

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
_____ Recommendations of Boards, Commissions & Committees (Green)
_____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: April 16, 2010 (B of T) Date: May 6, 2010

TITLE: Union Pacific Commuter Parking Lot Lease
Park/Elizabeth Parking Lot

SUBMITTED BY: Carl Goldsmith, Director of Public Works *CJ*

BACKGROUND/POLICY IMPLICATIONS:

The Public Works Department submits for approval a resolution authorizing the renewal of a lease agreement for the above mentioned parking lot. The agreement provides for a one-year term that will automatically renew unless terminated by either party with thirty (30) days notice.

FISCAL IMPACT/FUNDING SOURCE

\$8,500/annually - Parking Lot Fund 5300

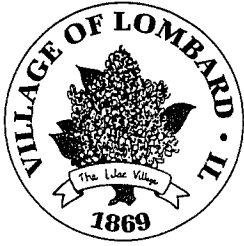
Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X _____ Date _____

NOTE: Materials must be submitted to / approved by the Village Manager's Office by 12:00 pm, Wednesday, prior to the Agenda Distribution.



April 15, 2010

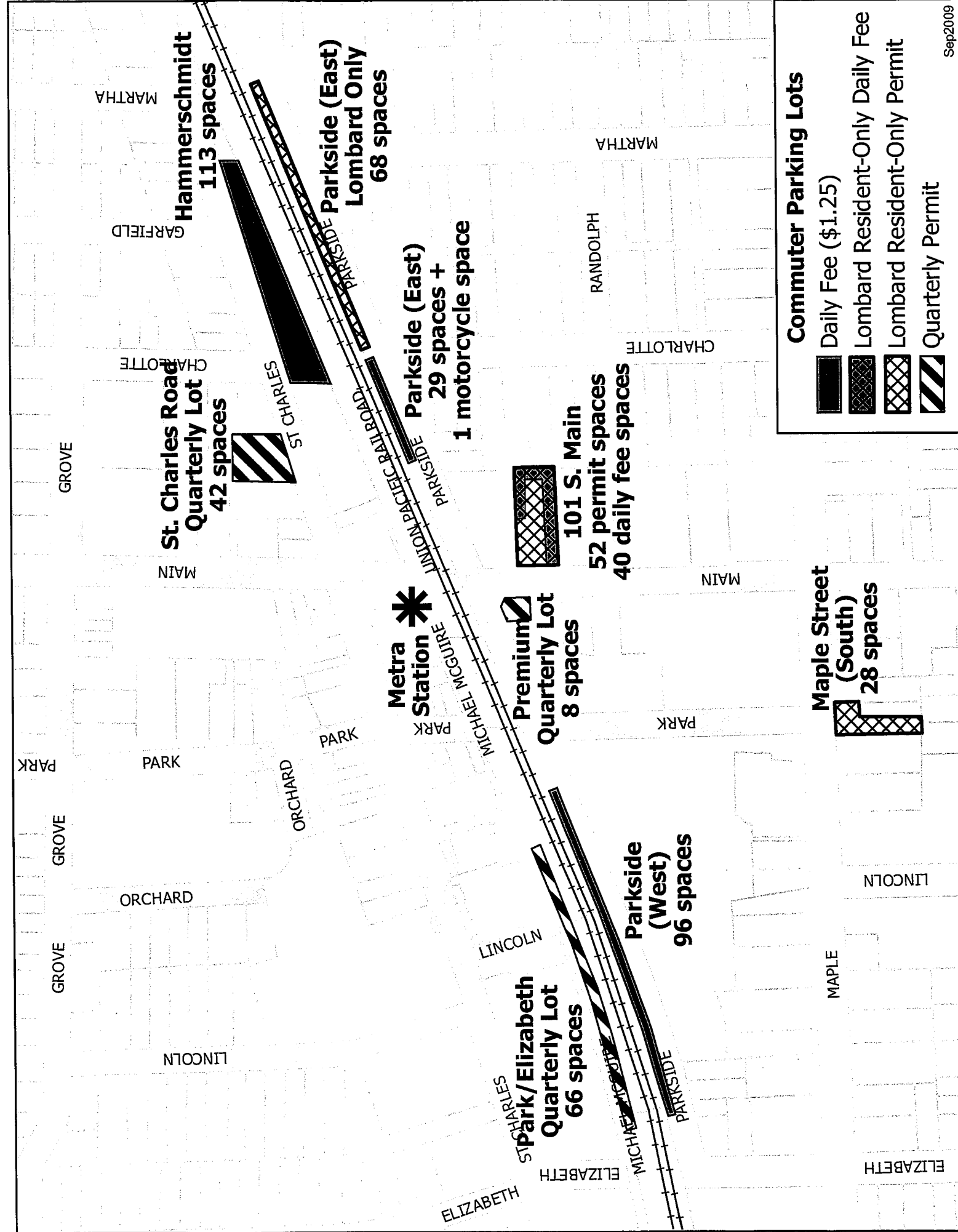
TO: David A. Hulseberg, Village Manager
FROM: Carl Goldsmith, Director of Public Works *CG*
SUBJECT: Union Pacific Commuter Parking Lot Lease

The Village of Lombard operates a daily fee commuter parking lot on the east and west sides of Main Street along Parkside Avenue. The Village entered into a lease with the Chicago and North Western Transportation Company (which is now the Union Pacific Railroad Company) on June 7, 1990. The fee for daily parking is \$1.25, and there are 96 spaces located between Park and Elizabeth on W. Parkside Avenue.

The lease term was for a twenty year term, which will expire on July 1, 2010. The Union Pacific has requested a renewal of the lease agreement, which provisions for a one-year term that will automatically renew unless terminated by either party with thirty (30) days notice to other party. The Village compensates the Union Pacific in the amount of 1/3 of the revenue generated from the spaces on their property. The current payments are approximately \$1,775.00 per month. Funding for the lease payments is available in the Parking System Fund.

The staff recommends that the Village Board of Trustees adopt a resolution authorizing the Village President to execute a certain agreement with the Union Pacific for the lease of the commuter parking lot commonly known as Park/Elizabeth Parking.

If you have any questions concerning this information, please let me know.



Hammerschmidt
113 spaces

St. Charles Road
Quarterly Lot
42 spaces

Parkside (East)
Lombard Only
68 spaces

Parkside (East)
29 spaces +
1 motorcycle space

101 S. Main
52 permit spaces
40 daily fee spaces

Metra Station





Premium
Quarterly Lot
8 spaces

Maple Street
(South)
28 spaces

Parkside
(West)
96 spaces

Park/Elizabeth
Quarterly Lot
66 spaces

Commuter Parking Lots

-  Daily Fee (\$1.25)
-  Lombard Resident-Only Daily Fee
-  Lombard Resident-Only Permit
-  Quarterly Permit

RESOLUTION

R ____-10

A RESOLUTION AUTHORIZING SIGNATURE OF THE VILLAGE PRESIDENT ON A LEASE AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY FOR THE PARK/ELIZABETH COMMUTER PARKING LOT

WHEREAS, the Village of Lombard had entered into a lease with the Union Pacific Railroad Company (predecessor to the Chicago and North Western) that will expire on May 31, 2010; and,

WHEREAS, the Village of Lombard has received a request from the Union Pacific Railroad Company to extend the lease for the Park/Elizabeth Commuter Parking Lot; and,

WHEREAS, the Corporate Authorities deem it to be in the best interest of the Village of Lombard to enter into the lease as attached hereto and marked Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DUPAGE COUNTY, ILLINOIS as follows:

SECTION 1: That the Village President be and hereby is authorized to sign on behalf of the Village of Lombard said lease as attached hereto.

SECTION 2: That the Village Clerk be and hereby is authorized to attest said lease as attached hereto.

Adopted this 5th day of May 2010.

Ayes: _____

Nayes: _____

Absent: _____

Approved this 5th day of May, 2010.

William J. Mueller
Village President

ATTEST:

Brigitte O' Brien
Village Clerk

APPROVAL AS TO FORM:

Thomas P. Bayer
Village Attorney



April 8, 2010
Folder No. 189-95

CARL GOLDSMITH
VILLAGE OF LOMBARD
255 E. WILSON
LOMBARD, ILLINOIS 60148

Audit No.: 180647
CNW No. 88226
Location: Lombard, IL
Effective: July 1, 2010
Rent: 1/3 of collected
rental

Dear Mr. Goldsmith:

The Village of Lombard currently leases property from Union Pacific Railroad for commuter parking, identified in our records as Audit No. 180647, copy of lease attached for your review. This lease will expire on July 1, 2010 and Union Pacific Railroad Company (predecessor to Chicago and North Western) proposes to extend it as of the effective date shown. The lease will continue in effect from the effective date shown above for one year, and thereafter, unless terminated earlier by either party on thirty days' written notice.

As required in the lease, please continue to pay one-third of all gross revenues received from the users of the lot. Payment should be made monthly to Union Pacific and sent to me at the address at the bottom of this letter. Please note to include the Audit No 180646 on the check.

Except as noted above, all other terms of your lease will remain unchanged. We would appreciate your indicating your acceptance of the renewal of your lease by signing and returning one original of this letter. You may keep the other copy for your files. Your occupation of the premises beyond the renewal date will confirm that you have elected to continue your lease under the above terms.

Please call me at (402) 544-8557 if you have any questions.

AGREED TO AND ACCEPTED:

VILLAGE OF LOMBARD

UNION PACIFIC RAILROAD COMPANY

By: _____

By _____
Senior Manager - Real Estate

9999 01381009604

CCMS COVERSHEET

AUDIT NUMBER	180647
DATE OF AGREEMENT	
PARTY NAME	LOMBARD, VILLAGE
TYPE OF AGREEMENT	476
LOCATION	LOMBARD IL
CIRC7 FROM	NZ024
MILEPOST FROM	999.00
BOX NUMBER	1381 - 0096
BATCH NUMBER	4

ATTN: SUPERVISOR OF CONTRACTS -- ONLINE CONTRACT EXECUTION REPORT

AUDIT NBR :
FOLDER NBR: 18995
OLD PARTY NAME: LOMBARD, VILLAGE
OLD CITY : LOMBARD
NEW PARTY NAME:
NEW CITY :

SEQUENCE NBR: 157622
VERSION NBR : 0
CUSTOMER NBR: 0
OLD STATE: IL
NEW STATE:

U. P. R. R. Co. Agreement Audit No. 180647

AGRM DESCRIPTION: LEASE OF LAND/BUILDINGS-PERCENTAGE OF VARIABLE BILLING

CONTRACT TYPE:

SUPPLEMENT DATE:

EFFECTIVE DATE	OLD: 1995-11-01	NEW:
TERMINATION DATE	OLD: 1999-07-01	NEW:
BILL AMOUNT	OLD: \$0.00	NEW: \$0.00
BILL FREQUENCY	OLD:	NEW:

EXECUTION COMMENTS:

CNW AGRMT.

T.L.M.

NOV 22 1995

CONTRACT COMMENTS:

PARKING

180,647

R P N

NOV 27 1995

FACS-1

LEASE UPDATE

07/17/90 1026

LEASE/LICENSE # : 88226 ACTIVE

LAST CHANGE : 07/16/90 MMHARRI C

01 DESCRIPTION : PARKING
02 LOCATION : LOMBARD ILL
03 AMOUNT : .00
04 LEASE TYPE : 015

LAST BILL # :
LAST BILL DATE :

- CODES -

05 FREQUENCY : 0 09 STATE : 1
06 TYPE : % 10 DIVISION : S
07 CANCEL : 11 ICC CODE : 1
08 SPECIAL : 12 ADNL ITEMS :

- DATES -

13 EFFECTIVE : 7/01/90
14 EXPIRATION : 7/01/99
15 AGREEMENT : 6/07/90
16 MISC CODES :

17 PATRON # : 9174673
NAME : LOMBARD VILLAGE OF
STREET : 255 E WILSON AVENUE
CTY/ST/ZIP : LOMBARD ILL 60148

- SEND TO -

18 NAME :
19 DEPT :
20 ATTN :

>>ENTER: OPTION OR M (OPTION MENU) OR LEASE

88226

LEASE

THIS INDENTURE, made this 7th day of June, 1990,

LESSOR

between the CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY, One North Western Center, Chicago, Illinois 60606, a Delaware corporation, Lessor,

LESSEE

and the VILLAGE OF LOMBARD, 255 East Wilson Avenue, Lombard, Illinois 60148, an Illinois municipal corporation, Lessee,

180647

WITNESSETH:

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A-RLAF 0-BATCH

LOCATION

THAT the Lessor, for and in consideration of the covenants and agreements hereinafter mentioned and contained, to be kept and performed by said Lessee, hereby does demise, lease and let unto the Lessee, those certain parcels of land situated in the VILLAGE OF LOMBARD in the County of DuPage, and State of Illinois, shown outlined in yellow color on the print dated February 24, 1986, attached hereto, made a part hereof, and marked Exhibit "A" (hereinafter called "said premises"), from and during the term of twenty (20) years commencing on the 1st day of July, 1990, unless sooner terminated as hereinafter provided. The purpose of the lease is for the maintenance and operation of commuter parking lots at Lessee's sole cost and expense. Lessor reserves, however, unto itself, its agents, assigns, or whomever it so elects, the air rights over and above said premises which are not necessary for the safe and efficient use of said premises by Lessee.

TERM AND
EFFECTIVE
DATE

PURPOSE

This Lease is made to aid Lessor's commuter passenger service and upon the following express covenants and agreements, each of which is made a condition hereof, viz:

IMPROVEMENTS

1. Lessee has plans to improve said premises with such items as, but not limited to, grading, pavement, guardrails, lights, wheel stops, sidewalks, curbing, drainage facilities, parking meters or tollgates and any other required parking facilities. The improvements herein contemplated shall be made in accordance with plans and specifications prepared by the Lessee and approved in writing by Lessor.

RENT

2. In the event that Lessee establishes a charge for said parking, Lessee agrees to pay Lessor one-third of all gross revenues derived from said premises together with a report on or before the 15th day of each month showing gross receipts and rental due for the previous month.

Lessor shall have the right to inspect and audit all the books and records of the Lessee pertaining to the gross receipts.

The Lessee shall pay all taxes, license fees or other charges which may become due or which may be assessed against said premises, the

Lessee, the business conducted on said premises, or any and all improvements placed thereon during the term hereof, including without limitations, special assessments for public improvements, and shall reimburse the Lessor promptly upon the presentation by the Lessor of bills for the amount thereof; and in default of such reimbursement, all sums so paid by the Lessor shall be deemed an addition to rental and recoverable as such.

**USE AND
MAINTENANCE**

3. The Lessee shall not permit the existence of any nuisance on said premises. The Lessee shall at all times keep driveways and parking areas in said premises clean, free and clear of ice and snow and other obstruction, but the Lessee agrees not to dump any snow on Lessor's adjoining land nor adversely alter in any way the drainage on either the premises or Lessor's adjoining land. The Lessee shall keep any structures thereon in good condition and repair, and shall comply with all laws, ordinances and regulations respecting Lessee's business and use and occupation of said parking areas, the Lessee shall at the Lessee's sole cost make any and all improvements, alterations, repairs and additions and install all appliances required in said parking areas by or under any such regulations, ordinances, or laws. The Lessee shall keep any sidewalk on said premises, or bordering said premises, free and clear of snow, ice and any obstruction to the free and safe use of said sidewalk or sidewalks at any and all times. Bill posters or advertising matter of any kind shall not be posted on said premises by the Lessee except such posters pertaining to Lessee's parking operation.

**BILL
POSTERS**

RIGHTS

4. The Lessee accepts said premises subject to the rights of any person, firm or corporation, including the Lessor in and to any existing telephone, telegraph and/or other wire, poles and facilities. The cost of relocation of any existing telephone, telegraph and/or other wires, poles and facilities of any kind, whether or not of record, required for the construction of the parking lot, shall be the responsibility of the Lessee. The Lessee also accepts said premises subject to any want of failure of any time of Lessor's title to said premises or any part thereof, and the Lessee shall assume any damage sustained by the Lessee in connection therewith.

However, nothing in this section shall be construed to relieve any utility company, which has a franchise agreement with the Lessee which requires the utility company to relocate its transmission wires, lines,

poles and/or other facilities at its own cost at the request/direction of the Lessee, from relocating said transmission wires, lines, poles and/or other facilities at said utility company's own cost and expense.

5. Lessee covenants and agrees to indemnify, save harmless and protect the Lessor, from and against any and all claims, demands, lawsuits, liability, and cost and expense in connection therewith by reason of injuries to or death of persons and loss or damage to property arising or growing out of any act or omission of the Lessee, its employees or agents, or any other person performing any work or service for or on behalf of the Lessee on or about said premises or arising out of their presence on said premises.

LIABILITY

Lessor covenants and agrees to indemnify save harmless and protect the Lessee, from and against any and all claims, demands, lawsuits, liability, and cost and expense in connection therewith by reason of injuries to or death of persons and loss or damage to property arising or growing out of any act or omission of the Lessor, its employees or agents, or any other person performing any work or service for or on behalf of the Lessor on or about said premises or arising out of their presence on said premises.

6. Lessee, in consideration of the leasing of said premises as herein provided, hereby covenants and agrees to abide by and perform all and singular the conditions, covenants and agreements herein contained and to be observed and performed by said Lessee, and to yield up said premises unto the said Lessor at the expiration or termination of this Lease in its original condition, ordinary wear and tear excepted. Pavements, lighting facilities and fixtures, wheel stops, curbs, barricades and parking meters or other parking devices are hereby deemed to be improvements to said premises and fixtures thereto. Upon the expiration or any earlier termination of the Lease said improvements shall not be removed from said premises by Lessee, but shall remain as fixtures to the said premises, with Lessee waiving any right, title or interest thereto.

DISPOSITION
OF
IMPROVEMENTS

DEFAULT

7. The receipt of money by Lessor from Lessee after any default by Lessee or after the expiration of this Lease or after the service of any notice or after the commencement of any suit, or after final judgment for possession of said premises shall not waive such default or reinstate, continue or extend the term of this Lease, or affect such notice or suit, as

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the case may be. A waiver of any default of Lessee shall not be implied from omission by Lessor to take any action on account of such default and no express waiver shall affect any default other than the default specified in the express waiver, and that only for the time and to the extent therein stated.

8. It is further agreed between the parties hereto that if the Lessee shall breach or make default in any of the conditions, covenants or agreements of this Lease, which breach or default shall continue for 15 days after Lessee's receipt of written notice thereof from Lessor, then it shall be lawful for the Lessor then or at any time thereafter to declare this Lease ended by giving thirty (30) days' written notice of its intention to do so. Upon the expiration of thirty (30) days after such service of said notice, this Lease and all rights hereunder shall thereupon terminate and be at an end, saving such termination. The Lessee shall without further notice or demand deliver possession of said premises to the Lessor at the expiration of said thirty (30) days, and shall before the expiration of ten (10) days after said termination of said Lease remove all property and improvements placed upon said premises which it may have the right to remove. If it shall fail to so remove such property and improvements, its right to do so shall, at the option of the Lessor, cease and Lessee's title thereto shall be forfeited and the same shall belong to the Lessor or in such case, if the Lessor so elects, it may at any time after the expiration of said period of ten (10) days tear down and/or remove any or all such property and improvements at the expense of the Lessee without any liability to damages in any respect whatsoever and the Lessee shall thereupon promptly reimburse the Lessor for all expense incurred by it in so doing. Upon any such termination of this Lease, rent shall be paid by the Lessee to the date of termination fixed by said notice.

WAIVER

Further, Lessor may, in the event of a breach by the Lessee, re-enter said premises and take possession thereof, with or without process of law, and use any reasonable or necessary force for regaining possession. It is hereby further agreed and provided that any waiver at any time of a breach of any conditions, covenants or agreements of this Lease shall extend only to the particular breach so waived, and shall in no manner impair or affect the existence of such condition, covenant or agreement or the right of the Lessor to thereafter avail itself of same and any subsequent breach thereof.

ASSIGN
OR
SUBLEASE

9. The benefits and obligations of this Lease shall extend to and shall bind Lessor's and Lessee's successors and assigns; but no interest in this Lease shall be assigned, nor shall said premises, or any part thereof, be sublet, used or occupied by any party other than the Lessee, nor shall Lessee allow or permit any lien of any kind to be imposed upon said premises, without written consent from the Lessor. Said written consent shall not be unreasonably withheld.

LIABILITY

10. The Lessee agrees to obtain at its own cost and expense and to keep in full force and effect during the term of this Lease, public liability and property damage insurance in the amounts of \$200,000.00 for bodily injury and/or death to any one person and \$1,000,000.00 for two or more persons; and \$500,000.00 property damage in any one occurrence and \$1,000,000.00 in its aggregate. Said insurance shall run in favor of the Lessee and shall be endorsed to assume the contractual obligations of the Lessee as set forth in Article 5 hereof. Additionally, said insurance shall contain a clause requiring that thirty (30) days' written notice be given the Lessor by the insurance company before any cancellation thereof. A duplicate copy of such policy or policies of insurance shall be furnished to the Lessor. Nothing contained in this Article 10 shall in any way be construed to limit the liability of the Lessee as set forth in Article 5 hereof.

Five years or more after the commencement date of this Lease, the Lessor, at its option, may require Lessee to obtain additional public liability and/or property damage insurance coverage in an amount not to exceed 200 percent of the effective present coverage.

And, Lessee further agrees to have all insurance policies issued to it for or upon its own account covering any injuries to persons or any loss or damage to property so written that the insurer shall have no recourse, by subrogation or otherwise, against Lessor or the premises.

PARKING
FEE

11. The Lessee shall have the right to charge a parking fee in regard to the use of the leased property as a parking lot, and shall have the right to determine the initial parking fee amount. Lessee must secure Lessor's approval to initiate or to increase the parking fees prior to instituting any increase. Lessor's approval will not be unreasonably withheld provided the parking fee increase is in line with the parking fees being charged at Lessor's other commuter passenger parking lots on the West commuter line and/or Lessee can document the need for the increase based on operating and maintenance costs of the subject lots. Lessee may establish

monthly or other period permit-type commuter parking arrangements in lieu of or in addition to parking meters or tollgates.

12. Lessee agrees not to suffer or permit any lien of mechanics or materialmen to be placed upon the premises or any part thereof and, in case of any such lien attaching to immediately pay off and remove the same. It is further agreed by the parties hereto that Lessee has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Lessee, operation of law, or otherwise, to attach to or to be placed upon Lessor's title or interest in the premises, and any and all liens and encumbrances created or suffered by Lessee shall attach to Lessee's interest only.

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13. It is further agreed that in case Lessee, with the consent of Lessor, holds possession of the premises beyond the term of this lease, such action of the parties shall have the effect of extending the term of this lease on a month-to-month basis, subject in all respects to all of the terms, conditions, covenants and agreements of this lease, including all rights of termination in all respects as herein provided.

HOLD OVER

14. If the whole or any part of the premises shall be taken or condemned by any competent authority for any public use or purpose this lease shall, as to the part so taken, terminate as of the date when taken or required for such use or purpose. Rent shall abate proportionately as to the part so taken, or shall cease if all of the premises be so taken. The entire amount of damages or compensation payable or paid for the part taken and for the remainder, if any, shall be paid to and retained by Lessor as its own property without apportionment. Lessee hereby assigns to Lessor any claim which Lessee would have to such damages. Lessee shall look solely to said authority for any compensation or damages on account of damage to Lessee's leasehold interest, Lessee's business interests, Lessee's cost and expense of removing Lessee's personal property from the premises, and for the cost and expense of moving any building or other structure placed upon the premises by Lessee and which Lessee would have the right to remove as a Lessee of the premises.

EMINENT
DOMAIN

15. Lessor or Lessee may reduce the land covered by this lease or terminate the lease on 60 day notice. If Lessor exercises its termination privilege as herein provided, Lessor agrees to pay to the Lessee, on a straight-line 20 year amortization basis, the total unamortized cost to construct the parking facility on the premises then outstanding at the time

TERMINATION

of termination of the lease or to pay a prorated amount of the total unamortized cost of construction for that portion of the premises eliminated from parking purposes. When construction of the parking facility is complete, the Lessee shall provide a written statement of the total cost of construction to the Lessor. It is agreed that the total cost of construction will not exceed \$ 500,000.

RIGHTS ARE CUMULATIVE

16. All rights and remedies of Lessor shall be cumulative and none shall exclude any other rights and remedies allowed by law.

ENTIRE AGREEMENT

17. All of the representations and obligations of Lessor are contained herein. No modification, waiver or amendment of this lease, or any of its terms, shall be binding upon Lessor unless it is in writing and signed by a duly authorized officer of the Lessor.

COMMUTER RAILROAD SERVICE

18. Lessor makes no warranties or representations, expressed or implied, as to continued commuter passenger railroad service to the VILLAGE OF LOMBARD.

NO DIS-CRIMINATION

19. Parking lot shall be used by residents of VILLAGE OF LOMBARD and non-residents on a non-discriminatory basis regarding fees and assignment of spaces therein.

NOTICES

20. All notices, demands, statements, reports and other instruments, required or permitted to be served upon or furnished to Lessor, shall be in writing and shall be deemed to have been sufficiently served and furnished if delivered or mailed to either party at the address first shown herein.

SECTION HEADINGS

21. Section headings are inserted for convenience only and shall not affect the construction or interpretation of this lease.

IN TESTIMONY WHEREOF, the parties hereto have executed these presents the day and year first above written.

WITNESS FOR LESSOR:

Michael P. McDonough

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

By: Richard B. Taylor
Richard B. Taylor
Vice President-Real Estate

WITNESS FOR LESSEE:

Gerraine H. Berberich

VILLAGE OF LOMBARD

By: [Signature]

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A. PLAT O. BRICH

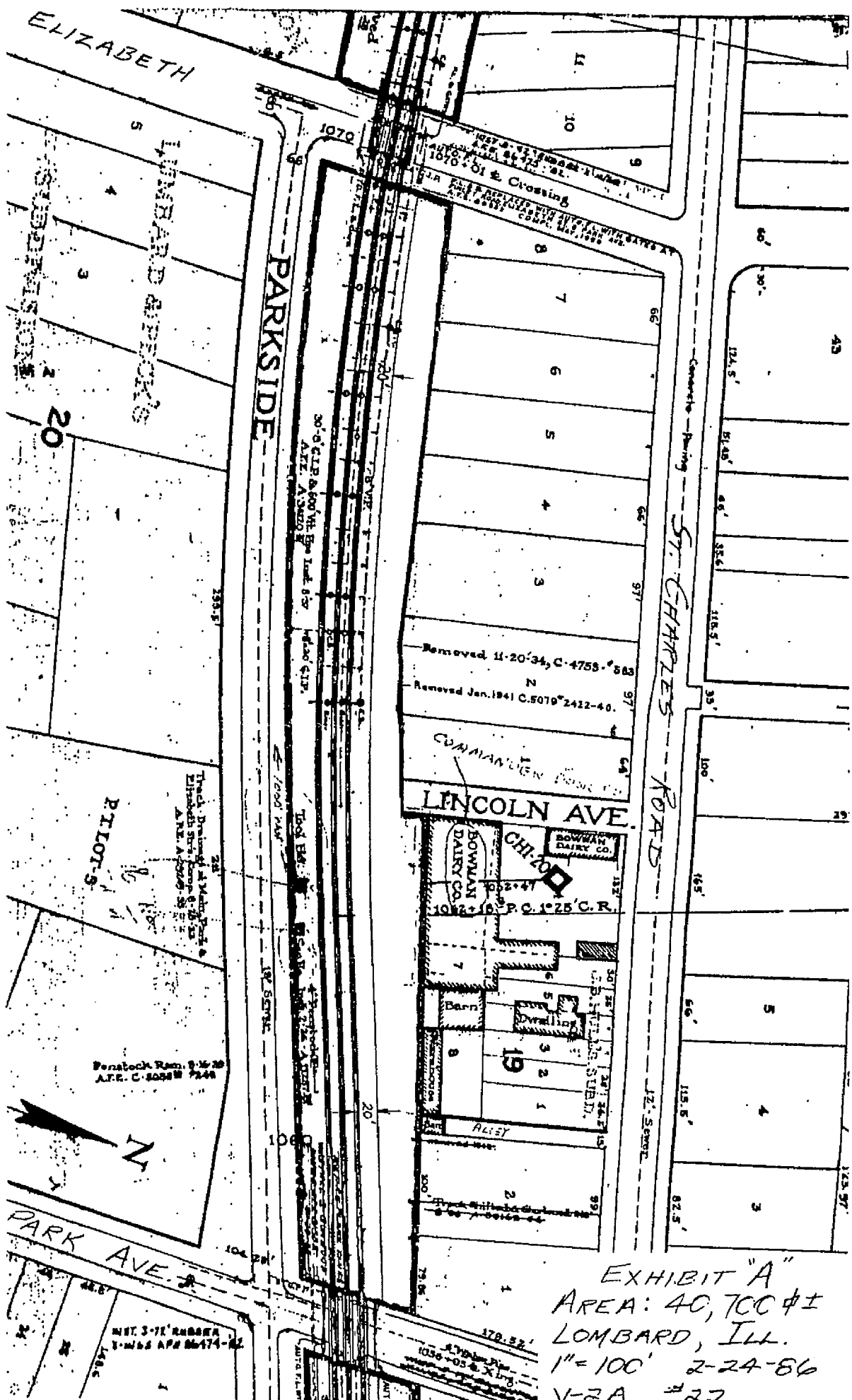


EXHIBIT "A"
AREA: 40,700 ±
LOMBARD, ILL.
1" = 100' 2-24-86
V-2A #22