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Will County Recorder
Will County

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PC2 Date 10/10/2003
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**QUIT CLAIM GRANT OF LICENSE
FOR VILLAGE PIPELINE**

Preamble

THIS QUIT CLAIM GRANT OF LICENSE FOR VILLAGE PIPELINE ("Grant") dated as of the 18th day of September, 2003 ("Commencement Date") is entered into by and between the VILLAGE OF ELWOOD, an Illinois municipal corporation ("Grantee" or "Village"), and CENTERPOINT INTERMODAL LLC, an Illinois limited liability company ("Grantor"). The Grantor and the Grantee are at times collectively referred to hereinafter as the "Parties."

Recitals

WHEREAS, the Grantee is a home rule municipal corporation organized and existing under the laws of the State of Illinois and has among its purposes, *inter alia*, the construction and maintenance of various public utility systems, such as waste water collection, treatment, conveyance and discharge for the benefit of the public;

WHEREAS, the Grantor is an Illinois limited liability company organized and existing under the laws of the State of Illinois;

WHEREAS, pursuant to that certain Department of the Army Easement for Pipeline Right-of-Way (Easement No. DACA27-2-99-032) granted by the Secretary of the Army ("Army"), as grantor, to the Joliet Arsenal Development Authority ("JADA"), as grantee, recorded with the Will County Recorder's Office on August 11, 2000 as Document Number R2000086270 (the "Entire Army Easement"), the Army granted to JADA an easement for, among other things, a sewer pipeline and related rights;

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WHEREAS, pursuant to that certain Assignment of Pipeline Easement from JADA, as grantor, to the Grantor, as grantee, recorded with the Will County Recorder's Office on August 11, 2000 as Document Number R2000086274, JADA assigned to Grantor all of JADA's right, title, and interest in and to that part of the Entire Army Easement legally described in the attached Exhibit A which is incorporated herein by this reference and made a part hereof (the "Partial Army Easement");

WHEREAS, the Grantee is constructing a new municipal waste water treatment plant and facility (the "WWTP") located on the land legally described in the attached Exhibit B which is incorporated herein by this reference and made a part hereof (the "WWTP Site") that will receive and treat waste water from the Village, all in accordance with applicable laws, rules, regulations, permits and all other governmental and lawful requirements now or hereafter in effect and pertaining thereto and any and all record easements, covenants or conditions affecting either the Pipeline or the Village Pipeline License (collectively, "All Lawful Requirements");

WHEREAS, the Grantee desires to convey the waste water from the WWTP through an existing discharge or outfall pipeline (the "Pipeline") after its treatment in accordance with All Lawful Requirements, and to extract and convey water from the DesPlaines River in accordance with All Lawful Requirements;

WHEREAS, the Pipeline consists of an existing pipeline or other enclosed underground conduit now existing within the land which is the subject of the Partial Army Easement;

WHEREAS, the Grantee desires a license from Grantor (i) for the exclusive use, operation, repair and replacement of the Pipeline contained within the Partial Army Easement, for the sole purposes of conveying waste water from the WWTP which has been treated in accordance with All Lawful Requirements and of conveying water from the DesPlaines River in accordance with All Lawful Requirements, and (ii) for non-exclusive vehicular and pedestrian access to the Pipeline, all of the foregoing being at the sole cost and expense of Grantee; and Grantor is willing to grant such a license to Grantee, but only upon the terms and conditions of this Grant.

NOW THEREFORE, in consideration for payment to Grantor in the amount of Ten Dollars (\$10.00) by Grantee, and for the mutual covenants and promises contained herein, the receipt and sufficiency of which are hereby acknowledged, the Grantor and Grantee agree as follows:

1. **Grant of License.** Grantor hereby quit-claims to Grantee and its successors and assigns, a license (the "Village Pipeline License") over, across, underneath and through the Partial Army Easement for (i) the exclusive use, operation, repair and replacement of the Pipeline, for the sole purposes of conveying waste water from the WWTP which has been treated in accordance with All Lawful Requirements and for conveying water from the DesPlaines River in accordance with All Lawful Requirements, and (ii) non-exclusive vehicular and pedestrian ingress and egress to the

Pipeline, all of the foregoing being at the sole cost and expense of Grantee. The Village Pipeline License shall be irrevocable, subject however to termination as provided in Sections 2 and 7 hereof. The Parties hereby acknowledge and agree that the Village Pipeline License is appurtenant to the WTP Site. Grantor shall not intentionally alter or change the Pipeline or the Village Pipeline License in any way that would materially and adversely affect the Grantee's use and operation of the Pipeline in accordance with All Lawful Requirements, but Grantee acknowledges that Grantor does hereby expressly reserve the right to possess, occupy, improve and use the Partial Army Easement in a manner that does not prohibit or unreasonably impede the Grantee's use and operation of the Pipeline in accordance with All Lawful Requirements.

2. **Term.** Other than by mutual written agreement of the Parties, the Village Pipeline License shall commence as of the date hereof and shall continue on a perpetual basis, unless and until such time as the Grantee shall either (i) cease to use the Pipeline for the purposes hereinabove permitted, and if such cessation shall continue for a continuous period of one (1) year, or (ii) a declaration by a court of lawful jurisdiction shall enter a final and non-appealable order declaring the an Event of Default has occurred hereunder.

3. **AS-IS Condition.** Grantee acknowledges and agrees that Grantor has not made, does not make and specifically disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to (a) the nature, quality or condition of the Pipeline and/or the Partial Army Easement, including, without limitation, the water, soil or geology of the Partial Army Easement, (b) the income to be derived by Grantee or others from the Pipeline and/or the Village Pipeline License, (c) the suitability of the Pipeline and/or the Partial Army Easement for any and all activities and uses which Grantee may conduct therein or thereon, (d) the compliance of or by the Pipeline and/or the Partial Army Easement or its operation with All Lawful Requirements or any of them, (e) the habitability, merchantability or fitness for a particular purpose of the Pipeline and/or the Partial Army Easement, or (f) any other matter with respect to the Pipeline and/or the Partial Army Easement, and specifically that Grantor has not made, does not make and specifically disclaims any representations regarding solid waste, as defined by the U.S. Environmental Protection Agency regulations at 40 C.F.R., Part 261, or the disposal or existence, in or on the Pipeline and/or the Partial Army Easement, of any hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and applicable state laws, and regulations promulgated thereunder. Grantee further acknowledges and agrees that, having been given the opportunity to inspect the Pipeline and/or the Partial Army Easement, Grantee is relying solely on its own investigation of the Pipeline and/or the Partial Army Easement and not on any information provided or to be provided by Grantor. Grantee further acknowledges and agrees that any information provided or to be provided with respect to the Pipeline and/or the Partial Army Easement was obtained from a variety of sources and that Grantor has not made any independent investigation or verification of such information. **Grantee further acknowledges and agrees that, as a material**

inducement to the execution and delivery of this Grant by Grantor, the conveyance of the Village Pipeline License as provided for herein is made on an "AS IS, WHERE IS" CONDITION AND BASIS "WITH ALL FAULTS." Grantee acknowledges, represents and warrants that Grantee is not in a significantly disparate bargaining position with respect to Grantor in connection with the transaction contemplated by this Grant; that Grantee freely and fairly agreed to this acknowledgment as part of the negotiations for the transaction contemplated by this Grant; that Grantee is represented by legal counsel in connection with this transaction and Grantee has conferred with such legal counsel concerning this waiver. The terms and provisions of this Section 3 shall survive the execution and delivery of this Grant and/or the termination of hereof.

4. **Indemnity.** Except to the extent of Grantor's gross negligence or willful misconduct, and to the fullest extent permitted by law, Grantee hereby agrees to indemnify, hold harmless, protect and defend Grantor and Grantor's managers, members, agents, employees, invitees, affiliates, representatives and contractors (including subcontractors) from and against any and all claims, causes of action, liabilities, losses, costs, damages, whether foreseeable or unforeseeable, arising out of or related to any act, omission or neglect of Grantee, or Grantee's elected officials, agents, employees, representatives, contractors, subcontractors or affiliates (each, a "Grantee Related Party"), arising from or related to: (i) Grantee's or any Grantee Related Party's use, operation, repair, replacement or other activities concerning the Pipeline or the Village Pipeline License in every and any manner whatsoever, or (ii) Grantee's or any Grantee Related Party's violation or breach of this Grant, or (iii) any liens, fees, taxes, charges, assessments or other governmental exactions arising from or related to use, operation, repair, replacement or other activities of Grantee or any Grantee Related Party related to or concerning the Pipeline or the Partial Army Easement, or (iv) fines, penalties, judgments, liens or other charges or exactions which may be or are imposed upon the Grantor or the Partial Army Easement arising from or related to the failure of Grantee or any Grantee Related Party to fully comply with All Lawful Requirements, or (v) substitute performance by Grantor of Grantee's obligations hereunder following an Event of Default, or (vi) reasonable attorneys fees and costs incurred by Grantor following an Event of Default hereunder, or (vii) mechanics' or materialmen's liens or claims to liens, and other statutory or common law charges related thereto, arising from or related to any work, labor, materials or improvements made, caused to be made or permitted to be made by Grantee or any Grantee Related Party on or about the Pipeline and/or the Partial Army Easement. The provisions of this Section 4 shall survive termination, cancellation or expiration of this Grant. Notwithstanding anything to the contrary, in no event shall a present or future employee, trustee, president, other officeholder or agent of the Grantee have any liability for any of the foregoing, so long as such person was acting in his or her official capacity for the Village and was not acting recklessly, willfully or intentionally.

5. **Restoration.** Grantee shall, at its sole cost and expense and within a reasonable period of time not to exceed sixty (60) days (or such longer period of time as is reasonably necessary so long as the Grantee is acting with diligence), restore any and all portions of the Pipeline and/or Partial Army Easement, which are disturbed or damaged by the use, operation, repair, replacement or abandonment of the Pipeline

and/or the Village Pipeline License by Grantee or any Grantee Related Party, to substantially the same condition that existed on the Commencement Date, reasonable wear and tear excepted. If this Grant is terminated, for whatever reason, at the request of Grantor the Grantee shall at its sole cost and expense remove so much of the Pipeline as did not exist in, on or under the Partial Army Easement as of the date hereof, and having removed same, Grantee shall forthwith comply with the restoration provisions in the preceding sentence of this Section 5.

6. **Insurance.** Grantee shall keep the Pipeline and Partial Army Easement insured against loss or damage by all casualties extended coverage perils and such other hazards as may reasonably be required by Grantor, for the full replacement value. Grantee shall also provide liability insurance with such limits for personal injury and death and property damage as Grantor may require in the minimum amount of Eight Million and No/100 Dollars (\$8,000,000.00) per occurrence. All policies of insurance to be furnished hereunder shall be in forms, amounts, and with insurance companies satisfactory to Grantor, naming Grantor as an additional insured, and with a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to Grantor. Grantee shall deliver all policies, including additional and renewal policies, together with evidence of payment of premiums thereon, to Grantor, and in the case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days' prior to their respective dates of expiration.

7. **Event of Default.** If Grantee is in default under this Grant for a period of (a) ten (10) days following receipt of notice from the Grantor with respect to a default which may be cured solely by payment of money or with respect to a failure of Grantee to carry and maintain the insurance as required under Section 6 hereof, or (b) thirty (30) days following receipt of notice from Grantor with respect to a default other than as stated in the preceding clause (a) (or such longer period as is reasonably necessary to commence and complete such non-monetary cure, provided the Grantee is acting with reasonable diligence and in good faith), then, in either event, the an Event of Default shall be deemed to have occurred under this Grant, and Grantor may pursue any and all remedies available to it against Grantee hereunder and under applicable law, including, but not limited to, the right to terminate this Grant.

8. **Running of Benefits and Burdens.** The terms and conditions of this Grant are made for the benefit of Grantee and Grantor and their successors and assigns, and shall be covenants running with the land.

9. **Governing Law.** This Grant and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of Illinois.

10. **Notices.** All legal notices required to be given to Grantor under this Grant shall be delivered and addressed as follows:

CenterPoint Intermodal LLC
 Attention: President
 1808 Swift Drive
 Oak Brook, Illinois 60523-1501

All legal notices required to be given to Grantee under this Grant shall be delivered and addressed as follows:

Village of Elwood
 Attention: President or Administrator
 Elwood Village Hall
 201 West Mississippi
 Elwood, Illinois 60421

A Party may change its address for notice purposes, by giving the other Party a notice thereof in accordance with this paragraph.

11. **Invalidity.** If any provision of this Grant shall be held invalid, the validity of the remainder hereof shall not be affected thereby.

12. **Incorporation.** All of the provisions and documents made reference in the Recitals and Preamble section hereunder are a material part of the Grant and are hereby incorporated into the Grant and made a part hereof.

13. **Counterparts.** This Grant may be executed in multiple counterparts (each of which is to be deemed original for all purposes), but all of which together constitute one and the same instrument.

14. **Entire Agreement.** This Grant constitutes the entire agreement between the Parties regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in the Grant, no representations, warranties, or agreements have been made by Parties to the other with respect to this Grant or the obligations of the Parties in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Grant or any exhibits or amendments hereto.

15. **Modification; Waiver.** This Grant shall not be modified, extended or terminated other than as set forth herein, except by an instrument duly signed by both Parties. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Grant.

16. **Quiet Possession.** So long as Grantee is in compliance with the terms and conditions of this Grant, Grantee shall peaceably and quietly hold and enjoy the Pipeline and the Village Pipeline License during the Term of this Grant, subject to concurrent use

by Grantor and its designees (so long as such concurrent use does not unreasonably interfere with Grantee's enjoyment of the Village Pipeline License), and subject to the acknowledgement that Grantor does not make any warranty or representation of title thereto.

17. **Perpetuities.** If a court of competent jurisdiction shall rule that this Grant violates the Rule Against Perpetuities, this Grant shall be deemed to be for a term of ninety-nine (99) years.

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year first above written.

GRANTOR:

CENTERPOINT INTERMODAL LLC

By: CenterPoint Properties Trust, its Manager

By: *Paul T. Ahern*

Name: **PAUL T. AHERN**
Title: **CHIEF INVESTMENT OFFICER**

Dated: 9/18, 2003

By: *Michael M. Mullen*

Name: **Michael M. Mullen**
Title: **President and Chief Operating Officer**

Dated: 9/18, 2003

GRANTEE:

THE VILLAGE OF ELWOOD, an Illinois municipal corporation

By: *Robert T. Blum*
Robert T. Blum, Village President

Dated: August 4, 2003

ATTEST: *Patricia Buchenau*
Patricia Buchenau, Village Clerk

Dated: Sept 24, 2003



STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, Janice Lee Ruth, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Paul T. Ahern and Michael M. Mullen, as Chief Investment Officer and President and Chief Operating Officer, respectively, of CENTERPOINT PROPERTIES TRUST, a Maryland Real Estate Investment Trust, being the Manager of CENTERPOINT INTERMODAL LLC, an Illinois limited liability company, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of September, 2003.

Janice Lee Ruth
Notary Public



STATE OF ILLINOIS)

COUNTY OF Will)

I, Dayna Richelle Salzmann, a Notary Public in and for said County, in the State
aforesaid, DO HEREBY CERTIFY that Robert T. Blum and
Patricia Buchenau, as President and Clerk, respectively, of THE
VILLAGE OF ELWOOD, who are personally known to me to be the same persons whose names
are subscribed to the foregoing instrument as such President and Clerk, appeared before me this
day in person and acknowledged that they signed and delivered the said instrument as their own
free and voluntary act and as the free and voluntary act of said corporation for the uses and
purposes therein set forth.

GIVEN under my hand and notarial seal this 24th day of September, 2003.

Dayna Richelle Salzmann
Notary Public



EXHIBIT A

[Legal Description of Partial Army Easement]

THAT PART OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 34 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:
COMMENCING AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN AND SANTA FE RAILROAD (FORMERLY THE CHICAGO AND ALTON RAILROAD) AND THE SOUTH LINE OF SAID NORTHWEST 1/4; THENCE NORTH 88 DEGREES 08 MINUTES 48 SECONDS EAST ALONG SAID SOUTH LINE 864.87 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 88 DEGREES 08 MINUTES 48 SECONDS EAST ALONG SAID SOUTH LINE 220.31 FEET; THENCE NORTH 26 DEGREES 39 MINUTES 02 SECONDS WEST 1446.57 FEET TO THE AFORESAID EASTERLY RIGHT OF WAY LINE OF THE BURLINGTON, NORTHERN AND SANTA FE RAILROAD; THENCE SOUTH 18 DEGREES 09 MINUTES 59 SECONDS WEST ALONG SAID EASTERLY RIGHT OF WAY LINE 283.75 FEET; THENCE SOUTH 26 DEGREES 39 MINUTES 02 SECONDS EAST 1152.89 FEET TO THE POINT OF BEGINNING, IN WILL COUNTY, ILLINOIS.

PIN:

Address:

EXHIBIT B

[Legal Description of WWTP]

Lot 3 in Block 4 in CenterPoint Intermodal Center at Deer Run, being a subdivision of parts of Sections 29 and 30, in Township 34 North, Range 10 East of the Third Principal Meridian, and parts of Sections 23, 25, 26, 35 and 36, in Township 34 North, Range 9 East of the Third Principal Meridian, according to the Plat thereof recorded June 7, 2002 as document number R2002-94161, in Will County, Illinois.

PIN:

Common address: