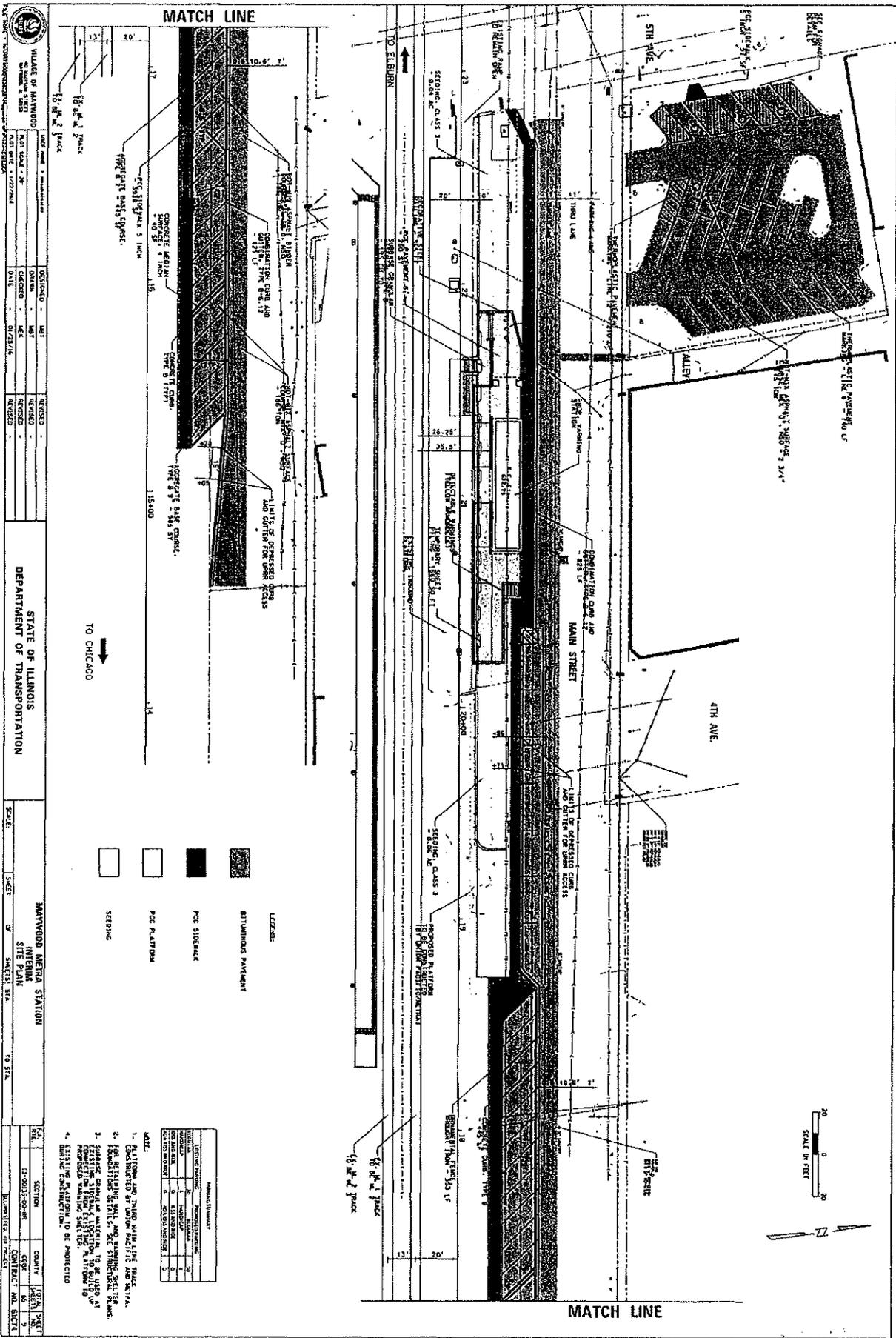
\_\_\_\_\_

Notary Public

**Exhibit A**  
***Legal Description of Property/Easement Area***



**Exhibit B  
Station Facility**



VILLAGE OF MAYWOOD  
 1500 N. WASHINGTON ST.  
 MAYWOOD, ILL. 60153

DATE	NO.	BY	REVISION
07/23/16	1	MEI	REVISED
07/23/16	2	MEI	REVISED

STATE OF ILLINOIS  
 DEPARTMENT OF TRANSPORTATION

MAYWOOD METRA STATION  
 INTERIM  
 SITE PLAN  
 SHEET 11 OF 12

DATE	SECTION	COUNTY	SHEET NO.
12-0015-00-08		COOK	11 OF 12
DRAWN BY		CHECKED BY	
CONTRACT NO. 151774			

LEGEND

[Pattern]	BITUMINOUS PAVEMENT
[Pattern]	PCC SIDEWALK
[Pattern]	PCC PLAZA
[Pattern]	SEWERING

- NOTES:
1. EXISTING 20' WIDE AND 12' DEEP TRENCH TO BE REMOVED AND REPLACED WITH 24" DIA. CONCRETE PIPE AND 18" DIA. MANHOLE.
  2. EXISTING 12" DIA. CONCRETE PIPE TO BE REPLACED WITH 18" DIA. CONCRETE PIPE.
  3. EXISTING 6" DIA. CONCRETE PIPE TO BE REPLACED WITH 12" DIA. CONCRETE PIPE.
  4. EXISTING 4" DIA. CONCRETE PIPE TO BE REPLACED WITH 8" DIA. CONCRETE PIPE.

