

**VILLAGE OF DOWNERS GROVE**  
**REPORT FOR THE VILLAGE COUNCIL MEETING**  
**MAY 21, 2013 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Roadway License Agreement with Commonwealth Edison for Lift Station Access	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Motion <input type="checkbox"/> Discussion Only	Dave Fieldman Village Manager

**SYNOPSIS**

A resolution has been prepared authorizing execution of an agreement between the Village of Downers Grove and Commonwealth Edison for access to the sanitary lift station located north of I-88 and west of Finley.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2011 to 2018 include *Exceptional Municipal Services*.

**FISCAL IMPACT**

ComEd does not charge the Village rent for the use of this road, but is now requiring the Village to pay for the portion of the real estate taxes for two parcels attributable to the road. Currently, the amount of taxes would be approximately \$86 a year.

**RECOMMENDATION**

Approval on the May 21, 2013 consent agenda.

**BACKGROUND**

ComEd has asked the Village to renew an existing lease agreement for use of the gravel access road leading to the sanitary lift station located north of I-88 and west of Finley. Under the terms of the license agreement ComEd allows the Village (and its agents, invitees and contractors) to use the road, with no monthly rental fee, to access the sanitary lift station.

The Village entered into the lease in 1969, after the Village agreed to construct sanitary sewers and water mains to facilitate development and annexation of an area commonly known as the "Northwest Territory" (generally located north and west of I-88). This also included constructing a sanitary lift station. The construction was financed through revenue bonds and as a condition of such the Village was required to retain ownership of the improvements, including the sanitary sewer facilities. The Sanitary District agreed to maintain and operate the sanitary facilities. The license agreement has been extended numerous times. This extension will be retroactive to March 1, 2012 and will expire on February 28, 2022.

The Village will continue to be required to maintain the road, provide insurance coverage and indemnify ComEd. This is the first extension where ComEd is requiring the Village to pay a proportionate share of the real estate taxes.

**ATTACHMENTS**

Resolution  
Agreement

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING EXECUTION OF  
ROADWAY LICENSE AGREEMENT BETWEEN  
THE VILLAGE OF DOWNERS GROVE AND  
COMMONWEALTH EDISON COMPANY  
(LIFT STATION ROADWAY ACCESS)**

BE IT RESOLVED by the Village Council of the Village of Downers Grove as follows:

1. That the form and substance of the Roadway License Agreement (the “Agreement”) between the Village of Downers Grove (the “Licensee”) and Commonwealth Edison Company (the “Licensor”) for roadway access to a sanitary lift station, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manger, is hereby approved.
2. That the Village Manager and Clerk are hereby authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement substantially in the form approved in the foregoing paragraph of this resolution, together with such changes as the Manager shall deem necessary.
3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments to the Village in accordance with the provisions of the Agreement.
4. That all resolutions or parts of resolutions in conflict with this resolution are hereby repealed.
5. That this resolution shall be in full force and effect from and after its passage in the manner provided by law.

\_\_\_\_\_  
Mayor

Passed:

Published:

Attest: \_\_\_\_\_  
Village Clerk

STATION 18-LOMBARD R/W  
PARCEL: 38  
SE ¼ SEC 36, TWP 39 NORTH, RANGE 10 EAST  
MILTON TOWNSHIP, PL#454364  
and  
WESTMONT-ELMHURST R/W  
PART OF PARCEL 1  
NE ¼ SEC 1, TWP 38 NORTH, RANGE 10 EAST  
LISLE TOWNSHIP, PL#464012  
OF THE THIRD PRINCIPAL MERIDIAN  
DUPAGE COUNTY, ILLINOIS  
ComEd WESTERN REGION  
ComEd TAX PARCEL: 5735 and 2993-2  
P.I.N.: 05-36-400-014 and 08-01-200-004  
LEASE # 547

### ROADWAY LICENSE

THIS ROADWAY LICENSE (the “**License**”) is made as of \_\_\_\_\_, 2013, by and between COMMONWEALTH EDISON COMPANY, an Illinois corporation (“**Licensor**”) VILLAGE OF DOWNERS GROVE, a municipal corporation (“**Licensee**”) whose address is 801 Burlington Avenue, Downers Grove, IL 60515-4782.

Licensor and Licensee are parties to a certain Lease dated September 7, 1984, which lease was supplemented by supplements dated December 12, 1988, September 18, 1995, and February 22, 2009 (the “**Original Lease**”) which covered the parts of Parcels 38 and 1 near Warrenville Road and Finley Road, Downers Grove, Illinois as more particularly described in the Original Lease (“**Original Premises**”). The term of the Original Lease expired on November 30, 2008. Licensee thereafter continued to occupy the Original Premises as a holdover tenant from December 1, 2008 until the Commencement Date hereof. The parties desire to enter into a new Roadway License covering the Licensed Premises (as hereinafter defined), on the terms and conditions contained in this Roadway License.

Licensor, for and in consideration of the payment of License Fees (as hereinafter defined) by Licensee, and of the covenants, conditions and agreements of Licensee hereinafter set forth, does hereby grant to Licensee (without warranty of title) to use a non-exclusive license to use of Licensor’s existing 12-foot wide gravel road in common with Licensor and the use and maintenance of the existing 5-foot wide portion of a bituminous surface treated temporary road, lying partially on Licensor’s property and partially on other land, both roads being designated on Exhibit “A”; and constituting the “**Licensed Premises**” both roads are to be used by Licensee for ingress and egress purposes in connection with the construction and maintenance of Licensee’s sanitary sewer and lift station which are also designated on Exhibit “A”, and for no other purpose or purposes whatsoever.

1. **TERM.** The term of this License (the “**Term**”) shall begin on March 1, 2012 (the “**Commencement Date**”) and shall terminate on February 28, 2022 unless sooner terminated as provided herein.

2. **PURPOSE.** The Licensed Premises shall be used by Licensee in compliance with all Legal Requirements (as hereinafter defined) and the terms and provisions of this License solely for non-exclusive use of Licensor's 12-foot wide gravel road in common with Licensor and the use and maintenance of the existing 5-foot wide portion of a bituminous surface treated temporary road, lying partially on Licensor's property and partially on other land, both road being designated on Exhibit "A" and for no other purposes (the "**Permitted Use**"). For purposes hereof, the term "**Legal Requirements**" shall mean all present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes, executive orders, court orders, rules of common law, and any judicial interpretations thereof, extraordinary as well as ordinary, of all governmental authorities, and all rules, regulations and government orders with respect thereto, and of any applicable fire rating bureau, or other body exercising similar functions, affecting the Licensed Premises or the maintenance, use or occupation thereof, or any street, sidewalk or other property comprising a part thereof, regardless of whether imposed by their terms upon Licensor or Licensee, or the use and occupancy thereof by Licensee. Licensee's use of the Licensed Premises shall also be and remain subject to Licensor's superior right to use all or any portion of the Licensed Premises for its business purposes, including the installation, use and maintenance of any transmission, distribution or communications improvements, fixtures, facilities, machinery, equipment and/or other property owned by Licensor and now or hereafter installed by Licensor on or near the Licensed Premises ("**Licensor's Facilities**").

3. **LICENSE FEES.**

A. **License Fees.** Licensee agrees to pay to Licensor license fees ("**License Fees**") in advance on or before the first day of the Term, commencing on or before March 1, 2012 in the amount of One and 00/100 Dollars (\$1.00) for the term hereof.

B. **Proration of License Fees.** Licensor and Licensee understand and agree that if the Commencement Date or last day of the Term occurs on a date that is other than the first or last day (as applicable) of a month, the License Fees for that month shall be prorated on a per diem basis.

C. **Payment of License Fees.** All License Fees and other payments due and payable by Licensee under this License shall be paid to the following address:

Commonwealth Edison Company  
Real Estate Department, 4<sup>th</sup> Floor  
Three Lincoln Centre  
Oakbrook Terrace, IL 60181  
Attn: License Payment

or to such other place as Licensor may from time to time designate in writing. All payments due from Licensee hereunder which are not paid when due shall bear interest at a rate equal to ten percent (10%) per annum from the date due until paid (the "**Default Rate**"). Such interest shall be compounded monthly. In addition to, and not in lieu of, the foregoing (and any other rights and remedies to which Licensor is entitled under this License), in the event that any payment due from Licensee hereunder is not paid within five (5) business days of the date that the same is due, then a late fee in the amount of ten percent (10%) of the unpaid amount shall be due and payable

by Licensee to Licensor. All License Fees shall be paid by Licensee without notice or demand, and without any set-off, counterclaim, abatement or deduction whatsoever, in lawful money of the United States by bank check or wire transfer of immediately available funds. Licensee's obligations to pay License Fees are independent of each and every covenant contained in this License.

D. Net License. Except as otherwise provided in this License, the License Fees herein shall be absolutely net to Licensor, so that this License shall yield, net to Licensor, the License Fees in each year during the Term of this License and any renewals thereof, and that all costs, expenses and obligations of every kind and nature whatsoever, relating to the Licensed Premises which may arise or become due during the Term of this License or any renewal or extension thereof, or as a result of Licensee's use or occupancy of the Licensed Premises, shall be paid by Licensee, and Licensee agrees to indemnify, defend (with counsel acceptable to Licensor) and hold harmless Licensor from all such costs, expenses and obligations.

4. TAXES. Licensee shall pay the following amounts as "Taxes" to Licensor in each case no later than thirty (30) days after Licensor's written demand.

(a) Licensee's proportionate share of the land component of all real estate taxes for each tax parcel of which the Licensed Premises is a part for all periods falling within the Term, which proportionate share shall be calculated as follows: (i) the total land component of each tax bill for each such real estate tax parcel which includes any portion of the Licensed Premises, multiplied by (ii) a fraction, the numerator of which shall be the acreage of the portion of such tax parcel which falls within the Licensed Premises, and the denominator of which shall be the total acreage of such tax parcel; plus

(b) All real estate taxes and other assessments which are allocable to any improvements, structures or fixtures constructed, installed, or placed by Licensee at the Licensed Premises for all periods falling within the Term, plus

(c) Any increase in the real estate taxes and other assessments payable with respect to the Licensed Premises (or any tax parcel of which the Licensed Premises is a part) which is allocable to this License, Licensee's use or occupancy of the Licensed Premises, or any improvements, structures or fixtures constructed, installed or placed by Licensee at the Licensed Premises (but without duplication of any amount payable pursuant to clause (b) above), for all periods falling within the Term.

For purposes of this License, Taxes "for" or "with respect to" any particular period (or portion thereof) shall mean the Taxes which are payable during the calendar year in which any portion of such period falls, irrespective of the fact that such Taxes may have accrued with respect to a different period.

Tenant may at Tenant's sole cost and expense, execute and deliver all documents, instruments petitions and applications, and take all other actions which may be necessary and/or appropriate, in order to cause the Leased Premises to be exempted from the payment of real estate taxes, to the extent that it is possible, under applicable Legal Requirements, to cause the

Leased Premises to be so exempted. In the event that Tenant is successful in obtaining any such real estate tax exemption for the Leased Premises, then Tenant may thereafter cause such real estate tax exemption to be continued for each tax year (or portion thereof) during which this Lease is in effect (and Tenant may execute such documents, instruments, petitions and applications, and take such other actions which may be necessary and/or appropriate, to cause such property tax exemption to be so continued). In the event that Tenant is unsuccessful in obtaining or continuing any such real estate tax exemption with respect to the Leased Premises, then Tenant may thereafter use commercially reasonable efforts to continue to seek such exemption (or continuance thereof, as applicable) and may take such actions as may be necessary to apply for such exemption (or continuation). Notwithstanding anything contained in this paragraph, to the extent Tenant fails to obtain a tax exemption in respect to the Leased Premises, for any reason, Tenant shall pay the Taxes as required above in this Section 4.

5. **CONDITION.** Licensee has examined the Licensed Premises and knows its condition. Licensee hereby accepts the condition of the Licensed Premises in its AS-IS, WHERE-IS CONDITION, WITH ALL FAULTS. No representations or warranties as to the condition, repair or compliance with Legal Requirements thereof, and no agreements to make any alterations, repairs or improvements in or about the Licensed Premises have been made by or on behalf of Licensor. By accepting possession of the Licensed Premises, Licensee shall be conclusively presumed to have accepted the condition thereof and to have unconditionally waived any and all claims whatsoever related to the condition of the Licensed Premises.

6. **MAINTENANCE; SERVICES AND UTILITIES.**

A. Licensee agrees at its sole cost and expense, to keep and maintain the Licensed Premises (including any parking lot and/or area thereon) in a clean, neat, sanitary and sightly condition and repair, and commensurate with the conditions existing at the time this License is executed to Licensor's satisfaction at all times during the Term hereof. Without limiting the generality of the foregoing, Licensee shall (subject to the terms and provisions of this License) perform any and all necessary paving, grading, landscaping, cutting and mowing of grass and weeds (including all Canadian thistles and other noxious weeds and growths at the Licensed Premises, all at Licensee's sole cost and expense.

B. Licensor shall not be responsible for furnishing or providing any services or utilities to the Licensed Premises (or any costs or expenses associated therewith), but rather, Licensee shall be responsible, at Licensee's sole cost and expense, for providing all such services and utilities. Licensor has made no representation, warranty or covenant of any kind regarding the availability (or future availability) of any such utilities and services, and no failure to provide or interruption of any such services or utilities or services shall give rise to any right or remedy in favor of Licensee under this License.

C. Licensee assumes all of the responsibilities normally identified with the ownership of the Licensed Premises, including, but not limited to, responsibility for the condition of the Licensed Premises, such as the operation, repair, replacement, maintenance and management of the Licensed Premises, including, without limitation, repairs to all buildings, structures, fixtures, equipment and other property thereat; provided, that (except as expressly set

forth below) in no event shall Licensee maintain, repair, gain access to or in any way use or operate any of Licensor's Facilities.

7. **SURRENDER OF LICENSED PREMISES; RESTORATION.** Licensee agrees that upon termination of the Term of this License, whether by expiration or otherwise, Licensee will peaceably quit and surrender the Licensed Premises to Licensor, and will, at its sole cost and expense, remove all Licensee's personal property, fixtures, structures and improvements, and will, at Licensor's sole and absolute discretion, restore and regrade the Licensed Premises to substantially the same condition the Licensed Premises were in on the date the Licensee took possession (other than any improvements, installations and modifications made by Licensor). Prior to the end of the Term, or earlier termination of the License, Licensor may notify Licensee that Licensee shall not remove any fixtures, structures and improvements specified in such notice, in which event Licensee shall leave such specific items in place and in good condition, ordinary wear and tear excepted, and title to such items shall pass to Licensor upon the expiration or earlier termination of the License. This Section shall survive the termination or expiration of the License.

8. **COMPLIANCE WITH LAWS; WASTE; OTHER COVENANTS OF LICENSEE.**

A. **General.** Licensee, at its sole expense, shall comply, and cause the Licensed Premises to comply, with all Legal Requirements. In addition, Licensee covenants and agrees that it will not commit waste, loss or damage to the Licensed Premises or any other property of Licensor.

B. **Change in Law.** Licensee acknowledges that Licensor may incur costs as a result of the enactment of new Legal Requirements relating to the Licensed Premises, and/or changes in Legal Requirements relating to the Licensed Premises. Licensee agrees that any such costs incurred by Licensor for complying with such new or changed Legal Requirements and due in whole or in part to Licensee's use and/or occupancy of the Licensed Premises shall be an expense recoverable by Licensor from Licensee. To the extent any such expense paid by Licensee to Licensor is subsequently recovered by or reimbursed to Licensor through insurance or recovery from responsible third parties or other action, Licensee shall be entitled to a proportionate share (as reasonably determined by Licensor) of such recovery or reimbursement.

C. **Notice of Violations.** Licensee shall immediately provide Licensor with written notice: (i) upon Licensee's obtaining knowledge of any potential or known violations of any Legal Requirements relating to the Licensed Premises, and/or (ii) of Licensee's receipt of any notice, correspondence, demand or communication of any nature from any governmental authority related to any alleged or actual violation of any Legal Requirements relating to the Licensed Premises.

D. **Height and Other Limitations.** No vehicles, equipment or anything else (including, but not limited to, any equipment attached to vehicles or equipment such as antennas) having a height which exceeds the maximum allowable height under OSHA's

height standards in effect from time to time during the Term, shall be driven, moved or transported on the Licensed Premises without Licensor's prior written consent.

9. **ALTERATIONS.**

A. **General.** Licensee shall not make any alterations, installations, improvements, additions or other physical changes (collectively, the "**Alterations**") in or about the Licensed Premises without Licensor's prior written consent in each instance, which consent may be granted or denied by Licensor in its sole and absolute discretion. Any Alterations shall be performed: (i) by Licensee, at Licensee's sole cost and expense (and Licensor shall have no duty or obligation with respect thereto), (ii) pursuant to final and stamped plans and specifications approved in writing by Licensor (in Licensor's sole discretion), (iii) by contractors and subcontractors approved in writing by Licensor (in Licensor's sole discretion), (iv) in compliance with all Legal Requirements, and (v) in a good and workmanlike manner, free of all liens. Licensee shall, at Licensee's sole cost and expense, obtain any and all permits and approvals necessary for the performance of any Alterations. During the performance of any Alterations, Licensee shall carry, and shall cause its contractors and subcontractors to carry, such insurance as Licensor shall, in its sole discretion, direct. Neither Licensee nor any of Licensee's authorized agents shall, at any time prior to or during the Term, directly or indirectly, employ, or permit the employment of, any contractor, mechanic or laborer in the Licensed Premises, or permit any materials to be delivered to or used in the Licensed Premises, whether in connection with any Alteration or otherwise, if, in Licensor's sole judgment, such employment, delivery or use will interfere or cause any conflict with other contractors, mechanics or laborers engaged in the construction, maintenance or operation of the Licensed Premises (or any other property) by Licensor, Licensee or others, or the use and enjoyment of the Licensed Premises by Licensor or other tenants or occupants of the Licensed Premises. In the event of such interference or conflict, upon Licensor's request, Licensee shall cause all contractors, mechanics or laborers causing such interference or conflict to leave the Licensed Premises immediately. At the sole discretion of Licensor, any proposed Alterations shall be subject to a review fee, the amount of which will be determined by Licensor upon receipt of Licensee's request for consent to such Alterations. Such fee shall be due and payable by Licensee within five (5) days from receipt of notice from Licensor of the amount of such review fee and Licensor shall not be required to consider Licensee's request for Licensor's consent to any Alterations until the review fee for such Alterations is paid.

B. **Paving and Filling.** Without limiting the generality of the terms and provisions of Section A above, Licensee acknowledges and confirms that any and all grading, leveling, adding or removing soil and/or paving of the Licensed Premises (or any portion thereof) shall constitute Alterations for purposes of this License, and shall be subject to each and all of the terms and provisions relating thereto. In any event, any and all debris from any Alterations of Licensee shall be promptly removed from the Licensed Premises by Licensee. In the event that, in connection with Licensee's Alterations, Licensee elects to fill any low spots on the Licensed Premises, only clean fill (defined as not containing debris such as gravel, concrete, tree roots, brick or any contaminants) shall be used prior to the spreading of base fill underlying any paving. No paving or grading work (or similar work) of any kind will be undertaken within a ten (10) foot radius of any tower leg (or similar equipment, improvement or facility) of Licensor. Paving shall be well drained, firm and solid blacktop (or other substance approved in writing by

Licensor), and shall be neat and clean in appearance. In addition, and not in lieu of the foregoing, any such grading, leveling, paving and/or filling of the Licensed Premises shall comply with the terms and provisions of Section 12 below. Licensee shall not cause or permit the existing ground grade on the Licensed Premises to be increased or decreased in excess of eight inches (8") without Licensor's prior written consent.

C. Drainage. Licensee covenants and agrees that no Alterations made by Licensee pursuant to this License shall cause any surface water drainage problems for Licensor or any adjoining landowners. In the event that any such water drainage problems are caused by Licensee's Alterations, Licensee shall correct such problems immediately at Licensee's sole cost and expense.

D. Fencing and Barriers. Licensee covenants and agrees that, in the event that Licensee installs (or is required (by Licensor or otherwise) to install) any fencing and/or gates in connection with Licensee's Alterations at the Licensed Premises (or its use or occupancy of the Licensed Premises), Licensee will install, maintain and operate such fences and/or gates in strict compliance with the requirements of Exhibits C1 and C2, attached hereto and made a part hereof, and any and all other fencing and locking rules, regulations and guidelines which Licensor may deliver to Licensee from time to time prior to or during the Term. Licensee also acknowledges and confirms that, in connection with Licensor's review and/or approval of the plans and specifications for Licensee's Alterations at the Licensed Premises (as provided in Section A above), Licensor may require, prior to or at any time during the term of this License, that barriers ("**Barriers**") be installed on the Licensed Premises in order to protect Licensor's Facilities and/or other equipment, improvements and facilities of Licensor and other users and occupants of the Licensed Premises. Any such Barriers shall be installed either (at Licensor's sole option): (i) by Licensee, at Licensee's sole cost and expense, in a manner satisfactory to Licensor, or (ii) by Licensor, in which event Licensee shall pay to Licensor, prior to such installation, Licensor's reasonable estimate of the cost of such installation of the Barriers. Any barriers required to be installed hereunder shall be installed, maintained and operated by Licensee in strict compliance with the requirements of Exhibits C1 and C2, attached hereto, and any and all rules, regulations and guidelines regarding barriers which Licensor may deliver to Licensee from time to time prior to or during the Term.

E. Soil Removal. Licensee hereby agrees that it will not remove any soil from the Licensed Premises without the prior written consent of Licensor. Any soil removed from the Licensed Premises to which Licensor consents (as provided in the preceding sentence) shall become the property of Licensee and shall be: (i) transported and disposed of by Licensee (at its sole cost and expense) in a manner approved in writing by Licensor and in compliance with all Legal Requirements, and (ii) promptly replaced by Licensee at its sole cost and expense, with clean soil not contaminated with Hazardous Materials (as defined in Section 15 below).

F. Third Party Facilities. In addition to any Licensor Facilities located on or near the Licensed Premises, Licensee hereby acknowledges that the Licensed Premises may be used from time to time to accommodate equipment and facilities of other persons and/or entities (including, without limitation, pipeline and utility companies) which are (or will be) located on, above or below the surface of the Licensed Premises. Licensee agrees that it will contact any such persons and/or entities holding rights to use and/or occupy the Licensed Premises, and provide the proper

protection required by such persons or entities, in connection with Licensee's use and occupancy of the Licensed Premises. Licensee further agrees to furnish Licensor copies of the correspondence between the any such persons or entities and Licensee. Licensee agrees that this requirement shall apply to any installations currently located at the Licensed Premises and any and all future installations within the Licensed Premises.

G. Supervision. Licensor shall have the right (but not the obligation) to monitor and observe Licensee's performance of any Alterations at the Licensed Premises (or any component thereof) and, in the event that Licensor so elects, Licensee shall reimburse Licensor for any and all costs of such monitoring and observation, together with a charge for Licensor's overhead, as determined by Licensor. In the event that Licensor elects to monitor or observe any such work, in no event shall Licensor be deemed to have approved or made any representation or warranty regarding the same.

H. Notification. In addition to and not in lieu of, Licensee's other obligations under this Section, Licensee also agrees to notify Licensor's Representative at Telephone Number 866-340-2841 at least seventy two (72) hours prior to the commencement of any Alterations at the Licensed Premises.

10. INDEMNITY. To the maximum extent permitted under Legal Requirements, Licensee agrees to protect, indemnify, defend (with counsel acceptable to Licensor) and hold harmless Licensor and Exelon Corporation, a Pennsylvania corporation, and their respective parents, subsidiaries and affiliates, and their respective officers, directors, shareholders, employees, representatives, agents, contractors, licensees, lessees, guests, invitees, successors and assigns (collectively, the "**Indemnified Parties**"), from and against any and all losses, costs, damages, liabilities, expenses (including, without limitation, reasonable attorneys' fees) and/or injuries (including, without limitation, damage to property and/or personal injuries) suffered or incurred by any of the Indemnified Parties (regardless of whether contingent, direct, consequential, liquidated or unliquidated) (collectively, "**Losses**"), and any and all claims, demands, suits and causes of action brought or raised against any of the Indemnified Parties (collectively, "**Claims**"), arising out of, resulting from, relating to or connected with: (i) any act or omission of Licensee or its officers, directors, shareholders, employees, representatives, agents, contractors, licensees, lessees, guests, invitees, successors and assigns (collectively, "**Licensee Group**") at, on or about the Licensed Premises, and/or (ii) any breach or violation of this License on the part of Licensee, and notwithstanding anything to the contrary in this License, such obligation to indemnify, defend and hold harmless the Indemnified Parties shall survive any termination or expiration of this License. This indemnification shall include, without limitation, claims made under any workman's compensation law or under any plan for Licensee's employee's disability and death benefits (including, without limitation, claims and demands that may be asserted by Licensee's employees, agents, contractors and subcontractors).

11. WAIVER. Any entry onto the Licensed Premises by Licensee and, to the extent permitted by law, each and every member of the Licensee Group, shall be at such parties' sole risk, and Licensor makes (and has heretofore made) no representations or warranties of any kind whatsoever regarding the Licensed Premises or the condition of the Licensed Premises (including, without limitation, the environmental condition thereof). To the fullest extent permitted by law, Licensee and each member of the Licensee Group hereby waives any and all

claims, demands, suits and causes of action against the Indemnified Parties, and fully and forever releases the Indemnified Parties, for any loss, cost, damage, liability or expense (including, without limitation attorneys' fees) suffered or incurred by Licensee or any member of the Licensee Group in connection with any entry onto the Licensed Premises pursuant to this License. Without limiting the generality of the foregoing, in no event shall any of the Indemnified Parties be responsible or liable for any loss, damage, destruction, theft or misappropriation of any of the property of Licensee or any member of the Licensee Group. This Section will survive termination or expiration of the License.

12. **DIGGING WORK.** If Licensee performs any grading, leveling, digging or excavation work on the Licensed Premises (which work shall be subject to Licensor's prior written approval), Licensee will notify J.U.L.I.E. at telephone number 811 or (1-800) 892-0123, or D.I.G.G.E.R at (1-312) 744-7000 if the Licensed Premises are located in the City of Chicago, or in the event the Licensed Premises are located outside J.U.L.I.E.'s or D.I.G.G.E.R's jurisdiction, any other services required by the utilities in the jurisdiction, at least seventy-two (72) hours prior to the commencement of such work in order to locate all existing utility lines that may be present on the Licensed Premises. If Licensee damages any such underground facilities in the course of its work, Licensee will promptly reimburse Licensor or the owner of such equipment or facilities for any and all expense incurred in repairing or replacing such damage.

13. **CASUALTY.** In the event of any damage to or destruction of the Licensed Premises, by fire or other casualty, which materially and adversely affects Licensee's use and enjoyment of the Licensed Premises for the purposes specified in this License, then either Licensor or Licensee shall have the right, no later than ninety (90) days after such party becomes aware of such damage or destruction, to terminate this License upon sixty (60) days' prior written notice to the other. In the event of any damage or destruction which is not so extensive, or in the event that Licensor and Licensee elect not to terminate this License pursuant to the preceding sentence, then this License shall continue in full force and effect, and Licensee will promptly and diligently, at its sole cost and expense, repair, restore, rebuild and replace the Licensed Premises (and all improvements, fixtures, equipment and property thereat) as nearly as possible to the condition they were in immediately prior to such damage or destruction. Any such work shall be done in a manner satisfactory to Licensor, and in accordance with all Legal Requirements and the terms and provisions of this License. Licensor shall not be liable or responsible for any loss or damage caused to any property of Licensee or any member of the Licensee Group (including, without limitation, any such loss or damage caused by fire, vandalism or other casualty) at any time during the Term hereof.

14. **CONDEMNATION.** If the Licensed Premises, or a substantial part thereof, or a portion which prevents use of the Licensed Premises for the purposes specified herein, shall be taken or condemned by any competent authority for any public use or purpose, the Term shall end on the date when the possession of the part so taken shall be required for such use or purpose, and without apportionment of any condemnation award or proceeds (it being understood that Licensor shall be entitled to the entire amount of any such award or proceeds, and Licensee shall have no right to share therein). Current License Fees shall be apportioned as of the date of such termination.

15. **ENVIRONMENTAL PROTECTION.**

A. **General.** Licensee covenants and agrees that Licensee shall conduct its operations on the Licensed Premises in compliance with all applicable Environmental Laws (as hereinafter defined) and further covenants that neither Licensee nor any member of the Licensee Group shall use, bring upon, transport, store, keep or cause or allow the discharge, spill or release (or allow a threatened release) in each case of any Hazardous Materials (as hereinafter defined) in, on, under or from the Licensed Premises. Without limiting any other indemnification obligations of Licensee contained herein, Licensee hereby agrees to protect, indemnify, defend (with counsel acceptable to Licensor) and hold harmless the Indemnified Parties from and against any and all Losses and Claims (including, without limitation, (i) reasonable attorneys' fees, (ii) liability to third parties for toxic torts and/or personal injury claims, (iii) fines, penalties and/or assessments levied or raised by any governmental authority or court, and (iv) assessment, remediation and mitigation costs and expenses and natural resource damage claims) arising out of, resulting from or connected with any Hazardous Materials used, brought upon, transported, stored, kept, discharged, spilled or released by Licensee, any member of the Licensee Group or any other person or entity (except for any person or entity which is an Indemnified Party) in, on, under or from the Licensed Premises. For purposes of this License, the term "**Hazardous Materials**" shall mean all toxic or hazardous substances, materials or waste, petroleum or petroleum products, petroleum additives or constituents or any other waste, contaminant or pollutant regulated under or for which liability may be imposed by any Environmental Law. "**Environmental Laws**" shall mean all federal, provincial, state and local environmental laws, regulations, ordinances, statutes and other requirements (including common law) regulating or imposing standards of care with respect to the handling, storage, use, emitting, discharge, disposal or other release of Hazardous Materials, including, but not limited to, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq., the Clean Air Act, 42 U.S.C. §§7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 1101, et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601, et seq., the Oil Pollution Control Act, 33 U.S.C. §§2701, et seq., any successor statutes to the foregoing, or any other comparable local, state or federal statute or ordinance pertaining to protection of human health, the environment or natural resources, including without limitation the preservation of wetlands, and all regulations pertaining thereto, as well as applicable judicial or administrative decrees, orders or decisions, authorizations or permits.

B. **Wetlands.** If there are wetlands on the Licensed Premises, or if wetlands should develop on the Licensed Premises during the Term, Licensee shall strictly comply with and observe all applicable Environmental Laws. At Licensor's request, Licensee, at its cost, shall furnish Licensor with a survey of the Licensed Premises delineating any wetland areas located on the Licensed Premises. Under no circumstances shall Licensee change the physical characteristics of any wetland areas located on the Licensed Premises or any adjoining land or place any fill material on any portion of the Licensed Premises or adjoining land, without in each instance obtaining Licensor's prior written consent (which may be granted or withheld in Licensor's sole discretion), and only then in compliance with applicable Environmental Laws.

C. Notice of Violation/Release. Licensee shall provide Licensor with prompt written notice upon Licensee's obtaining knowledge of the existence of any Hazardous Materials on, in or under the Licensed Premises in violation of Environmental Laws, or of any potential or known release or threat of release of any Hazardous Materials affecting the Licensed Premises.

D. Survival. This Section shall survive the expiration or other termination or expiration of the License.

16. INSURANCE. Licensee shall comply with the insurance provisions contained in Exhibit D, attached hereto and made a part hereof.

17. ZONING. Licensee hereby acknowledges that Licensor has made no representations that the Licensed Premises may be used or is properly zoned for the Permitted Use, and Licensee further agrees that it will (at its sole cost and expense) obtain all necessary permits and other approvals prior to undertaking the Permitted Use. Licensee assumes all obligations and responsibilities for compliance with all Legal Requirements including, without limitation, all applicable zoning laws and ordinances, building codes and governmental regulations. This License is not preconditioned on Licensee obtaining any zoning or use permits or approvals. This License does not constitute the authority to seek a zoning change to permit the Permitted Use, and in no event shall Licensee seek or apply for any such zoning change to the Licensed Premises without Licensor's prior written consent, which consent may be given or withheld in Licensor's sole and absolute discretion.

18. NO SIGNS. Licensee shall not place or permit to be placed by any person or entity (other than Licensor) on the Licensed Premises any signs or billboards (including, without limitation, any advertising signs or billboards) without prior written approval of Licensor, which approval Licensor may give or withhold in Licensor's sole and absolute discretion.

19. DAMAGE TO LICENSOR'S FACILITIES. Licensee agrees that in the event any work done by or on behalf of the Licensee on the Licensed Premises causes damage to Licensor's Facilities, Licensee will promptly reimburse Licensor for any and all expense incurred for the repairing or replacement of such damage, within thirty (30) days, after presentation to Licensee of Licensor's statement therefor.

20. DEFAULT.

A. In the event that any of the following shall occur (each, a "Default"):

(i) Licensee shall at any time fail to make any payment of License Fees (or any portion thereof) or any other payments required of Licensee hereunder when required, and such failure continues for a period of more than ten (10) days (without necessity of any notice or demand therefor), ("Delinquent") or if Licensee is Delinquent more than three (3) times in any twelve (12) month period; or

(ii) Licensee shall breach or violate any of its duties or obligations set forth in Section 7 (Surrender of Licensed Premises; Restoration), Section 16 (Insurance), Section 22 (Covenants Against Liens), Section 23 (Assignment and Subletting) or Section 30 (Subordination; Estoppel) of this License; or

(iii) Licensee shall at any time be in default in any other covenants and conditions of this License to be kept, observed and performed by Licensee, and such default continues for more than thirty (30) days (or such shorter time period as may specifically be set forth in this License); or

(iv) this License or Licensee's interest therein, or any interest in Licensee, shall be assigned, transferred, mortgaged or pledged, levied on or attempted to be taken by execution, attachment or other process of law, or if any execution or attachment shall be issued against Licensee, or any of Licensee's property in the Licensed Premises shall be taken or occupied or attempted to be taken or occupied by someone other than Licensee; or

(v) A receiver, assignee or trustee shall be appointed for Licensee or Licensee's property or if the Licensee shall file bankruptcy, or if involuntary bankruptcy proceedings shall be filed against Licensee; or

(vi) Licensors shall receive notice of any alleged violation of any Legal Requirements resulting from or in any way connected with Licensee's use of the Licensed Premises and such violation is not cured (and all liabilities connected therewith fully satisfied) by Licensee prior to the earlier of (a) ten (10) days after notice from Licensors to Licensee of such alleged violation, (b) the last day of the period permitted by law for curing such violation or (c) the first date Licensors become subject to any fine, penalty, lien, judgment, order or other liability due to the continued existence of such violation; or

(vii) Licensee shall abandon the Licensed Premises or vacate same during the Term,

then in any of said cases, Licensors may do any or all of the following (all of which remedies shall be cumulative and not exclusive, and all of which remedies shall be in addition to, and not in lieu of, any other rights and remedies to which Licensors may be entitled under this License, at law or in equity):

(a) At its option, at once, with notice to Licensee or to any other person, terminate this License and at its option, require payment in full of the License Fees due for the unexpired term of the License;

(b) Enter into the Licensed Premises, and remove Licensee's property and effects therefrom, and/or take and hold possession thereof, without such entry and/or possession terminating this License or releasing Licensee in whole or in part from Licensee's obligations to pay License Fees and perform all its other obligations hereunder for the full Term;

(c) Require that upon any termination of this License, whether by lapse of time, the exercise of any option by Licensor to terminate the same, or in any other manner whatsoever, or upon any termination of Licensee's right to possession without termination of this License, the Licensee shall at once surrender possession of the Licensed Premises to the Licensor and immediately vacate the same and remove all effects therefrom, except such as may not be removed under other provisions of this License. If Licensee fails to do so, Licensor may forthwith re-enter the Licensed Premises, with or without process of law, and repossess itself thereof and expel and remove Licensee and any other persons and property therefrom, using such force as may be necessary without being deemed guilty of trespass, eviction or forcible entry, without thereby waiving Licensor's rights to License Fees or any other rights given Licensor under this License or at law or in equity;

(d) Remove, at its option if the Licensee shall not remove all effects from the Licensed Premises in this License as provided, any or all of such effects in any manner that Licensor shall choose and store the same without liability for loss thereof, and Licensee will pay Licensor, upon demand, any and all expenses incurred in such removal and also storage of said effects for any length of time during which the same shall be in Licensor's possession or in storage, or Licensor may at its option, without notice sell any or all of said effects in such manner and for such price as the Licensor may deem best and apply the proceeds of such sale upon any amounts due under this License from the Licensee to Licensor, including the expenses of removal and sale;

(e) Collect from Licensee any other loss or damage Licensor may sustain by reason of any breach (including, without limitation, the unamortized portion of any brokerage fee or commission paid by or on behalf of Licensor to any broker or finder with respect to this License) and any diminished value of the Licensed Premises resulting from said breach;

(f) Enjoin any such breach of this License by Licensee; and/or

(g) Take any and all corrective actions Licensor deems necessary or appropriate to cure the default of Licensee in question and charge the cost thereof to Licensee, together with (i) interest at the Default Rate, and (ii) an administrative charge in an amount equal to ten percent (10%) of the cost of the corrective action to defray part of the administrative expense incurred Licensor in administering such cure, such payment to be made by Licensee upon Licensor's presentment and demand therefore.

B. Except as specifically provided in this Section, Licensee expressly waives the service of any notice of intention to terminate this License or to terminate Licensee's right of possession of the Licensed Premises or to re-enter the Licensed Premises and waives the service of any demand for payment of License Fees or for possession and waives the service of any and every other notice or demand prescribed by any statute, law or ordinance and agrees that the simple breach of any of the covenants of this License (beyond any applicable notice and cure periods) shall, of itself, without the service of any additional notice or demand whatsoever, at

Licensor's option, constitute a default on the part of Licensee. No receipt of monies by the Licensor from or for the account of Licensee or from anyone in possession or occupancy of the Licensed Premises after termination or expiration of the License in any way of this License or after the giving of any notice, shall reinstate, constitute or extend the term of this License or affect any notice given to the Licensee prior to the receipt of such money, it being agreed that after the service of notice of the commencement of a suit, or after final judgment for possession of the Licensed Premises, Licensor may receive and collect any License Fees or other amounts due Licensor and such payment not waive or affect said notice, said suit, or said judgment.

C. Any and all rights and remedies which Licensor may have under this License at law or in equity, shall be cumulative and shall not be deemed inconsistent with each other, and any two or more or all of said rights and remedies may be exercised at the same time or at different times and from time to time.

D. If Licensor is required to incur expense, legal, incidental, or consequential, because of the breach of this License by Licensee, the Licensee shall promptly reimburse Licensor for such expense upon being given a written itemization and explanation thereof. In the event of commencing a court action as a result of any breach, it is agreed that such expenses are to be considered a part of the damages claimed in said action and any expense incurred in prosecuting that action shall be included. It is agreed that the term "expenses" as used herein shall include, but not be limited to, attorney's fees, court costs, district justice costs, and any and all other costs and expenses reasonably related to such breach.

E. The failure of Licensor to enforce rights under this License on one or numerous occasions shall not affect Licensor's ability to enforce that right on any subsequent occasion or occasions.

F. Upon the occurrence of a Default or any breach or default under this License by Licensee, Licensee shall be liable for and shall reimburse Licensor upon demand for all reasonable attorney's fees and costs incurred by Licensor in enforcing Licensee's obligations under this License, whether or not Licensor files legal proceedings in connection therewith.

G. In the event that a Default shall occur and Licensor elects to terminate this License, or upon expiration of this License, Licensee shall not be relieved of its duties or obligations under this License so long as Licensee or any of Licensee's property remains on the Licensed Premises. Additionally, any rights and obligations created under or by this Section shall survive termination or expiration of this License.

H. In the event of a threatened breach by Licensee of any of the covenants or provisions of this License, Licensor shall (without limiting any of Licensor's other rights or remedies hereunder, at law or in equity) have the right to enjoin any such threatened breach.

21. **LIMITATION ON LIABILITY.** It is expressly understood and agreed by Licensee that none of Licensor's covenants, undertakings or agreements contained in this License are made or intended as personal covenants, undertakings or agreements by Licensor or any entity which is affiliated with Licensor its parent or subsidiaries. Licensee specifically agrees to look solely to Licensor's interest in the Licensed Premises for the recovery of any sums, damages,

awards or judgments from Licensor. It is agreed that neither Licensor, nor any entity which is affiliated with Licensor (nor any of their respective parents or subsidiaries, nor any of their respective shareholders, investors, officers, directors or employees) shall be personally liable for any such sums, damages, awards or judgments. This Section will survive termination or expiration of the License.

22. **COVENANTS AGAINST LIENS.** Licensee hereby covenants and agrees that it will not cause or permit any lien (including, without limitation, any mechanic's lien) or claim for lien to be asserted against the Licensed Premises or any interest therein, whether such lien or claim for lien results from or arises out of any act or omission of Licensee or any member of the Licensee Group or otherwise. In the event any such lien or claim for lien is filed, Licensee will immediately pay and release the same. In the event such lien or claim of lien is not released and removed within five (5) days after notice from Licensor, Licensor, at its sole option and in addition to any of its other rights and remedies, may take any and all action necessary to release and remove such lien or claim of lien (it being agreed by Licensee that Licensor shall have no duty to investigate the validity thereof), and Licensee shall promptly upon notice thereof reimburse Licensor for all sums, costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Licensor in connection with such lien or claim of lien. Licensee hereby agrees to indemnify, defend and hold harmless Licensor from and against any and all liens or claims for lien arising out of or in any way connected with Licensee's use and occupancy of the Licensed Premises. Any rights and obligations created under or by this Section shall survive termination or expiration of this License.

23. **ASSIGNMENT AND SUBLETTING.** Licensee shall not, directly or indirectly, assign or otherwise transfer this License (or any interest of Licensee herein), whether by operation of law or otherwise, and shall not permit, or suffer the Licensed Premises or any part thereof to be used or occupied by others, without Licensor's prior written consent in each instance, which consent may be granted or denied by Licensor in its sole and absolute discretion. Any assignment or transfer by Licensee in contravention of the provisions of this Section shall be void. For purposes of this License any transfer, directly, indirectly or by operation of law, of a "controlling" interest in Licensee shall constitute an assignment of this License, and shall be subject to the terms and provisions of this Section. For purposes hereof, a "controlling" interest in Licensee shall mean: (a) the ownership, directly or indirectly, of a majority of the outstanding voting stock or interests of Licensee, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of Licensee, whether through the ownership of voting securities or other ownership interests, by statute, or by contract.

24. **TERMINATION.** Prior to the end of the Term, this License may be terminated at any time by giving ninety (90) days prior written notice to the other party of such termination. This License may also be terminated by Licensor, if Licensor is required to do so by a regulatory body, by a court of competent jurisdiction or Legal Requirements. In the event this License is terminated for any reason, any License Fees paid in advance shall be prorated to the effective date of such termination and the unearned portion thereof refunded to Licensee.

25. **LICENSOR'S RIGHTS.** The rights of the Licensor to utilize the Licensed Premises in its business operations will, at all times, be and remain paramount to the rights herein granted to Licensee by Licensor and nothing stated herein is to be construed as restricting

Licensors from granting rights to other parties or persons in, upon or under the Licensed Premises. Without limiting the generality of the foregoing, the parties specifically refer to rights relating to sewers, water pipes and mains, drainage tiles and pipes, gas main and pipelines and other associated uses. In addition, Licensor shall have the right to enter upon the Licensed Premises at any time and from time to time to show the same to prospective tenants, mortgagees and/or purchasers, and to place "For Rent" and/or "For Sale" signs thereon.

26. **RIGHT OF ENTRY.** Licensee agrees that Licensor and Licensor's agents, representatives, employees, contractors, licensees, invitees, tenants, successors and assigns (collectively, "**Licensor Parties**"), shall have the right to enter the Licensed Premises at any time Licensor deems necessary, to alter, modify, augment, supplement, improve, upgrade, use, operate, repair, replace, install, construct, maintain or protect Licensor's Facilities. Licensor has the right to require Licensee to remove and relocate any paving, improvements or property owned or used by Licensee at the Licensed Premises, in connection with the use, operation, maintenance, repair, installation and/or removal of Licensor's Facilities by any Licensor Party, and/or or in connection with any other use (present or future) of the Licensed Premises by Licensor Parties, all of which removal and relocation shall be at Licensee's sole cost and expense. In the event that Licensee fails to remove and/or relocate any such paving, improvements or property upon notice from Licensor, then Licensor shall have the right (but not the obligation) to remove such paving, improvements or property on Licensee's behalf, and at Licensee's cost, and Licensee shall promptly reimburse Licensor for any costs and expenses paid or incurred by Licensor in connection therewith. Licensee agrees that it will cooperate with Licensor in connection with any entry on, and work at, the Licensed Premises by Licensor Parties, and shall coordinate Licensee's use of the Licensed Premises with any use of the Licensed Premises by any of Licensor Parties. Licensor shall not in any event be liable for inconvenience, disruption, disturbance, loss of business or other damage to Licensee by reason of any entry on, or work at, the Licensed Premises by any Licensor Party, or on account of bringing materials, supplies, and equipment into or through the Licensed Premises. Licensee understands that the business of Licensor involves, among other things, the construction, installation, maintenance, operation, and use of Licensor's Facilities now or which may hereafter be erected or installed upon, along, on, over, across or under the Licensed Premises, or property adjacent thereto, which are used or useful in connection with the generation, conversion, transmission or distribution of electricity and gas and communications services. Licensee covenants and agrees (as a specific condition of this License) that Licensee and each member of the Licensee Group will not, under any circumstances whatsoever, touch, handle, tamper with or contact, directly or indirectly, any of Licensor's Facilities, nor damage, destroy, interfere with, obstruct or otherwise adversely affect, Licensor's Facilities. Licensee hereby acknowledges that the Licensed Premises may be used from time to time to accommodate equipment and facilities of other persons and/or entities (including, without limitation, pipeline and utility companies) which are (or will be) located on, above or below the surface of the Licensed Premises. Licensee agrees that it will contact any such persons and/or entities holding rights to use and/or occupy the Licensed Premises, and provide the proper protection required by such persons or entities, in connection with Licensee's use and occupancy of the Licensed Premises. Licensee further agrees to furnish Licensor copies of the correspondence between the any such persons or entities and Licensee. Licensee agrees that this requirement shall apply to any installations currently located at the Licensed Premises and any and all future installations within the Licensed Premises.

27. **LICENSOR'S RIGHT TO TRANSFER.** This License shall not in any manner or to any extent limit or restrict the right of Licensor to use or dispose of the Licensed Premises as Licensor may in its discretion desire. Licensor shall have the right, without notice to or consent from Licensee, to assign this License to any person or entity who succeeds (directly, indirectly or by operation of law) to any of Licensor's right, title or interest in or to the Licensed Premises.

28. **LICENSEE'S PROPERTY.** It is expressly understood and agreed that all equipment and other personal property that Licensee may install upon the Licensed Premises during the Term shall remain the property of Licensee and shall be removed by Licensee (as set forth in Section 7 hereof), at its sole cost and expense, at the expiration of the term of this License or at any time prior thereto.

29. **HOLDING OVER.** Licensee shall have no right to remain in possession of all or any part of the Licensed Premises after the expiration of the Term. In the event that Licensee remains in possession of all or any part of the Licensed Premises after the expiration or earlier termination of the Term, at Licensor's option (exercised by giving Licensee written notice): (a) such continued possession shall be deemed to extend the Term (at Licensor's sole option) on a month-to-month basis or for an additional (1) year term; (b) such continued possession shall not, unless Licensor otherwise elects (as set forth above), constitute a renewal or extension of this License for any further Term; or (c) such occupancy may be terminated by Licensor upon the earlier of thirty (30) days' prior written notice or the earliest date permitted by law. In the event Licensee remains in possession after the expiration or earlier termination of the Term, then: (i) monthly License Fees shall be increased to an amount equal to two hundred percent (200%) of the monthly License Fees payable during the last month of the Term, and any other sums due under this License shall be payable in the amount and at the times specified in this License, and (ii) Licensee agrees to indemnify, defend (with counsel acceptable to Licensor) and hold the Indemnified Parties harmless from and against any and all Losses and Claims sustained, incurred and/or brought against any of the Indemnified Parties by reason of such retention of possession of the Licensed Premises (which may include, without limitation, any Claims made by any actual or prospective subsequent lessee or other user or occupant of the Licensed Premises or any portion thereof). Any such continued possession shall be subject to every other term, condition, and covenant of Licensee contained in this License.

30. **SUBORDINATION; ESTOPPEL.**

A. This License and the rights of Licensee hereunder shall be and are hereby made expressly subject and subordinate at all times to the lien of any mortgage now or hereafter existing against all or any portion of the Licensed Premises. Licensee acknowledges that its rights are and always shall be subordinate to the title of the owner of the Licensed Premises and nothing herein contained shall empower Licensee to do any act which can, shall or may encumber the title of the owner of the Licensed Premises. In confirmation of such subordination, Licensee shall promptly execute and deliver any instrument that Licensor or any mortgagee of Licensor may request to evidence such subordination no later than ten (10) business days after Licensor's request therefor. If any mortgagee of Licensor (or its successors or assigns), or any other person or entity, shall succeed to the rights of Licensor under this License, whether through possession or foreclosure action or delivery of a new lease or deed, then at the request of such party so succeeding to Licensor's rights ("**Successor Licensor**") and upon

Successor Licensor's written agreement to accept Licensee's attornment, Licensee shall attorn to and recognize Successor Licensor as Licensee's Licensor under this License, and shall promptly execute and deliver any instrument that Successor Licensor may reasonably request to evidence such attornment. Upon such attornment this License shall continue in full force and effect as, or as if it were, a direct license between Successor Licensor and Licensee upon all of the terms, conditions and covenants as are set forth in this License and shall be applicable after such attornment.

B. Licensee agrees, at any time and from time to time, as requested by Licensor, upon not less than ten (10) days' prior notice, to execute and deliver to Licensor a written statement executed and acknowledged by Licensee, (a) stating that this License is then in full force and effect and has not been modified (or if modified, setting forth all modifications), (b) setting forth the then current License Fees, (c) setting forth the date to which the License Fees have been paid, (d) stating whether or not, to the best knowledge of the Licensee, Licensor is in default under this License, and if so, setting forth the specific nature of all such default, (e) stating the address of Licensee to which all notices and communication under the License shall be sent, and the Commencement Date, and (f) containing any other matters reasonably requested by Licensor. Licensee acknowledges that any statement delivered pursuant to this paragraph may be relied upon by others with whom Licensor may be dealing, including any purchaser or owner of the Licensed Premises, or of Licensor's interest in the Licensed Premises or any lender or mortgagee of Licensor. If Licensee fails to execute and return such written statement to Licensor within such ten day period, such failure shall constitute Licensee's agreement as to the accuracy of the information contained in the written statement submitted to Licensee by Licensor.

31. MISCELLANEOUS.

A. Illinois Commerce Commission Approval. Licensor and Licensee acknowledge that Licensor is a public utility regulated by the Illinois Commerce Commission ("**Commission**") and other governmental authorities, and this License and the obligations of the parties hereto are subject to all Legal Requirements applicable to Licensor as a public utility. Although it is not expected that the Commission's or other governmental authorities' approval will be required for this License, the rights and obligations of the parties hereunder are conditioned upon the Commission's and any other applicable governmental authorities' approval of this License, under any circumstances in which such approval is required. It is further agreed and understood that this License may be terminated by Licensor immediately at any time in the event that Licensor is required to do so by the Commission or some other governmental authority.

B. Notices. Whenever notice is required to be given pursuant to this License, the same shall be in writing, and either personally delivered, sent by a nationally recognized overnight delivery service, postage prepaid, or sent via United States certified mail, return receipt requested, postage prepaid, and addressed to the parties at their respective addresses as follows:

If to Licensor:

Commonwealth Edison Company  
4<sup>th</sup> Floor, Three Lincoln Centre  
Oakbrook Terrace, IL 60181  
Attn: Manager, Real Estate Asset Management

with a copy to:

Exelon Business Services Company, LLC  
Law Department  
10 South Dearborn Street, 49<sup>th</sup> Floor  
Chicago, Illinois 60603  
Attn: Assistant General Counsel – Real Estate

If to Licensee:

Village of Downers Grove  
801 Burlington Avenue  
Downers Grove, IL 60515-4782  
Attn: \_\_\_\_\_

or at such other addresses as any party, by written notice in the manner specified above to the other party hereto, may designate from time to time. Unless otherwise specified to the contrary in this License, all notices shall be deemed to have been given upon receipt (or refusal of receipt) thereof.

C. Prohibition on Recording. To the maximum extent permitted under Legal Requirements, Licensee agrees not to record this License. This Section will survive the termination or expiration of this License.

D. Waiver of Jury Trial. Licensors and Licensee, by this Section, waive trial by jury in any action, proceeding, or counterclaim brought by either of the parties to this License against the other on any matters whatsoever arising out of or in any way connected with this License, the relationship of Licensors and Licensee, Licensee's use or occupancy of the Licensed Premises, or any other claims, and any emergency statutory or any other statutory remedy.

E. Captions. The section headings appearing in this License are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

F. Binding Effect. The covenants, conditions, and agreements contained in this License will bind and inure to the benefit of Licensors and Licensee and their respective heirs, distributees, executors, administrators, successors and permitted assigns. In the event that Licensee is comprised of more than one individual or entity, the obligations of such individuals or entities under this License shall be joint and several.

G. Entire Agreement. This License, the exhibits and addenda, if any, contain the entire agreement between Licensor and Licensee regarding the subject matter hereof, and fully supersede all prior written or oral agreements and understandings between the parties pertaining to such subject matter. No promises or representations, except as contained in this License, have been made to Licensee respecting the condition or the manner of operating the Licensed Premises.

H. Further Assurances. Each party agrees that it will execute and deliver such other documents and take such other action as may be reasonably requested by the other party to effectuate the purposes and intention of this License.

I. No Waiver. The failure of either party to enforce at any time any provision of this License shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this License or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this License shall be held to constitute a waiver of any other or subsequent breach.

J. No Third Party Beneficiaries. Licensor and Licensee agree and acknowledge that, except as expressly set forth herein, there are no intended third party beneficiaries of this License nor any of the rights and privileges conferred herein.

K. Governing Law; Venue. The terms and provisions of this License shall be governed by and construed in accordance with the laws of the State of Illinois. With respect to any suit, action or proceeding relating to this License (each a "**Proceeding**"), the parties hereto each irrevocably: (a) agree that any such Proceeding shall be commenced, brought, tried, litigated and consummated in the courts of the State of Illinois located in the County of Cook or (as applicable) the United States District Court for the Northern District of Illinois, (b) submit to the exclusive jurisdiction of the courts of the State of Illinois located in the County of Cook and the United States District Court for the Northern District of Illinois, and (c) waive any objection which they may have at any time to the laying of venue of any Proceeding brought in any such court, waive any claim that any Proceeding brought in any such court has been brought in an inconvenient forum, and further waive the right to object, with respect to such Proceeding, that any such court does not have jurisdiction over such party.

L. Counterparts. This License may be executed by the parties in counterparts. Each such counterpart shall be deemed an original and all such counterparts, taken together, shall constitute one and the same agreement.

M. Subordinate. This License, and all of Licensee's rights and interests hereunder, are subject and subordinate to any and all recorded and unrecorded easements, licenses, leases and permits, and all other matters (whether recorded or unrecorded) affecting the Licensed Premises (or title thereto) dated prior to the date of this License.

N. Severability. If any term, provision or condition in this License shall, to any extent, be invalid or unenforceable, the remainder of this License (or the application of such term, provision or condition to persons or circumstances other than in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision

and condition of this Licensed shall be valid and enforceable to the fullest extent permitted by law.

O. Time of the Essence. Time is of the essence of this License, and each and every term and provision hereof.

P. No Partnership. None of the terms or provisions of this License shall be deemed to create a partnership between or among the parties hereto in their respective businesses or otherwise, nor shall any of the terms or provisions of this License cause them to be considered joint venturers or members of any joint enterprise.

Q. Not an Employee. By signing this License, Licensee affirms and states that it is not an employee of Commonwealth Edison Company nor Exelon Corporation, nor any of their respective parents, subsidiaries or affiliates, nor does Licensee have any affiliated interest in any such entities.

R. No Oral Change. This License cannot be changed orally or by course of conduct, and no executory agreement, oral agreement or course of conduct shall be effective to waive, change, modify or discharge it in whole or in part unless the same is in writing and is signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

S. Licensee's Authority. Licensee represents and warrants that it has full right, power and authority to execute and deliver this License, and to perform each and all of its duties and obligations hereunder. If Licensor so requests, Licensee shall provide Licensor with reasonable written evidence of such right, power and authority.

T. Termination of License Based Upon Change In Law. If any Legal Requirement is enacted or modified during the Term, and such enactment or modification places any additional material burden on Licensor (as determined by Licensor) as a result of Licensee's use or occupancy of the Licensed Premises for any purpose, or if the use of the Licensed Premises by Licensee would violate any Legal Requirements hereinafter enacted or modified, then (without limiting any other rights or remedies of Licensor hereunder) Licensor shall have the right to terminate this License effective as of the effective date of such Legal Requirement is so enacted or modified.

U. Negotiated: The parties acknowledge that the parties and their counsel have reviewed and revised this License and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this License or any exhibits or amendments hereto.

V. Brokers. Licensee represents and warrants to Licensor that Licensee has dealt with no broker, finder or similar person or entity in connection with this License, or Licensee's use or occupancy of the Licensed Premises. Licensee agrees to indemnify, defend (with counsel acceptable to Licensor) and hold Licensor harmless from and against any and all Claims and Losses brought against, sustained or incurred by Licensor by reason of Licensee's breach of the foregoing representation and warranty.

IN WITNESS WHEREOF, Licensor and Licensee have executed this License as of the date first written above.

**LICENSOR:**

**COMMONWEALTH EDISON COMPANY**

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

Timothy O. Hughes

Director Real Estate, Facilities & Security

**LICENSEE:**

**VILLAGE OF DOWNERS GROVE**

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

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

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

**Schedule of Exhibits**

- A. Licensed Premises
- B. License Fee Payment Schedule
- C. Fencing and Barrier Requirements
- D. Insurance Requirements

**EXHIBIT A**

**(Licensed Premises)**

[drawing attached]

**EXHIBIT B**

[INTENTIONALLY OMITTED]

STATION 18-LONBARD R/W  
PARCEL NO 38  
WEST-CLUMHURST R/W  
PARCEL NO 1  
DUNAGE COUNTY, ILL.  
EXHIBIT A

N. 21/4 SEC. 1-38-10  
S. 1/4 SEC. 3 & 11-10

LEASED AREA

E. 1/2 SEC. 1-38-10

TOLL HIGHWAY

CE CO

E. 1/2 SEC. 1-38-10

PARCEL NO 38

10' OFF FENCE MARK

CE CO  
PARCEL NO 1  
4.38 AC.

E. 1/2 SEC. 28-10  
E. 1/2 SEC. 28-10  
LISTE

WILTON

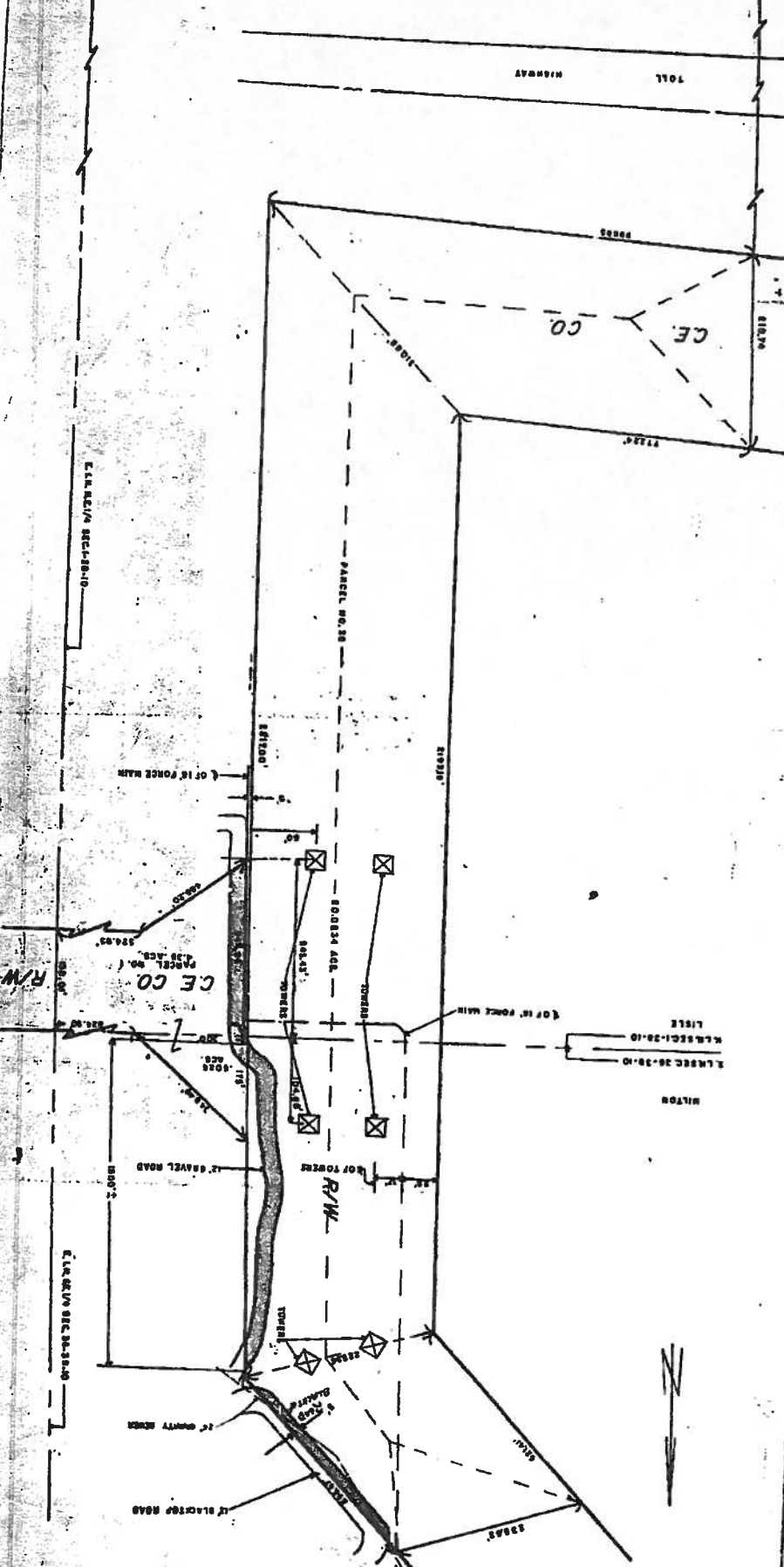
R/W

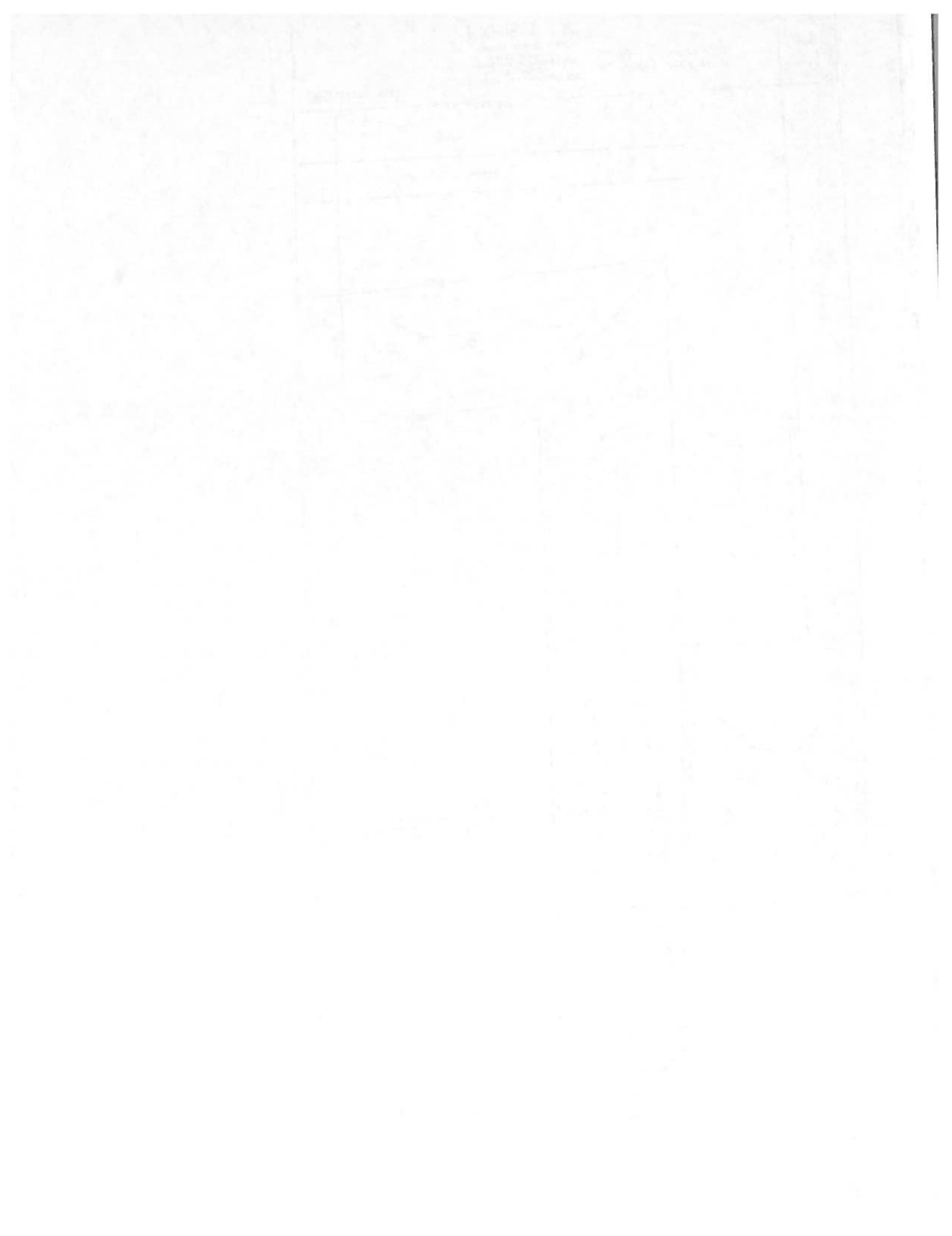
E. 1/2 SEC. 28-10

12' GRADY ROAD

12' BLACKTOP ROAD

APPROX. LOCATION OF LEFT STATION





**EXHIBITS C1 and C2  
Fencing Requirements  
and  
Barrier Requirements**

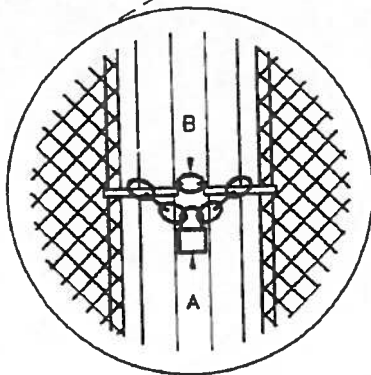
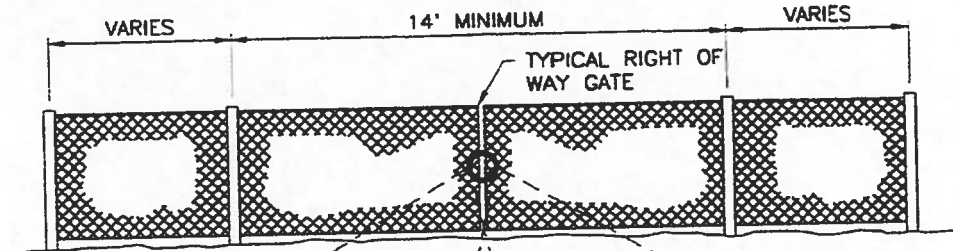
EXHIBIT C-1

6-16-94  
**C9522**  
 PAGE 1 OF 1

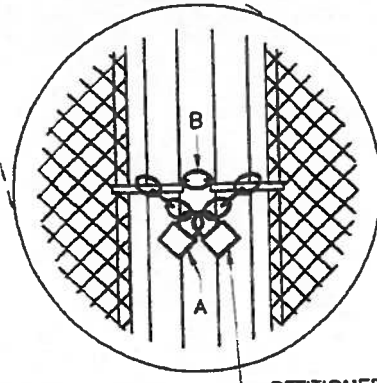
REVISES SPEC. DATED 3-9-81

6-16-94  
**C9522**  
 PAGE 1 OF 1

**LOCKING ARRANGEMENTS**  
 FOR TRANSMISSION RIGHT-OF-WAY GATES &  
 TRANSMISSION LINE TERMINALS



**C9522.1**  
 SINGLE LOCK ARRANGEMENT



**C9522.2**  
 ARRANGEMENT FOR TWO  
 OR MORE LOCKS

ITEM	DESCRIPTION	EM	S.I.	UNIT	QUANTITY	
					.1	.2
A	LOCK, PADLOCK, SHACKLE OPENING 1 1/2" IN. X 3/8 IN. PLATED STEEL	-	716027	EA.	1	1
B	STRAIGHT LINK CHAIN, HOT DIPPED GALVANIZED (1)	-	786756	FT.	3	3

**ENGINEERING INFORMATION**

- CHAIN ORDERING DESCRIPTION STRAIGHT LINK CHAIN, TRADE SIZE 5/0. MATERIAL DIAMETER 0.26 IN., LINK WIDTH 0.44 IN. X LINK LENGTH 1.52 IN.

TRANSMISSION RELIABILITY AND STANDARDS

COMMONWEALTH EDISON COMPANY  
 SYSTEM STANDARD

X-T-L-S-C-O-E  
 REVISION

ACAD

EXHIBIT C-2

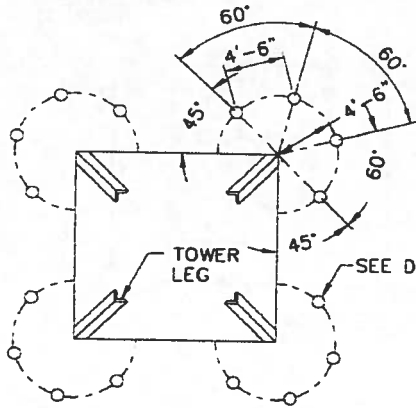
8-1-00  
**C9520**  
 PAGE 1 OF 7

CONSTRUCTION SPECIFICATION  
 REVISED SPECIFICATION DATED 1-15-99

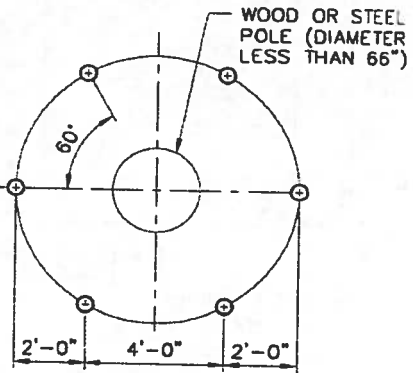
8-1-00  
**C9520**  
 PAGE 1 OF 7

**PROTECTIVE BARRIERS**  
 FOR TRANSMISSION STRUCTURES (69KV AND ABOVE)

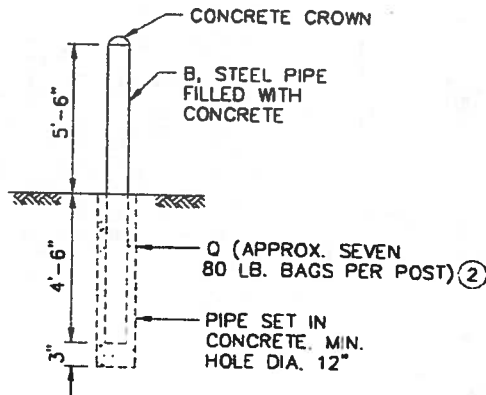
PROTECTIVE BARRIERS FOR TRANSMISSION STRUCTURES  
 ADJACENT TO PARKING AREAS (USING CONCRETE-FILLED STEEL PIPES)  
 C9520.1\_



**PLAN**  
 TYPICAL TOWER LEG PROTECTION  
 C9520.11

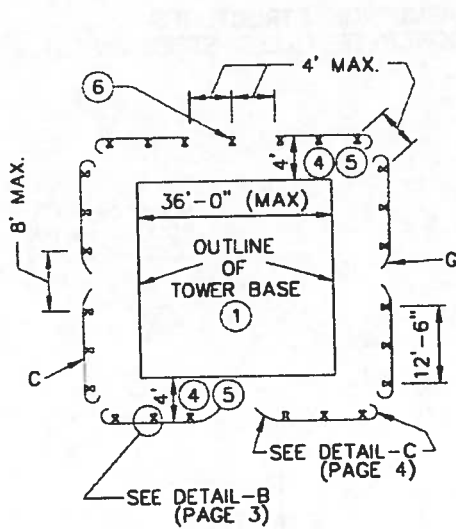


**PLAN**  
 TYPICAL WOOD OR STEEL POLE PROTECTION  
 C9520.12

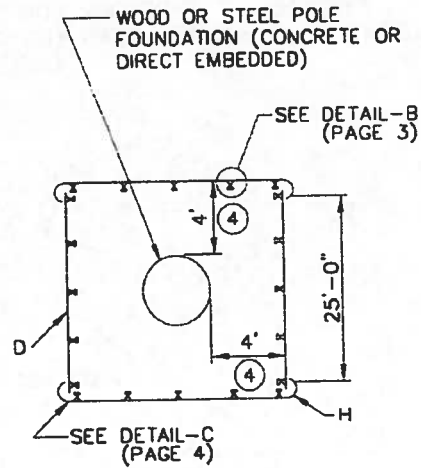


**DETAIL-A**

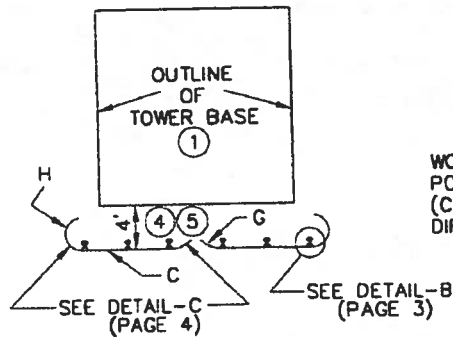
**PROTECTIVE BARRIERS FOR TRANSMISSION STRUCTURES  
 NEAR ROADWAYS (USING HIGHWAY GUARDRAIL)  
 C9520.2**



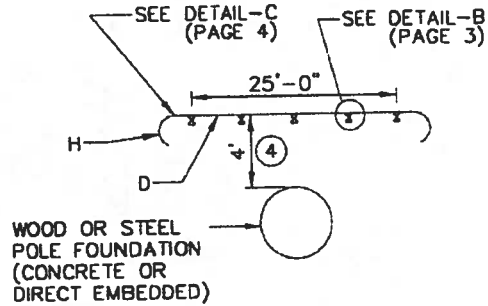
**PLAN**  
 TYPICAL TOWER PROTECTION  
 ON ALL SIDES  
 C9520.21



**PLAN**  
 TYPICAL POLE PROTECTION  
 ON ALL SIDES  
 C9520.22

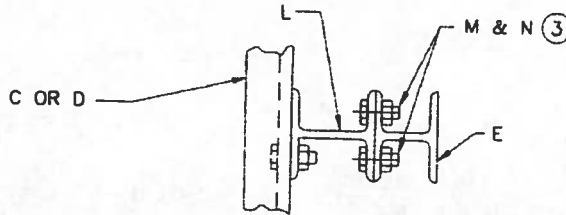


**PLAN**  
 TYPICAL TOWER PROTECTION  
 ON ONE SIDE  
 C9520.23

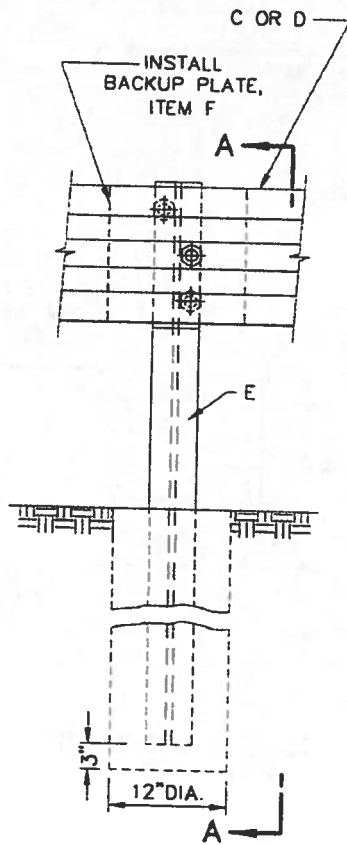


**PLAN**  
 TYPICAL POLE PROTECTION  
 ON ONE SIDE  
 C9520.24

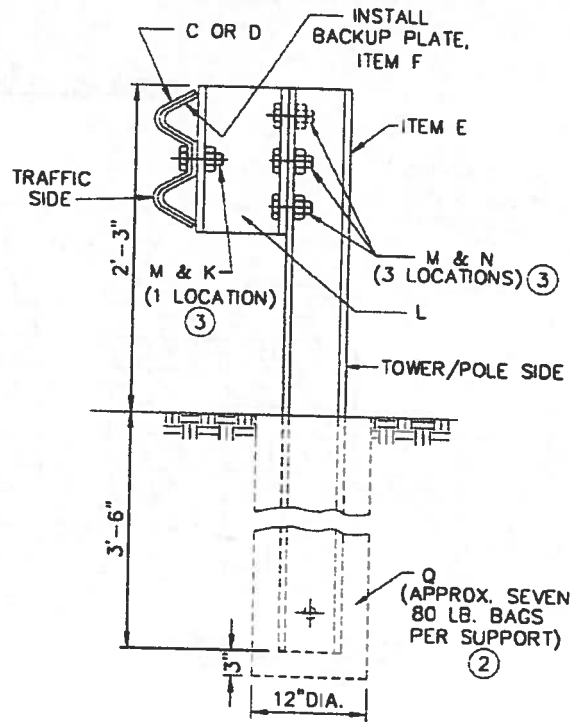
GUARDRAIL SUPPORT DETAILS, C9520.2\_



**DETAIL-B. PLAN**

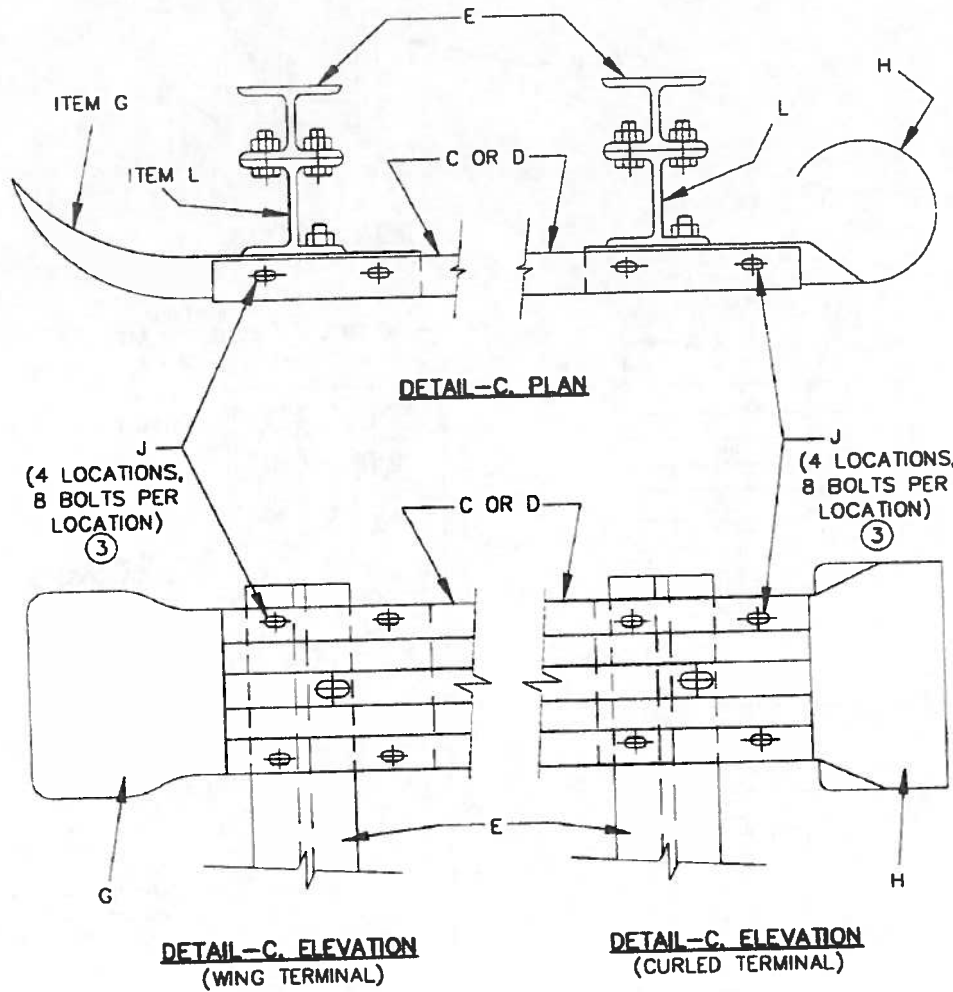


**DETAIL-B. ELEVATION**

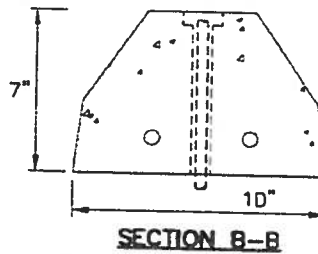
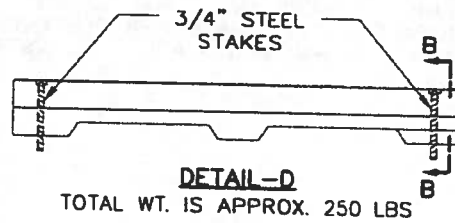
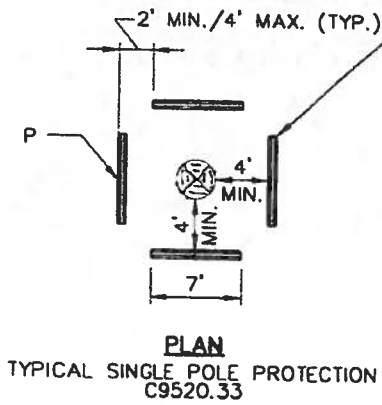
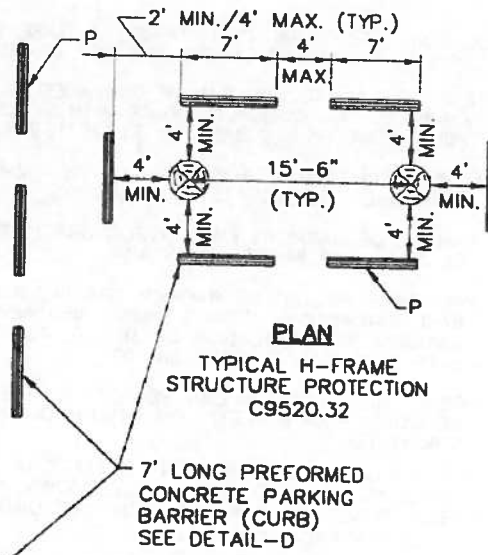
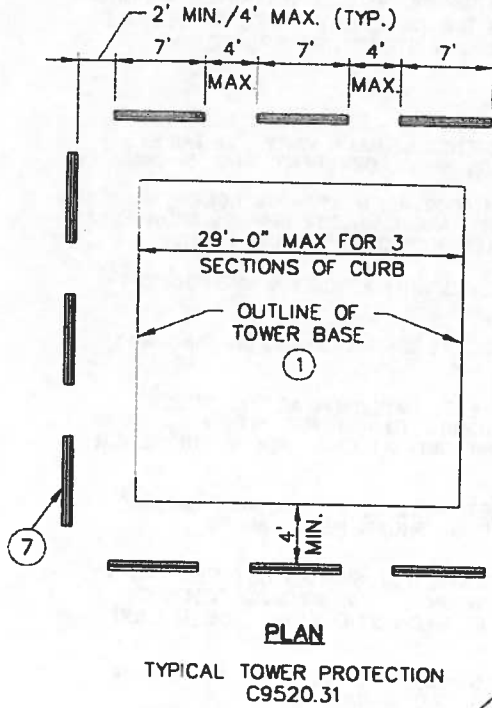


**SECTION A-A**

GUARDRAIL END SUPPORT/TERMINAL SECTION DETAILS, C9520.2\_



**PROTECTIVE BARRIERS FOR TRANSMISSION STRUCTURES  
 ADJACENT TO PARKING AREAS (USING PARKING CURBS)  
 C9520.3\_**



**APPLICATION**

- THIS STANDARD SHALL BE USED FOR INSTALLATION OF VEHICLE BARRIERS AROUND TRANSMISSION STRUCTURES AND ILLUSTRATES THE DIFFERENT TYPES OF VEHICLE BARRIERS WHICH MAY BE USED FOR TRANSMISSION STRUCTURE PROTECTION.

**INFORMATION**

- ① ACTUAL STRUCTURE TYPE, SHAPE & BASE DIMENSIONS MAY VARY. DETAILS WILL BE FURNISHED ON THE PROJECT DRAWINGS WHERE DIFFERENT THAN SHOWN.
- ② ITEM "O", (S.I.#701129) CAN BE REPLACED WITH 4000 PSI READY-MIX CONCRETE PER EM48003. ONE CONCRETE TRUCK WITH 7 CUBIC YARD CAPACITY IS APPROXIMATELY EQUIVALENT TO 220 BAGS OF S.I.#701129 AFTER ADDING WATER AND MIXING.
- ③ NUTS ON GUARDRAIL BARRIER SHALL BE TIGHTENED WITH A TORQUE WRENCH TO A TORQUE VALUE OF 75 FOOT-POUNDS.
- ④ SPACING OF BARRIERS FROM STRUCTURE OUTLINE AS SHOWN IS MINIMUM AND MAY BE INCREASED WHERE NECESSARY.
- ⑤ THE TOWER PROTECTIVE BARRIER SPACING SHALL BE BASED ON ACTUAL TOWER BASE DIMENSIONS. DETAILS SHOWN ARE APPLICABLE TO A TOWER WITH A MAXIMUM BASE DIMENSION OF 36'-0". ADD ONE UNIT AT EACH SIDE IF THE TOWER BASE DIMENSION EXCEEDS 36'-0".
- ⑥ WHERE THIS DIMENSION CAN BE KEPT AT 4 FEET OR LESS, WITH CORNER OPENING NO MORE THAN 4 FEET. THE INTERMEDIATE POST SHOWN HERE CAN BE ELIMINATED.
- ⑦ NUMBER OF UNITS DEPENDENT ON SIZE OF TOWER BUT SPACES BETWEEN UNITS SHALL NOT EXCEED THE 4 FEET SHOWN, NOR SHALL THE MINIMUM DISTANCE FROM TOWER BE CHANGED. ADD ONE UNIT AT EACH SIDE IF THE TOWER BASE DIMENSION EXCEEDS 25'-0".
- ⑧ THE LOCATIONS OF THE PROTECTIVE BARRIERS WILL BE STAKED BY THE OWNER UNLESS OTHERWISE INDICATED ON THE PROJECT DRAWINGS.
- ⑨ CARE SHALL BE TAKEN TO AVOID DISTURBANCE OF ALL AREAS OUTSIDE OF THE IMMEDIATE WORK AREA. ANY DAMAGE TO PROPERTY SHALL BE IMMEDIATELY REPAIRED. ALL ADJACENT PROPERTY SHALL BE RESTORED TO ITS ORIGINAL CONDITION IMMEDIATELY AFTER THE INSTALLATION OF THE VEHICLE BARRIERS.

ITEM	DESCRIPTION	EM	SI	UNIT	QUANTITY																
					.11	.12	.21	.22	.23	.24	.31	.32	.33								
A																					
B	CONDUIT, RIGID, STEEL, 5 IN. IPS, GALV., 10 FT. LONG.		376232	EA	16	6															
C	GUARD RAIL, BEAM TYPE, 13'-6 1/2" LONG, 10 GAGE STEEL, HOT DIP GALVANIZED (AASHTO M-180).	10220 ITEM 1	386003	EA			8	2													
D	GUARD RAIL, BEAM TYPE, 26'-1 1/2" LONG, 10 GAGE STEEL, HOT DIP GALVANIZED (AASHTO M-180).	10220 ITEM 2	386004	EA				4	1												
E	1 BEAM POST SUPPORT, 4" X 6" X 5'-9" LONG, 9 LBS./FT., A36 CARBON STEEL, HOT DIPPED GALVANIZED W6 X 9.	10220 ITEM 3	386005	EA			25	20	6	5											
F	BACKUP PLATE 12 1/4" X 12 1/2" LONG, 10 GAGE STEEL, HOT DIP GALVANIZED.	10220 ITEM 4	386006	EA			8	12	2	3											
G	WING, TERMINAL SECTION, 10 GAGE STEEL, HOT DIP GALVANIZED (AASHTO M-180)	10220 ITEM 5	386007	EA			8		2												
H	CURLED, TERMINAL SECTION, 10 GAGE STEEL, HOT DIP GALVANIZED (AASHTO M-180)	10220 ITEM 6	386008	EA			8	4	2	2											
J	BOLT, CARRIAGE 5/8" DIA. X 1 1/4" LONG, A307 BOLT WITH NUT WASHER, HOT DIPPED GALVANIZED	10220 ITEM 7	386009	EA			128	32	32	16											
K	WASHER 3" X 1 3/4" X 3/16" THICK (8 GAGE WASHER) A36 STEEL HOT DIPPED GALV.	10220 ITEM 8	386011	EA			24	20	6	5											
L	1 BEAM BOLTS W 8 X 10 X 1'-1" LONG, A36 CARBON STEEL, HOT DIPPED GALV., 10# PER FT.	10220 ITEM 9	386010	EA			24	20	6	5											
M	MACHINE BOLTS 5/8" DIA. X 2" LONG A307 BOLT HOT DIPPED GALVANIZED WITH NUT A563	10257	621602	EA			96	80	24	20											
N	5/8" DIA. FLAT WASHER (HOT DIPPED GALVANIZED)	10220 ITEM 11	532666	EA			168	14D	42	35											
P	CURB, PARKING, 7 FT. LONG X 7 IN. HIGH X 10 IN. WIDE, W/TWO 3/4" X 18" STEEL STAKES		247982	EA																	
Q	MIXTURE, CONCRETE 80 LB. (2)		701128	BC	112	42	175	140	42	35									12	6	4

## **EXHIBIT D**

### **Insurance Requirements (current 9/29/2010)**

Licensee agrees to require its contractors, before commencing any work on the Licensed Premises to purchase and maintain, or at the option of Licensee to itself purchase and maintain, at the cost of Licensee or its contractors, a policy or policies of insurance issued by insurance companies authorized to do business in the State of Illinois, having ratings of A-/VII or better in the Best's Key Rating Insurance Guide (latest edition in effect at the latest date stated in the Certificates of Insurance) and in a form satisfactory to Licensor as follows:

#### **COVERAGE #1**

Workers' Compensation Insurance with statutory limits, as required by the state in which the work is to be performed, -and Employers' Liability Insurance with limits not less than One Million dollars (\$1,000,000.00) each accident/occurrence

#### **COVERAGE #2**

Commercial General Liability (CGL) Policy or Policies (with coverage consistent with ISO CG 0001 (12 04)) covering all contractors, subcontractors and all their subcontractors with limits not less than Four Million dollars (\$4,000,000.00) per occurrence covering liability for bodily injury and property damage arising from premises, operations, independent contractors, personal injury/advertising injury, blanket contractual liability and products/completed operations for not less than three (3) years from the date the work is accepted. (CGL insurance includes, but is not limited to coverage for claims against Licensor for injuries to employees of Licensee and its contractors or any subcontractors) Licensor shall be added as an Additional Insured providing coverage consistent with ISO Form CG 20 26 11 85 or the combination of ISO Form CG 20 10 10 01 and CG 20 37 10 01.

#### **COVERAGE #3**

Automobile Liability in an amount of not less than one million dollars (\$1,000,000) per accident for bodily injury and property damage, covering all owned, leased, rented or non-owned vehicles, which shall include automobile contractual liability coverage.

Policies covering contractors may substitute lower limits for any of the policies listed above, provided that Contractors maintains an umbrella or excess liability policy or policies which provide a total minimum limit of four million dollars (\$4,000,000) per occurrence for general liability and one million dollars (\$1,000,000) for automobile liability, and that all other requirements of this insurance clause are satisfied by such umbrella or excess policy or policies.

Licensee will, in any event, purchase and maintain during the term hereof;

#### COVERAGE #4

(i) Commercial General Liability (CGL) Insurance (with coverage consistent with ISO CG 00 01 12 04) with a limit of not less than four million dollars (\$4,000,000) per occurrence covering liability for bodily injury and property damage, arising from premises, operations, independent contractors, personal injury/advertising injury, blanket contractual liability and products/completed operations (CGL insurance includes, but is not limited to coverage for claims against Licensor for injuries to employees of Licensee and its contractors or any subcontractors). Licensor shall be added as an Additional Insured providing coverage consistent with ISO Form CG 2026 (11/85) or combination of ISO Form CG 20 10 10 01 and GC20 37 19 91. (ii) Automobile Liability in an amount of not less than \$1,000,000 per accident for bodily injury and property damage, covering all owned, leased, rented or non-owned vehicles, which shall include automobile contractual liability coverage.

#### COVERAGE #5

Workers' Compensation Insurance with statutory limits, as required by the state in which the work is to be performed, and Employers' Liability Insurance with limits not less than One Million dollars (\$1,000,000.00) each accident/occurrence.

Licensee may substitute lower limits for any of the policies listed above, provided that Licensee maintains an umbrella or excess liability policy or policies which provide a total minimum limit of \$4,000,000.00 per occurrence for general liability, and that all other requirements of this insurance clause are satisfied by such umbrella or excess policy or policies.

If any work on the Licensed Premises involves or includes Contractor handling, transporting, disposing, or performing work or operations with hazardous substances, contaminants, waste, toxic materials, or any potential pollutants, Licensee and/or contractors shall purchase and maintain pollution legal liability applicable to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims; all in connection with any loss arising from the Licensed Premises. Coverage shall be maintained in an amount of at least five million dollars (\$5,000,000) per loss and aggregate. Coverage shall apply to sudden and non-sudden pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants. Licensor shall be included as an additional insured and the policy shall be primary with respect to Licensor as the additional insured.

There shall be furnished to Licensor, prior to commencing the work above described a certificate of insurance showing the issuance of insurance policies pursuant to the requirements contained in Coverages #1, #2, and #3 of this paragraph. Insurance coverage as required herein shall be kept in force until all work has been completed. All policies shall contain a provision that coverages afforded under the policies will not be canceled or material change until at least thirty (30) days prior written notice (ten (10) days in the case of nonpayment of premium) has been given to Licensor.

Licensee shall provide evidence of the required insurance coverage under Coverage #4 and #5, which shall be delivered to Licensor upon execution of this document. The insurance under Coverage #4 and #5 shall be kept in force through the term hereof through the above-referred policy, or such subsequent or substitute policy or policies as Licensee may, at its discretion, obtain. Licensee shall also provide Licensor with evidence of all of the insurance required hereunder prior to the effective date of the License whenever any insurance policy procured by Licensee hereunder is renewed and whenever Licensee obtains a new insurance policy hereunder.

Insurance coverage provided by Licensee and its contractors shall not include any of the following; any claims made insurance policies; any self-insured retention or deductible amount greater than two hundred fifty thousand dollars (\$250,000) unless

approved in writing by Licensor; any endorsement limiting coverage available to Licensor which is otherwise required by this Article; and any policy or endorsement language that (i) negates coverage to Licensor for Licensor's own negligence, (ii) limits the duty to defend Licensor under the policy, (iii) provides coverage to Licensor only if Licensee or its contractors are negligent, (iv) permits recovery of defense costs from any additional insured, or (v) limits the scope of coverage for liability assumed under a contract.

To the extent permitted by applicable Laws, all above-mentioned insurance policies shall provide the following:

- (1) Be primary and non-contributory to any other insurance carried by Licensor
- (2) Contain cross-liability coverage as provided under standard ISO Forms' separation of insureds clause; and
- (3) Provide for a waiver of all rights of subrogation which Licensee's, or its Contractors' insurance carrier might exercise against Licensor; and
- (4) Any Excess or Umbrella liability coverage will not require contribution before it will apply

Licensor hereby reserves the right to amend, correct and change from time-to-time the limits, coverages and forms of policies as may be required from Licensee and/or its contractors.

#### WAIVER OF SUBROGATION

Licensee and its contractors shall waive all rights of subrogation against Licensor under those policies procured in accordance with this License.

The first part of the report discusses the general situation of the country and the progress of the work done during the year. It also mentions the various committees and their work.

The second part of the report deals with the financial position of the country and the progress of the work done during the year.

The third part of the report discusses the various committees and their work. It also mentions the progress of the work done during the year.

The fourth part of the report deals with the financial position of the country and the progress of the work done during the year.

The fifth part of the report discusses the various committees and their work. It also mentions the progress of the work done during the year.