

C.E.CO. R/W: DOWNERS GROVE DCW-38 (DX485)  
SE ¼, SEC. 31, TWP.38 NORTH, RANGE 11 EAST  
OF THE THIRD PRINCIPAL MERIDIAN IN  
DUPAGE COUNTY, ILLINOIS  
PIN: 09-31-410-017

## LICENSE AGREEMENT

**THIS LICENSE AGREEMENT** (this "License"), made as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023 (the "Effective Date") by and between **Commonwealth Edison Company**, an Illinois corporation ("Licensor") and **County of DuPage, 421 N. County Farm Road, Wheaton IL 60187** ("Licensee").

A. Licensor is the owner of the property legally described and/or depicted on Exhibit A attached hereto and made a part hereof (the "Licensed Premises").

B. Licensor utilizes the Licensed Premises for Licensor's own business operations (collectively, "Licensor's Operations"), which operations, for purposes hereof, shall include without limitation the construction, reconstruction, maintenance, repair, upgrade, expansion, addition, renewal, replacement, relocation, removal, use and operation of transmission, distribution and communications improvements, fixtures, facilities, machinery, equipment and/or other property owned by Licensor which are located on, or within, the Licensed Premises, whether now existing or hereafter to be installed, in, at, over, under, along or across the Licensed Premises (collectively, "Licensor's Facilities").

C. Licensee desires to obtain a license from Licensor to utilize the Licensed Premises solely for the purposes described herein.

**NOW, THEREFORE**, in consideration of the payment of the license fees described in Section 3 below, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor hereby grants Licensee, its employees, representatives, agents, contractors and engineers, under the terms and conditions contained herein, a non-exclusive license to use the Licensed Premises, for the purposes hereinafter set forth, and for no other purposes whatsoever.

1. **Term.** The term of this License (the "Term") shall be for the period commencing on the \_\_\_\_\_ day of \_\_\_\_\_ 2023 and expiring on the \_\_\_\_\_ day of \_\_\_\_\_ 2028, unless sooner terminated as hereinafter provided.

2. **Purpose.** The Licensed Premises shall be used by Licensee solely, in compliance with all Legal Requirements (as defined herein) as Exhibit B, Lemont Plan and Profile, to improve Lemont Road from 83rd Street to 87th Street (the "Permitted Use") and for no other purpose whatsoever. 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.

3. **License Fee.** In consideration of the foregoing premises, upon the execution of this License, Licensee shall make a one-time payment of \$1,400.00 to Licensor.

4. **Condition of Licensed Premises.** 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 as to the condition and repair 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. Without limiting the foregoing, Licensee hereby acknowledges and agrees that Licensor has made no representations or warranties concerning the Licensed Premises' compliance with Legal Requirements, including without limitation, whether the Permitted Use constitutes a legal use of the Licensed Premises. Licensee, at its sole cost and expense, shall obtain any permits or licenses mandated by Legal Requirements to allow the Permitted Use. Licensee hereby acknowledges and agrees that Licensor does not grant Licensee the right or authority by the terms of this License at any time to have the Licensed Premises rezoned.

5. **Affirmative Obligations.** Throughout the Term, Licensee (at its sole cost and expense) shall: (a) keep and maintain the Licensed Premises in a clean, neat, sanitary and sightly condition and repair, to Licensor's satisfaction; and (b) reimburse Licensor for any additional expense incurred by Licensor in granting this License.

6. **Insurance.** Licensee's insurance requirements can be met by self-insurance. Licensee shall furnish to the Licensor evidence of self-insurance. Licensee's contractors will provide insurance with coverage and limits that conform to the minimums required by IDOT Insurance Requirements in Article 107.27 of the Standard Specifications for Road and Bridge Construction. Licensor shall be added as an Additional Insured under endorsement GL 2010.

7. **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, the "Licensee Parties") 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 of this License. This indemnification shall include, without limitation, claims made under any workman's compensation law or under any plan for employee's disability and death benefits (including, without limitation, claims and demands that may be asserted by employees, agents, contractors and subcontractors).

8. **Environmental.**

(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 of the Licensee Parties 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 Substances (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 Substances used, brought upon, transported, stored, kept, discharged, spilled or released by Licensee, any of the Licensee Parties 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 Substances" 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 (including common law) regulating or imposing standards of care with respect to the handling, storage, use, emitting, discharge, disposal or other release of Hazardous Substances, 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 Substances 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 Substances affecting the Licensed Premises.

(d) Survival. This Section shall survive for four years past the expiration or other termination of the License.

9. Waiver. Any entry onto the Licensed Premises by Licensee and, to the extent permitted by law, each and every Licensee Party (as may be permitted hereunder), 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). Licensee and each and every Licensee Party, to the fullest extent permitted under Legal Requirements, hereby waives any and all claims, demands, suits and causes of action against the Indemnified Parties, and fully and forever release the Indemnified Parties, for any loss, cost, damage, liability or expense (including, without limitation attorneys' fees) suffered or incurred by Licensee and/or any Licensee

Party in connection with any entry onto the Licensed Premises pursuant to this License. This Section will survive termination of this License.

10. **License Only.** Notwithstanding anything to the contrary contained herein, Licensors and Licensee acknowledge and agree that any and all rights conferred upon Licensee pursuant to this License create a non-exclusive license only, and that no lease, tenancy, leasehold, easement or other right or interest of any kind or nature (other than a license) is created or conferred pursuant to this License. In no event shall Licensee have or be entitled to any right, remedy or privilege under the State of Illinois Forcible Entry and Detainer Law, or any local, county, state or federal law, rule, regulation or ordinance similar thereto.

11. **Covenant 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 its employees, agents, consultants, representatives, contractors, subcontractors or materialmen, 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 Licensors, Licensors, 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 Licensors shall have no duty to investigate the validity thereof), and Licensee shall promptly upon notice thereof reimburse Licensors for all sums, costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Licensors in connection with such lien or claim of lien. Licensee hereby agrees to indemnify, defend (with counsel acceptable to Licensors) and hold harmless Licensors 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.

12. **Right of Entry.** Licensee agrees to permit Licensors, and Licensors' agents, representatives, employees, contractors, licensees, invitees, Licensees, successors and assigns (collectively, "Licensors Parties"), to enter the Licensed Premises, at any time Licensors deems necessary, to alter, modify, augment, supplement, improve, upgrade, use, operate, repair, replace, install, construct or protect Licensors' Facilities. Licensee agrees that it will cooperate with Licensors in connection with any entry on, and work at, the Licensed Premises by the Licensors Parties, and shall coordinate Licensee's use of the Licensed Premises with any use of the Licensed Premises by any of the Licensors Parties. Licensors 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 Licensors Party, or on account of bringing materials, supplies, and equipment into or through 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 License'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.

13. **Rights Reserved to Licensor.**

(a) Licensor's rights in and to the Licensed Premises and Licensor's Operations are and shall remain superior to Licensee's rights granted hereunder. Licensor shall not be liable to Licensee for damage to any property of Licensee due to Licensor's Operations and/or the installation, operation, maintenance or removal of any present or future facilities of Licensor.

(b) Licensor reserves the right to grant additional leases, licenses, easements and rights hereafter to third parties through, under, over and across all or any portion of the Licensed Premises, so long as there is no material adverse impact on Licensee's rights in and use of the Licensed Premises pursuant to the terms of this License. In the event of a violation of this Paragraph 12(b), Licensee's sole and exclusive remedy against Licensor shall be seeking an injunction preventing such third party from creating such material adverse impact on Licensee's rights as aforesaid.

14. **Assignment.** This License is personal to Licensee, and except as expressly set forth herein, Licensee shall not, directly or indirectly, assign, mortgage, pledge, encumber, 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, mortgage, pledge, encumbrance or transfer by Licensee in contravention of the provisions of this Section shall be void and shall be a Default (as defined in Section 34 hereof) under this License. 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 15. 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.

15. **Condemnation.** If the Licensed Premises, or a substantial part thereof, or a portion which prevents use of the Licensed Premises, 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).

16. **Licensor's Liability.** It is expressly understood and agreed by Licensee that none of Licensor's covenants, undertaking or agreements continued in this License are made or intended as personal covenants, undertaking 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, venturers, officers, directors or employees) shall be personally liable for any such sums, damages, awards or judgments. This Section will survive termination of the License.

17. **Compliance with Laws.** Licensee, at its sole expense, shall comply, and cause the Licensed Premises to comply, with all Legal Requirements.

18. **Subordinate.** This License, and all of Licensee's rights and interests hereunder, are subject and subordinate to any and all recorded and unrecorded mortgages, easements, licenses, leases and permits, and all other matters of record, affecting the Licensed Premises dated prior to the date of this License. This License is a personal property interest and always shall be subordinate to the title of the owner of the Licensed Premises and all other parties who have an interest in the real estate that is affected by this License, 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 or such other parties. Licensee shall not record this License. This Section shall survive the expiration or termination of this License.

19. **Termination.** Licensor's sole discretion will determine whether or not the Licensed Premises are available from time to time for the Permitted Use. This License may be terminated by either party if the other party breaches the terms of this License a by giving written notice to the other party of such termination. In the event this License is terminated by Licensor pursuant to the provisions of this paragraph, then any licensee fees paid in advance shall be prorated to the date of such termination and the unearned portion thereof refunded to Licensee.

20. **Alterations.** Except as otherwise specifically provided herein, 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 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 the insurance described in Section 6 hereof. Licensor shall have the right (but not the obligation) to monitor and observe Licensee's performance of any Alterations (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. 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 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. In addition to, and not in lieu of, all other duties and obligations of Licensee with respect to the performance of Alterations pursuant to this License, Licensee covenants and agrees that, except for emergency repairs affecting the health and safety of the public (which emergency repairs should be called in within the first 8-hours of commencing the same and confirmed by Licensor), Licensee shall notify Licensor's Regional Right of Way Agent John Mishevski at 630-437-2215, at least forty-eight (48) hours in advance of performing any Alterations. The timing and scheduling of such Alterations shall be subject to Licensor's prior approval. In the event Licensee is required to perform any emergency repair work affecting the health and safety of the public, Licensee shall notify Licensor in writing of such repair work within forty-eight (48) hours after the performance of such repairs. 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 any 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 any and all fencing and locking rules, regulations and guidelines which Licensor may deliver to Licensee from time to time prior to or during the Term.

21. **Surrender of Licensed Premises.** Licensee shall, upon the termination of this License by lapse of time or otherwise, vacate the Licensed Premises and peaceably surrender possession and occupancy thereof to Licensor.

22. **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  
P.O. Box 767  
Chicago, Illinois 60690-0767  
Attn: Director of Real Estate Services

with a copy to:

Exelon Business Services Company  
Law Department  
P.O. Box 805379  
Chicago, Illinois 60680-5379  
Attn: Assistant General Counsel – Real Estate

If to Licensee:

County of DuPage  
Division of Transportation  
421 N. County Farm Road  
Wheaton IL 60187

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.

23. **Waiver of Jury Trial.** Licensor 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 Licensor and Licensee, Licensee's use or occupancy of the Licensed Premises, or any other claims, and any emergency statutory or any other statutory remedy.

24. **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.

25. **Binding Effect.** The covenants, conditions, and agreements contained in this License will bind and inure to the benefit of Licensor 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.

26. **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.

27. **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.

28. **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.

29. **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.

30. **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.

31. **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 License shall be valid and enforceable to the fullest extent permitted by law.

32. **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.

33. **Default.** In the event any of the covenants and agreements herein contained to be kept by Licensee are not satisfied, or if Licensee shall violate or breach any of the terms, conditions or provisions of this License, or if a receiver, assignee or trustee shall be appointed for Licensee or Licensee's property or if Licensee shall file bankruptcy, or if involuntary bankruptcy proceedings shall be filed against Licensee (each a "Default"), then Licensor may exercise any one or more of the following remedies: (i) at its option, at once, without notice to Licensee or to any other person, terminate this License and all rights and privileges of Licensee hereunder; (ii) take any and all corrective actions Licensor deems necessary or appropriate to cure the Default and charge the cost thereof to Licensee, together with (a) interest thereon at the corporate base rate published from time to time by Citibank, N.A. (or its successor) plus 4% per annum and (b) 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 by Licensor in administering such cure, such payment to be made by Licensee upon Licensor's presentment of demand therefor; or (iii) any other remedy available at law or in equity to Licensor, including without limitation specific performance of Licensee's obligations hereunder. Upon the occurrence of a Default, 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. No delay or omission of Licensor to exercise any right or power arising from any Default shall impair any such right or power or be construed to be a waiver of any such Default or any acquiescence therein. No waiver of any breach of any of the provisions of this License shall be construed, taken or held to be a waiver of any other breach, or as a waiver, acquiescence in or consent to any further or succeeding breach of the same provision. The acceptance of payment by Licensor of any of the fees or charges set forth in this License shall not constitute a waiver of any breach or violation of the terms or conditions of this License. The determination of Licensor shall be final and binding upon Licensee concerning any Default. 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.

34. **No Strict Construction.** The parties acknowledge that the parties and their counsel have had the opportunity to review and revise 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.

35. **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.

36. **Time is of the Essence.** Time is of the essence of each and every provision of this License.

37. **No Partnership.** None of the terms and 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 terms or provisions of this License cause them to be considered joint venturers or members of any joint enterprise.

38. **Non-Affiliated.** By signing this License, Licensee affirms and states that it is not an employee of Commonwealth Edison Company, Exelon Corporation, or their respective parents, subsidiaries and affiliates, nor has any affiliated interest in the Commonwealth Edison Company or Exelon Corporation, and their respective parents, subsidiaries and affiliates.

39. **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 shall 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.

40. **Labor Relations.** 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 lessees 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.

41. **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.

42. **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.

43. **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.

44. **Additional Requirements.** Licensee shall adhere to all the additional requirement listed in Exhibit C.

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

LICENSOR:

COMMONWEALTH EDISON COMPANY

**Signature on File**

By:

\_\_\_\_\_  
Blair Patton

Manager of Real Estate and Facilities

LICENSEE:

COUNTY OF DUPAGE

By:

\_\_\_\_\_  
Deborah A. Conroy, Chair

DuPage County Board

Attest By:

\_\_\_\_\_  
Jean Kaczmarek

DuPage County Clerk

## **Exhibit A**

### **Description of Licensed Premises**

That part of the Southeast Quarter of Section 31, Township 38 North, Range 11 East of the Third Principal Meridian, in DuPage County, Illinois, described as follows:

Commencing at the southeast corner of said Southeast Quarter; thence North 1 degrees 13 minutes 18 seconds West, 85.65 feet along the east line of said Southeast Quarter; thence South 88 degrees 46 minutes 42 seconds West, 33.00 feet to the west right of way line of Lemont Road and the point of beginning; thence continuing South 88 degrees 46 minutes 42 seconds West, 9.87 feet; thence North 1 degrees 22 minutes 47 seconds West, 30.00 feet; thence North 88 degrees 46 minutes 42 seconds East, 9.96 feet, to the said west right of way line; thence South 1 degrees 13 minutes 18 seconds East, 30.00 feet along said right of way line to the point of beginning.

Said easement containing 298 square feet (0.007 acres), more or less.

**PIN NO: 09-31-410-017**

**Exhibit B**

**PLAT OF HIGHWAYS THE COUNTY OF DUPAGE DIVISION OF  
TRANSPORTATION LEMONT ROAD**



## Exhibit C

### **Additional Requirements**

1. A final and complete set of engineering plans for the project that includes soil erosion and sediment control measures and all drainage improvements must be submitted to ComEd.
2. No hazardous materials, including petroleum products, may be stored, used, or transferred on ComEd property.
3. In the event of a leak/spill on ComEd property, Licensee shall notify ComEd within 24 hours and provide a written report within 5 business days.

### **Construction Project Requirements**

4. All construction equipment must be free of leaks and any leaks of oils or chemicals that occur must be cleaned up and reported to the appropriate agencies as needed.
5. **Daily equipment inspections must be conducted to verify proper working condition before equipment use on ComEd property. Written records of equipment inspections must be available to ComEd upon request.**
6. Concrete washout activities are not permitted on ComEd property.
7. A spill kit of appropriate size must be present and accessible at all times during construction activities on ComEd property.

### **Excavation, Spoils and Materials**

8. **If the project requires removal of soil or waste from ComEd property, this must be managed by a ComEd Environmental Contractor of Choice (ECOC) and taken to a ComEd approved disposal facility. Clean construction or demolition debris (CCDD) disposal is not permitted.**
9. **Grading of excess soil is not permitted on ComEd property.**
10. Hydrovac spoils are not permitted to be reused on ComEd property and must be disposed in accordance with requirement 10 above.
11. If the project requires additional soil and gravel, only certified "clean" fill shall be used. The source of the clean fill must be approved by ComEd ESD. For approval, the following conditions must be met.
  - a. A certificate of virgin material must be obtained from the source of any aggregate material.
  - b. Soils must be certified clean by the source and/or analyzed every 500 cubic yards for total concentrations of the comprehensive suite of parameters listed in Title 35 Illinois Administrative Code (35 IAC) Part 740, Site Remediation Program (SRP) Appendix A, Target Compound List (TCL), and verified to meet the Illinois Environmental Protection Agency's (IEPA's) Clean Construction or Demolition Debris Fill Operations and Uncontaminated Soil Fill Operations

standards (35 IAC Part 1100), Maximum Allowable Concentrations (MACs).

12. Stratification of soil horizons is required for all excavation and backfilling activities.
13. All soil and dewatering activities must be managed in accordance with the Illinois Urban Manual guidelines.
14. No construction debris or spoils may be stored on ComEd property.
15. **Environmental sampling is not permitted on ComEd property without written approval and guidance by ComEd ESD.**

### **Environmental Regulations and Permits**

16. All applicable regulations must be followed including implementation of a Stormwater Pollution Prevention Plan (SWPPP) and a Soil Erosion and Sediment Control (SESC) Plan to minimize sediment pollution in stormwater runoff as well as any other required practices. If a Plan changes, a revision will be available to ESD upon request.
  - a. An SESC Plan must be in place for all soil and fill material piles.
  - b. All land disturbing activities require implementation of an SESC Plan that meets or exceeds National Pollutant Discharge Elimination System (NPDES) minimum protection and reporting standards. **Grantee must verify the SESC measures meet the requirements of the Illinois Urban Manual.**
17. All applicable environmental permits must be obtained including Wetlands and NPDES stormwater permits, as required under the Clean Water Act as well as any other applicable environmental permits.
18. Licensee shall submit copies of all required environmental permits and plans to ComEd ESD prior to project start, including wetland permits if applicable and IEPA NPDES ILR10 Construction Permit Notice of Coverage letter.
19. Requirements of all permits must be followed which could include site monitoring, reporting, and restoration extending well beyond the construction time period.
20. Grantee must follow all applicable environmental laws and regulations including those not specifically mentioned herein.

### **Condition of Property**

21. **Grantee must provide documentation of current property conditions before improvements are started (e.g. Phase I, topographic maps, surveys, photographs).**
22. Any damage to ComEd's property caused by the Licensee will be repaired at the Licensee's expense.
23. Licensee shall provide full restoration of the site when the project is complete, including seeding as necessary.
24. Grantee must provide documentation (including photographs) of the property in its improved condition after completion of the project and restoration.

**Should ComEd request additional information in the future, Licensee shall be prepared to provide the following information to ComEd (please reference Project Code SR 5209590 in any communications with ComEd):**

25. A letter that summarizes the results of their analysis of what types of environmental permits, plans, and controls are required (e.g. wetlands, SWPPP, SESCO, and endangered species impacts).
26. A copy of the environmental permit applications for the project.
27. A copy of any environmental reports required by the permits.
28. Copies of certificates of clean fill.
29. Inspection records.