

**THE CITY OF LAKE FOREST  
CITY COUNCIL AGENDA**  
Monday, October 7, 2019 at 6:30 pm  
City Hall Council Chambers  
220 E. Deerpath, Lake Forest

Honorable Mayor, George Pandaleon

Prudence R. Beidler, Alderman First Ward  
James E. Morris, Alderman First Ward  
VACANT, Alderman Second Ward  
Melanie Rummel, Alderman Second Ward

James Preschlack, Alderman Third Ward  
Ara Goshgarian, Alderman Third Ward  
Michelle Moreno, Alderman Fourth Ward  
Raymond Buschmann, Alderman Fourth Ward

**CALL TO ORDER AND ROLL CALL**

**6:30pm**

**PLEDGE OF ALLEGIANCE**

**REPORTS OF CITY OFFICERS**

<b>1. COMMENTS BY MAYOR</b>
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**A. Resolution of Sympathy for Lake Forest Resident, Nancy Hughes**

A copy of the Resolution can be found on **page 19**.

**COUNCIL ACTION: Approval of the Resolution**

**B. Presentation of Fabulous Gifts and Prizes**  
- Jason Wicha, City Manager

**C. Final Words for Departing City Council Member from Council Members**

**D. Final Comments from Alderman Newman**

**E. Resolution of Appreciation for Ward 2 Alderman Timothy Newman**

A copy of the Resolution can be found on **page 20**.

**COUNCIL ACTION: Approve the Resolution**

**F. Mayor's Appointment of Second Ward Alderman**  
- Edward (Ted) Notz, Jr.

A copy of the volunteer profile sheet can be found on **page 21**.

**COUNCIL ACTION: Approve the Mayor's Appointment**

- G. City Clerk Margaret Boyer Administers the Oath of Office to:  
Second Ward Alderman Appointed- Edward (Ted) Notz, Jr.**
- H. Swear in Firefighter Paramedic Austin Yarc**
- I. Approval of Proclamation to Declare October 10, 2019 as World Mental Health Awareness Day**

A copy of the Proclamation can be found on **page 23**.

**COUNCIL ACTION: Approval of Proclamation to Declare October 10 as World Mental Health Awareness Day**

<b>2. COMMENTS BY CITY MANAGER</b>
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- A. United Way of Lake County 211 Service**
  - Michael Rummel, Lake County Board Member, District 12
- B. Community Spot Light**
  - Scott Helton, Shields Township Assessor

<b>3. COMMITTEE REPORTS</b>
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<b>4. OPPORTUNITY FOR CITIZENS TO ADDRESS THE CITY COUNCIL ON NON-AGENDA ITEMS</b>
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<b>5. ITEMS FOR OMNIBUS VOTE CONSIDERATION</b>
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**1. Approval of the September 3, 2019 City Council Meeting Minutes**

A copy of the minutes can be found beginning on **page 24**.

**COUNCIL ACTION:** Approval of the September 3, 2019 City Council Meeting Minutes.

**2. Approval of the September 16, 2019 City Council Workshop Meeting Minutes**

A copy of the minutes can be found beginning on **page 29**.

**COUNCIL ACTION:** Approval of the September 16, 2019 City Council Workshop Meeting Minutes.

**3. Approval of Check Register for the Period of August 24-September 20, 2019**

STAFF CONTACT: Elizabeth Holleb, Finance Director (847-810-3612)

**BACKGROUND/DISCUSSION:** City Code Section 38.02 sets forth payment procedures of the City. The Director of Finance is to prepare a monthly summary of all warrants to be drawn on the City treasury for the payment of all sums due from the City (including all warrants relating to payroll and invoice payments) by fund and shall prepare a detailed list of invoice payments which denotes the person to whom the warrant is payable. The warrant list detail of invoice payments shall be presented for review to the Chairperson of the City Council Finance Committee for review and recommendation. All items on the warrant list detail recommended for payment by the Finance Committee Chairperson shall be presented in summary form to the City Council for approval or ratification. Any member of the City Council shall, upon request to the City Manager or Director of Finance, receive a copy of the warrant list detail as recommended by the Finance Committee Chairperson. The City Council may approve the warrant list as so recommended by the Finance Committee Chairperson by a concurrence of the majority of the City Council as recorded through a roll call vote.

The Council action requested is to ratify the payments as summarized below. The associated payroll and invoice payments have been released during the check register period noted.

Following is the summary of warrants as recommended by the Finance Committee Chairperson:

**Check Register for August 24 - September 20, 2019**

	Fund	Invoice	Payroll	Total
101	General	506,018	1,503,456	2,009,474
501	Water & Sewer	83,212	229,113	312,325
220	Parks & Recreation	139,264	455,592	594,856
311	Capital Improvements	1,022,838	0	1,022,838
202	Motor Fuel Tax	0	0	0
230	Cemetery	6,455	32,355	38,810
210	Senior Resources	11,464	29,981	41,445
510	Deerpath Golf Course	12,286	2,857	15,143
601	Fleet	76,867	54,811	131,678
416 - 433	Debt Funds	0	0	0
248	Housing Trust	0	0	0
201	Park & Public Land	9,122	0	9,122
	All other Funds	705,967	174,921	880,888
		<b>\$2,573,494</b>	<b>\$2,483,086</b>	<b>\$5,056,579</b>

Totals for "All Other Funds" includes \$406,108 for the Self Insurance Fund, \$103,561 for the Water Capital Fund and \$102,926 for the Liability Insurance Fund.

**COUNCIL ACTION:** Approval of Check Register for the Period of August 24-September 20, 2019

**4. Approval of a First Amendment to the Restated Agreement Relating to the Gorton Property**

STAFF CONTACT: *Julie Tappendorf, City Attorney*

**PURPOSE AND ACTION REQUESTED:** Staff requests approval of the First Amendment to the Restated Agreement Relating to the Gorton Property.

**BACKGROUND/DISCUSSION:** Over the past several months, City staff and City Council members have met with various representatives of the Gorton Board of Directors to discuss various amendments to the Restated Agreement between the Gorton Community Center and the City of Lake Forest. The current Restated Agreement (approved on July 1, 2013) defines the roles and responsibilities of the parties for the development, use, operation, and management of the Gorton property, which is owned by the City of Lake Forest.

A summary of the proposed changes included in the First Amendment presented to the City Council is below:

1. Subsection 10.C.1 would be amended to change the number of GCC Board members who are appointed by the City to three. Currently, the Restated Agreement provides that the greater of five or one-third of the Board of Directors will be City-appointed members. The term for the City-appointed members would also be modified from two years to three years, which is consistent with the GCC-appointed members, and allow for one renewal term.
2. Subsection 10.C.1 would also be amended to describe in more detail the duties and responsibilities of the Finance and Operations Subcommittee.
3. Subsection 10.C.1 would also provide that a City-appointed member serve as the Chair of the Finance and Operations Subcommittee as well as a member of the Executive Committee.
4. Subsection 10.C.2 would be amended to require the Membership Committee to realign the current membership of the GCC Board consistent with the changes to the membership proposed in 10.C.1.
5. Subsection 10.C.3 would be amended to clarify that GCC must submit annual budgets to the City Manager and Finance Chair of the City Council, and that the annual budget and plan must include a five year financial forecast and that the annual review must include a five-year capital needs plan.
6. Section 10.D.1.b would be amended to require GCC to include sufficient funding to satisfy annual maintenance obligations, and require GCC to maintain a minimum of \$25,000 in its maintenance budget in any year in which its endowment falls below \$2,000,000. It also requires any unspent maintenance funds to be placed in a maintenance reserve fund.
7. Exhibit E has been incorporated into the First Amendment to expressly describe the expectations and qualifications for City-appointed members of the GCC Board.

Please be advised that the GCC Board of Directors has approved the First Amendment in the form included in the packet.

**BUDGET/FISCAL IMPACT: N/A**

Has City staff obtained competitive pricing for proposed goods/services? **N/A**

Beginning on **page 31** of your packet, you will find both a clean and "redline" version of the proposed First Amendment to the Restated Agreement Relating to the Gorton Property.



COUNCIL ACTION: Approval of the First Amendment to the Restated Agreement Relating to the Gorton Property

**5. Approval of Agreements with Sentinel Technologies for a Data Security Assessment and Center for Internet security (CIS) for Ongoing Vulnerability Monitoring**

STAFF CONTACT: Joseph Gabanski, Assistant Director of IT (847-810-3591)

**PURPOSE AND ACTION REQUESTED:** Staff requests approval to expend operating funds and award a contract with Sentinel Technologies for a data security assessment and contingency funds for an ongoing vulnerability detection service.

**BACKGROUND/DISCUSSION:** In 2017 the City's IT Division engaged a security audit vendor to provide the City with a security assessment to determine the performance of the City's robust data security program. Results of the assessment were presented to the Finance Committee on 3/5/2018. Since that assessment the City's technology environment has changed in various ways, highlighting the success of a new ERP system implementation. The information gained in the 2017 assessment was valuable at the time, but staff recognized the need to perform another assessment in the FY20 budget due to the changes in the technology infrastructure.

In addition, data security standards are continually evolving as a result of the increasing volatility in the technology environment and increasing incidents of malware and ransomware. A point in time data security assessment, while valuable, does not address threats changing over time. As such the IT Division began to investigate a third-party, ongoing solution to provide the benefits of the one-time assessment on an ongoing basis. The City's IT Division remains diligent in adapting a multi-layered security model and is recommending the addition of this service to enhance network security.

**PROJECT REVIEW/RECOMMENDATIONS:**

Milestone	Date	Comments
Security Assessment Proposals Submitted	8/16/2019	Six Vendors Submitted Proposals. Received & Reviewed
Ongoing Vulnerability Monitoring Service Proposals Submitted	8/16/2019	Five Vendors Submitted Proposals. Received & Reviewed

**BUDGET/FISCAL IMPACT:** The total project expense for the security assessment reflects all assessment services, final reports, and remediation recommendations. This project was identified as a FY20 project funded via the IT Operating budget and the process to date complies fully with the City's purchasing policies.

Has City staff obtained competitive pricing for proposed goods/services? **Yes**

The following is the summary chart of the security assessment proposal costs.

Proposer	Proposal Scoring	Overall Proposed Cost ↓
ITSavvy	90	\$28,000
Illumant	79	\$25,500
<b>Sentinel Technologies</b>	<b>97</b>	<b>\$19,070</b>
CDW	60	\$18,900
InterDev	38	\$16,800
Heartland	86	\$15,075

Below is an estimated summary of Project budget:

FY2020 Funding Source	Amount Budgeted	Amount Requested	Budgeted? Y/N
IT Operating Budget	\$22,000	\$19,070	Y

#### **Additional Services Recommended: ONGOING VULNERABILITY MONITORING SERVICE**

Ongoing vulnerability monitoring service provides a near real-time automated process that identifies and alerts on traditional and advanced threats to a network, facilitating rapid response to threats and attacks and, with agreed escalation procedures, provides notification of malicious activity to City IT staff.

The Center for Internet Security (CIS) is a nonprofit organization focused on cyber security readiness and response of public and private sector entities. CIS operates the Multi-State Information Sharing and Analysis Center (MS-ISAC), which is designated by the U.S. Department of Homeland Security as the key resource for cyber threat prevention, protection, response and recovery for state & local government entities. Through its 24/7/365 cyber security operations center, CIS serves as a central resource for constant vulnerability awareness and incident response for state & local governments.

The annual expense for an ongoing vulnerability monitoring service was not identified as a FY20 project and funds are requested from the current fiscal year's contingency fund. For future years, it is anticipated to be funded from the IT Maintenance line item.

Has City staff obtained competitive pricing for proposed goods/services? **Yes**

The following is the summary chart of the ongoing vulnerability monitoring service proposals annual cost.

Proposer	Proposal Scoring	Annual Proposed Cost ↓
Sentinel 'SecuritySelect'	83	\$65,067
GroupWise	45	\$30,000
CrowdStrike	74	\$22,000
TrendMicro 'Apex One Managed'	73	\$25,025
<b>Center for Internet Security (CIS) 'Albert'</b>	<b>94</b>	<b>\$19,200</b>

Below is an estimated summary of Project budget:

FY2020 Funding Source	Amount Budgeted	Amount Requested	Budgeted? Y/N
Contingency Budget	\$0	\$19,020	Y

**CURRENT PROJECT MILESTONE:** Based on review and scoring of proposals of data security assessment providers, staff's recommended vendor is Sentinel Technologies. Reference checks of similar complexity projects that Sentinel has completed recently with the solutions proposed have been favorable. City staff has worked with the vendor to confirm costs and ensure that the specific scope of services is clearly documented. In its proposal, Sentinel has provided an outline of the implementation timing and other operational details that is anticipated to occur. If approved, staff would begin work with Sentinel to ensure proper project planning methodology is adhered to for a successful assessment, reporting of results, and remediation efforts.

Should the City Council agree to engage CIS for Ongoing Vulnerability Monitoring service as recommended by IT staff, this monitoring would commence after completion of the data security assessment.

**COUNCIL ACTION:** Approval of Agreements with Sentinel Technologies for a Data Security Assessment and Center for Internet security (CIS) for Ongoing Vulnerability Monitoring

## **6. Approval of a One-Year Contract Renewal with InterDev for Information Technology Support**

STAFF CONTACT: Elizabeth Holleb, Finance Director (847-810-3612)

**PURPOSE AND ACTION REQUESTED:** Staff requests City Council award a one year contract renewal for Information Technology (IT) professional services for supplemental IT support including public safety technology initiatives, extending an agreement with InterDev that will expire December 8, 2019.

**BACKGROUND/DISCUSSION:** Since 2011, the City has contracted with ClientFirst Technology Consulting to provide enhanced IT support services and supplemental strategic planning. In early 2012, a written assessment of the IT support needs required of public safety was provided to the City. The assessment determined that due to the downsizing of the IT division and increasing complexity of public safety technology, the police and fire departments required technical support beyond the capacity of existing IT resources. In July 2012, the City Council authorized a contract to provide supplemental IT support specializing in public safety technical knowledge. On August 4, 2014, in conjunction with the move to centralized public safety dispatching, the City Council approved an agreement with InterDev LLC to provide public safety IT support for one year. It was subsequently renewed by City Council on September 21, 2015.

On June 13, 2016 the City issued a Request for Proposals (RFP) for services inclusive of all current ongoing contractual IT services - general IT support, IT support specializing in public safety, and strategic planning consultation. On July 1, 2016 nine (9) proposals were received. A City selection committee comprised of representatives from Finance/IT, Fire, and Police departments interviewed five (5) consulting companies on July 27, 2016. Consultants were chosen for interviews based on their proposal costs, technical qualifications, completeness of proposal, and municipal and public safety support experience. Based on the interview outcomes, the selection committee narrowed the selection to two finalists for technical services and one for strategic planning. It was determined that recommending a single vendor for IT strategic planning and IT technical services would not be in the best interest of the City as it would not decrease costs or provide additional efficiencies. Staff conducted additional due diligence and negotiations in August through November with the finalists. On December 5, 2016, the City Council approved a one year agreement with InterDev at an hourly rate of \$54.46. This was the lowest hourly rate proposed by any responding vendors. Other proposed rates ranged from \$65-115 per hour.

In 2017, the City Council approved a one-year renewal of the InterDev agreement at a rate of \$58.82 per hour. In 2018, the City Council approved a one-year renewal of the InterDev agreement at a rate of \$67.57 per hour. Due to a staffing change in September 2019, the rate was reduced to \$62.88 per hour. InterDev has agreed to a rate of \$66.02 per hour through March 3, 2020, after which the rate would increase to \$66.59 per hour for the remainder of the one-year renewal effective December 9, 2019. The FY20 rate would be lower than the approved rate for FY19. The City's Finance/IT, Police and Fire department personnel have all expressed a satisfaction with the current assigned employee. InterDev has agreed to allow for a re-negotiation of the hourly rate in the event the assigned personnel is changed during the contract term. Finally, it should be noted that the proposed renewal rate is still lower than other rates (\$65-115) proposed during the 2016 RFP process. Staff recommends approval of the proposed hourly rate.

**PROJECT REVIEW/RECOMMENDATIONS:**

Milestone	Date	Comments
City Council	10/1/18	Approval of a one year agreement with InterDev effective 12/9/18
City Council	10/2/17	Approval of a one year agreement with InterDev effective 12/9/17
City Council	12/5/16	Approval of one-year agreement with InterDev effective 12/9/16

Vendor Proposals Submitted	7/1/16	Nine proposals received and reviewed
RFP Issuance	6/13/16	

**BUDGET/FISCAL IMPACT:**

Has City staff obtained competitive pricing for proposed goods/services? **YES**  
Competitive pricing was obtained in 2016 through an RFP process.

Staff recommends approval of a one-year agreement renewal with InterDev to provide supplemental IT support to leverage knowledge specialized in municipal and public safety technical support. The funds are budgeted in the General Fund:

FY2020 Funding Source	Amount Budgeted	Amount Requested	Budgeted? Y/N
General Fund IT Contractual Services	\$95,000	\$95,000	Y

COUNCIL ACTION: Approval of a One-Year Contract Renewal with InterDev for Information Technology Support

**7. Approval of the revised Geographic Information Systems Consortium (GISC) membership agreement**

STAFF CONTACT: *Brian Joyce, Engineering Supervisor (810-3554)*

**PURPOSE AND ACTION REQUESTED:** Staff requests Council approval of the revised GISC membership agreement.

**BACKGROUND/DISCUSSION:** In March 2010, Council approved the current GISC membership agreement. The GISC board of directors has made revisions to the membership agreement that requires Council approval. The City's membership in GISC provides three important benefits to its members through the shared-services model.

- o Staffing -- All communities, regardless of size, have access to a staffing model that provides all of the specialization required for GIS. It is made affordable by sharing staff across the GISC membership.
- o Shared Solutions – The GISC shares hardware, software, and solutions that optimizes utilization so that communities do not have to own all of this technology.
- o Accelerated Outcomes – Ideas, processes, and solutions are developed and shared across the GISC membership at no additional cost. A solution developed in one community is automatically available to all members.

**BUDGET/FISCAL IMPACT:** N/A. Approval of the revised membership agreement does not have an immediate fiscal impact. Annual costs associated with GISC are included in the City's operating budget and are approved annually by the City Council.

Has City staff obtained competitive pricing for proposed goods/services? Yes/**No**

If no, indicate the specific exception or waiver requested:  
Administrative Directive 3-5, Section 9.1J – Existing Relationship

Beginning on **page 88** of your packet is the revised membership agreement.

COUNCIL ACTION Approval of the revised Geographic Information Systems Consortium (GISC) membership agreement.

**8. Consideration of an Ordinance Approving a Recommendation from the Building Review Board. (First Reading and if Desired by the City Council, Final Approval)**

*STAFF CONTACT: Catherine Czerniak,  
Director of Community Development (810-3504)*

The following recommendation from the Building Review Board is presented to the City Council for consideration as part of the Omnibus Agenda.

375 Illinois Road - The Building Review Board recommended approval of the demolition of an existing garage on the front elevation of the residence and approval of a replacement, slightly larger garage in the same location. A letter in support of the project was received from a neighboring resident. (Board vote: 6-0, approved)

The Ordinance approving the petition as recommended by the Building Review Board, with key exhibits attached, is included in the Council packet beginning on **page 102**. The Ordinance, complete with all exhibits, is available for review in the Community Development Department.

COUNCIL ACTION: If determined to be appropriate by the City Council, waive first reading and grant final approval of the Ordinance in accordance with the Building Review Board's recommendation.

**9. Consideration of a Recommendation from the Plan Commission in Support of Tentative and Final Approval of the Mayflower Ravine Resubdivision and Approval of the Associated Special Use Permit. (If desired by the Council, waive first reading and grant final approval of the ordinance.)**

*STAFF CONTACT: Catherine Czerniak,  
Director of Community Development (810-3504)*

**PURPOSE AND ACTION REQUESTED:** Consideration of a recommendation from the Plan Commission in support of approval of a plat of re-subdivision to reconfigure three existing lots for the purpose of preserving and protecting the Mayflower Ravine. No additional lots will be created, no additional density is proposed, and no new development is planned.

**BACKGROUND/DISCUSSION:**

The singular reason for the proposed subdivision is to facilitate the preservation, protection and restoration of the ravine. The parcels involved in the resubdivision are each currently

developed with a single family homes and are addressed as: 900 Illinois Road, 990 Illinois Road and 207 Maple Court. As noted above, no new lots will be created, the lots will simply be reconfigured for the purpose of locating more of the ravine on the 900 Illinois Road property.

- 900 Illinois Road will increase in size and will total 5.12 acres.
- 990 Illinois Road will decrease in size but will remain larger than the minimum lot size and will total 2 acres.
- 207 Maple Court will remain the same size, .936 acres, but will be reconfigured.

In 2015, a similar resubdivision was approved by the City Council, based on a recommendation from the Plan Commission. The subdivision was initiated for the same purpose, to consolidate a significant portion of the ravine on to the 900 Illinois Road property for the purpose of restoration and preservation. Several years ago, the owners of the 900 Illinois Road property, Mr. and Ms. Deromedi, undertook a very significant restoration of the portion of the ravine adjacent to their property. In the years leading up to that project, the pattern of multiple ownerships of land within the ravine complicated and delayed the approval process and ultimately, the restoration work. Importantly, ravines are a key part of the City's stormwater management system and as a result, protection and proper maintenance of the ravines benefits the larger community.

Illustrations of the existing and proposed property lines are included in the Council packet on **pages 124 and 125**.

The properties proposed for resubdivision are in the Historic Residential Open Space Preservation Overlay District. The purpose of this resubdivision is consistent with the goals of the overlay district which include preserving and protecting natural resources. The Plan Commission held a public hearing to consider the Mayflower Resubdivision on June 20, 2019. Public testimony was presented in support of the petition and, after deliberation, the Plan Commission voted 4 to 0 to recommend approval of the plat of resubdivision and approval of the associated Special Use Permit to the City Council. The Plan Commission's report and the approving Ordinance are included in the Council packet beginning on **page 111**. Findings in support of the resubdivision are detailed in the Ordinance.

COUNCIL ACTION: If determined to be appropriate by the City Council, waive first reading and grant final approval of an Ordinance granting tentative and final approval of the Mayflower Ravine Resubdivision and approval of the associated Special Use Permit as recommended by the Plan Commission.

#### **10. Consideration of a Template for a Master Pole Attachment Agreement for Small Wireless Facilities. (Approval by motion.)**

*STAFF CONTACT: Catherine Czerniak, Director of Community Development  
847-810-3504*

**PURPOSE AND ACTION REQUESTED:** The Council is asked to consider approval of a Master Pole Attachment Agreement to facilitate the installation of small antennae and related equipment on existing City-owned utility poles.

**BACKGROUND AND DISCUSSION:** In June, 2018, the City Council passed a Resolution directing the Plan Commission to consider amendments to the City Code in response to Senate Bill 1451 which was passed by the General Assembly and signed into law as Public Act 100-585. The Act restricts the power of municipalities to regulate small wireless facilities that are collocated on certain existing structures. In July, 2018, the City Council approved amendments to the City Code, as recommended by the Plan Commission, establishing administrative permitting procedures, subject to various limitations, to the extent allowed by the recent legislation.

As a follow up to the establishment of permitting procedures, Council approval of a template for a Master Pole Attachment Agreement is now requested. This Agreement, in substantially the form presented, will be entered into with each wireless service provider upon application to install small wireless facilities on City owned utility poles. Several applications for installation of these facilities are now pending review and the issuance of permits by the City. As with the Code amendments that were previously adopted by the City Council relating to small wireless facilities, the City did not "reinvent the wheel" in drafting this Agreement instead, the Agreement is modeled on a template developed by a committee of lawyers through the Illinois Municipal League.

Overall, the legislation adopted around this issue, as well as the Code amendments previously adopted by the City and the Master Pole Attachment Agreement now presented for Council approval, are intended to facilitate the installation of small antennas on existing infrastructure and discourage the construction of new telecommunication towers. The small antennas are intended to provide seamless coverage throughout the City and enhance capacity of existing systems to meet the ever growing demand for wireless service.

**BUDGET/FISCAL IMPACT:** In conjunction with the adoption of Code amendments last year, the Council established application and permitting fees and an annual recurring rate for collocation on a City utility pole to the extent permitted by the legislation. These fees are part of the City's Fee Schedule and will be subject to review by the City Council as part of the budget process on an annual basis.

**COUNCIL ACTION:** By motion, approve the Master Pole Attachment Agreement in substantially the form presented (**page 126**) and authorize the City Manager, upon review and approval by the City Attorney, to enter into Master Pole Attachment Agreements with individual service providers upon full satisfaction of the previously adopted permitting requirements.

**COUNCIL ACTION:** Approval of the ten (10) Omnibus items as presented

<b>6. ORDINANCES</b>
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- 1. Consideration of a Recommendation from the Plan Commission in Support of Approval of an Update to the Comprehensive Plan as it Relates to the Waukegan Road/Settler's Square Business District and Surrounding Area. (Final Approval of an Ordinance)**



PRESENTED BY: Catherine J. Czerniak,  
Director of Community Development (847-810-3504)

**PURPOSE AND ACTION REQUESTED:** Final action is requested on a recommendation from the Plan Commission in support of approval of the first phase of an update to the City's Comprehensive Plan.

**BACKGROUND:** *Council Action to Date*

At the September 3<sup>rd</sup> meeting, the Council approved first reading of an Ordinance in support of an update to the Comprehensive Plan as recommended by the Plan Commission. Alderman Buschmann requested that clarification and greater emphasis be added to the document and agreed to provide input to City staff. Changes made since first reading are reflected in blackline in the document included in the Council packet beginning on **page 143.**

*General Background*

At the Council's direction, an overall review and update of the City's Comprehensive Land Use Plan is underway. The Plan was last re-adopted in its entirety in 1998. Since that time, various updates have occurred to specific sections of the Plan. The review and update continues the City's long tradition of careful and comprehensive long term planning.

The Comprehensive Plan is the guiding document for the City with respect to land use and development and looks forward 20 years or more in an effort to establish a framework for important community decisions. Land use patterns are fundamental to decisions about infrastructure, parks, public facilities, how services are delivered and which capital projects are funded. In addition, a strong and forward thinking Comprehensive Plan supports the vitality of business and office districts, provides opportunities for a mix of housing types, recognizes local institutions and not for profit entities as important components of the community's fabric, protects property values, and preserves the community's distinctive character and quality of life. The Comprehensive Plan is intended to ensure that decisions are based on careful deliberation, factual data and focused on the long term interest of the overall community, rather than on short term trends, pressure from developers, or special agendas.

In accordance with the City Code, the Plan Commission is charged with conducting public hearings on any updates proposed to the Comprehensive Plan and forwarding recommendations on proposed updates to the City Council for final action.

The review and update process for Waukegan Road/Settler's Square Business District and surrounding area offered numerous opportunities for public input and involvement through workshops, small group discussions and public forums in addition to formal public hearings before the Plan Commission. An adhoc working group was engaged at the front end of the update process to advise staff in the development of the initial draft of the update which served as the starting point for the Plan Commission's discussion.

As noted above, the update to the Comprehensive Plan for the Waukegan Road/Settler's Square area as recommended by the Plan Commission and as further refined based on input from the Council after approval of first reading is included in the Council packet. The update is approved by Ordinance. The is included in the Council packet beginning on page XX.

**BUDGET/FISCAL IMPACT:** Adoption of the first phase of the update to the Comprehensive Plan does not commit the City to any expenditure of funds or initiate any specific projects. Instead, the vision and desired outcomes provide a framework for future discussions about development, projects, initiatives and services. Any expenditure related to implementation will be considered through a separate and appropriate review process.

**COUNCIL ACTION:** Grant final approval of an Ordinance updating the City's Comprehensive Plan as it relates to the Waukegan Road/Settler's Square Business District and surrounding area.

AND

Approve a motion

- Directing the Plan Commission and City staff to undertake a review and recommend updates to the B-1, Neighborhood Commercial District, to align this portion of the Zoning Code closely with the vision and desired outcomes as described in the Comprehensive Plan update.
- Directing City staff from various departments to pursue opportunities to increase the visibility of crosswalks in the Waukegan Road/Settler's Square Business District and surrounding area.
- Directing staff to continue efforts to plan and encourage community events in the Waukegan/Everett/Telegraph Road area.

**2. Consideration of a Recommendation from the Legal Committee in support of Amending Chapter 40, titled "Governmental Ethics" of the City Code (If desired by the Council, waive first reading and grant final approval of the ordinance.)**

PRESENTED BY: *Julie Tappendorf, City Attorney*

STAFF CONTACT: *Mike Strong, Assistant to the City Manager (810-3680)*

**PURPOSE AND ACTION REQUESTED:** On July 18, 2019, the Legal Committee considered amendments to Chapter 40 of the City Code, the City's ethics regulations. The Committee's recommendation is presented to City Council for consideration and, if desired by the City Council, approval of first reading of an Ordinance amending Chapter 40 of the City Code.

**BACKGROUND/DISCUSSION:** In July 2018, Mayor Lansing requested that the Legal Committee undertake a thorough review of the City's ethics ordinance. The goal of this review was to make the Ordinance more reader-friendly, ensure statutory compliance, and to review both statutory and local conflicts of interest. Such review has not occurred since the original adoption of ethics regulations in 2004.

During its regular meeting on July 18, 2018, the Legal Committee directed the City Attorney to prepare a summary of the City's current ethics regulations compared to State ethics laws, and present during its next quarterly meeting in October. After preparing a first draft of amendments, the Committee appointed a subcommittee to assist the City Attorney in developing amendments to Chapter 40 of the City Code.

The subcommittee met a number of times between January and May of this year to refine the amendments and prepare a recommendation to present back to the full Committee.

After reviewing the draft ethics amendments, the Legal Committee voted to forward draft amendments to the City Council for consideration during its regular meeting on July 18, 2019.

The draft amendments proposed by the Legal Committee reorganize the ethics regulations, revise the language to make it more reader-friendly, revise or expand the definitions, incorporate the statutory conflicts of interest into the ethics regulations, expand the local conflicts of interest regulations, and streamline the administration and enforcement provisions. A memorandum from the City Attorney further outlining the Legal Committee process and summarizing the draft amendments is included in this packet beginning on **page 160**. A “redline” depicting the changes from the City’s current ethics regulations along with a clean version of the amendments is also included in the attachment.

**PROJECT REVIEW/RECOMMENDATIONS:**

Reviewed	Date	Comments
Legal Committee	7/18/19	Discussed and Recommendation to forward amendments to City Council
Legal Committee	5/9/19	Subcommittee’s recommendation presented for review and discussion
Legal Committee	1/10/19	First draft of amendments reviewed by Legal Committee, Subcommittee appointed to refine amendments. Subcommittee met on 1/16/19, 2/6/19, 4/17/19 and 5/3/19.
Legal Committee	10/18/18	City Attorney memorandum reviewed comparing City regulations and State laws
Legal Committee	7/18/18	First discussion regarding the Ordinances

**COUNCIL ACTION:** Consideration of a Recommendation from the Legal Committee in support of Amending Chapter 40, titled “Governmental Ethics” of the City Code (If desired by the Council, waive first reading and grant final approval of the ordinance.)

**7. NEW BUSINESS**

- 1. Consideration of a Recommendation from the Plan Commission in Support of Amendments to Sections 159.002, 159.068 and 159.003 of the City of Lake Forest Code Relating to the Prohibition of Cannabis Businesses. (If desired by the Council, waive first reading and grant final approval of the ordinance.)**

*PRESENTED BY: Catherine J. Czerniak,  
Director of Community Development (847-810-3504)*

**PURPOSE AND ACTION REQUESTED:** The Council is asked to consider a recommendation from the Plan Commission in support of amendments to the City Code prohibiting cannabis businesses in the City of Lake Forest.

**BACKGROUND AND DISCUSSION:** On May 31, 2019, both chambers of the Illinois General Assembly passed House Bill 1438 and the bill was signed by Governor J.B. Pritzker. The Cannabis Regulation and Tax Act is now effective and on January 1, 2020, use and sale of recreational cannabis will be legal in Illinois. The Act allows local governments to “opt-out” by prohibiting cannabis businesses including dispensaries (retail stores), cultivation centers, cannabis lounges and other related businesses within their jurisdictions. Alternatively, local governments can enact rules governing the time, place, manner and the number of cannabis businesses.

As a follow up to the passage of the law, the Lake Forest City Council discussed the topic at a public meeting on July 1, 2019. The Council acknowledged the potential for tax revenues from the sale of cannabis products in the community however, the Council determined that the appropriate course of action for now, is to take advantage of the opportunity to opt-out. The Council directed the City Attorney to prepare amendments to the Code as necessary to prohibit cannabis businesses in the City and directed staff to present the amendments to the Plan Commission for public hearing.

On September 11, 2019, the Plan Commission held a public hearing to consider amendments to the zoning chapter of the City Code as drafted by the City Attorney’s office. No public testimony was presented to the Commission on the proposed amendments. The Commission voted 5 to 0 to recommend approval of the amendments to the City Council. The Plan Commission recognized that going forward, changes to the laws pertaining to recreational cannabis, both at the State and Federal levels, are likely and reconsideration of this topic may be appropriate at some time in the future. The Commission noted that future City discussions will be informed by learning from the experiences of other communities around this issue.

In addition to the amendments to the zoning chapter of the Code, amendments relating to law enforcement are being drafted and will be presented to the Council at a future meeting. Although the original intent was to present all of the cannabis related amendments to the Council for consideration at one time, the amendments to the zoning chapter are being advanced at this time to allow Community Development staff to respond promptly to inquiries received from representatives of cannabis businesses.

City staff is actively participating in a Lake County Task Force on this topic along with community development, finance and law enforcement representatives from many other municipalities. City staff will continue to follow this evolving issue.

The Code amendments as recommended by the Plan Commission are detailed in the ordinance beginning on **page 203** of the Council packet.

**COUNCIL ACTION:** If determined to be appropriate by the City Council, waive first reading and grant final approval of an Ordinance amending the City Code to prohibit cannabis businesses in the City of Lake Forest.

<b>8. ADDITIONAL ITEMS FOR DISCUSSION/ COMMENTS BY COUNCIL MEMBERS</b>
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<b>9. ADJOURNMENT</b>
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A copy of the Decision Making Parameters can be found beginning on **page 18** of this packet.

Office of the City Manager

October 2, 2019

The City of Lake Forest is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities, are required to contact City Manager Jason Wicha, at (847) 234-2600 promptly to allow the City to make reasonable accommodations for those persons.





## THE CITY OF LAKE FOREST

### DECISION-MAKING PARAMETERS FOR CITY COUNCIL, AND APPOINTED BOARDS & COMMISSIONS

*Adopted June 18, 2018*

The City of Lake Forest Mission Statement:

*"Be the best-managed, fiscally-responsible and appealing community and promote a community spirit of trust, respect and citizen involvement."*

The Lake Forest City Council, with the advice and recommendations of its appointed advisory Boards and Commissions, Lake Forest Citizens, and City Staff, is responsible for policy formulation and approval. Implementation of adopted strategy, policy, budgets, and other directives of Council is the responsibility of City Staff, led by the City Manager and Senior Staff. The Mayor and Aldermen, and appointed members of Boards and Commissions should address matters in a timely, deliberate, objective and process-driven manner, making decisions guided by the City of Lake Forest Strategic and Comprehensive Plans, the City's Codes, policies and procedures, and the following parameters:

- Motions and votes should comprise what is in the best long-term interests of all Lake Forest citizens, measured in decades, being mindful of proven precedents and new precedents that may be created.
- All points of view should be listened to and considered in making decisions with the long-term benefit to Lake Forest's general public welfare being the highest priority.
- Funding decisions should support effectiveness and economy in providing services and programs, while mindful of the number of citizens benefitting from such expenditures.
- New initiatives should be quantified, qualified, and evaluated for their long-term merit and overall fiscal impact and other consequences to the community.
- Decision makers should be proactive and timely in addressing strategic planning initiatives, external forces not under control of the City, and other opportunities and challenges to the community.

Community trust in, and support of, government is fostered by maintaining the integrity of these decision-making parameters.

*The City of Lake Forest's Decision-Making Parameters shall be reviewed by the City Council on an annual basis and shall be included on all agendas of the City Council and Boards and Commissions.*



## *Resolution of Sympathy*

**WHEREAS**, on behalf of The City of Lake Forest, the City Council expresses its profound sadness at the loss of Nancy Lou Hughes on September 15, 2019; and

**WHEREAS**, Nancy Hughes will be remembered as a long-time resident of Lake Forest and who, through her generosity, helped ensure that Lake Forest will remain a special place far into the future; and

**WHEREAS**, Nancy Hughes was the beloved wife of the late John Hughes and cherished and devoted mother to John and James, mother-in-law to Ruta and Tracy and grandmother to Katelyn, Wil, Livia and Henry; and

**WHEREAS**, Nancy Hughes was an extraordinary philanthropist who supported causes great and small to further the arts, preserve open space, advance health care and enhance recreational opportunities within the City of Lake Forest; and

**WHEREAS**, Nancy Hughes most recently stepped forward as a leader to preserve Forest Park and the beachfront, our community treasures. Her leadership allowed the City not just to make repairs, but to provide a fitting entrance to the beach which today is known as the “Hughes Gateway”; and

**WHEREAS**, the impact of Nancy Hughes’s generous contributions is visible throughout the community; Lake Forest residents and visitors to the community will long enjoy and benefit from the John & Nancy Hughes Pavilion at Northwestern Lake Forest Hospital; the John & Nancy Hughes Theater at Gorton Community Center; and the John & Nancy Hughes Clubhouse at Deerpath Golf Course; and the Hughes Gateway to the beach; and

**WHEREAS**, Nancy Hughes was a strong, enthusiastic and kind woman who deeply loved her family and community and gave selflessly to assure that others had opportunities; and

**WHEREAS**, Nancy Hughes will be missed as a resident and as a friend;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Lake Forest in session on October 7, 2019, hereby express its deep regret and sincere sympathy to the members of the Hughes Family.

**BE IT FURTHER RESOLVED** that this Resolution be appropriately inscribed and conveyed to the Hughes Family, with a copy to be included in the official minutes of the October 7, 2019 meeting of the Lake Forest City Council.

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George A. Pandaleon, Mayor



## **RESOLUTION OF APPRECIATION**

**TIMOTHY P. NEWMAN**

**SECOND WARD ALDERMAN**

**May 2015 to September 2019**

**WHEREAS**, Timothy P. Newman (a.k.a. "the 6'8-er from Decatur") has been involved in the community since moving here in 1994 -- as President of the Lake Forest Club, the Lake Forest-Lake Bluff Rotary Club and the Lake Forest Caucus; and

**WHEREAS**, during his term of office, Tim served the City as a member of the City Council, Pension Subcommittee, Public Works Committee, Personnel, Compensation and Administration Committee, Business and Commerce Committee, and chaired the Golf Advisory Committee; and

**WHEREAS**, he was a member of the Plan Commission from 2006-2012, bringing his expertise to discussions on affordable housing, Elawa Farm, wireless service facilities, the new Northwestern Lake Forest Hospital campus, a Bicycle Master Plan, Tax Increment Financing Districts; and

**WHEREAS**, on City Council, Tim was often looked to as a resource providing financial insight and business acumen; and

**WHEREAS**, he led efforts to rehabilitate the Deerpath Golf Course and raise private funds to rejuvenate the game of golf in Lake Forest and stressed the importance of making the game and an excellent course and venue open to all; and

**WHEREAS**, being an Evans Scholar at Purdue University, Tim was instrumental in bringing the BMW Golf Championship to Conway Farms Golf Club in 2013, 2015 and 2017. Tim subsequently helped educate the public about the importance of Evans Scholars, who are the beneficiaries of the BMW Championship; and

**WHEREAS**, the City Council, Plan Commission and staff were often lucky enough to be surprised and delighted by one of Tim's famous culinary treats;

**WHEREAS**, he has devoted much valuable time and personal attention to the work of these committees and the duties of the City Council and, on behalf of the residents of the Second Ward and the citizens of Lake Forest, continually met his responsibilities with purpose and dedication; and

**WHEREAS**, the citizens of Lake Forest recognize and are deeply appreciative of the valuable time and service contributed to the preservation and improvement of the quality of life in our community;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of The City of Lake Forest, Illinois, hereby expresses the profound gratitude of the citizens of Lake Forest to **Timothy P. Newman** for the loyal and faithful public service he has given by means of this Resolution, which shall be spread upon the permanent records of the City Council.

*Adopted by the City Council of  
The City of Lake Forest this  
7<sup>th</sup> Day of October, 2019*

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George A. Pandaleon, Mayor



## Contact Info

First Name:	<b>Edward (Ted)</b>
Last Name:	<b>Notz, Jr (pronounced "notes")</b>
E-mail:	<b>eunotzjr@comcast.net</b>
Title:	<b>Seniore Vice President</b>
Organization:	
Address:	<b>44 East Stone Avenue</b>
Address Line 2:	
City:	<b>Lake Forest</b>
State:	<b>IL</b>
Zip:	<b>60045</b>
Mobile Phone:	<b>(847) 830-6689</b>
Home Phone:	<b>(847) 295-1810</b>
Notes:	<b>Attended Lake Forest public schools from kindergarten through high school: Cherokee ('74-'79); Deer Path ('79-'83); Lake Forest High School ('83-'87). Returned to Lake Forest as a homeowner in 1998, where I have been a resident since. Both children attended Lake Forest public schools from kindergarten through high school.</b>

## Resident Data/Stats

Ward:	<b>Ward 2</b>
Precinct:	
US Citizen:	<b>Yes</b>
Registered Voter:	<b>Yes</b>
Lake Forest Resident since(YYYY):	<b>1974</b>
Business Name:	
Type of Business:	
Business Phone:	<b>(312) 544-4659</b>
Position:	
Date of Birth (Optional):	
Education:	<b>MBA, DePaul University ('97) BA, Political Science, Denison University ('91) Lake Forest High School ('87)</b>
Spouse's Name:	<b>Tiffany</b>
Children's Birth Years:	<b>1999, 2001</b>

## Interest in Community Positions

Mayor:	<b>No Interest at this time</b>
Alderman:	<b>I am currently applying / Consider me for this position in the future</b>
#67 School Board:	<b>No Interest at this time</b>
#115 School Board:	<b>No Interest at this time</b>
Caucus Committee:	<b>I currently hold this office / I have held this office in the past</b>
Audit Committee:	<b>No Interest at this time</b>
Board of Fire & Police Commissioners:	<b>No Interest at this time</b>
Building Review Board (BRB):	<b>I currently hold this office / I have held this office in the past</b>
Cemetery Commission:	<b>No Interest at this time</b>
Committee Representing Our Young Adults (CROYA):	<b>No Interest at this time</b>
Construction Codes Commission:	<b>No Interest at this time</b>
Elawa Farm Commission:	<b>No Interest at this time</b>
Fireman's Pension Fund - Board of Trustees:	<b>No Interest at this time</b>
Gorton Community Center Board of Directors:	<b>No Interest at this time</b>
Historic Preservation Commission:	<b>No Interest at this time</b>
Legal Committee:	<b>No Interest at this time</b>
Library Board:	<b>No Interest at this time</b>
Park & Recreation Board:	<b>No Interest at this time</b>
Planning Commission Labels:	<b>I am currently applying / Consider me for this position in the future</b>
Police Pension Fund - Board of Trustees:	<b>No Interest at this time</b>
Senior Resources Commission:	<b>No Interest at this time</b>
Zoning Board of Appeals (ZBA):	<b>I currently hold this office / I have held this office in the past</b>
Other Positions:	

## Other Considerations

Please list any regular commitments or travel that would interfere with your attendance at scheduled meetings:

**I am employed full time, work in Chicago CBD. I don't travel much for work. I don't have any conflicts preventing me from regular participation in evening meetings.**

Please list any current or previous community service activities, interests, directorships, etc. -- public or private. For each activity please indicate years served and positions held:

**Serving on board of Lake County Community Foundation (2017 to present)  
Served on Building Review Board (2013 to 2019), and chairman of BRB for last four of the six years.  
served on Zoning Board of Appeals (2004-2009)  
served on Caucus (1999-2004)  
served as Elder for First Presbyterian Church of Lake Forest (2011-2017)  
served as Chair of Long Range Planning and Governance Committee for First Presbyterian Church (apprx 2009-2014)  
served as Deacon for First Presbyterian Church of Lake Forest (2003-2007)  
served on Lake Forest Preservation Foundation (2004-2007)  
was appointed by then-mayor, Mike Rummell to the Laurel Avenue Task Force (~2008)  
participated in the City's last three or four strategic planning meetings**

Please list other activities, specialized skills, knowledge, or professional experience that would contribute to your effectiveness in the position(s) for which you are applying or expressing possible future interest:

**Commercial real estate finance: Associated Bank (2007-present); Bank of America (2003-2007)  
Commercial real estate development: Mesirow Stein Real Estate (1997-2003)  
Hotel management: Sheraton Chicago (1991-1995)**

References (Optional):

**Past/Present Mayors: George Pandaleon, Rob Lansing, Don Schoenheider, Mike Rummell, Jack Preschlack, Howard Kerr.**

**City Staff:** Bob Kiely (City Manager); Cathy Czerniak (Director of Community Development); Kate McManus (Assistant Planner); Susan Banks (Communications Manager); Mike Thomas (Dir of Public Works)

**Current Caucus board:** Mike Adams, David Hunt, Doug Kinney

**former US Congressman:** Bob Dold

**Past/present alderman:** Prue Beidler, Tim Newman, Melanie Rummell, Cathy Waldeck, George Pandaleon, Mike Adelman, Kent Novit, Tom Morsch.

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Please state briefly why you are volunteering to serve The City of Lake Forest:

I enjoy being involved with the City and giving my time back to it. Having not only grown up in Lake Forest and its public school system, but raising my family here as well, I have seen the City grow a great deal since the early 1970's when my family moved here. Through all these years, with thoughtful leadership and civic involvement, Lake Forest continues to successfully respond and adapt to the changing world around us while preserving the special characteristics that make Lake Forest such a wonderful community to live and work in.

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Please list any interests or activities that could lead to, or BE PERCEIVED as, a conflict of interest if you become a candidate or appointee.:

none

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**Proclamation to Declare October 10, 2019 as  
World Mental Health Awareness Day**

WHEREAS, approximately one in five individuals will experience a mental health challenge during the coming year; every forty seconds, a life will be lost to suicide; and

WHEREAS, the Lake Forest community is not immune to these sad statistics; and

WHEREAS, during challenging economic times, many more will face transient emotional and psychological distress; and

WHEREAS, This month, The City of Lake Forest stands with those who seek to remove the stigma surrounding the diagnosis and treatment of mental health; and this month, we speak to those with mental health challenges to let them know they are not alone and that seeking help is a sign of strength; and

WHEREAS, we all have a role to play on World Mental Health Day;

NOW, THEREFORE, I, George A. Pandaleon, on behalf of the City of Lake Forest, hereby proclaim our support for World Mental Health Day on October 10, 2019 by calling upon our community, government agencies, first responders, organizations, health care providers and research institutions to share knowledge to reduce the stigma surrounding mental health, support suicide prevention and assist our friends, neighbors and families living with mental health challenges. Together, we can save lives.

---

George A. Pandaleon, Mayor

October 7, 2019

The City of Lake Forest  
CITY COUNCIL  
***Proceedings of the Tuesday, September 3, 2019***  
City Council Meeting - City Council Chambers

**CALL TO ORDER AND ROLL CALL:** Honorable Mayor Pandaleon called the meeting to order at 6:30pm, and the Assistant to the City Manager Mike Strong called the roll of Council members.

Present: Honorable Mayor Pandaleon, Alderman Beidler, Alderman Morris, Alderman Newman, Alderman Preschlack, Alderman Goshgarian, and Alderman Buschmann.

Absent: Alderman Rummel, Alderman Moreno

**CALL TO ORDER AND ROLL CALL**

**PLEDGE OF ALLEGIANCE** was recited by all those present in the Chambers.

**REPORTS OF CITY OFFICERS**

**COMMENTS BY MAYOR**

Mayor Pandaleon asked all to join him in congratulating Elizabeth Holleb, Finance Director, for her recent peer-selected nomination to serve on the Illinois Government Finance Officers Association (IGFOA) Executive Board. Elizabeth's nomination is a testament to her reputation within the profession, and a reflection of her contributions to our organization.

Mayor Pandaleon also thanked the Parks & Recreation Staff on behalf of the City Council for all their efforts to keep order as the repairs were made to the North Beach Access Road.

**A. 2019-2020 Board and Commission Appointments/Reappointments**

**BOARD OF TRUSTEES POLICE PENSION FUND**

NAME OF MEMBER	APPOINT/REAPPOINT	WARD
Robert Engstrom	Appoint	4

**LIBRARY BOARD**

NAME OF MEMBER	APPOINT/REAPPOINT	WARD
JoAnn Desmond	Appoint	3

**COUNCIL ACTION: Approve the Mayor's Appointments and Reappointments**

Alderman Buschmann made a motion to approve the Mayor's appointment, seconded by Alderman Beidler. Motion carried unanimously by voice vote.

**B. 2019 Property Assessments and Appeals**  
- Elizabeth Holleb, Finance Director

Finance Director Elizabeth Holleb, gave a brief overview of the process that residents could take if they would like to appeal their property assessment. Courtesy information is available on The City of Lake Forest web site.

<b>COMMENTS BY CITY MANAGER</b>
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**A. Fire Department Annual Report**

**-Pete Siebert, Fire Chief**

Fire Chief Pete Siebert reviewed the Fire Department's achievements over the past year while summarizing the activity of the Department that will advance the overall capabilities of the Department.

**B. Update on Hughes Gateway/North Beach Access Road**

**- Sally Swarthout, Director of Parks & Recreation and**

**- Michael Thomas, Director of Public Works**

Director of Public Works, Michael Thomas reported on recently completed work, and reported that the project is on schedule. He invited the public to the Dedication of the Hughes Gateway on Saturday, September 14, 2019 at 10 am.

<b>COMMITTEE REPORTS</b>
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**FINANCE COMMITTEE**

**1. Approval of a Pension Subcommittee Recommendation to Revise the City's Pension Funding Policy to Reduce the Interest Rate Assumption from 7.0% to 6.75% for Police and Fire Pension Plans**

Alderman James Morris, Finance Committee Chairman reported that the Pension Subcommittee recommends City Council approval of a revision to the City's Pension Funding Policy defining the manner in which the City funds long-term costs of pension benefits. The specific recommendation is to reduce the interest rate assumption for the City's police and fire pension plans from 7.0% to 6.75%.

The City Council had lengthy discussion on pension funding history, fixed income required by the State of Illinois and City Council direction the City's actuary to modify the mortality table, salary increase and payroll growth assumptions for the 4/30/17 actuarial valuations of the police and fire pension funds.

Mayor Pandaleon asked if there was anyone from the public who wanted to comment. Seeing none, he asked for a motion.

**COUNCIL ACTION: Approval of a Pension Subcommittee Recommendation to Revise the City's Pension Funding Policy to Reduce the Interest Rate Assumption from 7.0% to 6.75% for Police and Fire Pension Plans (page 16).**

Alderman Newman made a motion of approval of a Pension Subcommittee Recommendation to Revise the City's Pension Funding Policy to Reduce the Interest Rate Assumption from 7.0% to 6.75% for Police and Fire Pension Plans, seconded by Alderman Buschmann. Motion carried unanimously by voice vote.

<b>OPPORTUNITY FOR CITIZENS TO ADDRESS THE CITY COUNCIL ON NON-AGENDA ITEMS</b>
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<b>ITEMS FOR OMNIBUS VOTE CONSIDERATION</b>
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- 1. Approval of the August 5, 2019 City Council Meeting Minutes**
- 2. Approval of the Check Register for the Period of July 27 – August 23, 2019**
- 3. Consideration of an Ordinance Approving a Recommendation from the Building Review Board. (First Reading and if Desired by the City Council, Final Approval)**
- 4. Award of Bid for the Gorton Community Center Roof Replacement Project to DCG Roofing Solutions, Inc. in the amount of \$109,840.00 with a contingency of 5% or \$5,492.00**
- 5. Consideration of a Recommendation from Staff to Authorize the City Manager to Enter into a Professional Services Contract with Teska Associates, Inc. for Continued Support for the Comprehensive Plan Update.**

**COUNCIL ACTION: Approval of the five (5) Omnibus items as presented**

Mayor Pandaleon asked members of the Council if they would like to remove any item or take it separately. Hearing none, Mayor Pandaleon asked for a motion to approve the five (5) Omnibus items as presented.

Alderman Preschlack made a motion to approve the five (5) Omnibus items as presented, seconded by Alderman Newman. The following voted “Aye”: Alderman Beidler, Morris, Newman, Preschlack, Goshgarian, and Buschmann. The following voted “Nay”: None. 6-Ayes, 0 Nays, motion carried.

*Information such as Purpose and Action Requested, Background/Discussion, Budget/Fiscal Impact, Recommended Action and a Staff Contact as it relates to the Omnibus items can be found on the agenda.*

<b>ORDINANCES</b>
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- 1. Consideration of a Recommendation from the Zoning Board of Appeals in Support of Variances for the IDOT Deerpath/Route 41 Pump Station Replacement Project. (First Reading, and if Desired by the City Council, Final Approval)**

Director of Community Development Catherine Czerniak reported on the recommendation from the Zoning Board of Appeals. The requested zoning setback variances will allow two utility buildings which will house a pump and generator to be located in the far northwest corner of the IDOT parcel, a request for variances to support the long anticipated IDOT pump station replacement project. The project is intended to significantly reduce or eliminate flooding during and after heavy rainstorms on Deerpath under the viaduct at Route 41.

Other improvements will occur as part of the project, unrelated to the variances recommended by the Zoning Board of Appeals. Separate turn lanes will be added under Route 41, eliminating the existing shared left turn lane; there will be a turn lane for southbound traffic on to Route 41, and a turn lane for northbound traffic. Each lane will be long enough to accommodate some stacking of cars. The sidewalks will be shifted closer to the bridge abutments, slightly away from the edge of the roadway.

The City Council had discussion on budgeted maintenance once the project is complete, life expectancy of the pump, parcel transfer to The City of Lake Forest, improved left turn lanes and the route of pumped water.

Mayor Pandaleon asked if there was anyone from the public who wanted to comment. Seeing none, he asked for a motion.

**COUNCIL ACTION:** If determined to be appropriate by the City Council, waive first reading and grant final approval of the Ordinance approving the petition in accordance with the Zoning Board of Appeals' recommendation.

Alderman Newman made a motion to waive first reading and grant final approval of the Ordinance approving the petition in accordance with the Zoning Board of Appeals' recommendation, seconded by Alderman Preschlack. The following voted "Aye": Alderman Beidler, Morris, Newman, Preschlack, Goshgarian, and Buschmann. The following voted "Nay": None. 6-Ayes, 0 Nays, motion carried.

**2. Consideration of a Recommendation from the Plan Commission in Support of Adoption of an Update to the Comprehensive Plan as it Relates to the Waukegan Road/Settler's Square Business District and Surrounding Area. (First reading of an Ordinance)**

Director of Community Development Catherine Czerniak reported on a recommendation from the Plan Commission in support of adoption of the first phase of an update to the City's Comprehensive Plan. The review and update continues the City's long tradition of careful and comprehensive long term planning. Ms. Czerniak reported that the review and update process for Waukegan Road/Settler's Square Business District and surrounding area offered numerous opportunities for public input and involvement through workshops, small group discussions and public forums in addition to formal public hearings before the Plan Commission.

The following Action Steps were recommended as an immediate follow up to the adoption of the update for the Waukegan Road/Settler's Square and surrounding area section of the Plan as recommended by the Commission.

- Direct the Plan Commission and City staff to undertake a review and recommend updates to the B-1, Neighborhood Commercial District, to align this portion of the Zoning Code closely with the vision and desired outcomes as described in the Comprehensive Plan update.
- Direct City staff from various departments to pursue opportunities to increase the visibility of crosswalks in the Waukegan Road/Settler's Square Business District and surrounding area.
- Direct staff to continue efforts to plan and encourage community events in the Waukegan/Everett/Telegraph Road area.

Ms. Czerniak noted that any expenditure related to implementation would be considered through a separate and appropriate review process.

Mayor Pandaleon asked if there was anyone from the public who wanted to comment. Seeing none, he asked for a motion.

**COUNCIL ACTION:** Grant first reading of an Ordinance updating the City's Comprehensive Plan as it relates to the Waukegan Road/Settler's Square Business District and surrounding area.

Alderman Beidler made a motion to Grant first reading of an Ordinance updating the City's Comprehensive Plan as it relates to the Waukegan Road/Settler's Square Business District and surrounding area, seconded by Alderman Buschmann. The following voted "Aye": Alderman Beidler, Morris, Newman, Preschlack, Goshgarian, and Buschmann. The following voted "Nay": None. 6-Ayes, 0 Nays, motion carried.

<b>NEW BUSINESS</b>
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<b>ADDITIONAL ITEMS FOR COUNCIL DISCUSSION/COMMENTS BY COUNCIL MEMBERS</b>
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Council member Newman announced that his house is under contract and anticipates moving from the Second Ward.

<b>ADJOURNMENT</b>
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There being no further business Mayor Pandaleon asked for a motion. Alderman Newman made a motion to adjourn, seconded by Alderman Goshgarian. Motion carried unanimously by voice vote at 8:33 pm.

Respectfully Submitted  
Margaret Boyer, City Clerk

*A video of the City Council meeting is available for viewing at the Lake Forest Library and on file in the Clerk's office at City Hall. You can also view it on the website by visiting [www.cityoflakeforest.com](http://www.cityoflakeforest.com). Click on I Want To, then click on View, then choose Archived Meetings Videos.*



The City of Lake Forest  
**CITY COUNCIL WORKSHOP**  
***Proceedings of the Monday, September 16, 2019***  
City Council Workshop Meeting –  
Municipal Services Center, 800 N. Field Drive, Lake Forest, IL

CALL TO ORDER AND ROLL CALL: Honorable Mayor Pandaleon called the meeting to order at 6:30pm, and City Clerk Margaret Boyer called the roll of Council members.

Present: Honorable Mayor Pandaleon, Alderman Beidler, Alderman Rummel, Alderman Preschlack, Alderman Goshgarian, Alderman Moreno and Alderman Buschmann.

Absent: Alderman Morris.

**CALL TO ORDER AND ROLL CALL**

**6:30 p.m.**

Mayor Pandaleon made opening comments stating that because it is a workshop meeting, there will be no decisions about projects and, that the City Council will set direction for Staff.

City Manager Wicha remarked staff was asked to update the capital needs worksheet, and acknowledged staff for their hard work, adding that the intent of the meeting is to take an overall look at the Capital Fund Policy, Revenues and Asset needs in the City.

**1. DISCUSSION ON CITY COUNCIL FISCAL POLICY AND GENERAL FUND BALANCE**  
-ELIZABETH HOLLEB, FINANCE DIRECTOR

Ms. Holleb gave an overview of the historical analysis of the General Fund and how The City of Lake Forest compares to other communities in bond ratings and fund balances. Four fiscal stress scenarios were reviewed. Ms. Holleb reviewed transferring General Fund surplus and incorporate that practice into the policy. The City Council had discussion on the scenarios, General Fund balance related to the FY20 budget, and communicating to residents. Consensus of the Council was to change the word “will” to “may” allocate in the policy.

**2. DISCUSSION OF SELF-IMPOSED AND EXTERNAL LIMITATIONS ON CAPITAL FUNDING**  
-ELIZABETH HOLLEB, FINANCE DIRECTOR

Ms. Holleb gave the background on the CIP fund that included limitations and parameters along with targets, history and self-imposed limitations. The City Council had discussion on PTELL Tax Cap, Municipal Price Index, Debt Service Capacity, obligation to the Library, and past referendums related to bond issues.

**3. DISCUSSION OF FUNDING TARGETS FOR FY21-25 CAPITAL IMPROVEMENT PLAN**  
-ELIZABETH HOLLEB- FINANCE DIRECTOR

Ms. Holleb reviewed the monopoly exercise results with the City Council. CIP process was reviewed, cost of deferred maintenance both building and fleet, bringing on a consultant to review facility needs and the difference between objective and subjective. The City Council had discussion on the preliminary funding costs of 7.3 million vs. the 4.8 in funding available, rate of return and direct impact of project work.

**4. PRESENTATION OF UPDATED 2014 STORM WATER STUDY**  
-MICHAEL THOMAS, PUBLIC WORKS DIRECTOR  
-MATTHEW MOFFITT AND EMILY GRIMM, BAXTER & WOODMAN

Mr. Thomas and Emily Grimm gave a brief presentation on the Storm Water Study prepared by Baxter and Woodman. Ms. Grimm reviewed the methodology in which the report was prepared. The City Council had discussion on rainfall amounts and ten-year storm planning, relevant data and weather trends.

**5. DISCUSSION ON STORM WATER FUNDING POLICY  
-JASON WICHA, CITY MANAGER**

City Manager Wicha reviewed current funding strategy, prior funding methodology and Finance Director Holleb reviewed Stormwater projects that were completed and the constituent cost, the history of Stormwater sewer bonds and the 5 year forecast for ½% sales tax. The city Council and Staff had discussion on policy such as, “as needed” or the three-year cycle and sustainable practices.

**6. ADJOURNMENT**

There being no further discussion. Alderman Preschlack made a motion to adjourn, seconded by Alderman Moreno. Motion carried unanimously by voice vote at 9:13p.m.

Respectfully Submitted,  
Margaret Boyer, City Clerk

*A complete Binder including all slides and handouts is available at City Hall*

**FIRST AMENDMENT TO THE RESTATED AGREEMENT  
RELATING TO THE GORTON PROPERTY**

**THIS FIRST AMENDMENT** is made as of the \_\_\_\_ day of \_\_\_\_\_, 2019 (the "*Effective Date*"), by, between, and among **THE CITY OF LAKE FOREST**, an Illinois municipal corporation (the "*City*"), and the **GORTON COMMUNITY CENTER**, an Illinois not-for-profit corporation (the "*GCC*");

**WITNESSETH:**

**WHEREAS**, the City is the owner of certain real property at the site of the former Gorton School located at 400 East Illinois Road in Lake Forest, Illinois, and legally described in Exhibit A to this First Amendment (the "*Property*"); and

**WHEREAS**, the Property is improved with a building (the "*Building*") and since approximately 1972, the Building and Property has been operated as a community center for the purposes of promoting activities of public interest and bringing together organizations for the benefit and enjoyment of the entire Lake Forest community (the "*Community Center*"); and

**WHEREAS**, the GCC is a not-for-profit entity financially independent from the City and has an independently appointed Board of Directors; and

**WHEREAS**, the GCC, including its predecessor and related entities, has used various portions, and operated aspects of, the Community Center and Property for over forty years; and

**WHEREAS**, during this time, the Community Center's activities and services have expanded, and the GCC now makes certain facilities of the Property available to organizations benefiting the Lake Forest and Lake Bluff communities and beyond for meetings, programs, and activities in order to enhance cultural, social, recreational, civic, and educational opportunities for the residents of Lake Forest and Lake Bluff and others; and

**WHEREAS**, the GCC has also made the Property available to various other community service organizations, thereby offering the Lake Forest and Lake Bluff communities a true center for accessing many of the organizations and services that enhance the lives of the residents of Lake Forest and Lake Bluff; and

**WHEREAS**, the City recognizes that in GCC's use and operation of the Community Center, GCC has performed, or facilitated other organizations in performing, various services that might otherwise be undertaken directly by the City, including without limitation, cultural and recreational programs, for all ages, and certain social service programs, including day care services provided through the Gorton Children's Drop-In Center (the "*Drop-In Center*"), which is a part-time day care facility licensed by the State of Illinois; and

**WHEREAS**, the continued operation of the Drop-In Center as part of the Community Center is one of many important considerations in the City's execution of this First Amendment; and

**WHEREAS**, the GCC has historically employed, and currently employs, both full-time and part-time staff for purposes of overseeing the operations of the Community Center and the Property (including the Drop-In Center), as well as for the purposes of providing direct services to the community; and

**WHEREAS**, the Community Center has been financed through GCC's, and through related entities', fundraising efforts as well as the proceeds from user fees from the Community Center's programs and income from other organizations and individuals using the Property; and

**WHEREAS**, in addition to its programming and service activities, the GCC has assumed stewardship of the historically significant building, as more fully described herein, and certain facilities on the Property to ensure that such elements of the Property are well maintained and preserved for the benefit of the community; and

**WHEREAS**, the City and GCC have determined that certain administrative efficiencies for the Community Center can be achieved through mutual cooperation; and

**WHEREAS**, in recognition of the evolving role and activities of the Community Center as well as the importance of the Community Center to the City, its residents, and to the broader community in the Lake Forest-Lake Bluff area, GCC and the City desire to fully define their respective roles and responsibilities to each other and with respect to the Property, including the terms and conditions for the development, use, operation, and management of the Property; and

**WHEREAS**, on July 1, 2013, the City and GCC entered into that certain Restated Agreement Relating to the Gorton Property ("**Agreement**") to fully define their respective roles and responsibilities to each other and with respect to the Property, including the terms and conditions for the development, use, operation, and management of the Property; and

**WHEREAS**, the Agreement allows the City to appoint a varying number of members to the GCC board of directors and requires GCC to annually budget a certain amount of funds for the upkeep, maintenance, repair, and replacement of building systems; and

**WHEREAS**, the City and GCC now desire to amend the Agreement to, among other things, a) modify the number of City-appointed directors on the GCC board of directors and b) describe the required sharing of GCC's financial information with the City, as more fully set forth in this First Amendment;

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants and agreements set forth below and other good and valuable consideration, the sufficiency of which the parties hereto acknowledge, the parties hereby agree as follows:

**Section 1. Recitals.** The foregoing recitals are material to this First Amendment (also referred to as "**Agreement**") and are incorporated herein as if fully set forth in this Section 1.

**Section 2. Prior Agreements Superseded.** This First Amendment supersedes and replaces all prior agreements between the City and the GCC, or its predecessor or related entities, including without limitation the following: (i) Operating Agreement for the Property, dated December 30, 2003, (ii) Agreement Relating to the Gorton Property, dated December 30, 2003, the Agreement Relating to the Payment of Fees Between The City of Lake Forest and the Gorton Community Center Corporation dated March 31, 2009, (iv) the Initial Services Agreement dated November 17, 1984, (v) the Lease, dated May 1, 1999, and (vi) the Restated Agreement dated July 1, 2013 (the "**Prior Agreements**"). Upon execution of this Agreement, the terms of the Prior Agreements are rendered null and void.

**Section 3. Operating Rights and Responsibilities.** The City hereby grants, authorizes, and appoints the GCC, and the GCC hereby accepts such grant, authorization, and appointment from the City, all operating, use, occupancy, maintenance, and management rights and responsibilities not reserved to the City hereunder (collectively, "Operate" or "Operation") relating to the Property and all structures and improvements located thereon, on the terms and conditions set forth herein. Notwithstanding the grant of authority and responsibility for the Property to the GCC, the City retains certain rights and responsibilities relating to the Property, as more fully set forth in this Agreement.

**Section 4. Term and Charges.**

A. **Initial Term.** The GCC shall Operate the Property for an initial term of thirty-three (33) years from the effective date of the Restated Agreement, which shall expire on July 1, 2046, unless sooner terminated as hereinafter provided. The term of this Agreement shall automatically renew for two additional terms of thirty-three (33) years, except as provided in Section 4.B of this Agreement. The initial term and any renewal terms shall be collectively known as the "Term."

B. **Renegotiation of Agreement.** Not less than 360 days before the scheduled expiration of a Term of this Agreement, either party may notify the other of its desire to terminate or amend the provisions of this Agreement (a "**Pre-Termination Notice**"). Upon delivery of such Pre-Termination Notice, the parties shall engage in good faith discussions to reach an accord regarding any modified terms of this Agreement; provided, however, that upon the expiration of such 360-day period (or such longer period as the parties may mutually agree in writing), if no accord has been reached regarding the modification of the provisions of the Agreement, the Agreement shall be deemed terminated.

C. **Other Charges and Fees.** The GCC shall pay such other fees and charges as may be provided in this Agreement.

**Section 5. Operation of the Property.**

A. **GCC's Use of the Property.** During the term of this Agreement, the GCC shall Operate the Property as a Community Center and uses consistent with GCC's historic use of the Property since 1972 as a Community Center, subject to the terms and conditions of this Agreement. In connection with the Community Center Operation, space upon the Property may be used and occupied for:

- (i) community service, charitable, and other similar purposes that serve the Lake Forest and Lake Bluff communities;
- (ii) cultural, recreational, and educational activities for the enjoyment and benefit of Lake Forest and Lake Bluff residents of all ages;
- (iii) facilities in support of community activities, services, and other not-for-profit groups and organizations affiliated with the Lake Forest and Lake Bluff communities;
- (iv) GCC's office functions, activities, and programs;
- (v) the Drop-In Center; and
- (vi) such other uses that the City may otherwise approve.

During the term of this Agreement, the GCC shall continue to Operate the Drop-In Center and to obtain and maintain all required licenses and certifications therefor, unless the City otherwise consents in writing.

B. GCC's Development of the Property. The GCC may, without cost of expense to the City, construct additional buildings and structures on the Property, provided that (i) the City grants its prior written approval of such construction as owner of the Property, (ii) the GCC shall apply for and obtain all necessary permits and approvals from applicable federal, state, and local agencies and governmental bodies, including amendments to both the special use permit and this Agreement, and (iii) the use of any such building or structure shall be consistent with the current uses on the Property. Nothing in this Agreement shall preclude the GCC from requesting the City to waive fees or charges that may be due in connection with obtaining licenses, permits, or other required approvals from the City.

C. Terms for Third Party Use. During the term of this Agreement, the GCC may impose charges on users and others occupying the Property, and the GCC shall be entitled to keep all proceeds from such user charges. As a condition for any third parties to host events on, or to enter an agreement for longer term use of, the Property or a portion thereof, the GCC shall require such third party (a "**Third Party User**") to sign a written agreement, which agreement shall provide, *inter alia*, that (i) the Third Party User shall release and hold harmless the City and its boards, committees, commissions, officers, officials, employees, agents, attorneys, and representatives (the "**City Representatives**") from and against any suits, actions, lawsuits, injuries, damages, losses, liens, costs, expenses (including any attorneys' fees), judgments, or other claims of any sort of nature (the "**Claims**") relating to or arising from its use or occupancy of the Property, (ii) the Third Party User's rights to use the Property are subject to the City's rights under and terms of this Agreement. Guests of Third Party Users, need not sign such waivers, but GCC will indemnify the City against any Claims of Third Party Users or their Guests, under Section 12.A. of this Agreement, and GCC shall make reasonable efforts to identify itself or the Third Party User as the host, organizer, or manager of such event.

D. Reservation of Use Rights. During the Term of this Agreement, the City shall have the right to use or occupy portions of the Property for purposes that the City may determine to be in the public interest and reasonably compatible with the concurrent use of the Property by the GCC. The City's use and occupancy rights shall be as follows:

- (i) to occupy such portions of the Property that are otherwise available for use by other persons;
- (ii) upon not less 365 days notice, to occupy any portions of the Property (not exceeding 1,500 square feet of net rentable space) that are not otherwise subject to an exclusive lease or license to specified portions of the Property; and
- (iii) in the event of *force majeure* events affecting the utility of City facilities, the City shall have the right to occupy any portion of the Property not otherwise subject to an exclusive lease or license to specified portions of the Property

In connection with its use of any portion of the Property, the City agrees to pay the GCC the same charges that the GCC charges to other users or occupants of the Property, unless the City and the GCC otherwise agree; such use charges shall be subject to annual review by the City in connection with its review and approval of the GCC budget.

**Section 6. Conditions of Use.** The GCC shall, at its sole cost and expense, obtain and abide by any governmental approval that may be required in connection with the use of the Property for the GCC's intended use, including, without limitation, any zoning, building, or other code requirements of The City of Lake Forest. To the extent that the special use permit for the Property requires an amendment as a result of this Agreement, the parties shall cooperate to seek and obtain any such amendment.

**Section 7. Undisturbed Operation.** Subject to the other terms and provisions of this Agreement, the City agrees that upon performance by the GCC of all terms, covenants, and conditions of this Agreement applicable to the GCC, the GCC shall enjoy all rights to Operate the Property provided in this Agreement, as well as the other rights and privileges granted for the Term, without hindrance or interference by the City.

**Section 8. Utilities.** From the date of execution of this Agreement and continuing throughout the Term, the GCC shall be responsible for obtaining any utility services for the Property that it desires and paying all charges for such utility services used or consumed on the Property. The City agrees to cooperate with the GCC and any utility company requesting utility easements over, under, and across the Property in order to provide utility service to the Property. In the event that the GCC does not timely pay any charge for utility services when due, the City shall have the right, but not the obligation, to pay such charges, and the amount of such charges and any interest or penalties assessed upon delinquent charges (plus the full amount of any expenses, including attorneys' fees, incurred by the City in recovering any paid utility charges, penalties, or interest from the GCC) shall be deemed

other charges due from the GCC under this Agreement. Notwithstanding the foregoing, to the extent applicable, GCC as operator of the Building shall enjoy the service benefits available to the Building pursuant to any franchise agreement between the City and any public utility; provided, however, that such service benefits shall not include or be deemed to include any franchise fees or other payments received by or made to the City.

**Section 9. Access; Inspections.** In addition to such access as is reasonably necessary and convenient for the City's use of the Property pursuant to Section 5 of this Agreement, the City and its agents shall have the right to enter the Property for the purpose of examining and inspecting any part of the Property upon reasonable advance notice to GCC if the City deems it necessary or desirable to determine compliance with this Agreement; provided, however, that notice to the GCC shall not be required in the event of a bona fide emergency; provided further, however, that the City and the GCC shall cooperate to the extent feasible in scheduling inspections so as to minimize disruption in the use and occupancy of the Property.

**Section 10. Finances.**

A. In General. The GCC's Operation of the Property is dependent on the sound financial footing of the GCC so that the Property is properly maintained and is utilized for the benefit of the Lake Forest and Lake Bluff communities as more specifically set forth in Section 5 of this Agreement. Accordingly, the City has an overriding interest in assuring that the GCC's budget and programming, as well as the GCC's overall fiscal health, are acceptable to the City. At the same time, the City, as owner of the Property, has certain ongoing obligations with respect to the periodic replacement of the major capital elements of the Property and its improvements, subject to the City's determinations respecting its overall budgetary and property management planning.

B. Reports. The GCC shall submit to the City, on an annual basis, (i) an audited financial statement undertaken in accordance with generally accepted accounting principles of the GCC's most recently completed fiscal year, (ii) a status report on fundraising receipts for the benefit of GCC, and (iii) a report or reports regarding the GCC's maintenance, operation, and repair activities on the Property (including the amounts expended on such activities).

C. Budget Review and Approval.

1. Amendment to GCC's By-Laws. As soon as practical after the signing of the First Amendment, GCC agrees to amend its by-laws (the "***GCC By-Laws***") to provide that the City shall have the right to appoint three of the GCC board of directors ("***GCC Board***") (which members appointed by the City shall hereinafter be referred to as the "***City GCC Board Members***"). The City GCC Board Members shall serve three-year terms, which terms may be renewed in the discretion of the City Council for one additional three-year term. The City GCC Board Member Position Description is attached as Exhibit E. The GCC By-Laws shall also continue to provide for a sub-committee, known as the "***Finance and Operations Sub-Committee***," which shall be comprised of the City GCC Board Members, the GCC Chairperson, and the GCC Treasurer. The GCC By-Laws shall further



provide that: (a) the Finance and Operations Sub-Committee shall i) oversee the preparation of the annual operating and capital budgets and audit; ii) review monthly GCC financial statements and review periodically GCC's accounting and cash management policies; iii) oversee GCC's strategies relating to operations, staffing, building maintenance and repair, space rental, general programming, and theater programming; and iv) oversee and review a long-range financial plan for GCC; (b) the City GCC Board Members shall be full voting members of the GCC Board; (c) a City GCC Board Member shall serve as the chairman of the Finance and Operations Sub-Committee and the chair shall be a member of the GCC Executive Committee; and (d) the City Manager shall be a non-voting participant of the GCC Board. The GCC shall submit the foregoing amendment of the GCC By-Laws to the City Manager for review and written approval, and, following such approval, the GCC shall not further amend the GCC By-Laws in any way that alters, directly or indirectly, the amendments set forth in this Section 10.C.1.

2. City Director Appointment. Following the approval of the amendments to the GCC By-Laws as set forth in Section 10.C.1 of this Agreement, the Membership Committee, with the approval of the City Manager, shall realign the GCC Board to result in its having three City GCC Board Members (from among those that are currently City Directors or newly appointed City Directors).

3. Annual Budget.

- a. On an annual basis, the Finance and Operations Sub-Committee and the GCC Executive Director (who shall report to the GCC Board) shall submit to the City Manager and Finance Chair of the City Council for review and recommendation to the City Council, the GCC's annual budget and plans for the use of and programming at the Property (the "***Annual Budget and Plan***"). The Annual Budget and Plan shall set forth, *inter alia*, fees and charges for the use and occupancy of the Property, as well as projected additional revenues and expenditures, and identification of specific programs and occupants (to the extent known) of various spaces within the Property. The Annual Budget and Plan shall also include at least the "Minimum Annual GCC Maintenance Investment" (as hereinafter defined). In addition, the Annual Budget and Plan shall include a five-year financial forecast.
- b. In connection with the City's review of the Annual Budget and Plan, the Parties shall review the capital needs of the Building for a five-year period, capital budgets of GCC and the City, the maintenance contracts of the GCC, as well as any adjustments that may be appropriate to the "Listing of Infrastructure Replacement Responsibilities" (as hereinafter defined). Nothing in this Section 10 precludes the GCC from seeking contributions from the City for any significant Building infrastructure costs that the GCC has incurred or anticipates incurring as part of the Annual Budget and Plan process.
- c. Following such review (which may include interim comments with suggested revisions to the Annual Budget and Plan), City Staff shall

submit its recommendation for approval, approval with modification, or rejection of the Annual Budget and Plan to the full City Council. The City Council shall have the right to approve, approve subject to modifications, or reject the Annual Budget and Plan.

- d. The GCC shall only be authorized to use and occupy the Property in accordance with an approved Annual Budget and Plan. In the event that the City Council does not approve an Annual Budget and Plan as presented by the GCC, the GCC shall only be authorized to Operate and occupy the Property in accordance with the Annual Budget and Plan last approved by the City Council subject to rate adjustments not exceeding the change in the Consumer Price Index as defined in 35 ILCS 200/18-185 (the “*CPI*”) since the Effective Date of this Agreement.
- e. The Finance and Operations Sub-Committee shall from time-to-time establish guidelines for the GCC regarding the contents of such Annual Budget and Plan, including a timetable for its submission to and review by the City, which guidelines shall be subject to the approval of the City Manager.

D. Upkeep, Maintenance, Repair, and Replacement.

1. GCC's Responsibilities.

- a. Except as provided in Section 10.D.2 of this Agreement, or except as limited in Section 10.D.1.b, the GCC shall have the responsibility, at its sole cost and expense, for the upkeep, maintenance, repair, renewal, insurance, and replacement of the interior areas of the Building and any accessory buildings and structures on the Property and the improvements thereon in a safe, sanitary, and sound condition in order that such Property may continue to be used for the purposes set forth in this Agreement and the character of such Property may be preserved during the term of this Agreement.
- b. With respect to the upkeep, maintenance, repair, and replacement of the HVAC, elevator, electrical, plumbing, and fire suppression and alarm systems (but not replacement of lighting and plumbing fixtures) in the Building and any accessory buildings and structures on the Property (collectively, the “*GCC Maintenance Obligations*”), GCC shall be required to include in its Annual Budget and Plan sufficient funding to satisfy the GCC Maintenance Obligations each year. In any year in which GCC’s endowment falls below \$2,000,000.00. GCC shall be required to include in its Annual Budget and Plan at least \$25,000.00 in that year, which amount must be maintained each year until the GCC’s Endowment again reaches \$2,000,000.00. To the extent GCC does not expend the approved maintenance funding to satisfy the GCC Maintenance Obligations in any fiscal year, such remaining amount shall be placed in a

separate account (the “**GCC Maintenance Reserve**”), which GCC Maintenance Reserve (plus any interest earned thereon) shall be used only for satisfying GCC Maintenance Obligations. If, in any year, the cost of the GCC Maintenance Obligations exceeds the maintenance funding amount included in the approved Annual Budget and Plan), then GCC shall use such moneys that are available in the GCC Maintenance Reserve to undertake any necessary GCC Maintenance Obligations.

To the extent the GCC undertakes repair work on the Property for which the City receives proceeds under an applicable insurance policy or similar coverage, the City shall reimburse the GCC for its actual repair costs, but in no event more than the insurance proceeds that the City has actually received. Any such reimbursement amounts shall be deposited in the GCC Maintenance Reserve if it is in place per the preceding paragraph.

Notwithstanding the GCC’s obligations pursuant to this Section 10.D.1, the GCC shall not be required to undertake any GCC Maintenance Obligations in excess of the amounts set forth in the approved Annual Budget and Plan and amounts available in the GCC Maintenance Reserve.

2. City's Responsibilities. Notwithstanding the obligations of the GCC as set forth in this Agreement, the City shall retain responsibility for general outside maintenance and upkeep of the Property and the Building. Upkeep of the Property shall include without limitation maintaining, repairing, and replacing driveways, sidewalks, curbs and gutters, drains, parking areas, and fences, including, but not limited to, maintenance of the grassy areas, landscaping, brush, leaf, and snow removal, and spring and fall cleanup. Upkeep of the exterior of the Building shall include without limitation maintaining, repairing, and replacing the roof, gutters, windows, window frames, storm windows, trim, exterior doors, other exterior structural elements, water lines, and sewers, and repair and repainting of exterior surfaces. The City's maintenance and upkeep of the exterior of the Building and the aforementioned exterior elements of the Property shall be performed in a manner equivalent to the City's maintenance and upkeep of other public grounds. In addition, the City shall retain responsibility for the replacement of the items set forth on Exhibit B hereto, which is incorporated into this Agreement by reference (the “**Listing of Infrastructure Replacement Responsibilities**”). Further, to the extent that GCC is unable to perform the GCC Maintenance Obligations due to unavailability of moneys as set forth in the last paragraph of Section 10.D.1 of this Agreement, the City may also undertake any necessary upkeep, maintenance, repair, and replacement that would otherwise be included in the GCC Maintenance Obligations. The City's obligation to perform the responsibilities set forth in this Section 10.D.2 shall be subject to the City Council authorizing sufficient funds for performing such responsibilities in the Council's sole and absolute discretion, and the failure or refusal of the City Council to so authorize sufficient funds shall not be a breach of any obligation of the City under this Agreement, even if such failure or refusal requires the

GCC to modify its use, occupancy, or programming relating to the Property.

E. Remedies. In the event that the City determines that the GCC has failed to satisfactorily perform its GCC Maintenance Obligations as required under Section 10.D.1 of this Agreement, the City shall have the right, but not the obligation, (a) to perform any necessary upkeep, maintenance, repair, or replacement itself and to be reimbursed for such upkeep, maintenance, repair, or replacement work by the GCC upon invoice therefor, which reimbursement amount (plus the full amount of any expenses, including attorneys' fees, incurred by the City in recovering such reimbursement amount from the GCC) shall be deemed another charge under this Agreement or (b) to terminate this Agreement, subject to the cure provisions contained in Section 17.A.1 of this Agreement.

F. GCC Fundraising: Naming Rights. The Parties acknowledge and agree that part of the activities of the GCC with respect to its Operation of the Property will involve fundraising efforts through private and other contributions. To this end, the Parties also acknowledge that offering naming rights with respect to the Property is a potentially viable means to enhance such fundraising. The City agrees that the GCC may enter into agreements or other arrangements with respect to potential contributors to confer naming rights upon such contributors, subject to the following terms and limitations:

1. The GCC shall not agree to rename the Property or the Building from its current name of "Gorton Community Center" without the approval of the City pursuant to a resolution duly adopted by the City Council.
2. Except as provided in Section 10.F.3, the GCC shall not confer naming rights for a period of time extending beyond the then-current Term of this Agreement without the approval of the City pursuant to a resolution duly adopted by the City Council.
3. The GCC shall not confer naming rights upon a corporate donor or honoree without the approval of the City pursuant to a resolution duly adopted by the City Council.

In each instance where City Council approval of naming rights is required, the City Council's determinations with respect to naming rights shall be in its sole legislative discretion based on the City Council's determination of the best interests of the City and its residents. Any deliberations by the City Council regarding naming rights under this Subsection 10.F shall take place in executive session, to the extent permitted by law. Any City Council approval of naming rights as required in this Agreement shall be through the approval of an agreement between the City and GCC in substantially the form attached hereto as Exhibit C (a "***Naming Rights Agreement***"). In connection with any request for naming rights, the GCC shall provide to the City such information regarding the naming rights and donation as the City may reasonably request; provided that, for any request for approval of naming rights involving a donation in excess of \$1,000,000.00 (which amount shall be

adjusted every ten years to reflect changes in the CPI)(the "**Threshold Amount** "), the GCC shall certify to the City that the donation exceeds the Threshold Amount, but GCC shall not be required to disclose the specific amount of the donation. Nothing shall prevent the GCC from granting naming rights for any portion of the Property without City approval so long as such grant is not inconsistent with the terms of this Section 10.F, and provided that such grant of naming rights is subject to terms allowing termination resulting from illegal or immoral acts of the grantee. The City waives all rights to any donations or contributions made in connection with the granting of any naming rights that comport with the terms of this Subsection 10.F. Any Naming Rights Agreement between the City and the GCC entered pursuant to this Subsection 10.F shall be independent of this Agreement, notwithstanding termination of this Agreement.

**Section 11. Additions and Major Structural Changes; Rebuilding in the Event of Fire or Other Casualty.**

A. Improvements to Property. Subject to the parties' responsibilities under Section 10 of this Agreement, any addition, remodeling, new construction, or major structural changes to the Property or any building or structure thereon shall be permitted only if: (i) such addition, remodeling, new construction, or change shall not adversely affect the parties' ability to use the Property for its intended purposes (exclusive of disruption due to construction); (ii) such addition, remodeling, new construction, or change shall conform to the terms of this Agreement and applicable building codes; (iii) such addition, remodeling, new construction, or change shall be undertaken at no cost to the City unless the City proposes the addition, remodeling, new construction, or major structural changes, and either the City agrees to pay for such work or the parties otherwise agree to an allocation of the cost of such addition, remodeling, new construction, or change.

B. Damage Other than Material Damage. In the event that the Building is damaged by fire, storm, or other casualty (with the exception of "material damage" as defined in Section 11.D) the repair, rebuilding, replacement, or restoration of the damaged property shall be completed by the GCC or the City, depending on the nature of the damage and the party responsible in accordance with Section 10.D of this Agreement, and subject to the limitations in Section 10.D of this Agreement. In the event that damage affects portions of the Property for which each of the parties are responsible, then the City shall have primary responsibility for undertaking the repair, rebuilding, replacement, or restoration work required; provided that such work shall be undertaken in cooperation and consultation with the GCC; and provided further that the GCC shall be financially responsible to the City for the costs incurred as a result of damages within its area of responsibility as set forth in and subject to the limitations of Section 10.D.1. Any repair, rebuilding, replacement, or restoration of the damaged property shall be undertaken in a manner consistent with the design, character, and quality of the improvements to be restored. Notwithstanding anything to the contrary in this Section 11.B, to the extent that insurance proceeds are available covering said damage (including, without limitation, the insurance obtained by the City or the GCC pursuant to Section 13 hereof), such insurance proceeds shall be applied to the costs

of such repair, rebuilding, restoration, or replacement before the financial obligations of either party as set forth in this Section 11.B shall be triggered; provided further that, to the extent that a deductible amount must be satisfied in order to access insurance proceeds, the City shall have no obligation to pay such deductible amount unless such expenditure is approved by resolution of the City Council. With respect to ongoing conditions of seepage and mold, the parties acknowledge that this affects each of their areas of responsibility and shall work cooperatively to address such conditions.

C. Material Damage. In the event that the Building is damaged by fire, storm, or other casualty and such damage is "material damage" as defined in Section 11.D, the damaged property shall be rebuilt, repaired, restored, or replaced only if, within 365 days after such damage has been determined to be "material damage" as provided in Section 11.D (or such longer period as the Parties may mutually agree in writing), the City and the GCC agree on: (i) the nature, design, character, manner, and cost of the work necessary to rebuild, repair, restore, or replace the damaged portion of the Building in a manner so as to be consistent with the existing building, and (ii) the application of insurance proceeds to the costs of such rebuilding, repair, restoration, and replacement and the allocation of any costs thereof which exceed such insurance proceeds. If the City and the GCC cannot so agree within 365 days, the City shall have the right to terminate this Agreement and to assume full control and rights to occupy the Property and the Building.

D. Definition of Material Damage. For purposes of Subsections 11.B and 11.C, "material damage" shall be deemed to exist if the Building is damaged to the extent of 50% or more of its value as determined on a replacement cost basis. If the City and the GCC cannot agree as to the existence or non-existence of "material damage" within 30 days of the time the damage occurred, the City shall select an independent consultant qualified in such matters to assess the damage, and such consultant's determination shall be final and binding upon the parties. Damage to any accessory building or structure on the Property shall not be deemed to be "material damage."

## **Section 12. Indemnification.**

A. By GCC. The GCC shall indemnify, save harmless, and defend the City and the City Representatives from and against any and all claims that may arise, or be alleged to have arisen, out of or in connection with (i) the GCC's Operation of or on the Property; (ii) any act or omission of the GCC whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the GCC, except to the extent caused by the sole negligence of the City; or (iii) any breach of this Agreement by the GCC. The GCC shall not cause any liens to be placed on the Property without the express prior written consent of the City. Should any lien be placed on the Property as a result of the actions or inactions of the GCC, the City shall have the right, but not the obligation, to discharge such lien in order to prevent either an imminent foreclosure on the lien or an imminent judicial sale of the Property, and the full amount paid in discharging such lien (plus full amount of any expenses, including attorneys' fees, incurred by the City in recovering the paid lien amount from GCC) shall be deemed another charge upon the GCC under this Agreement.

B. By the City. The City shall indemnify, save harmless, and defend the GCC, its boards, committees, commissions, officers, agents, and employees, against any and all lawsuits, claims, demands, liens, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that may arise, or be alleged to have arisen, as a direct result of any default under this Agreement by the City.

### **Section 13. Insurance.**

A. The GCC shall obtain, maintain, and continue in effect throughout the term of this Agreement at least the following policies of insurance or equivalent coverages issued by a company with at least an "A" rating from the most recently published *Alfred M. Best and Company Guide* and authorized to do business in the State of Illinois or an intergovernmental self-insurance pool authorized by the State of Illinois (such as the Intergovernmental Risk Management Agency):

1. General comprehensive liability insurance, insuring the GCC against liability for personal and bodily injury, death, or damage to property arising out of the Operation of the Property by the GCC. Such insurance shall provide coverage with policy limits of not less than \$2 million in the event of bodily injury or death to one or more persons and in an amount of not less than \$2 million for property damage.
2. If applicable, automobile liability insurance, on an "any auto" basis, with a combined single limit for personal injury and property damage not less than \$1 million.
3. Workers' compensation insurance, with such limits as are required by law.
4. Employer's liability insurance, with limits not less than \$500,000 per person-injury and \$1 million per occurrence.
5. Such insurance as may be required in connection with the licensure of the Drop-In Center.

The foregoing policy limits shall be reviewed every fifth anniversary of this Agreement, and the City may require the GCC to increase the minimum policy amounts; provided, however, that no such increase in the minimum policy amounts shall exceed the increase in the "Consumer Price Index" as defined in 35 ILCS 200/18-185 (2002). Unless the City and the GCC otherwise agree and so long as it is commercially reasonable, such policies shall have a maximum per occurrence deductible of \$1,000.00. To the extent feasible, the GCC shall have the City identified as an "additional insured" (or equivalent) in connection with the foregoing coverages. The City reserves the right to receive, review, and approve any insurance policy that the GCC obtains. Any such policy shall provide that the policy may not be cancelled or changed without the GCC and the City receiving notice of such impending cancellation or change at least 30 days in advance of the effective date of such

cancellation or change. Nothing in this Agreement shall preclude the GCC from obtaining other insurance, including insurance for personal articles or other improvements, fixtures, and furnishings of the GCC on the Property; such other policies shall not be subject to the terms and requirements set forth for other policies in this section.

B. Subject to the availability of insurance on commercially reasonable terms, the City shall maintain, at its sole cost and expense during the term of this Agreement, "all risk" property insurance for the Property in an amount reasonably equivalent to the estimated replacement value of the buildings, structures, and related improvements on the Property (including the Building).

C. Upon request of the other party, the City or the GCC shall promptly provide the other party with copies of insurance policies or coverage documents that are required under this Section 13.

**Section 14. Eminent Domain.** In the event that all or substantially all of the Property shall be taken by any governmental agency or utility that has the power of eminent domain, then the GCC shall have the right to terminate this Agreement within 60 days thereafter. Each party shall have the right to maintain its own respective action against the condemning authority for its respective damages and neither party shall have any interest in any award granted to the other. The City agrees not to exercise its right of eminent domain with respect to the Property.

**Section 15. Environmental Compliance.**

A. The GCC shall, at the GCC's sole cost and expense, comply with all environmental laws pertaining to the GCC's Operations on the Property, including the following (collectively referred to as the "Environmental Laws"):

1. Any applicable federal, state, or local statute, law, ordinance, rule, regulation, code, license, permit, authorization, approval, consent, order, judgment, decree, injunction, directive, requirement by, of, or agreement with any governmental agency, existing as of this Agreement's execution date and as enacted or amended thereafter, relating to:
  - a. the protection, preservation, or restoration of the environment (including, without limitation, air, water, vapor, surface water, ground water, drinking water supply, surface land, subsurface land, plant and animal life, or any other natural resource), or to human health and safety; or
  - b. the exposure to, or the use, storage, recycling, treatment, generation, transportation, processing, handling, labeling, production, release, or disposal of, hazardous substances.
2. The Environmental Laws also includes, without limitation, any common law



or equitable doctrine (including, without limitation, injunctive relief and tort doctrines such as negligence, nuisance, trespass, and strict liability) that may impose liability or obligations for injuries or damages related or incidental to, or threatened as a result of, the presence of or exposure to any hazardous substance and the following statutes and implementing regulations:

- a. the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.);
- b. the Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.);
- c. the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901 et seq.);
- d. the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. § 9601 et seq.);
- e. the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.); and
- f. the Occupational Safety and Health Act, as amended (29 U.S.C. § 651 et seq.).

B. Except as is customary for ordinary cleaning and maintenance, the GCC shall not cause or permit any hazardous substance to be brought, kept, stored, or used in or about the Property in violation of any of the Environmental Laws. "Hazardous substance" includes, without limitation, any explosive or radioactive material, asbestos, asbestos containing material, urea formaldehyde foam insulation, polychlorinated biphenyls, special waste, or petroleum products or any derivative or by-product thereof, methane, toxic waste, pollutant, contaminant, hazardous waste, toxic or hazardous substances, or related materials, as defined in the Environmental Laws.

C. If the GCC causes or permits any hazardous substance to be brought, kept, stored, or used in or about the Property in violation of any of the Environmental Laws and such violation results in the contamination of the Property, the GCC shall indemnify, save harmless, and defend the City and the City Representatives against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses (collectively, "**Claims**"), that may arise, or be alleged to have arisen, out of or in connection with the GCC's acts or omissions in connection with such hazardous substance whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the GCC, except to the extent caused by the sole negligence of the City.

D. The GCC represents, covenants, and warrants that the GCC's Operations in, on, or under the Property shall be in compliance with all applicable Environmental Laws.

E. Nothing in this Agreement shall require either party to assume any

responsibility for any violation of Environmental Law caused by the act or omission of the other party.

F. In the event that the GCC is subject to Claims arising from alleged non-compliance with any applicable Environmental Laws that relate solely to the Property and is unrelated to any action or inaction of the GCC (or any of its predecessors, whether incorporated or unincorporated) and its Operations on the Property, the City shall indemnify, save harmless, and defend the GCC and its board members, directors, officers, officials, employees, agents, attorneys, and representatives against all such Claims.

**Section 16. Assignment.** The GCC may not assign or otherwise transfer all or any part of its interest in this Agreement or in the Property without the prior written consent of the City. Any assignment or transfer without such written consent shall, at the City's option, be deemed to be void and of no force or effect. Notwithstanding any assignment or transfer, the GCC shall remain fully liable on this Agreement and shall not be released from performing any of the terms, covenants, or conditions of this Agreement.

**Section 17. Default and Other Disputes.**

A. GCC Default:

1. The GCC shall be in default of this Agreement if the GCC (i) breaches any covenant or condition of this Agreement and fails to cure such default within 30 days after notice from the City specifying the default complained of (provided that if such default is not reasonably susceptible of cure within said 30 day period and if the GCC is diligently and continuously pursuing such cure to completion, then such cure period shall be extended for such period of time as is reasonably necessary to complete the curative activities), or (ii) abandons the Property.
2. In the event of a default as described above, the City shall have the right, at its option, in addition to and not exclusive of any other remedy the City may have in law or equity with only such further demand or notice as may be required by applicable law, to re-enter the Property and eject all persons therefrom, and declare this Agreement at an end.
3. In the event of a default as described above, no re-entry and taking of possession of the Property by the City shall be construed as an election on the City's part to terminate this Agreement, regardless of the extent of renovations and alterations by the City, unless a written notice of such intention is given to the GCC by the City. Notwithstanding any re-entry and taking of possession of the Building and Property without termination, the City may at any time thereafter elect to terminate this Agreement for such previous breach.

B. City Default. The City shall be in default of this Agreement if the City shall breach any of its covenants contained in this Agreement and does not cure such other

default within 30 days after notice from the GCC specifying the default complained of (provided that if such default is not reasonably susceptible of cure within said 30 day period and if the City is diligently and continuously pursuing such cure to completion then such cure period shall be extended for such period of time as is reasonably necessary to complete the curative activities). The parties agree that the City shall not be in default for any failure or refusal to budget or expend funds for the upkeep, maintenance, repair, or replacement of the Property (including failure or refusal to address matters set forth in the Listing of Infrastructure Replacement Responsibilities).

C. Other Disputes. In addition to matters that may constitute a breach or default under this Agreement, the parties shall attempt to resolve all other disputes arising under this Agreement amicably between themselves.

**Section 18. Force Majeure.** Except as otherwise expressly set forth herein, in the event that either party hereto shall be delayed or hindered in, or prevented from, the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive laws or regulations of governmental agencies, riots, insurrection, war, or other reasons of a like nature not the fault of the party delayed in doing acts required under the terms, covenants, and conditions of this Agreement (all of such reasons or causes referred to in this Agreement as "Force Majeure"), then performance of such acts shall be excused for the period of the delay and the period of the performance of any such act shall be extended for a period equivalent to the period of such delay.

**Section 19. Termination; Surrender of Property.**

A. Terminating Events. This Agreement shall terminate upon the occurrence of any one or more of the following events:

1. The GCC and the City mutually agree to terminate this Agreement.
2. Upon the expiration of any applicable cure period following a default of either of the parties pursuant to this Agreement.
3. The expiration of the initial Term (or any additional Term as authorized pursuant to Section 4.A of this Agreement), subject to the termination provisions in Section 4.B.
4. The following changes to the organizational structure of the GCC: (a) dissolution of the GCC, whether voluntary or involuntary; (b) merger of the GCC into, or acquisition of the GCC by, another organization; (c) the disposition of all or a substantial portion of the assets and properties of the GCC; or (d) such a substantial change in the purposes or functions of the GCC that it no longer Operates or is no longer able to Operate as a community center serving the residents of the City and the Village of Lake Bluff, unless (i) the organization succeeding to or acquiring the GCC or acquiring its assets and properties shall be capable of carrying on the activities of the GCC and

shall agree to assume the GCC's obligations and responsibilities under this Agreement and (ii) the City shall consent to the substitution of such organization as a party to this Agreement in lieu of the GCC.

5. In the event that the Building suffers "material damage" (as defined in Section 11.D of this Agreement) and, within a period of 365 days from the date that the existence of such "material damage" has been determined, the City and the GCC fail to come to an agreement upon an acceptable program for the rebuilding, repair, or restoration of the Gorton Building.
6. In the event that the Building or a substantial portion thereof ceases to be fit for the intended purposes of this Agreement or otherwise not fit for habitation or occupancy in accordance with the codes and regulations of the City.

B. City's Use of the Property Upon Termination. Upon termination of this Agreement, the GCC shall cease Operations and deliver possession of the Property to the City, and all improvements or additions to the Property, if any, made to the Property by the GCC shall become the property of the City without compensation therefor. The City may, then, at its option occupy, operate, and manage the Property or any portion thereof; (ii) lease or license the Property or any portion thereof to other persons or organizations; (iii) sell or dispose of the Property or any portion thereof; or (iv) make such other use of the Property as the City deems appropriate. Upon surrender of the Property, the GCC shall return the Property and Building to the City in reasonably good repair consistent with the maintenance obligations under this Agreement, including removal and restoration of all portions of the Property or Building affected by any naming rights granted by the GCC and not subject to a Naming Rights Agreement.

## **Section 20. Administrative Services and Other Agreements.**

A. Provision of Administrative Services. The City will make available to the GCC certain administrative services as may be agreed upon from time-to-time by the City Manager. Any such agreement for services shall only be authorized if such services will be without additional cost to the City, or if the GCC reimburses the City for any such additional costs. Any such agreement for services that the City Manager may approve shall be subject to the City's ability to perform all authorized City activities, and such agreements shall be terminable at the will of the City or the GCC upon no less than 90 days' written notice; provided that the City shall not so terminate any such agreement unless the City Manager determines that the City's performance under any such agreement will inhibit or interfere with the City's ability to perform its own authorized activities. In no event shall the City be required to employ additional personnel in order to provide any services to the GCC in accordance with this Agreement.

B. Liquor Licensing. The Parties acknowledge that, in conjunction with the programming for and use of the Property, the GCC (either for itself or its occupants) may from time-to-time desire to make available alcoholic beverages. The Parties hereby agree to execute and deliver to each other duplicate originals of the "*Reciprocal Fee Agreement* "

attached hereto as Exhibit D.

**Section 21. Taxes; Exemption.**

A. Exemption. The parties mutually acknowledge (i) their belief that the Property is entitled to a real estate tax exemption, and (ii) their mutual obligation to seek, obtain, and maintain the Property's tax exempt status.

B. Payment Rights and Obligations. The GCC shall pay, promptly and before they become delinquent, all general and special real estate taxes assessed during the Term of this Agreement, if any, upon or against the land and improvements comprising the Property to the extent that such taxes are imposed upon the Property as a result of the use, occupancy, or Operation of the Property by the GCC or any of its Third Party Users. In the event that the GCC does not timely pay any real estate taxes when due, the City shall have the right, but not the obligation, to pay such taxes, and the amount of such taxes and any interest or penalties assessed upon any past-due taxes (plus the full amount of any expenses, including attorneys' fees, incurred by the City in recovering any taxes, interest, or penalties paid from GCC) shall be deemed another charge due from the GCC under this Agreement.

C. Failure to Obtain Exemption. Failure to obtain or delay in obtaining a real estate tax exemption as provided above shall not constitute a breach of this Agreement.

D. Other Taxes. In addition to real estate taxes, GCC shall pay any and all other taxes arising from its use and Operation of the Property.

**Section 22. Additional Properties and Donations.**

A. Additional Properties. With the consent of the City and the GCC, additional properties donated or leased to the City or otherwise acquired by the City may become subject to the terms of this Agreement.

B. Donations. The City shall not actively solicit donations relating to the Property. If offered, however, donations may be accepted by the City and transferred to the GCC for use in the preservation, improvement, or restoration of the Property or any portion thereof or for any other purpose that is compatible with the Operation of the Property, under such conditions and limitations as the donor may specify; provided, however, that to the extent any donation delivered expressly for the purpose of preserving, improving, restoring, or maintaining the exterior of the Building or portions of the Property other than the Building, the City shall keep all such donations in a separate fund to be expended solely for the purposes specified. The City agrees to notify the GCC promptly of any such donations so received.

**Section 23. General.**

A. Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be (a) personally delivered, (b) delivered by a reputable overnight courier, or (c) delivered by certified mail, return receipt requested,

and deposited in the U.S. Mail, postage prepaid. Telecopy notices shall be deemed valid only to the extent they are (i) actually received by the individual to whom addressed and (ii) followed by delivery in the manner described in either (a), (b), or (c) above within three business days thereafter. Unless otherwise expressly provided in this Agreement, notices shall be deemed received at the earlier (x) of actual receipt, or (y) one business day after deposit with an overnight courier as evidenced by a receipt of deposit or (z) three business days following deposit in the U.S. mail, as evidenced by a return receipt. Notices shall be directed to the parties at their respective addresses set forth below or at such other address as either party may, from time-to-time, specify by written notice to the other in the manner described above:

City:

GCC:

The City of Lake Forest 220 E.  
Deerpath  
Lake Forest, Illinois Attention:  
City Manager

Gorton Community Center 400  
East Illinois Road Lake Forest, IL  
60045  
Attention: Executive Director

B. Binding Effect. The benefits of this Agreement shall inure to and the obligations hereof shall be binding upon the heirs, personal representatives, successors, and assigns of the respective parties hereto.

C. Time of the Essence. Time is of the essence in the performance of all terms, covenants, and conditions of this Agreement.

D. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

E. Non-Waiver. The failure of the City or the GCC to enforce against the other any term, covenant, or condition of this Agreement shall not be deemed a waiver thereof, nor void or affect the right of the aggrieved party to enforce the same term, covenant, or condition on the occasion of any subsequent breach or default; nor shall the failure of either party to exercise any option in this Agreement upon any occasion arising therefor be deemed or construed to be a waiver of the right to exercise that same kind of option upon any subsequent occasion.

F. No Joint Venture. The parties mutually acknowledge and agree that, although, the City and the GCC are separate and independent legal entities, each responsible for their own affairs and obligations (including without limitation all matters of contract, finance, employment, and governance), they are pursuant to this Agreement engaged in a common endeavor relating to public business concerning the operation of a community center on municipal property for public benefit and that their activities and responsibilities in this regard are intended to be closely enmeshed and coordinated through the terms of this Agreement. It is hereby further understood and agreed that nothing contained in this Agreement shall be deemed or construed as creating the relationship of principal and agent, partnership, or joint venture between the parties hereto, it being agreed that no provision herein contained nor any acts of the parties herein shall be deemed to create any relationship between the parties hereto other than the relationship of contracting parties as herein set forth.

G. Consents. Whenever the consent or approval of either party is required herein, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed, and, in all matters contained herein, both parties shall have an implied obligation of reasonableness, except as may be expressly set forth otherwise.

H. Warranties Regarding Execution.

1. In order to induce the GCC to enter into this Agreement, the City hereby warrants and represents to the GCC as follows:

a. The City has the authority and legal right to make, deliver, and perform this Agreement and has taken all necessary actions to authorize the

execution, delivery, and performance of this Agreement; and

- b. The execution, delivery, and performance of this Agreement (i) is not prohibited by any requirement of law under any contractual obligation of the City; (ii) will not result in a breach or default under any agreement to which the City is a party or to which the City is bound; and (iii) will not violate any restrictions, court order, or agreement to which the City is subject; and
  - c. The party executing this Agreement on behalf of the City has full authority to bind the City to the obligations set forth herein.
2. In order to induce the City to enter into this Agreement, the GCC hereby warrants and represents to the City as follows:
- a. The GCC has the authority and legal right to make, deliver, and perform this Agreement and has taken all necessary actions to authorize the execution, delivery, and performance of this Agreement; and
  - b. the execution, delivery, and performance of this Agreement (i) is not prohibited by any requirement of law under any contractual obligation of the GCC; (ii) will not result in a breach or default under any agreement to which the GCC is a party or to which the GCC is bound; and (iii) will not violate any restrictions, court order, or agreement to which the GCC is subject; and
  - c. The party executing this Agreement on behalf of the GCC has full authority to bind the GCC to the obligations set forth herein.

I. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the internal laws, but not the conflict of laws rules, of the State of Illinois.

J. Severability. If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. In addition, to the extent any invalidity is the result of a procedural deficiency that can be readily cured, the parties agree to take such curative actions as may be necessary or appropriate.

K. Grammatical Usage and Construction. In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

L. Interpretation. This Agreement shall be construed without regard to the



identity of the party who drafted the various provisions hereof. Moreover, each and every provision of this Agreement shall be construed as though all parties hereto participated equally in the drafting and approval thereof. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable hereto.

M. Headings. The table of contents, heading, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

N. Exhibits. Exhibits A through E attached hereto are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement shall control.

O. Amendments and Modifications. This Agreement may not be modified or amended except by written instrument executed by each of the parties hereto.

P. Counterpart Execution. This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed this First Amendment as of the date first above written.

GORTON COMMUNITY CENTER, an  
Illinois not-for-profit corporation

ATTEST:

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

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

\_\_\_\_\_

THE CITY OF LAKE FOREST, an Illinois  
municipal corporation

ATTEST:

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

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

\_\_\_\_\_

## **EXHIBIT A**

### **Legal Description of the Property**

*Lots 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 in W. S. Johnston's Estate  
Subdivision according to the plat thereof recorded as Document No. 68247 on July 1,  
1897, in the north            Section 33, Township 44 North, Range 12 East of the 3'd  
Principal Meridian, City of Lake Forest, Lake County, Illinois.*

## **EXHIBIT B**

### **Listing of Infrastructure Replacement Responsibilities**

<b>List of HSEI Items</b>	<b>City's Area of Responsibility</b>
HVAC Units & Controls	End of Life Cycle Capital Replacement
Elevator Cab, Hydlcs & Controls	End of Life Cycle Capital Replacement
Fire Suppression Systems & Fire Alarm System	End of Life Cycle Capital Replacement
Rekeying Entire Building (108 doors)	One-time Capital Replacement
Security Camera System	One-time Capital Improvement

## **EXHIBIT C**

### **Naming Rights Agreement**

*[Attach Signed Version]*

**EXHIBIT D**

**Reciprocal Fee Agreement**

*[Attach Signed Version]*

## **EXHIBIT E**

### **City GCC Board Member Position Description**

A Gorton Community Center (sometimes abbreviated “GCC”) City of Lake Forest (“City”) Director (also referred to as a “City GCC Board Member”) is appointed to the Gorton Board of Directors by the City Mayor with the concurrence of the City Council for a term of three years and up to two terms.

### **City GCC Board Members**

A City GCC Board Member shall be a full voting member of the GCC Board of Directors, the Finance Committee and such other committees as appointed to by the Board President.

A City GCC Board Member is expected to:

- a. Devote special attention to the interests of the City in maintaining a viable and financially sound institution that operates for the benefit of the City and neighboring communities.
- b. Participate in Gorton’s finance and operations strategies to include:
  1. oversee the preparation of the annual operating and capital budgets and audit;
  2. review monthly Gorton’s financial statements and review periodically Gorton’s accounting and cash management policies;
  3. oversee Gorton’s strategies relating to operations, staffing, building maintenance and repair, space rental, general programming, and theater programming; and
  4. oversee and review a long-range financial plan for Gorton.
- c. Bring to the attention of the GCC Board any matters related to the governance of the Gorton Community Center that may be detrimental to the City. If the City GCC Board Member feels that GCC Board action on the matter (whether action on the matter is taken or not taken) is insufficient, the City GCC Board Member shall bring the matter to the attention of the Finance Committee Chair of the City Council.

### **City GCC Board Members Qualifications**

Qualifications for a City GCC Board Member should include:

- Strong communication skills
- Knowledge of finance and organization management
- No conflicts of interest with GCC operations

And may include:

- Experience serving on other non-profit boards or City boards and commissions
- Non-profit management experience
- Specialized knowledge of GCC services and operational requirements

**FIRST AMENDMENT TO THE RESTATED AGREEMENT**  
**RELATING TO THE GORTON PROPERTY**

**THIS AGREEMENT FIRST AMENDMENT** is made ~~as of the 1<sup>st</sup>~~ day of ~~July, 2013~~, 2019 (the "*Effective Date*"), by, between, and among **THE CITY OF LAKE FOREST**, an Illinois municipal corporation (the "*City*"), and the **GORTON COMMUNITY CENTER**, an Illinois not-for-profit corporation (the "*GCC*");

**WITNESSETH:**

**WHEREAS**, the City is the owner of certain real property at the site of the former Gorton School located at 400 East Illinois Road in Lake Forest, Illinois, and legally described in Exhibit A to this ~~Agreement~~First Amendment (the "*Property*"); and

**WHEREAS**, the Property is improved with a building (the "*Building*") and since approximately 1972, the Building and Property has been operated as a community center for the purposes of promoting activities of public interest and bringing together organizations for the benefit and enjoyment of the entire Lake Forest community (the "*Community Center*"); and

**WHEREAS**, the GCC is a not-for-profit entity financially independent from the City and has an independently appointed Board of Directors; and

**WHEREAS**, the GCC, including its predecessor and related entities, has used various portions, and operated aspects of, the Community Center and Property for over forty years; and

**WHEREAS**, during this time, the Community Center's activities and services have expanded, and the GCC now makes certain facilities of the Property available to organizations benefiting the Lake Forest and Lake Bluff communities and beyond for meetings, programs, and activities in order to enhance cultural, social, recreational, civic, and educational opportunities for the residents of Lake Forest and Lake Bluff and others; and

**WHEREAS**, the GCC has also made the Property available to various other community service organizations, thereby offering the Lake Forest and Lake Bluff communities a true center for accessing many of the organizations and services that enhance the lives of the residents of Lake Forest and Lake Bluff; and

**WHEREAS**, the City recognizes that in GCC's use and operation of the Community Center, GCC has performed, or facilitated other organizations in performing, various services that might otherwise be undertaken directly by the City, including without limitation, cultural and recreational programs, for all ages, and certain social service programs, including day care services provided through the Gorton Children's Drop-In Center (the "*Drop-In Center*"), which is a part-time day care facility licensed by the State of Illinois; and

**WHEREAS**, the continued operation of the Drop-In Center as part of the Community Center is one of many important considerations in the City's execution of this ~~Agreement~~First Amendment; and

**WHEREAS**, the GCC has historically employed, and currently employs, both full-time and part-time staff for purposes of overseeing the operations of the Community Center and the Property (including the Drop-In Center), as well as for the purposes of providing direct services to the community; and

**WHEREAS**, the Community Center has been financed through GCC's, and ~~through~~ related entities', fundraising efforts as well as the proceeds from user fees from the Community Center's ~~programs~~ and income from other organizations and individuals using the Property; and

**WHEREAS**, in addition to its programming and service activities, the GCC has assumed stewardship of the historically significant building, as more fully described herein, and certain facilities on the Property to ensure that such elements of the Property ~~are~~ well maintained and preserved for the benefit of the community; and

**WHEREAS**, the City and GCC have determined that certain administrative efficiencies for the Community Center can be achieved through mutual cooperation; and

**WHEREAS**, in recognition of the evolving role and activities of the Community Center as well as the importance of the Community Center to the City, its residents, and to the broader community in the Lake Forest-Lake Bluff area, GCC and the City desire to fully define their respective roles and responsibilities to each other and with respect to the Property, including the terms and conditions for the development, use, operation, and management of the Property; and

**WHEREAS**, on July 1, 2013, the City and GCC entered into that certain Restated Agreement Relating to the Gorton Property ("**Agreement**") to fully define their respective roles and responsibilities to each other and with respect to the Property, including the terms and conditions for the development, use, operation, and management of the Property; and

**WHEREAS**, the Agreement allows the City to appoint a varying number of members to the GCC board of directors and requires GCC to annually budget a certain amount of funds for the upkeep, maintenance, repair, and replacement of building systems; and

**WHEREAS**, the City and GCC now desire to amend the Agreement to, among other things, a) modify the number of City-appointed directors on the GCC board of directors and b) describe the required sharing of GCC's financial information with the City, as more fully set forth in this First Amendment;

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants and agreements set forth below and other good and valuable consideration, the sufficiency of which the parties hereto acknowledge, the parties hereby agree as follows:

**Section 1. Recitals.** The foregoing recitals are material to this First Amendment (also referred to as "Agreement") and are incorporated herein as if fully set forth in this Section 1.



~~(iii)~~ **Section 2. —Prior Agreements —Superseded.** ~~—This Agreement~~First Amendment supersedes and replaces all prior agreements between the City and the GCC, or its predecessor or ~~related~~ entities, including without limitation the following: (i) Operating Agreement for the Property, dated December 30, 2003, (ii) Agreement Relating to the Gorton Property, dated December 30, 2003, (iii) ~~the~~ Agreement Relating to the Payment of Fees Between The City of Lake Forest and the Gorton Community Center Corporation dated March 31, 2009, (iv) the Initial Services Agreement ~~dated November 17, 1984, and~~ (v) ~~the Lease, dated May 1, 1999—, and~~ (vi) the Restated Agreement dated July 1, 2013 (the "*Prior Agreements*"). Upon execution of this Agreement, the terms of the Prior Agreements are rendered null and void.

**Section 3. —Operating —Rights —and —Responsibilities.** ~~—The City hereby~~ grants, authorizes, ~~and appoints the GCC, and the GCC hereby accepts such grant, authorization, and appointment from the City, all operating, use, occupancy, maintenance, and management rights and responsibilities not reserved to the City hereunder (collectively, "Operate" or "Operation") relating to the Property and all structures and improvements located thereon, on the terms and conditions set forth herein. Notwithstanding the grant of authority and responsibility for the Property to the GCC, the City retains certain rights and responsibilities relating to the Property, as more fully set forth in this Agreement.~~

#### **Section 4. —Term and Charges.**

A. Initial Term. The GCC shall Operate the Property for an initial term of thirty~~—three~~ (33) ~~years,~~ from the effective date of the Restated Agreement, which ~~shall expire on July 1, 2046,~~ unless sooner terminated as hereinafter provided. The term of this Agreement shall automatically renew for two additional terms of thirty-three (33) years, except as provided in Section 4.B of this Agreement. The initial term and any renewal terms shall be collectively known as the "Term."

B. Renegotiation —of —Agreement. ~~—Not less than 360 days before the scheduled expiration of a Term of this Agreement, either party may notify the other of its desire to terminate or amend the provisions of this Agreement (a "Pre-Termination Notice"). Upon delivery of such Pre-Termination Notice, the parties shall engage in good faith discussions to reach an accord regarding any modified terms of this Agreement; provided, however, that upon the expiration of such 360-day period (or such longer period as the parties may mutually agree in writing), if no accord has been reached regarding the modification of the provisions of the Agreement, the Agreement shall be deemed terminated.~~

C. Other Charges and Fees. The GCC shall pay such other fees and charges as may be provided in this Agreement.

#### **Section 5. —Operation of the Property.**

A. GCC's —Use —of the —Property. ~~—During the term of this Agreement, the GCC shall Operate the Property as a Community Center and uses consistent with GCC's historic use of the Property since 1972 as a Community Center, subject to the terms and conditions of this Agreement. In connection with the Community Center Operation, space~~

upon the Property may be used and occupied for:

- (i) community ~~-service, -charitable, -and -other -similar -purposes -that -serve the-~~ Lake Forest and Lake Bluff communities;
- (ii) cultural, recreational, and educational activities for the enjoyment and benefit of Lake Forest and Lake Bluff residents of all ages;
- (iii) facilities in support of community activities, services, and other not-for-profit groups and organizations affiliated with the Lake Forest and Lake Bluff communities;
- (iv) GCC's office functions, activities, and programs;
- (v) the Drop-In Center; and
- (vi) such other uses that the City may otherwise approve.

During the term of this Agreement, the GCC shall continue to Operate the Drop-In Center and to obtain and maintain all required licenses and certifications therefor, unless the City otherwise consents in writing.

B. GCC's Development of the Property. The GCC may, without cost of expense to the City, construct additional buildings and structures on the Property, provided that (i) the City grants its prior written approval of such construction as owner of the Property, (ii) the GCC shall apply for and obtain all necessary permits and approvals from applicable federal, state, and local agencies and governmental bodies, including amendments to both the special use permit and this Agreement, and (iii) the use of any such building or structure shall be consistent with the current uses on the Property. Nothing in this Agreement shall preclude the GCC from requesting the City to waive fees or charges that may be due in connection with obtaining licenses, permits, or other required approvals from the City.

C. Terms ~~-for -Third -Party -Use.~~ ~~-During the term -of this Agreement, -the GCC may impose -charges on users -and others occupying the Property, -and the GCC -shall be entitled to keep all proceeds from such user charges. As a condition for any third parties to host events on, or to enter an agreement for longer term use of, the Property or a portion thereof, the GCC shall require such third party (a "**Third Party User**") to sign a written agreement, which -agreement shall provide, *inter alia*, that (i) the Third Party User shall release and hold harmless the City and its boards, committees, commissions, officers, officials, employees, -agents, -attorneys, and representatives (the "**City -Representatives** ") from -and against -any -suits, -actions, lawsuits, injuries, -damages, -losses, -liens, -costs, -expenses (including -any attorneys'- fees), judgments, or other claims of any sort of nature (the "**Claims**") relating to or arising from its use or occupancy of the Property, (ii) the Third Party User's rights to use the Property are -subject to the City's rights under and terms of this Agreement. Guests of Third Party Users, -need not -sign such waivers, but GCC will indemnify -the -City against -any Claims -of Third -Party Users or their Guests, under Section 12.A. of this Agreement, and GCC shall make- reasonable efforts to identify itself or the Third Party User as the host, organizer, or manager of such event.~~

D. Reservation of Use Rights. During the Term of this Agreement, the City shall have the right to use or occupy portions of the Property for purposes that the City may determine to be in the public interest and reasonably compatible with the concurrent use of the Property by the GCC. The City's use and occupancy rights shall be as follows:

- (i) to occupy such portions of the Property that are otherwise available for use by other persons;
- (ii) upon not less 365 days notice, to occupy any portions of the Property (not exceeding 1,500 square feet of net rentable space) that are not otherwise subject to an exclusive lease or license to specified portions of the Property; and
- (iii) in the event of *force majeure* events affecting the utility of City facilities, the City shall have the right to occupy any portion of the Property not otherwise subject to an exclusive lease or license to specified portions of the Property.

In connection with its use of any portion of the Property, the City agrees to pay the GCC the same charges that the GCC charges to other users or occupants of the Property, unless the City and the GCC otherwise agree; such use charges shall be subject to annual review by the City in connection with its review and approval of the GCC budget.

**Section 6. Conditions of Use.** The GCC shall, at its sole cost and expense, obtain and abide by any governmental approval that may be required in connection with the use of the Property for the GCC's intended use, including, without limitation, any zoning, building, or other code requirements of The City of Lake Forest. To the extent that the special use permit for the Property requires an amendment as a result of this Agreement, the parties shall cooperate to seek and obtain any such amendment.

**Section 7. Undisturbed Operation.** Subject to the other terms and provisions of this Agreement, the City agrees that upon performance by the GCC of all terms, covenants, and conditions of this Agreement applicable to the GCC, the GCC shall enjoy all rights to Operate the Property provided in this Agreement, as well as the other rights and privileges granted for the Term, without hindrance or interference by the City.

**Section 8. Utilities.** From the date of execution of this Agreement and continuing throughout the Term, the GCC shall be responsible for obtaining any utility services for the Property that it desires and paying all charges for such utility services used or consumed on the Property. The City agrees to cooperate with the GCC and any utility company requesting utility easements over, under, and across the Property in order to provide utility service to the Property. In the event that the GCC does not timely pay any charge for utility services when due, the City shall have the right, but not the obligation, to pay such charges, and the amount of such charges and any interest or penalties assessed upon delinquent charges (plus the full amount of any expenses, including attorneys' fees, incurred by the City in recovering any paid utility charges, penalties, or interest from the GCC) shall be deemed other charges due from the GCC under this Agreement. Notwithstanding the foregoing, to the extent applicable, GCC as operator of the Building shall enjoy the service benefits available to the Building pursuant to any franchise agreement between the City and any public utility; provided, however, that

such service benefits shall not include or be deemed to include any franchise fees or other payments received by or made to the City.

**Section 9. —Access; Inspections.**— In addition to such access as is reasonably necessary and convenient for the City's use of the Property pursuant to Section 5 of this Agreement, the City and its agents shall have the right to enter the Property for the purpose of examining and inspecting any part of the Property upon reasonable advance notice to GCC if the City deems it necessary or desirable to determine compliance ~~with this Agreement~~; provided, however, that notice to the GCC shall not be required in the event of a bona fide emergency; provided further, however, that the City and the GCC shall cooperate to the extent feasible in scheduling inspections so as to minimize disruption in the use and occupancy of the Property.

**Section 10. — Finances.**

A. In General. The GCC's ~~Operation~~ of the Property ~~is dependent on the~~ sound financial footing of the GCC so that the Property is properly maintained ~~and is utilized for~~ the benefit of the Lake Forest and Lake Bluff communities as more specifically set forth in Section 5 of this Agreement. Accordingly, the City has an overriding interest in assuring that the GCC's budget and programming, as well as the GCC's overall fiscal health, are acceptable to the City. At the same time, the City, as owner of the Property, has certain ongoing obligations with respect to the periodic replacement of the major capital elements of the Property and its improvements, subject to the City's determinations respecting its overall budgetary and property management planning.

B. Reports. The GCC shall submit to the City, on an annual basis, (i) an audited financial statement undertaken in accordance with generally accepted accounting principles ~~of the~~ GCC's most recently completed fiscal year, (ii) a status report on fundraising receipts for the benefit of GCC, ~~and~~ (iii) a report or reports regarding the GCC's maintenance, operation, and repair activities on the Property (including the amounts expended on such activities).

C. Budget Review and Approval.

1. Amendment to GCC's By-Laws. As soon as practical after the signing of ~~this Agreement~~, the First Amendment, GCC agrees to amend its by-laws (the "***GCC By-Laws***") to provide that the City shall have the right to appoint ~~the greater of five or one third~~three of the GCC board of directors ("***GCC Board***") (which members appointed by the City shall hereinafter be referred to as the "***City GCC Board Members***"). The City GCC Board Members shall serve ~~two~~three-year terms, which terms may be renewed in the discretion of the City Council ~~for one additional three-year term. The City GCC Board Member Position Description is attached as Exhibit E.~~ The GCC By-Laws shall also ~~be amended~~continue to provide for a sub-committee, known as the "***Finance and Operations Sub-Committee***," which shall be comprised of the City GCC Board Members, the GCC Chairperson, and the GCC Treasurer. The GCC By-Laws shall further provide that: (a) the Finance and Operations Sub-Committee shall ~~perform all duties~~i) oversee the preparation of the annual operating and ~~responsibilities currently performed by~~

~~the City's Gorton Community Center Commission~~ capital budgets and audit; ii) ~~review monthly GCC financial statements and review periodically GCC's accounting and cash management policies;~~ iii) ~~oversee GCC's strategies relating to operations, staffing, building maintenance and repair, space rental, general programming, and theater programming;~~ and iv) ~~oversee and review a long-range financial plan for GCC;~~ (b) the City GCC Board Members shall be full voting members of the GCC Board; (c) a City GCC Board Member shall serve as the chairman of the Finance and Operations Sub-Committee and the chair shall be a member of the GCC Executive Committee; and (d) the City Manager shall be a non-voting participant of the GCC Board. The GCC shall submit the foregoing amendment of the GCC By-Laws to the City Manager for review and written approval, and, following such approval, the GCC shall not further amend the GCC By-Laws in any way that alters, directly or indirectly, the amendments set forth in this Section 10.C.1.

2. ~~Gorton Commission.~~ City Director Appointment. Following the ~~adoption~~ approval of the amendments to the GCC By-Laws as set forth in Section 10.C.1 of this Agreement, the ~~City shall promptly take action to dissolve the City's Gorton Community Center Commission and to appoint Membership Committee, with the approval of the City Manager, shall realign the GCC Board Members. The initial to result in its having three City GCC Board Members may have a term of less than two years for purposes of establishing an appointment date (from among those that coincides with the term of the Mayor of the currently City Directors or newly appointed City Directors).~~

### 2.3. Annual Budget.

- a. On an annual basis, the Finance and Operations Sub-Committee ~~and~~ the GCC Executive Director (who shall report to the GCC Board) shall submit to the City Manager and Finance Chair of the City Council for review and ~~approval~~ recommendation to the City Council, the GCC's annual budget and plans for the use of and programming at the Property (the "***Annual Budget and Plan***"). The Annual Budget and Plan shall set forth, *inter alia*, fees and charges for the use and occupancy of the Property, as well as projected additional revenues and expenditures, and identification of ~~—~~specific programs and occupants (to the extent known) of various spaces within the Property. The Annual Budget and Plan shall also include at least the "Minimum Annual GCC Maintenance ~~Investment~~" ~~—(as —hereinafter defined).~~ In addition, the Annual Budget and Plan shall include a five-year financial forecast.
- b. In connection with the City's review ~~of~~ the Annual Budget and Plan, the Parties shall review the capital needs of the Building for a five-year period, capital budgets of GCC and the City, the maintenance contracts of the GCC, as well as any adjustments that may be appropriate to the "Listing of Infrastructure Replacement Responsibilities" (as hereinafter defined). Nothing in this Section 10 precludes the GCC from seeking

contributions ~~from the City~~ for any significant Building infrastructure costs that the GCC has incurred or anticipates incurring as part of the Annual Budget and Plan process.

c. Following such review (which may include interim comments with suggested revisions to the Annual Budget and Plan), ~~the City~~ Staff shall submit its recommendation for approval, approval with modification, or rejection of the Annual Budget and Plan to the full City Council. The City Council shall have the right to approve, approve subject to modifications, or reject the Annual Budget and Plan.

d. The GCC shall only be authorized to use and occupy the Property in accordance with an approved Annual Budget and Plan. In the event that the City Council does not approve an Annual Budget and Plan as presented by the GCC, the GCC shall only be authorized to Operate and occupy the Property in accordance with the Annual Budget and Plan last approved by the City Council ~~subject to rate adjustments not exceeding the change in the Consumer Price Index as defined in 35 ILCS 200/18-185 (the “CPI”) since the Effective Date of this Agreement~~.

e. The Finance and Operations Sub-Committee shall from time-to-time establish guidelines ~~for the GCC regarding the contents of such Annual Budget and Plan, including a timetable for its submission to and review by the City, which guidelines shall be subject to the approval of the City Manager.~~

D. Upkeep, Maintenance, Repair, and Replacement.

~~1.~~ 1. GCC's Responsibilities.

a. Except ~~as provided in Section 10.D.2 of this Agreement, or except as limited in Section 10.D.1.b,~~ the GCC shall have the responsibility, at its sole cost and expense, for the upkeep, maintenance, repair, renewal, insurance, and replacement of the interior areas of the Building and any accessory buildings and structures on the Property and the improvements thereon in a safe, sanitary, and sound condition in order that such Property may continue to be used for the purposes set forth in this Agreement and the character of such Property may be preserved during the term of this Agreement.

~~a.~~ b. With respect to the upkeep, maintenance, repair, and replacement of the HVAC, elevator, electrical, plumbing, and ~~fire suppression and alarm~~ systems (but not replacement of lighting and plumbing fixtures) in the Building and any accessory buildings and structures on the Property (collectively, the “GCC Maintenance Obligations”), GCC shall be required to include in its Annual Budget and Plan sufficient funding to satisfy the GCC Maintenance Obligations each year. In any year in which GCC’s endowment falls below \$2,000,000.00. GCC shall be required to include in its Annual Budget and Plan at least \$25,000.00 perin that year, which amount shall be reviewed and adjusted during every even-numbered anniversary



~~year of this Agreement by mutual agreement of the Parties; provided that, if must be maintained each year until the Parties cannot mutually agree to an adjusted amount, then the annual amount shall be adjusted to reflect the change in the CPI since the Effective Date of this Agreement (the "**Minimum Annual GCC Maintenance Investment**").GCC's Endowment again reaches \$2,000,000.00. To the extent GCC does not expend the **Minimum Annual GCC Maintenance Investment** approved maintenance funding to satisfy the GCC Maintenance Obligations in any fiscal year, such remaining amount of the **Minimum Annual GCC Maintenance Investment** shall be placed in a separate account (the "**GCC Maintenance Reserve**"), which GCC Maintenance Reserve (plus any interest earned thereon) shall be used only for satisfying GCC Maintenance Obligations. If, in any year, the cost of the GCC Maintenance Obligations exceeds the **Minimum Annual GCC Maintenance Investment (or such greater maintenance funding** amount ~~that may be~~ included in the **approved** Annual Budget and Plan), then GCC ~~shall use~~ such moneys that are available in the GCC Maintenance Reserve to undertake any necessary GCC Maintenance Obligations.~~

\_\_\_\_ To the extent the GCC undertakes repair work on the Property for which the City receives proceeds under an applicable insurance policy or similar coverage, the City shall reimburse the GCC for its actual repair costs, but in no event more than the insurance proceeds that the City has actually received. Any ~~such reimbursement amounts shall be deposited in the GCC Maintenance Reserve~~ if it is in place per the preceding paragraph.

\_\_\_\_ Notwithstanding the ~~GCC's~~ GCC's obligations pursuant to this Section 10.D.1, the GCC shall not be required to undertake any GCC Maintenance Obligations in excess of the amounts set forth in the **approved** Annual Budget and Plan ~~(which shall not be less than the Minimum Annual GCC Maintenance Investment)~~ and amounts available in the GCC Maintenance Reserve.

2. ~~City's Responsibilities.~~ Notwithstanding ~~the obligations of the GCC as set forth in this Agreement,~~ the City shall retain responsibility for general outside maintenance and upkeep of the Property and the Building. Upkeep of ~~the Property~~ shall include without limitation maintaining, repairing, and replacing driveways, ~~sidewalks, curbs and gutters, drains, parking areas, and fences,~~ including, but not limited to, maintenance of the grassy areas, landscaping, brush, leaf, and snow removal, and spring and fall cleanup. Upkeep of the exterior of the Building shall include without limitation maintaining, repairing, and replacing the roof, gutters, windows, window frames, storm windows, ~~trim, exterior doors, other exterior structural elements, water lines, and sewers,~~ and repair ~~and repainting of exterior surfaces.~~ The City's maintenance and upkeep of the exterior of the Building and the aforementioned exterior elements of the Property shall be performed in a manner equivalent to the City's maintenance and upkeep of other public grounds. In addition, the City shall ~~retain responsibility for~~ the replacement of the items set forth on Exhibit B hereto, which is incorporated into this Agreement by reference (the "**Listing of Infrastructure Replacement Responsibilities**"). Further, to the extent that GCC is unable to perform the GCC Maintenance Obligations due to

unavailability of moneys as set forth in the last paragraph of Section 10.D.1 of this Agreement, the City may also undertake any necessary upkeep, maintenance, repair, and replacement that would otherwise be included in the GCC Maintenance Obligations. The City's obligation to perform the responsibilities set forth in this- Section 10.D.2 shall be subject to the City Council authorizing sufficient funds for performing such responsibilities in the Council's sole and absolute discretion, and the failure or refusal of the -City Council to so authorize sufficient funds shall not be a breach of any obligation of the City under this Agreement, even if such failure or refusal requires the GCC to modify its use, occupancy, or programming relating to the Property.

E. Remedies. In the event that the City- determines that the GCC has failed to satisfactorily perform its GCC Maintenance Obligations as required under Section 10.D.1 of this Agreement, the City shall have the right, but not the obligation, (a) to perform any necessary upkeep, maintenance, repair, or replacement itself and to be reimbursed for such upkeep, maintenance, repair, or replacement work by the GCC upon invoice therefor, which reimbursement amount (plus the full amount of any expenses, including attorneys' fees, incurred by the City in recovering such reimbursement amount from the GCC) shall be deemed another charge under this Agreement or (b) to terminate this Agreement, subject to the cure provisions contained in Section 17.A.1 of this Agreement.

F. GCC Fundraising: Naming Rights. -The Parties acknowledge and agree that part of the activities of the GCC with respect to its Operation of the Property will involve fundraising efforts through private and other contributions. To this end, the Parties also acknowledge that offering naming rights with respect to the Property is a potentially viable means to enhance such fundraising. The City agrees that- the GCC may enter into agreements or other arrangements with respect to potential contributors to confer naming rights upon such contributors, subject to the following terms and limitations:

1.      The GCC shall not agree to rename the Property or the Building from its current name of "Gorton Community Center" without the approval of the City pursuant to a resolution duly adopted by the City Council.
2. Except as provided in Section 10.F.3, the GCC shall not confer naming rights for a period of time extending beyond the then-current Term of this Agreement without the approval of the City pursuant to a resolution duly adopted by the City Council.
3. The GCC shall not confer naming rights upon a corporate donor -or- honoree without the approval of the City pursuant to a resolution duly adopted by the City Council.

In each instance where City Council approval of naming rights is required, the City Council's determinations with respect to naming rights shall be in its sole legislative discretion based on the City Council's determination of the best interests of the City and its residents. Any deliberations by the City Council



regarding naming rights under this Subsection 10.F shall take place in executive session, to the extent permitted by law. Any City Council approval of naming rights as required ~~in this Agreement~~ shall be through the approval of an agreement between the City and GCC in substantially the form attached hereto as Exhibit C (a "***Naming Rights Agreement***"). In connection with any request for naming rights, the GCC shall provide to the City such information regarding the naming rights and donation as the City may reasonably request; provided that, for any request for approval of naming rights involving a donation in excess of \$1,000,000.00 (which amount shall be adjusted every ten years to reflect changes in the CPI)(the "***Threshold Amount***"), the GCC shall certify to the City that the donation exceeds the Threshold Amount, but GCC shall not be required to disclose the specific amount of the donation. Nothing shall prevent the GCC from granting naming rights for any portion of the Property without City approval so long as such grant is not inconsistent with the terms of this Section 10.F, and provided that such grant of naming rights is subject to terms allowing termination resulting from illegal or immoral acts of the grantee. The City waives all rights to any donations or contributions made in connection with the granting of any naming rights that comport with the terms of this Subsection 10.F. Any Naming Rights Agreement between the City and the GCC entered pursuant to this Subsection 10.F shall be independent of this Agreement, notwithstanding termination of this Agreement.

**Section 11. ~~—Additions and Major Structural Changes; Rebuilding in the Event of Fire or Other Casualty.~~**

A. ~~—Improvements to Property.~~ Subject to the parties' responsibilities under ~~Section 10 of this Agreement~~, any addition, remodeling, new construction, or major structural changes to the Property or any building or structure thereon shall be permitted only if: (i) such addition, remodeling, new construction, or change shall not adversely affect the parties' ability to use the Property for its intended purposes (exclusive of disruption due to construction); (ii) such addition, remodeling, ~~new construction~~, or change shall conform to the terms of this Agreement and applicable building codes; (iii) such addition, remodeling, new construction, or change shall be undertaken at no cost to the City unless the City proposes the addition, remodeling, new construction, or major structural changes, and either the City agrees to pay for such work or the parties otherwise agree to an allocation of the cost of such addition, remodeling, new construction, or change.

B. ~~Damage Other than Material Damage.~~ In the event that the Building is damaged by fire, storm, or other casualty (with the exception of "material damage" as defined ~~in Section 11.D~~) the repair, rebuilding, replacement, or restoration of ~~the~~ damaged property ~~shall be completed by the GCC or the City, depending on the nature of the damage and the party responsible in accordance with Section 10.D of this Agreement~~, and subject to the limitations in Section 10.D of this Agreement. In the event that damage affects portions of the Property for which each of the parties are responsible, then the City shall have primary ~~responsibility~~ for undertaking the repair, rebuilding, replacement, or restoration work required; provided that such work ~~shall be undertaken in cooperation and~~

consultation with the GCC; ~~and~~ provided further that the GCC shall be financially responsible to the City for the costs ~~incurred~~ ~~as a result~~ ~~of~~ damages within its area of responsibility as set forth in and subject to ~~the~~ limitations of Section 10.D.1. Any repair, rebuilding, replacement, or restoration of the damaged property shall be undertaken in a manner consistent with the design, character, and quality of the improvements to be restored. Notwithstanding anything to the contrary in this Section 11.B, to the extent that insurance proceeds are available covering said damage (including, without limitation, the insurance obtained by the City or the GCC pursuant to Section 13 hereof), such ~~insurance proceeds~~ shall ~~be~~ applied to the costs of such repair, ~~rebuilding~~, ~~restoration~~, ~~or~~ replacement before the financial obligations of either party as set forth in this Section 11.B shall be triggered; provided further that, to the extent that a deductible amount must be satisfied in order to access insurance proceeds, the City shall have no obligation to pay such deductible amount unless such expenditure is approved by resolution of the City Council. ~~With respect to ongoing conditions of seepage and mold, the parties acknowledge that~~ ~~this affects each of their areas~~ of responsibility and shall work cooperatively to address such conditions.

C. Material Damage. In the event that the Building is damaged by fire, storm, or other casualty and such damage is "material damage" as defined in Section 11.D, the damaged property shall be rebuilt, repaired, restored, or replaced only if, ~~within 365 days after such damage has been determined to be "material damage" as provided in Section~~ 11.D (or such longer period as the Parties may mutually agree in writing), the City and the GCC agree on: (i) the nature, design, character, manner, and cost of the work necessary to rebuild, repair, restore, or replace the damaged portion of the Building in a manner so as to be consistent with the existing building, and (ii) the application of insurance proceeds to the costs of such rebuilding, repair, restoration, and replacement and the allocation of any costs thereof which exceed such insurance proceeds. If the City and the GCC cannot so agree within 365 days, the City shall have the right to terminate this Agreement and to assume full control and rights to occupy the Property and the Building.

D. Definition ~~of~~ ~~Material~~ ~~Damage~~. ~~For purposes of Subsections 11.B and~~ 11.C, "material damage" shall be deemed to exist if the Building is damaged to the extent of 50% or more of its value as determined on a replacement cost basis. If the City and the GCC ~~cannot agree as to the existence or non-existence of "material damage" within 30 days of the time the damage occurred, the City shall select an independent consultant qualified in such~~ matters to assess the damage, and such consultant's determination ~~shall be~~ final ~~and binding~~ upon the parties. Damage to any accessory building or structure on the Property shall not be deemed to be "material damage."

## Section 12. Indemnification.

A. By GCC. The GCC shall indemnify, save harmless, and defend the City and the City Representatives from and against any and all claims that may arise, or be alleged to have arisen, out of or in connection with (i) the GCC's Operation of or on the Property; (ii) any act or omission of the GCC whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the GCC, except to the extent caused by the sole negligence of the City; or (iii) any breach of this Agreement by the GCC. The GCC shall not cause any liens to be placed on the Property without the express prior

written consent of the City. Should any lien be placed on the Property as a result of the actions or inactions of the GCC, the City shall have the right, but not the obligation, to discharge such lien in order to prevent either an imminent ~~-foreclosure~~ on the lien or an imminent judicial sale of the Property, and the full amount paid in discharging such lien (plus full amount of any expenses, including ~~-attorneys' fees~~, incurred by the City in recovering the paid lien amount from GCC) shall be deemed another charge upon the GCC under this Agreement.

B. By the City. The City shall indemnify, save harmless, and defend the GCC, its boards, committees, commissions, officers, agents, and employees, against any and all lawsuits, claims, demands, liens, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that may arise, or be alleged to have arisen, as a direct result of any default under this Agreement by the City.

### **Section 13. Insurance.**

A. The GCC shall obtain, maintain, and continue in effect throughout the term of this Agreement at least the following policies of insurance or equivalent coverages issued by a company with at least an "A" rating from the most recently published *Alfred M. Best and Company Guide* and authorized to do business in the State of Illinois or an intergovernmental self-insurance pool authorized by the State of Illinois (such as the Intergovernmental Risk Management Agency):

1. General comprehensive liability insurance, insuring the GCC against liability for personal and bodily injury, death, or damage to ~~-property~~ arising out of the Operation of the Property by the GCC. Such insurance shall provide coverage with policy limits of not less than \$2 million in the event of bodily injury or death to one or more persons and in an amount of not less than \$2 million for property damage.
2. If applicable, automobile liability insurance, on an "any auto" basis, with a combined single limit for personal injury and property damage not less than \$1 million.
3. Workers' compensation insurance, with such limits as are required by law.
4. Employer's liability insurance, with limits not less than \$500,000 per person-injury and \$1 million per occurrence.
5. Such insurance as may be required in connection with the licensure of the Drop-In Center.

The foregoing policy limits shall be reviewed every fifth anniversary of this Agreement, and the City may require the GCC to increase the minimum policy amounts; provided, however, that no such increase in the minimum policy amounts shall exceed the increase in the "Consumer Price Index" as defined in 35 ILCS 200/18-185 (2002). Unless the City and the GCC otherwise agree and

so long as it is commercially reasonable, such policies shall have a maximum per occurrence deductible of \$1,000.00. To the extent feasible, the GCC shall have the City identified as an "additional insured" (or equivalent) in connection with the foregoing coverages. ~~The~~ City reserves the right to receive, review, and approve any insurance policy that the GCC obtains. Any such policy shall provide that the policy may not be cancelled or changed without the GCC and the City receiving notice of such impending cancellation or change at least ~~30~~ days in advance of the effective date of such cancellation or change. Nothing in this Agreement shall preclude the GCC from obtaining other insurance, including insurance for personal articles or other improvements, fixtures, and furnishings of the GCC on the Property; such other policies shall not be subject to the terms and requirements set forth for other policies in this section.

B. ~~Subject to the availability of insurance on commercially reasonable terms,~~ the City shall maintain, at its sole cost and expense during the term of this Agreement, "all risk" property insurance for the Property in an amount reasonably equivalent to the estimated replacement value of the buildings, structures, and related improvements on the Property (including the Building).

C.      Upon request of the other party, the City or the GCC shall promptly provide the other party with copies of insurance policies or coverage documents that are required under this Section 13.

**Section 14. Eminent Domain.** In the event that all or substantially all of the Property shall be taken by any governmental agency or utility that has the power of eminent domain, then the GCC shall have the right to terminate this Agreement within 60 days thereafter. Each party shall have the right to maintain its own respective action against the condemning authority for its respective damages and neither party shall have any interest in any award granted to the other. The City agrees not to exercise its right of eminent domain with respect to the Property.

**Section 15. Environmental Compliance.**

A. The GCC shall, at the GCC's sole cost and expense, comply ~~with all~~ environmental laws pertaining to the GCC's Operations on the Property, including the following (collectively referred to as the "Environmental ~~Laws~~"):

1. Any applicable federal, state, or local statute, law, ordinance, rule, regulation, code, license, permit, authorization, approval, consent, order, judgment, decree, injunction, directive, requirement by, of, or agreement with any governmental agency, existing as of this Agreement's execution date and as enacted or amended thereafter, relating to:

- a. the protection, preservation, or restoration of the environment (including, without limitation, air, water, vapor, surface water, ground water, drinking water supply, surface land, subsurface land, plant and animal life, or any other natural resource), or to human health and safety; or
  - b. the exposure to, or the use, storage, recycling, treatment, generation, transportation, processing, handling, labeling, production, release, or disposal of, hazardous substances.
2. The Environmental Laws also includes, without limitation, any common law or equitable doctrine (including, without ~~limitation,~~ injunctive relief and tort doctrines such as negligence, nuisance, trespass, and strict liability) that may impose liability or obligations for injuries or damages related or incidental to, or threatened as a result of, the presence of or exposure to any hazardous substance and the following statutes and implementing regulations:
  - a. the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.);
  - b. the Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.);
  - c. the ~~Resource Conservation and Recovery Act, as amended~~ (42 U.S.C. § 6901 et seq.);
  - d. the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. § 9601 et seq.);
  - e. the Toxic Substances Control Act, as amended (15 U.S.C. § 2601 et seq.); and
  - f. the Occupational Safety and Health Act, as amended (29 U.S.C. § 651 et seq.).

B. Except as is customary for ordinary cleaning and maintenance, the GCC shall not cause or permit any hazardous substance to be brought, kept, stored, or used in or about the Property in violation of any of the Environmental Laws. ~~"Hazardous substance"~~ includes, without limitation, any explosive or radioactive material, asbestos, asbestos containing material, urea formaldehyde foam insulation, polychlorinated biphenyls, special waste, or petroleum products or any derivative or by-product thereof, methane, toxic waste, pollutant, contaminant, hazardous waste, toxic or hazardous substances, or related materials, as defined in the Environmental ~~Laws~~.

If the GCC causes or permits any hazardous substance to be brought, kept, stored, or used in or about the Property in violation of any of the Environmental ~~Laws and~~ such violation results in the contamination of the Property, the GCC shall indemnify, save harmless, and defend the City and the City Representatives ~~against~~ any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses

(collectively, "**Claims**"), that may arise, or be alleged to have arisen, out of or in connection with the GCC's acts or omissions in connection with such hazardous substance whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the GCC, except to the extent caused by the sole negligence of the City.

C. The GCC represents, covenants, and warrants that the GCC's Operations in, on, or under the Property shall be in compliance with all applicable Environmental Laws.

D. Nothing in this Agreement shall require either party to assume any responsibility for any violation of Environmental Law caused by the act or omission of the other party.

E. In the event that the GCC is subject to Claims arising from alleged non-compliance with any applicable Environmental Laws that relate solely to the Property and is unrelated to any action or inaction of the GCC (or any of its predecessors, whether incorporated or unincorporated) and its Operations on the Property, the City shall indemnify, save harmless, and defend the GCC and its board members, directors, officers, officials, employees, agents, attorneys, and representatives against all such Claims.

**Section 16. Assignment.** The GCC may not assign or otherwise transfer all or any part of its interest in this Agreement or in the Property without the prior written consent of the City. Any assignment or transfer without such written consent shall, at the City's option, be deemed to be void and of no force or effect. Notwithstanding any assignment or transfer, the GCC shall remain fully liable on this Agreement and shall not be released from performing any of the terms, covenants, or conditions of this Agreement.

## **Section 17. Default and Other Disputes.**

### **A. GCC Default:**

1. The GCC shall be in default of this Agreement if the GCC (i) breaches any covenant or condition of this Agreement and fails to cure such default within 30 days after notice from the City specifying the default complained of (provided that if such default is not reasonably susceptible of cure within said 30 day period and if the GCC is diligently and continuously pursuing such cure to completion, then such cure period shall be extended for such period of time as is reasonably necessary to complete the curative activities), or (ii) abandons the Property.
2. In the event of a default as described above, the City shall have the right, at its option, in addition to and not exclusive of any other remedy the City may have in law or equity with only such further demand or notice as may be required by applicable law, to re-enter the Property and eject all persons therefrom, and declare this Agreement at an end.
3. In the event of a default as described above, no re-entry and taking of possession of the Property by the City shall be construed as an election on the City's part



to ~~terminate this Agreement, regardless of the extent of~~ renovations and alterations by the City, unless a written notice of such intention is given to the GCC by the City. Notwithstanding any re-entry and taking of possession of the Building and Property without termination, the City may at any time thereafter elect to terminate this Agreement for such previous breach.

B. City Default. The City shall be in default of this Agreement if the City shall breach any of its covenants contained in this Agreement and does not cure such other default within 30 days after notice from the GCC specifying the default complained of (provided that if such default is not reasonably susceptible of cure within said 30 day period and if the City is diligently and continuously pursuing such cure to completion then such cure period shall be extended for such period of time as is reasonably necessary to complete the curative activities). The parties agree that the City shall not be in default for any failure or refusal to budget or expend funds for the upkeep, maintenance, repair, or replacement of ~~the~~ Property (including failure or refusal to address matters set forth in the Listing of Infrastructure Replacement Responsibilities).

C. Other Disputes. In addition to matters ~~that~~ may constitute a breach or default under this Agreement, the parties shall attempt to resolve all other disputes arising under this Agreement amicably between themselves.

**Section 18. Force Majeure**. Except as otherwise expressly ~~set forth herein,~~ in the event that either party hereto shall be delayed or hindered in, or prevented from, the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive laws or regulations of governmental agencies, riots, insurrection, war, or other reasons of a like nature not the fault of the party delayed in doing acts required under the terms, covenants, and conditions of this Agreement (all of such reasons or causes referred to in this Agreement as "Force Majeure"), then performance of such acts shall be excused for the period of the delay and the period of the performance of any such act shall be extended for a period equivalent to the period of such delay.

## **Section 19. Termination; Surrender of Property.**

A. Terminating Events. This Agreement shall terminate upon the occurrence of any one or more of the following events:

1. The GCC and the City mutually agree to terminate this Agreement.
2. Upon the expiration of any applicable cure period following a default of either of the parties pursuant to this Agreement.
3. The expiration of the initial Term (or any additional Term as authorized pursuant to Section 4.A of this Agreement), subject to the temlination provisions in Section 4.B.
4. The following changes to the organizational structure of the GCC: (a) dissolution of the GCC, whether voluntary or involuntary; (b) merger of the GCC into, or

acquisition of the GCC by, another organization; (c) the disposition of all or a substantial portion of the assets and properties of the GCC; or (d) such a substantial change in the purposes or functions of the GCC that it no longer Operates or is no longer able to Operate as a community center serving the residents of the City and the Village of Lake Bluff, unless (i) the organization succeeding to or acquiring the GCC or acquiring its assets and properties shall be capable of carrying on the activities of the GCC and shall agree to assume the GCC's obligations and responsibilities under this Agreement and (ii) the City shall consent to the substitution of such organization as a party to this Agreement in lieu of the GCC.

5. In the event that the Building suffers "material damage" (as defined in Section 11.D of this Agreement) and, within a period of 365 days from the date that the existence of such "material damage" has been determined, the City and the GCC fail to come to an agreement upon an acceptable program for the rebuilding, repair, or restoration of the Gorton Building.
6. In the event that the Building or a substantial portion thereof ceases to be fit for the intended purposes of this Agreement or otherwise not fit for habitation or occupancy in accordance with the codes and regulations of the City.

B. ~~City's Use of the Property Upon Termination.~~ Upon termination of this Agreement, the GCC shall cease Operations and deliver possession of the Property to the City, and all improvements or additions to the Property, if any, made to the Property by the GCC shall become the property of the City without compensation therefor. The City may, then, at its option (i) occupy, operate, and manage the Property or any portion thereof; (ii) lease or license the Property or any portion thereof to other persons or organizations; (iii) sell or dispose of the Property or any portion thereof; or (iv) make such other use of the Property as the City deems appropriate. Upon surrender of the Property, the GCC shall return the Property and Building to the City in reasonably good repair consistent with the maintenance obligations under this Agreement, including removal and restoration of all portions of the Property or Building affected by any naming rights granted by the GCC and not subject to a Naming Rights Agreement.

## **Section 20. Administrative Services and Other Agreements.**

A. ~~Provision of Administrative Services.~~ The City will make available to the GCC certain administrative services as may be agreed upon from time-to-time by the City Manager. Any such agreement for services shall only be authorized if such services will be without additional cost to the City, or if the GCC reimburses the City for any such additional costs. Any such agreement for services that the City Manager may approve shall be subject to the City's ability to perform all authorized City activities, and such agreements shall be terminable at the will of the City or the GCC upon no less than 90 days' written notice; provided that the City shall not so terminate any such agreement unless the City Manager determines that the City's performance under any such agreement will inhibit or interfere with the City's ability to perform its own authorized activities. In no event shall the City be required to employ additional personnel in order to provide any services to



the GCC in accordance with this Agreement.

B. Liquor Licensing. The Parties— acknowledge that, in conjunction with the programming for and use of the Property, the GCC (either for itself or its occupants) may from time-to-time desire to make available alcoholic beverages. The Parties hereby agree to execute and deliver to each other duplicate originals of the "*Reciprocal Fee Agreement*" attached hereto as Exhibit D.

## Section 21. Taxes; Exemption.

A. Exemption. The parties mutually acknowledge (i) their belief that the Property is entitled to a real estate tax exemption, and (ii) their mutual obligation to seek, obtain, -and maintain the Property's tax exempt status.

B. Payment -Rights -and -Obligations. -The GCC shall pay, promptly -and before they become delinquent, all general and special real -estate taxes -assessed -during the Term -of this Agreement, if any, upon or against the land and improvements comprising the Property to -the extent that such -taxes -are imposed -upon -the -Property -as -a -result -of -the use, occupancy, -or Operation of the Property by the GCC or any of its Third Party Users. -In the event that the GCC does not timely pay -any real -estate taxes when -due, the City shall have the right, but -not the obligation, to pay such taxes, and the amount of such taxes and any interest or penalties- assessed upon any past-due taxes (plus the full amount of any expenses, including attorneys' fees, incurred by the City in recovering any taxes, interest, or penalties paid from GCC) shall be -deemed another charge due from the GCC under this Agreement.

C. Failure to -Obtain -Exemption. -Failure to obtain or delay in obtaining a real estate tax exemption as provided above shall not constitute a breach of this Agreement.

D. Other Taxes. In addition to real estate taxes, GCC shall pay any and all other taxes arising from its use and Operation of the Property.

## Section 22. Additional Properties and Donations.

A. Additional Properties. With the consent of the City and the GCC, additional properties donated or leased to the City or otherwise acquired by the City may become subject to the terms of this Agreement.

B. Donations. The City shall not actively solicit donations relating to the Property. If offered, however, donations may be accepted by the City and transferred to the GCC for use in the preservation, improvement, or restoration of the Property or any portion thereof or for any other purpose that is compatible with the Operation of the Property, under such conditions and limitations as the donor may specify; provided, however, that to the extent any donation delivered expressly for the purpose of preserving, improving, restoring, or maintaining the exterior of the Building or portions of the Property other than the Building, the City shall keep all such donations in a separate fund to be expended solely for the purposes specified. The City agrees to notify the GCC promptly of any such donations so received.

**Section 23. General.**

A. ~~Notices.~~ Any notice or other communication ~~required or permitted~~ to be given under this Agreement shall be in writing and shall be (a) personally delivered, (b) delivered by a reputable overnight courier, or (c) delivered by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Telecopy notices shall be deemed valid only to the extent they are (i) actually received by the individual to whom addressed and (ii) followed by delivery in the manner described in either (a), (b), or (c) above within three business days thereafter. Unless otherwise expressly provided in this Agreement, notices shall be deemed received at the earlier (x) of actual receipt, or (y) one business day after deposit ~~with~~ an overnight courier as evidenced by a receipt of deposit or (z) three business days ~~following~~ deposit in the U.S. mail, as evidenced by a return receipt. Notices shall be directed to the parties at their respective addresses set forth below or at such other address as either party may, from time-to-time, specify by written notice to the other in the manner described above:

City:

GCC:

The City of Lake Forest 220 E.  
Deerpath  
Lake Forest, Illinois Attention: ~~-~~  
City Manager

Gorton Community Center 400  
East Illinois Road Lake Forest, IL  
60045  
Attention: Executive Director

B. Binding Effect. The benefits of this Agreement shall inure to and the obligations hereof shall be binding upon the heirs, personal representatives, successors, and assigns of the respective parties hereto.

C. Time ~~of the~~ ~~Essence~~. ~~Time~~ is of the ~~essence~~ in the performance ~~of~~ all terms, covenants, and conditions of this Agreement.

D. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

E. Non-Waiver. The failure of the City or the GCC to enforce against the other any term, covenant, or condition of this Agreement shall not be deemed a waiver thereof, nor void or affect the right of the aggrieved party to enforce the same term, covenant, or condition on the occasion of any subsequent breach or default; nor shall the failure of either party to exercise any option in this Agreement upon any occasion arising therefor be deemed or construed to be a waiver of the right to exercise that same kind of option upon any subsequent occasion.

~~B.F.~~ No ~~Joint~~ ~~Venture~~. ~~The parties mutually~~ ~~acknowledge~~ ~~and~~ ~~agree that,~~ although, the City and the GCC are separate and independent legal entities, each responsible for their own affairs and obligations (including without limitation all matters of contract, finance, employment, and governance), they are pursuant to this Agreement engaged in a common endeavor relating to public business concerning the operation of a community center on municipal ~~property~~ for public benefit and that their activities and responsibilities in this regard are intended to be closely enmeshed and coordinated through the terms of this Agreement. It is hereby further understood and agreed that nothing contained in this Agreement shall be deemed or construed as creating the relationship of principal and agent, partnership, or joint venture between the parties hereto, it being agreed that no provision herein contained nor any acts of the parties herein ~~shall~~ be deemed to create any relationship between the parties hereto other than the relationship of contracting parties as herein set forth.

~~F.G.~~ Consents. Whenever the consent or approval of either party is required herein, such consent or approval shall be in writing and shall not be unreasonably withheld or delayed, and, in all matters contained herein, both parties shall have an implied obligation of reasonableness, except as may be expressly set forth otherwise.

H. Warranties Regarding Execution.

1. In order to induce the GCC to enter into this Agreement, the City hereby warrants and represents to the GCC as follows:

- a. The City has the authority and legal right to make, deliver, and perform this Agreement and has taken all necessary actions to authorize the execution, delivery, and performance of this Agreement; and

- b. The execution, delivery, and performance ~~of~~ this Agreement (i) is not prohibited by any requirement of law under any contractual obligation of the City; (ii) will not result in a breach or default under any agreement to which the City is a party or to which the City is bound; and (iii) will not violate any restrictions, court order, or agreement to which the City is subject; and
  - c. The party executing this Agreement on behalf of the City has full authority to bind the City to ~~the obligations~~ set forth herein.
- 2. In order to induce the City to enter into this Agreement, the GCC hereby warrants and represents to the City as follows:
  - a. The GCC has the authority and legal right to make, deliver, and perform this Agreement and has taken all necessary actions to authorize the execution, delivery, and performance of this Agreement; and
  - b. the execution, delivery, and performance of this Agreement (i) is not prohibited by any requirement of law under any contractual obligation of the GCC; (ii) will not result in a breach or default under any agreement to which the GCC is a party or to which ~~the GCC is bound; and~~ (iii) will not violate any restrictions, court order, or agreement to which the GCC is subject; and
  - c. The party executing this Agreement on behalf of the GCC has full authority to bind the GCC to the obligations set forth herein.

I. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the internal laws, but not the conflict of laws rules, of the State of Illinois.

J. Severability.~~-~~ If any term, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. In addition, to the extent any invalidity is the result of a procedural deficiency that can be readily cured, the parties agree to take such curative actions as may be necessary or appropriate.

K. Grammatical Usage and Construction.~~-~~ In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be ~~substituted for singular and singular for plural in any place in~~ which the ~~context~~ so requires.

L. Interpretation. This Agreement~~-~~ shall be construed without regard to the identity of the party who drafted the various provisions hereof. Moreover, each and every provision of this Agreement shall be construed as though all parties hereto participated equally

in the drafting and approval thereof. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable hereto.

M. Headings. The table of contents, heading, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

N. Exhibits. Exhibits A through ~~DE~~ attached hereto are, by ~~this~~ reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement shall control.

~~0.~~O. Amendments —and —Modifications. ~~—This —Agreement —may —not —be~~ modified ~~—or~~ amended except by written instrument executed by each of the parties hereto.

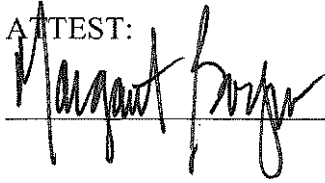
P. ~~—~~ Counterpart —Execution.~~—~~ This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

~~[END OF TEXT; SIGNATURES CONTINUE ON THE FOLLOWING PAGE]~~

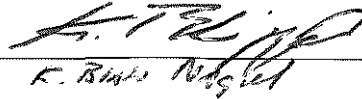
IN WITNESS WHEREOF, the parties hereto have executed this Agreement-First Amendment as of the date first above written.

GORTON COMMUNITY CENTER, an  
Illinois not-for-profit corporation

ATTEST:



By



Its

Chairman

ATTEST:

By:

Its:

THE CITY OF LAKE FOREST, a  
an Illinois municipal corporation

municipal corporation

By /s/

Mayor

ATTEST

City Clerk

#J2067193\_v14

ATTEST:

By:

Its:

## **EXHIBIT A**

### **Legal Description of the Property**

*Lots 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 16 and -17 in W. S. Johnston's Estate  
Subdivision according to the plat thereof recorded as Document No. 68247 on July 1,  
1897, in the north            Section 33, Township 44 North, Range 12 East of the 3'd  
Principal Meridian, City of Lake Forest, Lake County, Illinois.*

## EXHIBIT B

### **Listing of Infrastructure Replacement Responsibilities**

<b>List of HSEI Items</b>	<b>City's Area of Responsibility</b>
HVAC Units & Controls	End of Life Cycle Capital Replacement
Elevator Cab, Hydlcs & Controls	End of Life Cycle Capital Replacement
Fire Suppression Systems & Fire Alarm System	End of Life Cycle Capital Replacement
Rekeying Entire Building (108 doors)	One-time Capital Replacement
Security Camera System	One-time Capital Improvement



## **EXHIBIT C**

### **Naming Rights Agreement**

*[Attach Signed Version]*

**EXHIBIT D**

**Reciprocal Fee Agreement**

*[Attach Signed Version]*

## **EXHIBIT E**

### **City GCC Board Member Position Description**

A Gorton Community Center (sometimes abbreviated “GCC”) City of Lake Forest (“City”) Director (also referred to as a “City GCC Board Member”) is appointed to the Gorton Board of Directors by the City Mayor with the concurrence of the City Council for a term of three years and up to two terms.

### **City GCC Board Members**

A City GCC Board Member shall be a full voting member of the GCC Board of Directors, the Finance Committee and such other committees as appointed to by the Board President.

A City GCC Board Member is expected to:

- a. Devote special attention to the interests of the City in maintaining a viable and financially sound institution that operates for the benefit of the City and neighboring communities.
- b. Participate in Gorton’s finance and operations strategies to include:
  1. oversee the preparation of the annual operating and capital budgets and audit;
  2. review monthly Gorton’s financial statements and review periodically Gorton’s accounting and cash management policies;
  3. oversee Gorton’s strategies relating to operations, staffing, building maintenance and repair, space rental, general programming, and theater programming; and
  4. oversee and review a long-range financial plan for Gorton.
- c. Bring to the attention of the GCC Board any matters related to the governance of the Gorton Community Center that may be detrimental to the City. If the City GCC Board Member feels that GCC Board action on the matter (whether action on the matter is taken or not taken) is insufficient, the City GCC Board Member shall bring the matter to the attention of the Finance Committee Chair of the City Council.

### **City GCC Board Members Qualifications**

Qualifications for a City GCC Board Member should include:

- Strong communication skills
- Knowledge of finance and organization management
- No conflicts of interest with GCC operations

And may include:

- Experience serving on other non-profit boards or City boards and commissions
- Non-profit management experience
- Specialized knowledge of GCC services and operational requirements

MEMBERSHIP AGREEMENT FOR A GEOGRAPHIC  
INFORMATION SYSTEM CONSORTIUM

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the municipalities that have executed this Agreement pursuant to its terms (all municipalities are collectively referred to as “Parties”).

W I T N E S S E T H:

WHEREAS, Section 10 of Article VII of the Illinois Constitution of 1970 and Section 3 of the Illinois Intergovernmental Cooperation Act authorize and encourage the entering into of Intergovernmental Agreements between units of local government;

WHEREAS, the Parties desire to enter into an Intergovernmental Agreement setting forth the responsibilities of the Parties with regard to the operation of a consortium to develop and share geographic information system information;

WHEREAS, the Parties desire to limit the cost of developing geographic information systems for their communities by participating in group training, joint purchasing and development and innovation sharing;

NOW, THEREFORE, in consideration of the mutual covenants of this Agreement and other good and valuable consideration, the Parties agree as follows:

I. General Purpose

The general purpose of this Agreement is to provide for an organization through which the Parties may jointly and cooperatively procure professional services for the establishment,

operation and maintenance of a geographic information system for the use and benefit of the Parties.

## II. Construction and Definitions

Section 1. The language in the text of this Agreement shall be interpreted in accordance with the following rules of construction:

- (a) The singular number includes the plural number and the plural the singular,
- (b) The word “shall” is mandatory; the word “may” is permissive; and
- (c) The masculine gender includes the feminine and neuter

Section 2. When the following words and phrases are used, they shall, for the purposes of this Agreement, have the meanings respectively ascribed to them in this Section, except when the context otherwise indicates.

- (a) “GEOGRAPHIC INFORMATION SYSTEM CONSORTIUM” or “~~GISCon~~GIS” means the organization created pursuant to this Agreement.
- (b) “GIS,” means geographic information system.
- (c) “BOARD” means the Board of Directors of ~~GISCon~~GIS, consisting of one (1) Director (and one (1) alternate Director) from each governmental unit, which is a member of ~~GISCon~~GIS.
- (d) “CORPORATE AUTHORITIES” means the governing body of the member governmental unit.
- (e) “MEMBER” means a Governmental Unit, which enters into this Agreement and is, at any specific time not in default as set forth in this Agreement.
- (f) “FORMER MEMBER” means any entity, which was once a Member, but has either withdrawn from ~~GISCon~~GIS or whose membership was terminated pursuant to this Agreement.
- (g) “UNIT OF LOCAL GOVERNMENT” or “GOVERNMENTAL UNIT” means and includes any political subdivision of the State of Illinois or any department or agency of the state government or any city, village or any taxing body.
- (h) “SOFTWARE” means computer programs, form designs, user manuals, data specifications and associated documentation.

- (i) “SERVICE PROVIDER” means any professional services firm(s) that ~~GISCon~~GISC designates as the firm(s) to establish, operate, maintain or support geographic information systems, for the Members.
- (j) “SECONDARY SERVICE PROVIDER” means a Service Provider not limited to a supplier of software, hardware, mapping or other services.
- (k) “INTELLECTUAL PROPERTY” means any and all software, data or maps generated by or for ~~GISCon~~GISC. Such intellectual property shall be considered privileged and confidential trade secrets and shall constitute valuable formulae, design and research data or which Members have given substantial consideration.

### III. Membership

Section 1. Any Governmental Unit may be eligible to become a member of ~~GISCon~~GISC.

Section 2. A Governmental Unit desiring to be a member shall execute a counterpart of this Agreement and shall pay initial membership dues of a minimum of Four Thousand Dollars (\$4,000) and a maximum of Twenty Thousand Dollars (\$20,000) to be pro-rated in accordance with the formula contained in Exhibit A. Payment shall be made to the Secretary-Treasurer, or equivalent, of ~~GISCon~~GISC to offset the cost of the legal and administrative expenses of the formation, operation and administration of ~~GISCon~~GISC.

Section 3. Members shall enter into a GIS service contract, with the Service Provider substantially conforming with the agreement attached in Exhibit B or as modified by the ~~GISCon~~GISC Board, within one (1) year of signing this Agreement. Members are expected to enter into any agreements with Secondary Service Providers deemed necessary for the functioning of ~~GISCon~~GISC within a reasonable time as determined by the Board of Directors. Members shall be subject to the provisions of this Agreement, including but not limited to Article XIV.

Section 4. Any Governmental Unit desiring to enter into this Agreement may do so by the duly authorized execution of a counterpart of this Agreement by its proper officers. Thereupon, the clerk or other corresponding officer of the Governmental Unit shall file a duly executed copy of the Agreement, together with a certified copy of the authorizing resolution or

other action, with the ~~GISCon~~GISCon President. The resolution authorizing the execution of the Agreement shall also designate the first Director and alternate for the Member.

Section 5. The Charter Members shall be the Members consisting of Glencoe, Highland Park, Lincolnshire and Park Ridge.

Section 6. Any Member joining ~~GISCon~~GISCon agrees, upon joining, that if it is to become a Former Member, it will be bound by all of the obligations of a Former Member as set forth in this Agreement.

Section 7. Former members will require a favorable vote of two-thirds (2/3) majority ~~Member vote of the Board of Directors~~ in order to rejoin the ~~GISCon~~GISCon Consortium.

#### IV. Board of Directors

Section 1. The governing body of ~~GISCon~~GISCon shall be its Board of Directors. Each Member shall be entitled to one (1) Director, who shall have one (1) vote.

Section 2. Each Member shall also be entitled to one ~~a~~Alternate Director who shall be entitled to attend meetings of the Board and who may vote in the absence of the Member's Director.

Section 3. The Corporate Authorities of each Member shall appoint Directors and ~~a~~Alternate Directors. In order for ~~GISCon~~GISCon to develop data processing and management information systems of maximum value to Member Governmental Units, the Members shall appoint, as their Directors and ~~A~~alternates, a chief administrative officer, a department head and employees with significant management responsibility and experience. Directors and ~~a~~Alternates shall serve without compensation from ~~GISCon~~GISCon.

Section 4. A vacancy shall immediately occur in the office of any Director upon his resignation, death, removal by the Corporate Authorities of the Member, or ceasing to be an employee of the Member.

#### V. Powers and Duties of the Board

Section 1. The powers and duties of the Board shall include the powers set forth in this

Article.

Section 2. It shall take such action, as it deems necessary and appropriate to accomplish the general purposes of the organization in negotiating with a Service Provider to determine annual rates and usage levels for the members and other ancillary powers to administer

~~GISCon~~GISC.

Section 3. It may establish and collect membership dues.

Section 4. It may establish and collect charges for its services to Members and to others.

Section 5. It may exercise any other power necessary and incidental to the implementation of its powers and duties.

## VI. Officers

Section 1. ~~The officers of the Executive Board and their~~ ~~The officers of the Board shall consist of a President, a Vice-President, a Secretary and a Treasurer.~~ Powers and duties are ~~described~~ defined in the By-Laws.

## VII. Financial Matters

Section 1. The fiscal year of ~~GISCon~~GISC shall be the calendar year.

Section 2. An annual budget for the next fiscal year shall be adopted by the Board at the annual meeting by December 31st of each year. Copies shall be provided to the chief administrative officer of each Member.

Section 3. The Board shall have authority to adjust cost sharing charges for all Members in an amount sufficient to provide the funds required by the budgets of ~~GISCon~~GISC.

Section 4. Billings for all charges shall be made by the Board and shall be due when rendered. Any Member whose charges have not been paid within 90 days after billing shall be in default and shall not be entitled to further voting privileges or to have its director hold any office on the Board and shall not use any ~~GISCon~~GISC facilities or programs until such time as such Member is no longer in default. Members in default shall be subject to the provisions within this Agreement. In the event that such charges have not been paid within 90 days of such billing, such defaulting Member shall be deemed to have given, on such 90<sup>th</sup> day, notice of withdrawal



from membership. In the event of a bona fide dispute between the Member and the Board as to the amount which is due and payable, the member shall nevertheless make such payment in order to preserve its status as a Member, but such payment may be made under protest and without prejudice to its right to dispute the amount of the charge and to pursue any legal remedies available to it. Withdrawal shall not relieve any such Member from its financial obligations as set forth in this Agreement.

Section 5. Nothing contained in this Agreement shall prevent the Board from charging nonmembers for services rendered by ~~GISCon~~GISC, on such basis, as the Board shall deem appropriate.

Section 6. It is anticipated that certain Members may be in a position to extend special financial assistance to ~~GISCon~~GISC in the form of grants. The Board may credit any such grants against any charges, which the granting Member would otherwise have to pay. The Board may also enter into an agreement, as a condition to any such grant, that it will credit all or a portion of such grant towards charges, which have been made or in the future may be made against one or more specified Members.

Section 7. The Board, in accordance with procedures established in the By-Laws may expend board funds. The Board must authorize all expenditures by simple majority.

## VIII. Termination of Membership

Section 1. Failure to enter into an agreement with the Service Provider within one (1) year of ~~GISCon~~GISC's designation of the Service Provider shall be cause for the termination of membership. A 30-day written notice will be given to a Member that fails to enter into an agreement with the Service Provider as provided in this Section. Upon the failure to enter into an agreement at the end of the thirty-day (30) notice period, its membership shall be terminated.

Section 2. Failure to enter into an agreement within thirty 30 days of expiration of the previous agreement with Service Provider shall result in membership termination.

Section 3. A member may be terminated for cause based on an affirmative vote of two-thirds (2/3) of the Board of Directors.

Section 4. Upon termination of any Member, the Member shall be responsible for:

- (a) All of its pro-rated share of any obligations;

- (b) Its share of all charges to the effective date of termination; and
- (c) Any contractual obligations it has separately incurred with ~~GISCon~~GISC or the Service Provider.

Section 5. A Member terminated from membership at a time when such termination does not result in dissolution of ~~GISCon~~GISC, shall forfeit its claim to any assets of ~~GISCon~~GISC. Any terminated Member shall be subject to the provisions described elsewhere in this agreement.

## IX. Withdrawal

Section 1. Any Member may at any time give written notice of withdrawal from ~~GISCon~~GISC. The nonpayment of charges as set forth in this Agreement or the refusal or declination of any member to be bound by any obligation to ~~GISCon~~GISC shall constitute written notice of withdrawal.

- (a) Actual withdrawal shall not take effect for a period of six (6) months from the date of such notification.
- (b) Upon effective withdrawal the withdrawing member shall continue to be responsible for:
  - (i) All of its pro-rated share of any obligations;
  - (ii) Its share of all charges to the effective date of termination;
  - (iii) Any contractual obligations it has separately incurred with ~~GISCon~~GISC or the Service Provider(s).

Section 2. A Member withdrawing from membership at a time when such withdrawal does not result in dissolution of ~~GISCon~~GISC shall forfeit its claim to any assets of ~~GISCon~~GISC. Any Member that withdraws shall be subject to the provisions of this Agreement. In addition, any Member withdrawing shall promptly remove, at its own expense, any and all software, maps or other data that was not developed exclusively for the Member's benefit, except under terms as provided for elsewhere in this Agreement. The withdrawing Member shall, within thirty (30) days of withdrawal, file a certification with the Board, verifying compliance with this Section.

## X. Dissolution

Section 1. ~~GISCon~~GISC shall be dissolved whenever:

- (a) A sufficient number of Members withdraw from ~~GISCon~~GISC to reduce the total number of Members to less than two (2) or
- (b) By two-thirds (2/3) vote of all Directors.

Section 2. In the event of dissolution, the Board shall determine the procedures necessary to affect the dissolution and shall provide for the taking of such measures as promptly as circumstances permit subject to the provisions of this Agreement.

Section 3. Upon dissolution, after payment of all obligations the remaining assets of ~~GISCon~~GISC shall be distributed among the then existing Members in proportion to their contributions to ~~GISCon~~GISC during the entire period of such Member's membership, as determined by the Board. The computer software that ~~GISCon~~GISC developed for its membership shall be available to the Members, subject to such reasonable rules and regulations, as the Board shall determine.

Section 4. If, upon dissolution, there is an organizational deficit, such deficit shall be charged to and paid by the Members and Former Member in accordance with obligations as described in Article IX on a pro-rata basis, the pro-rata basis is calculated from the Members' contributions to ~~GISCon~~GISC during the two (2) years preceding the date of the vote to dissolve.

Section 5. In the event of dissolution the following provisions shall govern the distribution of computer software owned by ~~GISCon~~GISC:

- (a) All such software shall be an asset of ~~GISCon~~GISC.
- (b) A Member may use any software developed during its membership in accordance with this agreement, upon:
  - (i) Paying any unpaid sums due ~~GISCon~~GISC,
  - (ii) Paying the costs of taking such software, and
  - (iii) Complying with reasonable rules and regulations of the Board relating to the taking and use of such software. Such rules and regulations may include a reasonable time within which any Member must take such software.

## XI. General Conditions

Section 1. Notice. All notices hereunder shall be in writing, and shall be deemed given when delivered in person or by United States certified mail, with return receipt requested, and if mailed, with postage prepaid. All notices shall be addressed as follows:

If to ~~GISCon~~GISC:

President of ~~GISCon~~GISC

With a copy to the ~~GISCon~~GISC Secretary-Treasurer, or equivalent.

If to Member:

Each party shall have the right to designate other addresses for service of notices, provided notice of change of address is duly given.

Section 2. The Parties certify that they are not barred from entering into this Agreement as a result of violations of either Section 33E-3 or Section 33E-4 of the Illinois Criminal Code and that they each have a written sexual harassment policy in place in full compliance with 775 ILCS 5/2-105(A)(4).

## XII. Duration

This agreement shall continue in effect indefinitely, until terminated in accordance with its terms or until ~~GISCon~~GISC is dissolved.

## XIII. Member Software Usage

Section 1. No Member or Former Member shall:

- (a) Permit any other parties to use, modify, translate, reverse engineer, decompile, disassemble (except to the extent applicable laws specifically prohibit such restriction) or create derivative works based on the software;
- (b) Copy the software, unless part of normal backup procedures;
- (c) Sell, rent, lease, license, give away or grant a security interest in or otherwise transfer rights to the software; or
- (d) Remove any proprietary notices or labels on the software without written permission from the Board.

Section 2. In the event of default, withdrawal or termination of membership of a Member, that Member may use, under license granted by the Board, any software developed during its membership upon:

- (a) Paying to the Board any unpaid sums due ~~GISCon~~GISC and
- (b) Paying any reasonable costs established by the Board for licensing such software.

#### XIV. Service Provider

Section 1. For the purposes of this article, the Service Provider is defined as the Service Provider and Secondary Service Provider.

Section 2. The term of any Service Provider shall be as set forth in the Service Provider Agreement.

Section 3. The Board may at any time by a majority vote name a new Service Provider, whose term shall begin at such time as the Board may authorize.

Section 4. A Service Provider's term shall be renewed upon such terms as the Board may approve.

Section 5. The Board may terminate the services of a Service Provider at any time, subject only to the Service Provider agreement.

Section 6. The Board may enter into agreements with more than one Service Provider if it deems it appropriate to do so.

#### XV. Intellectual Property

Section 1. Members agree that no assignments, licenses, sales, authorization of reuse by others, giveaways, transfer or any other grant of Intellectual Property rights will be made to any third party without written permission from the Board.

Section 2. It is understood that this Agreement does not grant to any Member or any employees, partners or other business associates thereof, any rights in any Intellectual Property or any inherent protectable interests, except those specifically provided by this Agreement.

#### XVI. Execution of Agreement

This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as ~~GISCon~~GISC and the Members or additional Members shall preserve undestroyed, shall together constitute but one and the same instrument.

THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

## EXHIBIT A

### INITIAL MEMBERSHIP DUES FORMULA

Membership Fee = Basis x Allocation

Where: Basis = \$20,000

Allocation = Calculated by Consortium for member based on size, density, and other considerations

#### Fee Illustration

Allocation	Membership Fee
-----	
0%	NA
20%	\$4,000
30%	\$6,000
40%	\$8,000
50%	\$10,000
60%	\$12,000
70%	\$14,000
80%	\$16,000
90%	\$18,000
100%	\$20,000

## EXHIBIT B

### GIS Consortium Service Provider Contract



IN WITNESS WHEREOF, the undersigned have caused this Agreement for the Creation of a Geographic Information System Consortium to be executed in the Members respective name, and have caused this Agreement for the Creation of a Geographic Information System Consortium to be attested, all by their duly authorized officers and representatives, and have caused the Agreement for the Creation of a Geographic Information System Consortium to be dated this \_\_\_\_ day of, \_\_\_\_\_ 20\_\_.

\_\_\_\_\_ of \_\_\_\_\_

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

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

ATTEST:

\_\_\_\_\_  
Village/City Clerk

Seal



THE CITY OF LAKE FOREST

ORDINANCE NO. 2019- \_\_\_\_

AN ORDINANCE APPROVING ARCHITECTURAL AND SITE DESIGN FOR THE  
PROPERTY LOCATED AT 375 ILLINOIS ROAD

**WHEREAS**, Christopher and Rachel Whidden ("**Owners**") are the owners of that certain real property commonly known as 375 Illinois Road, Lake Forest, Illinois and legally described in Exhibit A, attached hereto ("**Property**"); and

**WHEREAS**, the Property is located in the R-1, Single Family Residence Zoning District; and

**WHEREAS**, the Owners desire to remove the existing attached garage and construct a replacement and slightly expanded garage in generally the same location ("**Improvements**") as depicted on the site plan and architectural drawings that are attached hereto as Group Exhibit B ("**Plans**"); and

**WHEREAS**, the Owners submitted an application ("**Application**") to permit the construction of the Improvements and were required to present the Plans to the Building Review Board ("**BRB**") for its evaluation and recommendation; and

**WHEREAS**, pursuant to notice duly published, the BRB reviewed and evaluated the Plans at a public hearing held on September 4, 2019; and

**WHEREAS**, the BRB, having fully heard and having considered the evidence and testimony by all those attending the public hearing who wished to testify, made the following findings:

1. the Property is located within the R-1, Single Family Residence District, under the City Code,
2. Owners propose to construct the Improvements as depicted on the Plans,

3. the evidence presented indicates that the construction of the Improvements, if undertaken in conformity with the recommended conditions and the Plans, will meet the design standards and requirements of Section 150.147 of the City Code,

and recommended that the City Council approve the Application and the Plans, subject to the terms and conditions hereinafter set forth; and

**WHEREAS**, the Mayor and City Council, having considered Owners' Application to construct the Improvements on the Property, and the findings and recommendations of the BRB, have determined that it is in the best interests of the City and its residents to grant approval to the Application, subject to the terms and conditions hereinafter set forth;

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAKE FOREST, COUNTY OF LAKE, STATE OF ILLINOIS**, as follows:

**SECTION ONE: Recitals.** The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

**SECTION TWO: Approval of Application.** Pursuant to Section 150.147 of the City Code, and subject to the limitations therein and the conditions set forth in Section Three of this Ordinance, the City Council does hereby grant approval of the Application to allow the construction of the Improvements on the Property, as more fully depicted on the Plans.

**SECTION THREE: Conditions on Approval.** The approval granted pursuant to Section Two of this Ordinance shall be, and is hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the

discretion of the Mayor and City Council, render void the approvals granted by this Ordinance:

- A. No Authorization of Work. This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the City, no work of any kind shall be commenced on the Property pursuant to the approvals granted in this Ordinance except only after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with applicable law.
- B. Compliance with Laws. Chapters 150, regarding buildings and construction, 156, regarding subdivisions, and 159, regarding zoning, of the City Code, and all other applicable ordinances and regulations of the City shall continue to apply to the Property, and the development and use of the Property shall be in compliance with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- C. Tree Preservation. The Owners will fully comply with Chapter 99 of the City Code, regarding trees, as it relates to the construction of the Improvements.
- D. Compliance with the Plans. The Improvements must be developed on the Property in substantial compliance with the Plans.
- E. Fees and Costs. The Owners shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the City Code. In addition, the Owners shall reimburse the City for all of its costs (including without limitation engineering, planning, and legal expenses) incurred in connection with the review, consideration, approval, implementation, or successful enforcement of this Ordinance. Any amount not paid within 30 days after delivery of a demand in writing for such payment shall, along with interest and the costs of collection, become a lien upon the Property, and the City shall have the right to foreclose such lien in the name of the City as in the case of foreclosure of liens against real estate.

- F. Other conditions. The improvements shall be substantially in conformance with the Board's deliberations as reflected on Exhibit C, Notice of Action – Board Recommendation, attached hereto.

**SECTION FOUR: Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall, in the discretion of the City Council, be of no force or effect if Owners have not (i) executed and (ii) thereafter filed with the City Clerk, within 60 days following the passage of this Ordinance, the unconditional agreement and consent, in the form attached hereto as Exhibit D and by this reference made a part hereof, to accept and abide by each and all of the terms, conditions, and limitations set forth herein.

PASSED THIS \_\_ DAY OF \_\_\_\_\_, 2019.

AYES: (    )

NAYS: (    )

ABSENT: (    )

ABSTAIN: (    )

PASSED THIS \_\_ DAY OF \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## **EXHIBIT A**

### **Legal Description of Property**

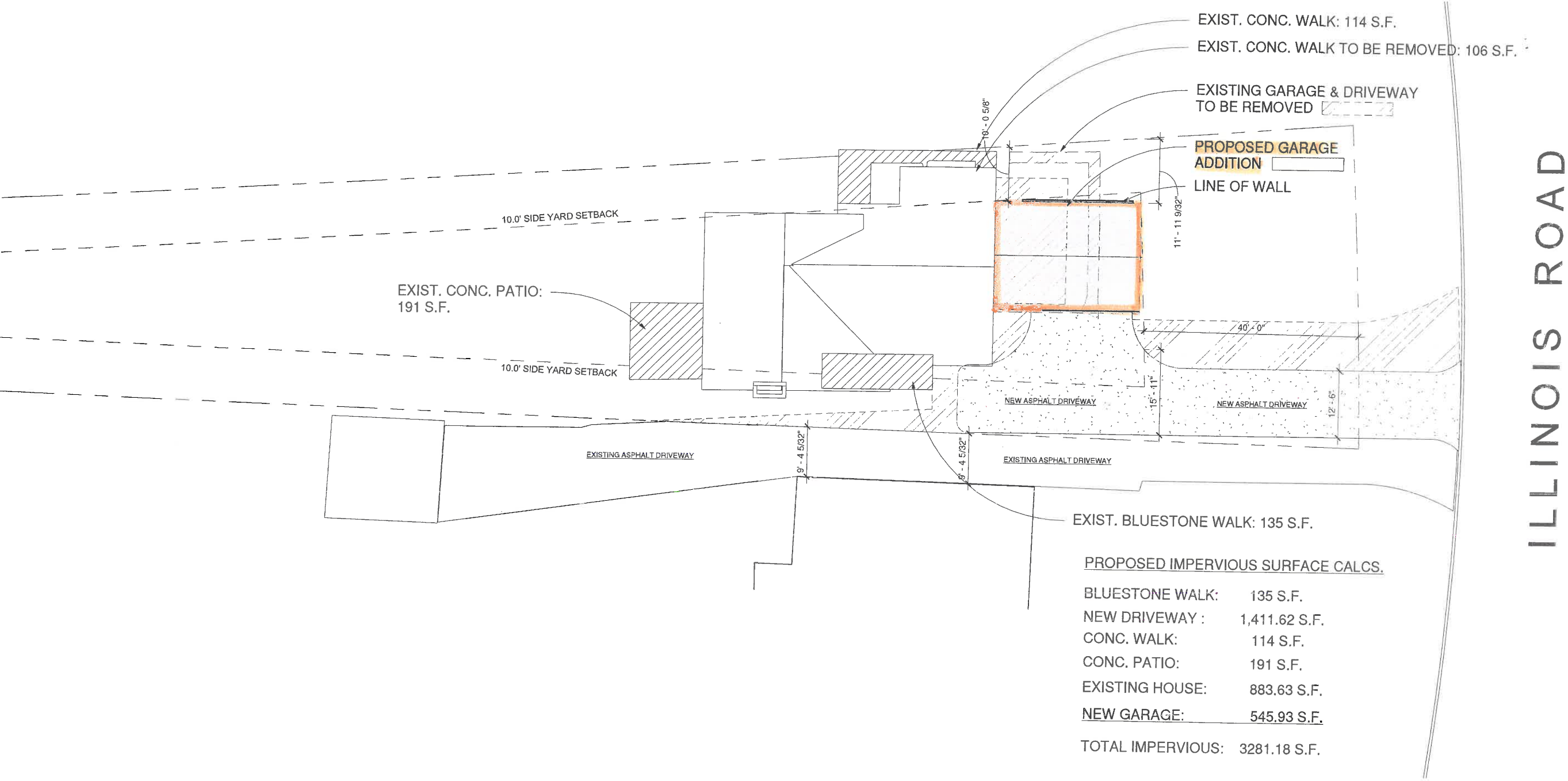
Legal Description:

Lot 3 in Clark and Muir's Subdivision of Lot 237 ½ and part of Lot 237 and Sublot 2 of a Subdivision of Lots 237 and 237 ½ and 238 of Lake Forest, according to the plat thereof, recoded November 13, 1905 as Document 103066, in Book "G" of Plats, Page 30 in Lake County, Illinois.

P.I.N. 12-33-125-003

Commonly known as: 375 Illinois Road

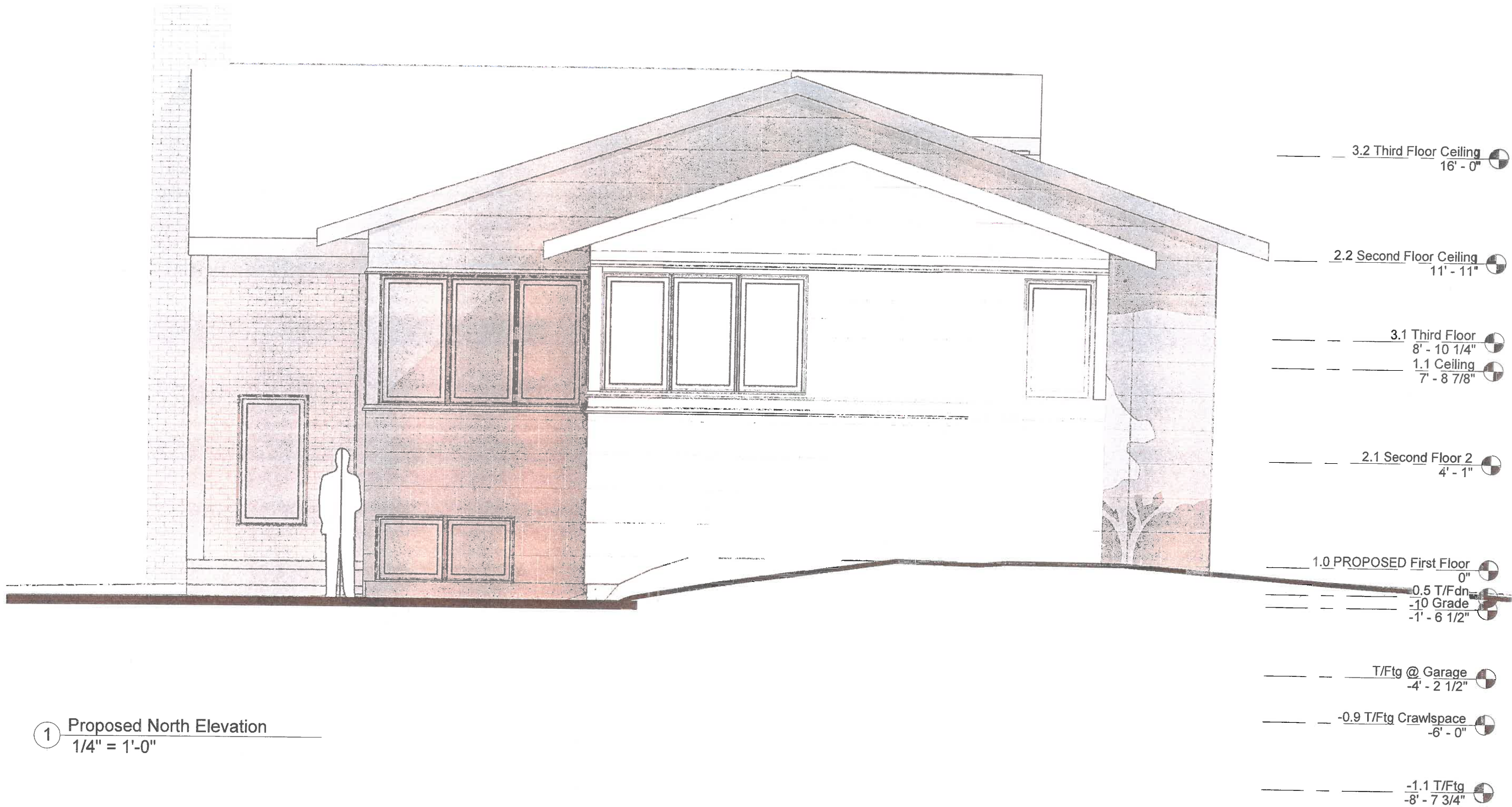
The Plans



1 Proposed Site Plan Overlay.  
1" = 20'-0"



The Plans

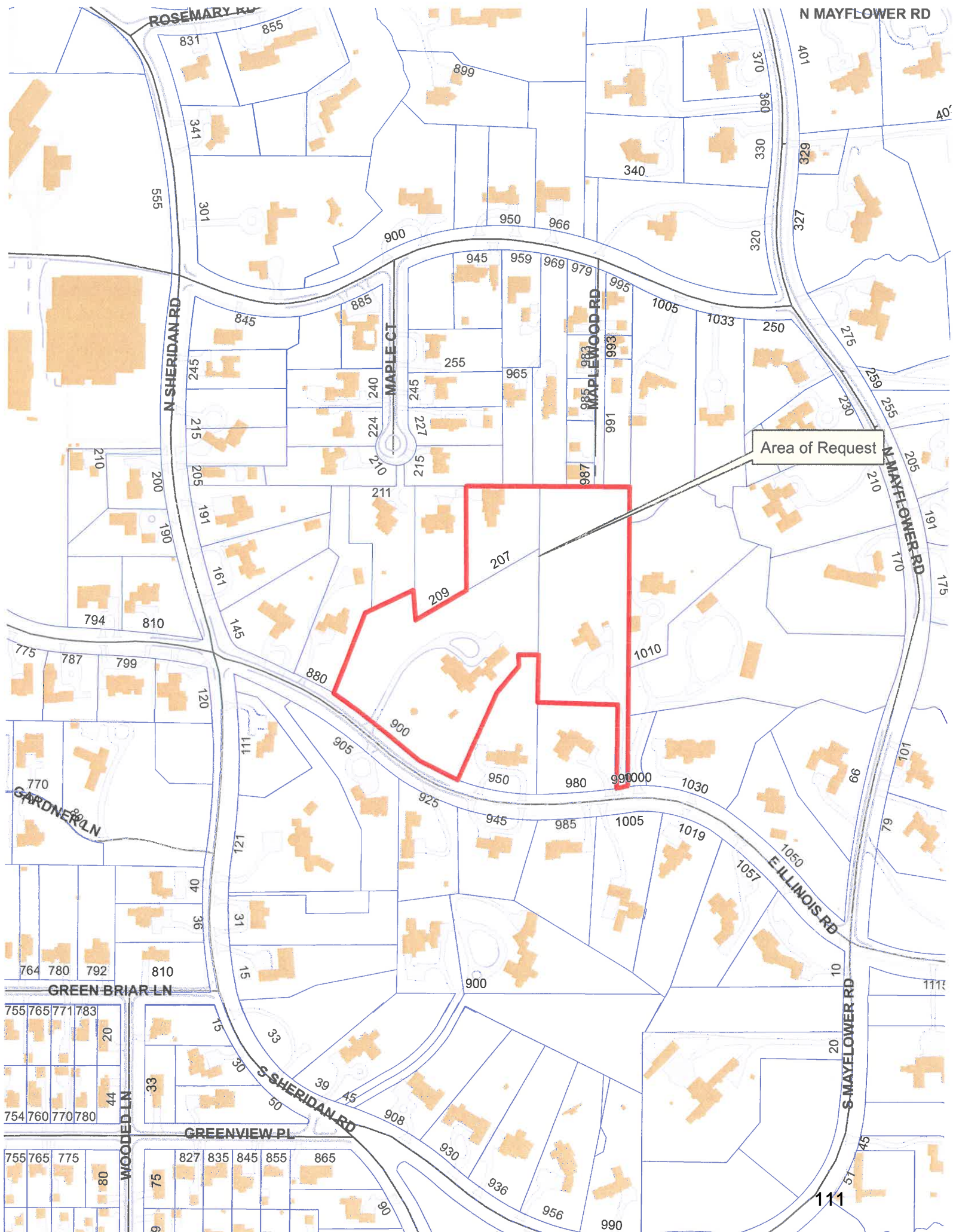


The Plans



1 Proposed East Elevation  
1/4" = 1'-0"





THE CITY OF LAKE FOREST

ORDINANCE NO. 2019 - \_\_\_\_

**AN ORDINANCE GRANTING FINAL PLAT APPROVAL FOR A PLANNED PRESERVATION RESUBDIVISION UNDER THE SPECIAL USE PROVISIONS OF THE R-4 SINGLE FAMILY RESIDENCE DISTRICT OF THE CITY OF LAKE FOREST ZONING CODE FOR PROPERTIES AT 900 AND 990 ILLINOIS ROAD AND 207 MAPLE COURT.**

**MAYFLOWER RAVINE PLANNED PRESERVATION RESUBDIVISION**

**WHEREAS**, The City of Lake Forest ("**City**") is a special charter, home rule municipality existing in accordance with the Illinois Constitution of 1970; and

**WHEREAS**, pursuant to its home rule powers, Article 5, Section 4 of the City Charter, and various provisions of the Illinois Municipal Code, the City is empowered to formulate rules and regulations to protect the health, safety, and welfare of the City and its residents, including regulations regarding land uses and zoning; and

**WHEREAS**, pursuant to Section 159.045 (Special Uses) and Section 159.048 (Historic Residential and Open Space Preservation) of the Lake Forest Zoning Code ("**Zoning Code**"), the City has established provisions for Planned Preservation Subdivisions and Resubdivisions to "ensure and facilitate the preservation of sites, areas, buildings, structures, ravines, landscaping, woods and other natural terrain features, and the character of the surrounding areas which are individually and/or collectively of special historical, architectural, aesthetic, cultural and/or ecological significance...." Said provisions authorize parcels in the R-4 zoning district and in the Historic Residential and Open Space

Preservation Overlay District meeting the established criteria to be configured as a Planned Preservation Subdivision, which allows for adjustments in development standards typically applicable to a standard subdivision through a Special Use Permit, subject to a determination by the City that specific criteria are satisfied; and

**WHEREAS**, Roger and Sandra Deromedi, Andrew and Ruth Winick and Dennis Johnston (the "**Owners**") together own approximately eight acres located north of Illinois Road, south of Maplewood Road and east of Sheridan Road and which property is legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance (the "**Property**"); and

**WHEREAS**, the Property is zoned R-4, Single Family Residence and located within the Historic Residential and Open Space Preservation Overlay District; and

**WHEREAS**, the Owners have presented a final plat of resubdivision to the City as provided in the Special Use regulations pertaining to Planned Preservation Residential Subdivisions in the R-4 District; and

**WHEREAS**, the Plan Commission of the City (i) find that the proposed resubdivision satisfies the criteria for a Planned Preservation Residential Resubdivision, and (ii) has reviewed and recommended for approval, with conditions, the Final Plat of Resubdivision and the associated Special Use Permit and submitted to the City Council a report of its findings, a copy of which is attached as **Exhibit B**; and

**WHEREAS**, the Mayor and City Council of The City of Lake Forest have considered the Plan Commission's review and recommendations regarding the Final Plat of Resubdivision and have determined that the best interest of the City and its residents will be served by approving this Ordinance granting Final Plat approval, subject to the terms and conditions hereinafter set forth; and

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAKE FOREST, COUNTY OF LAKE, STATE OF ILLINOIS**, as follows:

**SECTION 1. Recitals.** The foregoing recitals are by this reference incorporated into and made a part of this Ordinance as if fully set forth and represent the findings of the City Council.

**SECTION 2. Approval of Final Plat.** The Final Plat for the Property, prepared by the James Anderson Company, the Mayflower Ravine Resubdivision dated March 5, 2019 a copy of which is attached as **Exhibit C** to this Ordinance (the "**Final Plat**"); is hereby approved pursuant to Section 159.048 of the Zoning Code, and Section 156.029 of the City's Subdivision Code; provided, however, that such approvals shall be subject to the terms and conditions in Section 3 of this Ordinance and such modifications thereto which are determined by the City to be in substantially the same form as attached.

**SECTION 3. Conditions on Final Plat Approval.** Final Plat approval is granted pursuant to Section 2 of this Ordinance subject to the following conditions, restrictions, and limitations, and Owners' failure to abide by the provisions of this Section shall be grounds for the City, without public notice or hearing, to adopt

an ordinance repealing this Ordinance and the approvals granted pursuant to Section 159.048 of the Zoning Code and Section 156.029 of the Subdivision Code:

- (a) No Authorization for Development Activity. The granting of Final Plat approval shall not be deemed an authorization for the Owners to commence any development work on the Property, and no development work shall be permitted or otherwise authorized unless and until all necessary permits, authorizations, and approvals customarily required have been secured and until satisfaction of all conditions of this Ordinance.
- (b) Recordation of the Final Plat. *Prior to the recording of the Final Plat, the following conditions shall be met to the satisfaction of the City Engineer and Director of Community Development:*
  - 1. The final plat of subdivision shall meet all applicable requirements to the satisfaction of the City Engineer and Director of Community Development.
  - 2. All applicable fees must be paid.

**SECTION 4. Failure to Comply with Conditions.** Upon the failure or refusal of the Owners to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, the approvals granted in Section 2 of this Ordinance may, in the sole discretion of the City Council by ordinance duly adopted, without the need for a public notice or hearing, be revoked and become null and void; provided, however, that no such revocation ordinance shall be considered unless the City has first notified the Owners of the Property and provided the opportunity for corrective action within a specified timeframe.

**SECTION 5. Effective Date.** This Ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form in the manner provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



## **EXHIBIT A**

### Property Legal Description

Lot 1 in Deromedi-Skinner Subdivision according to the plat thereof recorded as Document No. 7346779 on November 16, 2016 in the south west 1/4 of Section 34, Township 44 North, Range 12 East of the 3rd Principal Meridian, City of Lake Forest, Lake County, Illinois

And

Lot 1 in Armen Adajian Resubdivision according to the plat thereof recorded as Document No. 2488208 on September 29, 1986, in the south west 1/4 of Section 34, Township 44 North, Range 12 East of the 3rd Principal Meridian, City of Lake Forest, Lake County, Illinois

And

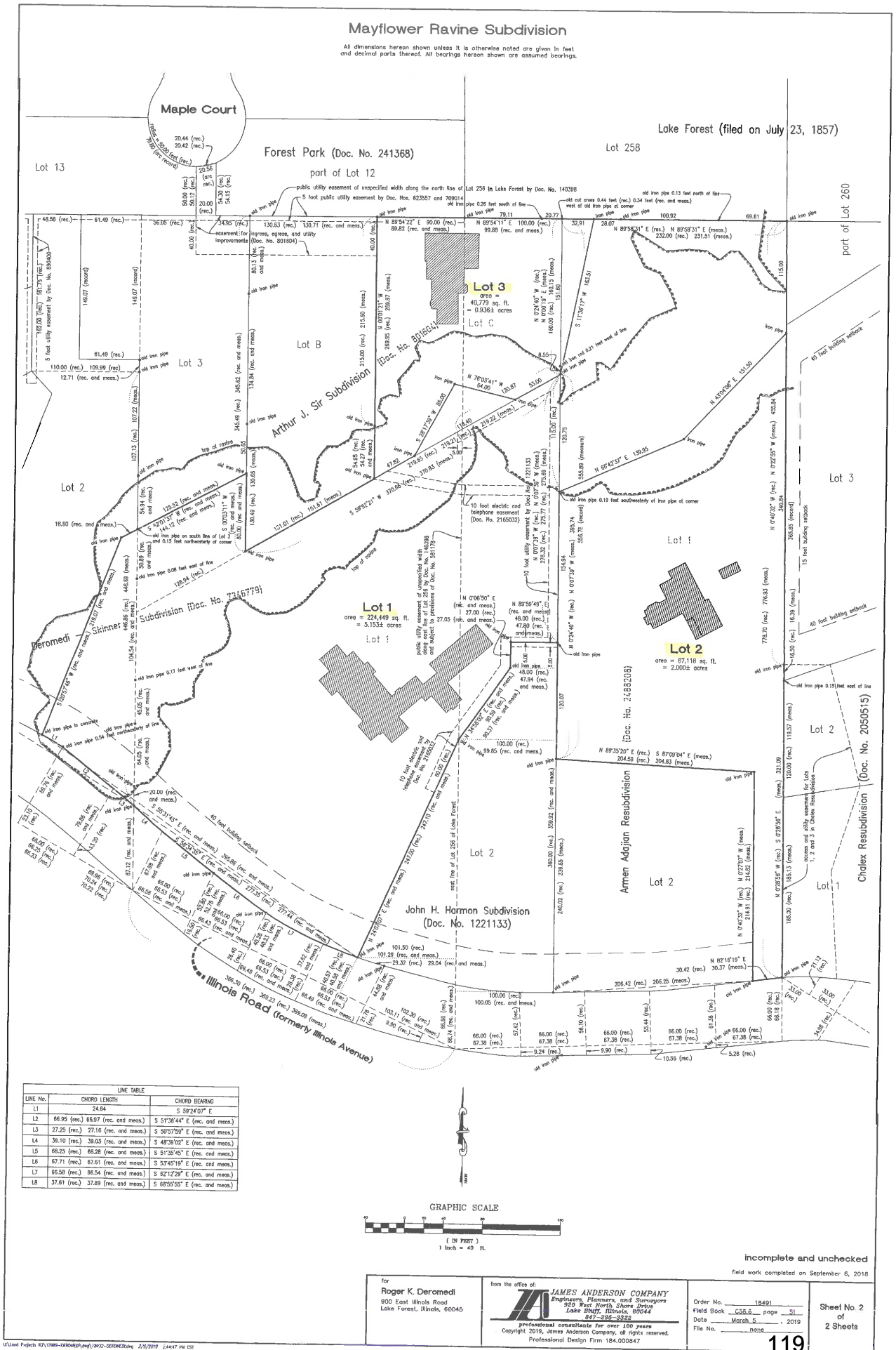
Lot C in Arthur J. Sir Subdivision, being a subdivision in the south west 1/4 of Section 34, Township 44 North, Range 12 East of the 3rd Principal Meridian, according to the plat thereof recorded as Document No. 801604 on September 4, 1953, City of Lake Forest, Lake County, Illinois

## **EXHIBIT B**

### **Findings of Fact**

1. The proposed subdivision will not endanger public health, safety, or the general welfare of the community. Instead, the proposed changes will place the majority of the adjacent ravine in a single ownership to provide the opportunity for long term protection and stewardship of the ravine.
2. The proposed resubdivision will not result in any perceived change to the properties or the neighborhood. The resubdivision will not diminish the quality or character of the surrounding neighborhood. In fact, continued preservation and protection of the ravine is a benefit to the larger neighborhood.
3. The proposed resubdivision is permitted under the provisions of the HROSPD and the R-4 zoning district. A Special Use Permit will serve as the authorizing document for the subdivision as required by the Code.
4. The proposed subdivision will not impede orderly development or redevelopment of surrounding properties. The surrounding properties are already developed with residential uses. No additional density is proposed as part of the resubdivision.
5. Adequate utilities and drainage facilities exist in the area to serve the existing homes. No increased demand for City services will result from this resubdivision.
6. The proposed resubdivision will not result in a significant diminution of the value of surrounding properties and is instead expected to have a beneficial effect through preservation and protection of the ravine.

# EXHIBIT C







Area of Request





**PLAN COMMISSION REPORT AND RECOMMENDATION  
Mayflower Ravine Subdivision**

TO:	Honorable Mayor Pandaleon and members of the Council
DATE:	June 20, 2019
FROM:	Chairman Kehr and Members of the Plan Commission
SUBJECT:	<b>Request for Approval of the Mayflower Ravine Plat of Resubdivision and the Associated Special Use Permit</b>

**OWNERS**

Roger and Sandra Deromedi  
900 Illinois Road  
Lake Forest, IL 60045

Andrew and Ruth Winick  
990 Illinois Road  
Lake Forest, IL 60045

Dennis Johnston  
207 Maple Court  
Lake Forest, IL 60045

**PROPERTY LOCATION**

On the north side of Illinois Road,  
east of Sheridan Road -- Commonly  
known as 900 and 990 Illinois Road  
and 207 Maple Court

**ZONING**

R-4 Single Family  
Residential District,  
Historic Residential and  
Open Space  
Preservation Overlay  
District (HROSPD)

**Plan Commission Recommendation**

Grant tentative and final approval of the Mayflower Ravine Resubdivision plat and the associated Special Use Permit based on the findings detailed in the Ordinance included in the Council packet.

**Summary of the Request**

This is a request for tentative and final approval of a plat of resubdivision. *No additional lots are being created, no additional density is proposed and no new development is planned.* The singular reason for the proposed resubdivision is to preserve, protect and further restore the ravine by locating most of the ravine on a single property, 900 Illinois Road.

A single approval process for tentative and final approval of a plat is routinely used for straight forward requests like this one. Since the properties in this request are in the HROSPD, the mechanism through which the resubdivision must be approved is a Special Use Permit.

The three existing lots are of varying sizes.

- 900 Illinois Road totals 4.00 acres
- 990 Illinois Road totals 3.15
- 207 Maple Court totals .936

All three of the lots presently include some portion of the ravine and, as a result, a portion of each of the lots is unbuildable. The lots are located in the R-4 zoning district which, under the current Zoning Code, requires a 60,000 square foot lot size minimum. All three of the lots were created prior to the current Zoning Code requirements. The 900 and 990 Illinois Road properties significantly exceed today's minimum lot size requirement, the 207 Maple Court property is smaller than the required minimum lot size in its present configuration.

The three lots, after the reconfiguration which would be achieved through the proposed resubdivision, will be of varying sizes.

- 900 Illinois Road will increase in size and will total 5.12 acres.
- 990 Illinois Road will decrease in size but will remain larger than the minimum lot size and will total 2 acres.
- 207 Maple Court will remain the same size, .936 acres, but will be reconfigured.

As noted above, the proposed resubdivision will increase the size of the 900 Illinois Road property however; the additional land area added to the parcel will be ravine, non-table land and unbuildable area.

The 990 Illinois Road property will decrease in overall size however, the portions of land that will be transferred to the other two properties are non-table land and land located on the north side of the ravine, separated from the table land on which the house is located. The buildable area on the 990 Illinois Road parcel will not change.

The configuration of the 207 Maple Court property changes, with a “swap” of land in the ravine, on the south side of the house, in exchange for a parcel of identical size located closer to the house, extending the table land of the rear yard slightly to the east. Again, there is no change to the size of the 207 Maple Court property as a result of the proposed resubdivision, just a reconfiguration.

### **Background**

In 2016, a similar resubdivision was approved by the City Council, based on a recommendation from the Plan Commission. The resubdivision was initiated for the same purpose, to consolidate a significant portion of the ravine on to the 900 Illinois Road property for the purpose of restoration and preservation of the ravine. The properties involved in the earlier resubdivision included 880 Illinois Road and 211 Maple Court in addition to 900 Illinois Road.

### **Description of the Property and Surrounding Area**

The properties in the proposed resubdivision are located in an established neighborhood, in the City's Historic District. Many of the properties in this area were created through subdivisions that occurred long before the current provisions in the Zoning Code. Development of many of the properties in this area also occurred prior to current regulations. Properties in this area vary in size and many have irregular configurations due to the ravines and curving streets.

### **Staff Analysis**

As noted above, the resubdivision is not proposed for development or redevelopment purposes. The intent is to configure the three existing properties to allow a substantial portion of the ravine to be under a single ownership. Three lots will remain. Mr. and Ms. Deromedi recently undertook a very significant restoration of the ravine. In the years leading up to that project, the pattern of

multiple ownerships of land within the ravine complicated and delayed the approval process and ultimately, the restoration work. The 2015 resubdivision has proven to be helpful in supporting the ongoing preservation and protection of the ravine. Importantly, ravines are a key part of the City's stormwater management system and as a result, protection and proper maintenance of the ravines benefits the larger community.

The existing 207 Maple Court property, as noted above, is currently smaller than the 60,000 square foot minimum lot size required today in the R-4 zoning district. No reduction in the size of the parcel is proposed. The lot will retain its current legal, nonconforming status. The property was created prior to the application of the R-4 zoning district to the area. Also, as noted above, all three properties are located in the HROSPD which provides the flexibility for non-conforming lots, as long as the underlying density is met. No increase in density is proposed. The properties together total just over 8 acres. The existing density of the three parcels is consistent with the permitted density in the R-4 zoning district.

The purpose of the HROSPD is to protect and preserve natural features and historic structures. The proposed resubdivision is consistent with that purpose.

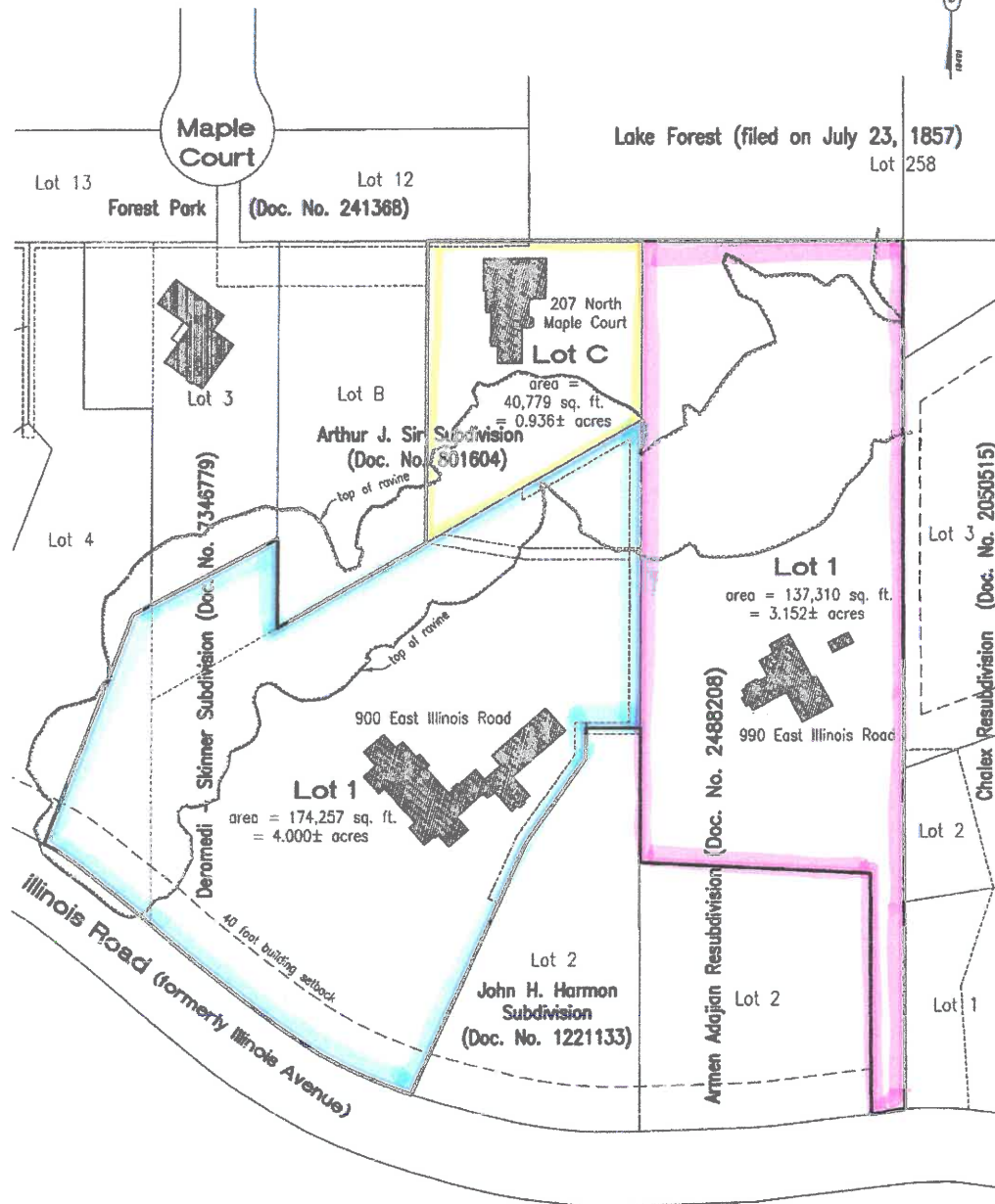
The Code provides that resubdivisions in the HROSPD be approved through a Special Use Permit. Findings in response to the applicable criteria for evaluating a request for a Special Use Permit are detailed in the Ordinance included in the Council packet.

#### **Public Notice**

Public notice of this hearing was provided in accordance with Code requirements and standard practices. Public notice was published in a newspaper of local circulation and was mailed to homes in the surrounding area. The agenda for this meeting was posted at public locations and on the City's website.

# existing lots

scale: 1 inch = 100 feet



for  
**Roger K. Deromedi**  
900 East Illinois Road  
Lake Forest, Illinois, 60045

from the office of:  
**JAMES ANDERSON COMPANY**  
*Engineers, Planners, and Surveyors*  
920 West North Shore Drive  
Lake Bluff, Illinois, 60044  
847-295-3322  
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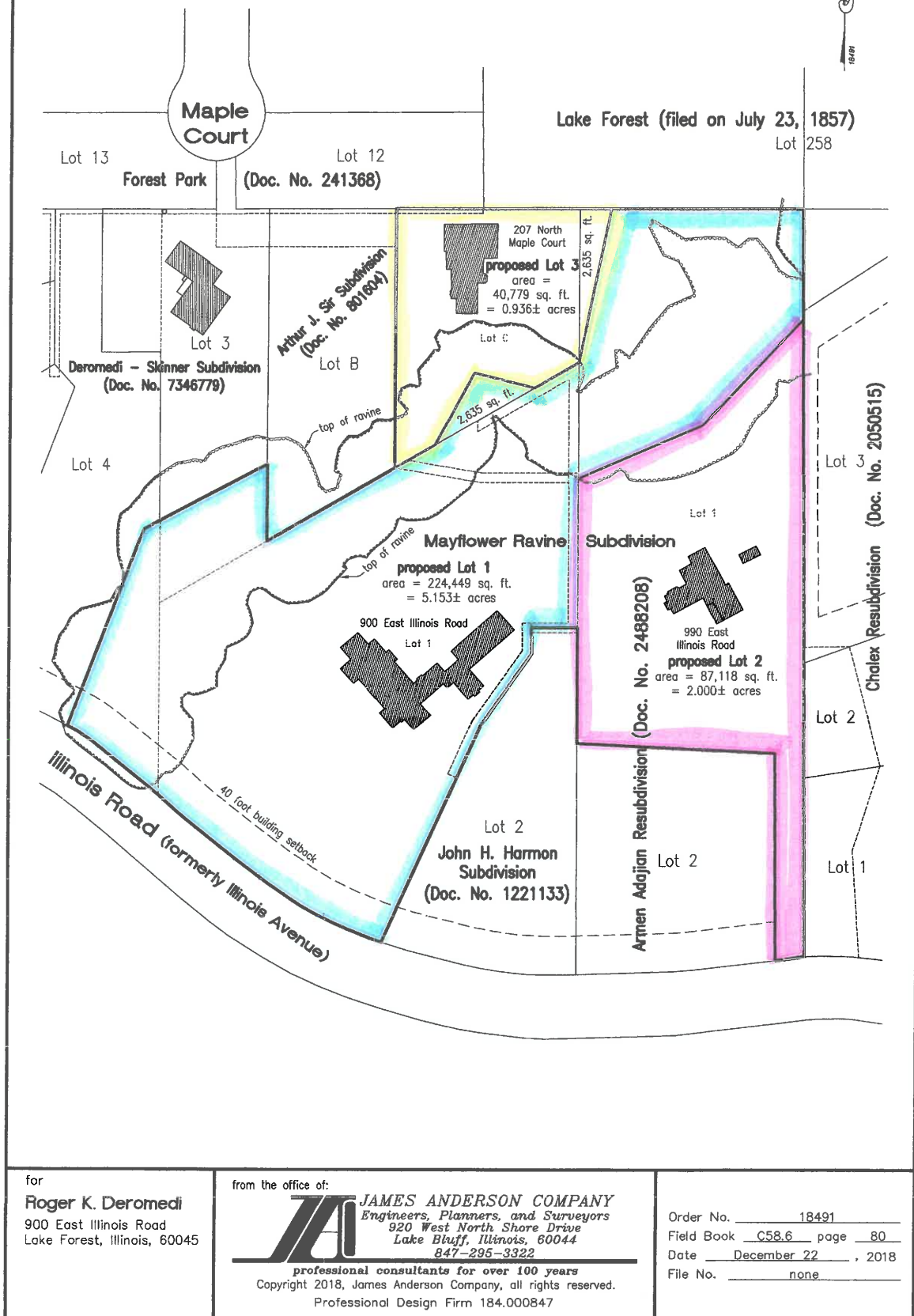
Order No. 18491  
Field Book C58.6 page 80  
Date December 22, 2018  
File No. none

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# proposed lots

scale: 1 inch = 100 feet



for

**Roger K. Deromedi**

900 East Illinois Road  
Lake Forest, Illinois, 60045

from the office of:

**JAMES ANDERSON COMPANY**  
Engineers, Planners, and Surveyors  
920 West North Shore Drive  
Lake Bluff, Illinois, 60044  
847-295-3322

professional consultants for over 100 years  
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## MASTER POLE ATTACHMENT AGREEMENT

This Master Pole Attachment Agreement (Agreement) made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between The City of Lake Forest, an Illinois home rule municipality with its principal offices located at 220 East Deerpath, Lake Forest IL 60045 (hereinafter designated "**LICENSOR**"), and \_\_\_\_\_, with its principal offices at \_\_\_\_\_ (hereinafter designated "**LICENSEE**"). LICENSOR and LICENSEE are at times collectively referred to hereinafter as the "**Parties**" or individually as the "**Party**."

### WITNESSETH:

**WHEREAS**, LICENSOR is the owner, of certain utility poles, wireless support structures, and/or real property, which are located within the geographic area of a license to provide wireless services licensed by the Federal Communications Commission ("**FCC**") to LICENSEE; and

**WHEREAS**, LICENSEE desires to install, maintain and operate small wireless facilities in and/or upon certain of LICENSOR's utility poles, wireless support structures and/or real property; and

**WHEREAS**, LICENSOR and LICENSEE acknowledge that any term used in this Agreement that is defined in Section 2 of the Small Wireless Facilities Deployment Ordinance (Ordinance No. \_\_\_\_\_, as now or hereafter amended, which shall hereinafter be referred to as the "**Code Requirements**") shall have the meaning provided therein; and

**WHEREAS**, LICENSOR and LICENSEE acknowledge that the terms of this Agreement are nondiscriminatory, competitively neutral and commercially reasonable.

**WHEREAS**, LICENSOR and LICENSEE desire to enter into this Agreement to define the general terms and conditions which would govern their relationship with respect to particular sites at which LICENSOR may wish to permit LICENSEE to install, maintain and operate small wireless facilities as hereinafter set forth; and

**WHEREAS**, the LICENSOR and LICENSEE intend to promote the expansion of communications services in a manner consistent with the Small Wireless Facilities Deployment Act, the Illinois Cable and Video Competition Act, the Illinois Telephone Company Act, the Telecommunications Act of 1996, the Middle Class Tax Relief and Job Creation Act of 2012, the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/5-1, *et. seq.* and Federal Communication Commission Regulations; and

**WHEREAS**, LICENSOR and LICENSEE acknowledge that they will enter into a License Supplement ( a "**Supplement**"), a copy of which is attached hereto as Exhibit A, with respect to any particular location or site which the Parties agree to license; and

**WHEREAS**, the Parties acknowledge that different related entities may operate or conduct the business of LICENSEE in different geographic areas and, as a result, each Supplement may be signed by LICENSEE affiliated entities as further described herein, as appropriate based upon the entity holding the FCC license in the subject geographic location.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

- 1) **PREMISES.** Pursuant to all of the terms and conditions of this Agreement and the applicable Supplement, LICENSOR agrees to license to LICENSEE that certain space on or upon LICENSOR's utility poles, and/or wireless support structures as more fully described in each Supplement to be executed by the Parties hereinafter referred to as the "Premises", for the installation, operation, maintenance, repair and modification of small wireless facilities; together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over only that portion of the Property (as defined below) as may be reasonably necessary for such ingress and egress to and from the Premises for the purpose of installation, operation, maintenance, repair and modification of LICENSEE's small wireless facilities. The LICENSOR's utility poles, wireless support structures and other poles and towers are hereinafter referred to as "**Pole**" and the entirety of the LICENSOR's property is hereinafter referred to as "**Property**". In the event there are not sufficient electric and telephone, cable or fiber utility sources located at the Premises or on the Property, LICENSOR agrees to grant LICENSEE the right to install such utilities on, over and/or under the Property and to the Premises as necessary for LICENSEE to operate its communications facility, but only from duly authorized provider of such utilities, provided that: (a) the location of such utilities shall be designated by LICENSOR; (b) such utilities shall not interfere with or otherwise adversely affect LICENSOR's use and enjoyment of the Property as determined by LICENSOR in its reasonable judgment; and (c) any installation or extension of such utilities shall, if requested by LICENSOR, have sufficient capacity to serve anticipated needs of LICENSOR and be capable of ready access by LICENSOR.
- 2) **PERMIT APPLICATION.** For each small wireless facility, LICENSEE shall submit an application to LICENSOR for permit that includes:
  - a) Site specific structural integrity and, for LICENSOR'S utility pole or wireless support structure, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
  - b) The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility (including without limitation all ancillary equipment and facilities needed to serve and operate the small wireless facility and any ground-based enclosures);
  - c) Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
  - d) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
  - e) A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved;
  - f) Certification that the collocation complies with LICENSOR's Code Requirements, to the best of the applicant's knowledge; and

g) The application fee due.

3) APPLICATION FEES. Application fees are subject to the following requirements:

- a) LICENSEE shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.
- b) LICENSEE shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- c) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section must be accompanied by the required application fee.
- d) LICENSOR shall not require an application, approval, or permit, or require any fees or other charges, from LICENSEE, for:
  - i) routine maintenance; or
  - ii) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if LICENSEE notifies LICENSOR at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements of this Agreement; or
  - iii) the installation, placement, maintenance, operation, or replacement of small wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes, provided this provision does not authorize such facilities to be suspended from municipal electric lines, if any.

LICENSEE shall, however, secure a permit from LICENSOR to work within rights-of-way for activities that affect traffic patterns or require lane closures.

4) REQUIREMENTS.

- a) LICENSEE's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications. LICENSEE shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency. If a small wireless facility causes such interference, and LICENSEE has been given written notice of the interference by the public safety agency, LICENSEE, at its own expense, shall take all reasonable steps necessary to correct and eliminate the interference, including, but not limited to, powering down the small wireless facility and later powering up the small wireless facility for intermittent testing, if necessary. The LICENSOR may terminate a permit for a small wireless facility based on such interference if LICENSEE is not making a good faith effort to remedy the problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC

including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

- b) LICENSEE shall not install devices on the existing utility pole or wireless support structure that extend beyond 10 feet of the poles existing height.
- c) LICENSEE shall install pole mounted equipment at a minimum of 15 feet from the adjacent grade.
- d) LICENSEE shall be limited to one (1) cabinet or other ground mounted device for ground mounted installations.
- e) LICENSEE shall satisfy the Code Requirements, including without limitation paint antennas, mounting hardware, and other devices to match or complement the structure upon which they are being mounted.
- f) LICENSEE shall install landscaping at the base of poles with respect to any ground equipment installed by LICENSEE on which devices are being installed as required by the Code Requirements.
- g) LICENSEE shall comply with all the terms and conditions of LICENSOR's City Code Chapter 427 in regard to construction of utility facilities.
- h) LICENSEE shall comply with requirements that are imposed by a contract between the LICENSOR and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
- i) LICENSEE shall comply with applicable spacing requirements in as set forth in the Code Requirements concerning the location of ground-mounted equipment located in the right-of-way.
- j) LICENSEE shall comply with the Code Requirements concerning undergrounding requirements or determinations from the municipal officer or employee in charge of municipal utilities, in any.
- k) LICENSEE shall comply with the City Code for construction and public safety in the rights-of-way, including, but not limited to, wiring and cabling requirements, grounding requirements, utility pole extension requirements, and signage limitations; and shall comply with reasonable and nondiscriminatory requirements that are consistent with PA 100-0585 and adopted by LICENSOR regulating the location, size, surface area and height of small wireless facilities, or the abandonment and removal of small wireless facilities.
- l) LICENSEE shall not collocate small wireless facilities within the communication worker safety zone of the pole or the electric supply zone of the pole on LICENSOR utility poles that are part of an electric distribution or transmission system. However, the antenna and support equipment of the small wireless facility may be located in the communications space on the LICENSOR utility pole and on the top of the pole, if not otherwise unavailable, if LICENSEE complies with the Code Requirements for work involving the top of the pole. For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms

in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

- m) LICENSEE shall comply with the City Code provisions concerning public safety.
- n) LICENSEE shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Agreement. LICENSEE shall ensure that its employees, agents or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.
- o) LICENSEE shall comply with the Code Requirements for decorative utility poles, or stealth, concealment, and aesthetic requirements, as well as any other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
- p) LICENSOR requires compliance with the design or concealment measures affecting a historic district or historic landmark as set forth in Exhibit B to this Agreement. Any such design or concealment measures, including restrictions on a specific category of poles, may not have the effect of prohibiting any LICENSEE's technology. Such design and concealment measures shall not be considered a part of the small wireless facility for purposes of the size restrictions of a small wireless facility. This paragraph may not be construed to limit LICENSOR's enforcement of historic preservation in conformance with the requirements adopted pursuant to the Illinois State Agency Historic Resources Preservation Act or the National Historic Preservation Act of 1966, 54 U.S.C. Section 300101 *et seq.* and the regulations adopted to implement those laws.

5) APPLICATION PROCESS. LICENSOR shall process applications as follows:

- a) An application to collocate a small wireless facility on an existing utility pole, replacement of an existing utility pole or wireless support structure owned or controlled by LICENSOR shall be processed by LICENSOR and deemed approved if LICENSOR fails to approve or deny the application within 90 days. However, if LICENSEE intends to proceed with the permitted activity on a deemed approved basis, LICENSEE must notify LICENSOR in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by LICENSOR. The receipt of the deemed approved notice shall not preclude LICENSOR's denial of the permit request within the time limits as provided under the Code Requirements.
- b) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed and deemed approved if LICENSOR fails to approve or deny the application within 120 days. However, if LICENSEE applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify LICENSOR in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application. The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by LICENSOR.

The receipt of the deemed approved notice shall not preclude LICENSOR's denial of the permit request within the time limits as provided under the Code Requirements.

- c) LICENSOR shall approve an application unless the application does not meet the Code Requirements.
- d) If LICENSOR determines that applicable codes, local code provisions or regulations that concern public safety, or the Code Requirements require that the utility pole or wireless support structure be replaced before the requested collocation, approval may be conditioned on the replacement of the utility pole or wireless support structure at the cost of LICENSEE. LICENSOR must document the basis for a denial, including the specific code provisions or application conditions on which the denial was based, and send the documentation to LICENSEE on or before the day LICENSOR denies an application. LICENSEE may cure the deficiencies identified by LICENSOR and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. LICENSOR shall approve or deny the revised application within 30 days after LICENSEE resubmits the application or it is deemed approved. However, LICENSEE must notify LICENSOR in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the resubmitted application. Any subsequent review shall be limited to the deficiencies cited in the denial. However, this revised application cure does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.
- e) COMPLETENESS OF APPLICATION. Provided that an application is file-stamped by the LICENSOR, within 30 days after receiving such file-stamped application, the LICENSOR shall determine whether the application is complete and notify the applicant. If an application is incomplete, the LICENSOR shall specifically identify the missing information. An application shall be deemed complete if the LICENSOR fails to provide notification to the applicant with 30 days after all documents, information and fees specifically enumerated in the LICENSOR's permit application form are submitted by the application to the LICENSOR. Processing deadlines are tolled from the time the LICENSOR sends the notice of incompleteness to the time the applicant provides the missing information.
- f) TOLLING. The time period for applications may be further tolled by the express agreement in writing by both LICENSOR and LICENSEE; or a local, State or federal disaster declaration or similar emergency that causes the delay.
- g) CONSOLIDATED APPLICATIONS. A LICENSEE seeking to collocate small wireless facilities within the jurisdiction of LICENSOR shall be allowed, at LICENSEE's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure. If an application includes multiple small wireless facilities, LICENSOR may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. LICENSOR may issue separate permits for each collocation that is approved in a consolidated application.

- 6) COLLOCATION COMPLETION DEADLINE. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless LICENSOR and LICENSEE agree to extend this period or a delay is caused by make-ready work for a LICENSOR utility pole or by the lack of commercial power or backhaul availability at the site, provided LICENSEE has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless LICENSOR grants an extension in writing to the LICENSEE.
- 7) DURATION OF PERMITS AND SUPPLEMENTS. The duration of a permit and the initial Supplement shall be for a period of (not less than 5 years), and the permit and Supplement shall be renewed for equivalent durations unless LICENSOR makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable codes or local code provisions or as otherwise provided under the Code Requirements. If P.A. 100-0585 is repealed as provided in Section 90 of the Act, renewals of permits shall be subject to the LICENSOR's code provisions or regulations in effect at the time of renewal.
- 8) EXTENSIONS. Each Supplement may be extended for additional five (5) year terms unless LICENSEE terminates it at the end of the then current term by giving LICENSOR written notice of the intent to terminate at least three (3) months prior to the end of the then current term. The initial term and all extensions under a Supplement shall be collectively referred to herein as the "Term". Notwithstanding anything herein, after the expiration of this Agreement, its terms and conditions shall survive and govern with respect to any remaining Supplements in effect until their expiration or termination.
- 9) RENTAL. Each Supplement shall be effective as of the date of execution by both Parties (the "**Effective Date**"), provided, however, the initial term of each Supplement shall be for five (5) years and shall commence on the first day of the month following the day that LICENSEE commences installation of the equipment on the Premises (the "**Commencement Date**") at which time rental payments shall commence and be due at a total annual rental as set forth in the Supplement, to be paid in advance annually on the Commencement Date and on each anniversary of it in advance, to the LICENSOR in the Supplement (unless LESSOR otherwise designates another payee and provides notice to LICENSEE). LICENSOR and LICENSEE acknowledge and agree that the initial rental payment for each Supplement shall not actually be sent by LICENSEE until thirty (30) days after the Commencement Date. LICENSOR and LICENSEE agree that they shall acknowledge in writing the Commencement Date of each Supplement. Rental for the use of any poles pursuant to this Agreement, shall be an annual fee of \$200.00 per each wireless facility which LICENSEE attaches to LICENSOR's pole. Thereafter, rent will be due at each annual anniversary of the "Commencement Date" of the applicable Supplement. Upon agreement of the Parties, LICENSEE may pay rent by electronic funds transfer and in such event, LICENSOR agrees to provide to LICENSEE bank routing information for such purpose upon request of LICENSEE.
- 10) ABANDONMENT. A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned and the LICENSEE must remove the small wireless facility within 90 days after receipt of written notice from LICENSOR notifying LICENSEE of the abandonment.



The notice shall be sent by certified or registered mail, return receipt requested, by LICENSOR to the LICENSEE at the last known address of LICENSEE. If the small wireless facility is not removed within 90 days of such notice, LICENSOR may remove or cause the removal of such facility and charge said costs to the LICENSEE.

LICENSEE shall provide written notice to LICENSOR of any sale or transfer of small wireless facilities not less than 30 days prior to such transfer and said notice shall include the name and contact information of the new wireless provider.

- 11) CONDITION OF PREMISES. Where the Premises includes one or more Poles, LICENSOR covenants that it will keep the Poles in good repair as required by all federal, state, county and local laws. If the LICENSOR fails to make such repairs including maintenance within 60 days, of any notification to LICENSOR, the LICENSEE shall have the right to cease annual rental for the effected poles, but only if the poles are no longer capable of being used for the purpose originally contemplated in this Agreement or otherwise do not comply with existing law. If LICENSEE terminates, LICENSEE shall remove its small wireless facility without cost to LICENSOR. Termination of this Agreement shall be the LICENSEE's sole remedy.
- 12) MAKE READY TERMS. LICENSOR shall not require more make-ready work than required to meet applicable codes or industry standards and the requirements of Section 1 of this Agreement. Make-ready work may include work needed to accommodate additional public safety communications needs that are identified in a documented and approved plan for the deployment of public safety equipment as specified and included in an existing or preliminary LICENSOR or public service agency plan. Fees for make-ready work, including any LICENSOR utility pole attachment, shall not exceed actual costs or the amount charged to communications service providers for similar work and shall not include any consultants' fees or expenses for LICENSOR utility poles that do not support aerial facilities used to provide communications services or electric service. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good-faith estimate by the LICENSOR at the LICENEE's sole cost and expense.
- 13) AERIAL FACILITIES. For LICENSOR utility poles that support aerial facilities used to provide communications services or electric services, LICENSEE shall comply with the process for make-ready work under 47 U.S.C. 224 and its implementing regulations. LICENSOR shall follow a substantially similar process for such make-ready work except to the extent that the timing requirements are otherwise addressed in the Code Requirements. The good-faith estimate of the person owning or controlling LICENSOR's utility pole for any make-ready work necessary to enable the pole to support the requested collocation shall include LICENSOR utility pole replacement, if necessary. Make-ready work for utility poles that support aerial facilities used to provide communications services or electric services may include reasonable consultants' fees and expenses.
- 14) NO AERIAL FACILITIES. For LICENSOR utility poles that do not support aerial facilities used to provide communications services or electric services, LICENSOR shall provide a good-faith estimate for any make-ready work necessary to enable the LICENSOR utility pole to support the requested collocation, include pole replacement, if necessary, within 90 days after receipt of a complete application. Make-ready work, including any LICENSOR utility pole replacement, shall be completed within 60 days of written acceptance of the good-faith

estimate by LICENSEE at LICENSEE's sole cost and expense. Alternatively, if LICENSOR determines that applicable codes or public safety regulations require the LICENSOR's utility pole to be replaced to support the requested collocation, LICENSOR may require LICENSEE to replace LICENSOR's utility pole at LICENSEE's sole cost and expense.

- 15) GENERAL RESTRICTIONS. In the event LICENSOR, in its reasonable discretion deems it necessary to remove, relocate or replace a Pole, LICENSOR shall notify LICENSEE at least one hundred eighty (180) days prior of the need to remove or relocate its small wireless facility. In such event, LICENSOR shall provide options for alternative locations for LICENSEE relocation of equipment which shall be in a mutually agreeable location ("Alternative Premises"). LICENSEE shall be solely responsible for all costs related to the relocation of its small wireless facility to the Alternative Premises. In the event that a suitable Alternative Premises cannot be identified, LICENSEE may terminate the applicable Supplement. In the event of an emergency, which for purposes of this Agreement shall be considered any imminent threat to health, safety and welfare of the public, LICENSOR must provide as much notice as reasonably practical under the circumstances. LICENSEE may terminate this Agreement by giving written notice to the other party specifying the date of termination, such notice to be given not less than one hundred eighty (180) days prior to the date specified therein.
- 16) ELECTRICAL. LICENSEE shall be permitted to connect its equipment to necessary electrical and telephone service, at LICENSEE's expense. LICENSEE shall attempt to coordinate with utility companies to provide separate service to LICENSEE's equipment for LICENSEE use. In the event that LICENSEE can obtain separate electrical service with a separate meter measuring usage, the LICENSEE shall pay the utility directly for its power consumption, if billed directly by the utility. In the event that separate electrical service is not possible or practical under the circumstances, LICENSEE may use existing service, at LICENSEE's expense, upon the reasonable approval of LICENSOR. In the event that LICENSEE uses existing utility service at an individual Premises, the Parties agree to either: (i) attempt to have a sub-meter installed, at LICENSEE's expense, which shall monitor LICENSEE's utility usage (with a reading and subsequent bill for usage delivered to LICENSEE by either the applicable utility company or LICENSOR); or (ii) provide for an additional fee in the applicable Supplement which shall cover LICENSEE's utility usage. The Parties agree to reflect power usage and measurement issues in each applicable Supplement.
- 17) TEMPORARY POWER. LICENSEE shall be permitted at any time during the Term of each Supplement, to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by LICENSOR. LICENSEE shall be permitted to connect the temporary power source to its equipment on the Premises in areas and manner approved by LICENSOR.
- 18) USE; GOVERNMENTAL APPROVALS. LICENSEE shall use the Premises for the purpose of constructing, maintaining, repairing and operating small wireless facilities and uses incidental thereto. LICENSEE shall have the right to replace, repair and modify equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, in conformance with the original Supplement. It is understood and agreed that LICENSEE's ability to use the Premises is contingent upon its obtaining after the execution

date of each Supplement all of the certificates, permits and other approvals (collectively the "**Governmental Approvals**") that may be required by any Federal, State or Local authorities as well as a satisfactory building structural analysis which will permit LICENSEE use of the Premises as set forth above. In the event that (i) any of such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LICENSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; and (iii) LICENSEE determines that such Governmental Approvals may not be obtained in a timely manner, LICENSEE shall have the right to terminate the applicable Supplement. Notice of LICENSEE's exercise of its right to terminate shall be given to LICENSOR in accordance with the notice provisions set forth in Paragraph 23 and shall be effective upon the mailing of such notice by LICENSEE, or upon such later date as designated by LICENSEE. All rentals paid to said termination date shall be retained by LICENSOR. Upon such termination, the applicable Supplement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other thereunder. Otherwise, the LICENSEE shall have no further obligations for the payment of rent to LICENSOR for the terminated Supplement. Notwithstanding anything to the contrary in this Paragraph, LICENSEE shall continue to be liable for all rental payments to the LICENSOR until all equipment is removed from the Property.

- 19) **INSURANCE**. LICENSEE shall carry, at LICENSEE's own cost and expense, the following insurance: (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance, as required by law; or (iii) commercial general liability insurance with respect to its activities on LICENSOR improvements or rights-of-way to afford LICENSEE agrees that at its own cost and expense, LICENSEE will maintain general liability insurance with limits not less than \$5,000,000.00 for injury to or death of one or more persons in any one occurrence (and not less than \$10,000,000.00 in aggregate) and \$2,500,000.00 for damage or destruction to property in any one occurrence (not less than \$5,000,000.00 in aggregate). No such insurance shall have a deductible amount greater than \$5,000.00 unless otherwise expressly approved by LICENSOR. LICENSEE shall include LICENSOR as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of LICENSOR in a commercial general liability policy.

LICENSEE may self-insure all or a portion of the insurance coverage and limit requirements required by LICENSOR. If LICENSEE self-insures it is not required, to the extent of the self-insurance, to comply with the requirement for the naming of additional insureds under this Section. If LICENSEE elects to self-insure it shall provide to LICENSOR evidence sufficient to demonstrate LICENSEE'S financial ability to self-insure the insurance coverage and limits required by LICENSOR.

- 20) **INDEMNIFICATION; WAIVER**. LICENSEE shall indemnify and hold LICENSOR harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of LICENSOR'S improvements or right-of-way associated with such improvements by LICENSEE or its employees, agents, or contractors arising out of the rights and privileges granted under this Agreement and PA 100-0585. LICENSEE has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of LICENSOR or its employees or agents. LICENSEE hereby further waives any claims that LICENSEE may have against the LICENSOR with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

- 21) REMOVAL AT END OF TERM. LICENSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of a Supplement, remove its equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage not caused by LICENSEE excepted. LICENSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LICENSEE shall remain the personal property of LICENSEE and LICENSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes LICENSEE to remain on the Premises after termination of the Supplement, LICENSEE shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the antenna structure, fixtures and all personal property are completed.
- 22) RIGHTS UPON SALE. Should LICENSOR, at any time during the Term of any Supplement decide to sell or transfer all or any part of the Property such sale or grant of an easement or interest therein shall be under and subject to the Supplement and any such purchaser or transferee shall recognize LICENSEE's rights hereunder and under the terms of the Supplement.
- 23) NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LICENSOR:  
The City of Lake Forest  
(Attn: Jason C. Wicha, City Manager)  
220 East Deerpath  
Lake Forest IL 60045

Copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LICENSEE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either Party may change the addressee and/or location for the giving of notice to it by providing a thirty (30) days' prior written notice to the other Party.

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

- 24) CASUALTY. In the event of damage by fire or other casualty to the Pole or Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Pole or Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LICENSEE's operations at the Premises for more than forty-five (45) days, then LICENSEE may, at any time following such fire or other casualty, provided LICENSOR has not completed the restoration required to permit LICENSEE to resume its operation at the Premises, terminate the Supplement upon fifteen (15) days prior written notice to LICENSOR. Any such notice of termination shall cause the Supplement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the Supplement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under the Supplement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LICENSEE's use of the Premises is impaired.
- 25) DEFAULT. In the event there is a breach by a Party with respect to any of the provisions of this Agreement or its obligations under it, the non-breaching Party shall give the breaching Party written notice of such breach. After receipt of such written notice, the breaching Party shall have 30 days in which to cure any breach, provided the breaching Party shall have such extended period, not to exceed 90 days, as may be required beyond the 30 days if the breaching Party commences the cure within the 30-day period and thereafter continuously and diligently pursues to cure to completion. The non-breaching Party may maintain any action or affect any remedies for default against the breaching Party subsequent to the 30-day cure period, as potentially extended to 90 days based on circumstances.
- 26) REMEDIES. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting, other than by the specific terms of this Agreement, the non-defaulting Party in the exercise of any right or remedy which the non-defaulting Party may have by reason of such default, the non-defaulting Party may terminate the applicable Supplement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state of Illinois. Further, upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of such performance by the non-defaulting Party shall be due and payable by the defaulting Party upon invoice therefor.
- 27) APPLICABLE LAWS. During the Term, LICENSOR shall maintain the Property and the Pole in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, (collectively "**Laws**"). LICENSEE shall, in respect to the condition of the Premises and at LICENSEE's sole cost and expense, comply with (a) all Laws relating solely to LICENSEE's specific and unique nature of use of the Premises; and (b) all building codes requiring

modifications to the Premises due to the improvements being made by LICENSEE in the Premises. It shall be LICENSOR's obligation to comply with all Laws relating to the Pole in general, without regard to specific use (including, without limitation, modifications required to enable LICENSEE to obtain all necessary building permits).

- 28) BOND. LICENSEE shall deposit with LICENSOR on one occasion prior to the commencement of the first Supplement a bond in a form reasonably acceptable to LICENSOR in the amount of \$10,000 per small wireless facility to guarantee the safe and efficient removal of any equipment from any Premises subject to this Agreement, which equipment remains more than 30 days after rental payment has ceased and Licensee has failed to remove the equipment. The funds may also be used to restore the premises to original condition, if LICENSEE fails to do so.
- 29) MISCELLANEOUS. This Agreement and the Supplements that may be executed from time to time hereunder contain all agreements, promises and understandings between the LICENSOR and the LICENSEE regarding this transaction, and no oral agreement, promises or understandings shall be binding upon either the LICENSOR or the LICENSEE in any dispute, controversy or proceeding. This Agreement may not be amended or varied except in a writing signed by all Parties. This Agreement shall extend to and bind the heirs, personal representatives, successors and assigns hereto; provided, however, that LICENSEE shall not assign any of its rights or obligations under this Agreement without LICENSOR's written consent. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights hereunder shall not waive such rights and such party shall have the right to enforce such rights at any time. The performance of this Agreement via each Supplement shall be governed interpreted, construed and regulated by the laws of the state of Illinois.
- 30) EXECUTION IN COUNTERPARTS. This Agreement and any Supplements may be executed in multiple counterparts, including by counterpart facsimiles or scanned email counterpart signature, each of which shall be deemed an original, and all such counterparts once assembled together shall constitute one integrated instrument.
- 31) AUTHORIZATION. LICENSEE certifies and warrants that it has the authority to enter into this Agreement.

*[SIGNATURE PAGES TO FOLLOW.]*

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

**LICENSOR:**

**THE CITY OF LAKE FOREST, an Illinois Municipal Corporation**

BY:

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

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

Date: \_\_\_\_\_

**LICENSEE:**

BY:

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

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

Date: \_\_\_\_\_

## EXHIBIT "A"

### LICENSE SUPPLEMENT

This License Supplement ("**Supplement**"), is made this \_\_\_\_ day of \_\_\_\_\_, between **THE CITY OF LAKE FOREST**, whose principal place of business is 220 East Deerpath, Lake Forest IL 60045 ("**LICENSOR**"), and \_\_\_\_\_, whose principal place of business is \_\_\_\_\_ ("**LICENSEE**").

1. **Master License Agreement.** This Supplement is a Supplement as referenced in that certain Master License Agreement between the City \_\_\_\_\_ and \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_, (the "**Agreement**"). All of the terms and conditions of the Agreement are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Agreement. In the event of a contradiction, modification or inconsistency between the terms of the Agreement and this Supplement, the terms of this Supplement (note – Supplement should govern because there may be some site specific items that might have to be addressed at an individual location which might create a conflict with Agreement terms) shall govern. Capitalized terms used in this Supplement shall have the same meaning described for them in the Agreement unless otherwise indicated herein.
2. **Premises.** The Property owned by Licensor is located at \_\_\_\_\_. The Premises licensed by the LICENSOR to the LICENSEE hereunder is described on Exhibit "1" attached hereto and made a part hereof.
3. **Term.** The Commencement Date and the Term of this Supplement shall be as set forth in Paragraph 7 of the Agreement.
4. **Consideration.** Rent under this Supplement shall be \$200.00 per year, payable to LICENSOR at \_\_\_\_\_. Thereafter, rent will be due at each annual anniversary of the "Commencement Date" of this Supplement. LESSEE shall obtain electrical service and provide for a separate meter and billing from the applicable utility provider.
5. **Site Specific Terms.** (Include any site-specific terms)



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

**LICENSOR**

**THE CITY OF LAKE FOREST, an Illinois Municipal Corporation**

BY:

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

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

Date: \_\_\_\_\_

**LICENSEE**

BY:

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

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

Date: \_\_\_\_\_

EXHIBIT 1

**Premises**

(see attached site plans)

THE CITY OF LAKE FOREST

ORDINANCE NO. 2019 - \_\_\_\_\_

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN  
FOR THE CITY OF LAKE FOREST AS IT PERTAINS TO THE WAUKEGAN ROAD/SETTLER'S  
SQUARE BUSINESS DISTRICT**

**WHEREAS**, the City of Lake Forest developed its first Comprehensive Plan in 1955; and

**WHEREAS**, the plan was updated in 1978, 1981, 1986, 1988, 1992, 1998, 2001, 2013 and 2016; and

**WHEREAS**, the City Council has directed a review and update of the Comprehensive Plan, using a phased approach, recognizing that the Plan was last wholly updated in 1998; and

**WHEREAS**, due to recent development related discussions in the area, the first area identified for study and updating was the Waukegan Road/Settler's Square Business District and surrounding area, ("**Phase 1 area**"); and

**WHEREAS**, an adhoc Working Group was appointed, including representatives who have a unique interest in and knowledge of the Phase 1 Area to hear initial public comment and advise staff on the development of a draft update of the Comprehensive Plan as it relates to said area; and

**WHEREAS**, over the course of two meetings, on April 10, 2019 and July 10, 2019, the Plan Commission held a public hearing and considered the draft update and recommendations that came out of the study and deliberations of the Working Group; and

**WHEREAS**, the Comprehensive Plan as it relates to the Phase 1 Area is intended to establish a vision and desired outcomes looking forward 10 to 20 years, and strategies for achieving the vision; and

**WHEREAS**, the Plan Commission of The City of Lake Forest after presentations, public comment and deliberations, recommended to the City Council approval of an update to the Comprehensive Plan as it pertains to the Phase 1 Area.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LAKE FOREST, LAKE COUNTY, ILLINOIS AS FOLLOWS:**

**SECTION ONE:**     **Recitals.** The foregoing recitals are hereby adopted by this reference as the findings of the City Council and are hereby incorporated into this Section as if fully set forth.

**SECTION TWO:**     **Amendment to The City of Lake Forest Comprehensive Plan.** The Business Districts Section of the Comprehensive Plan, as it relates to the Waukegan Road/Settler's Square Business District and surrounding area is hereby amended as reflected in Exhibit A which is attached hereto and made a part hereof.

**SECTION THREE:**     **Effective Date.** This ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form in the manner provided by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_ 2019

AYES:

NAYS:

ABSENT:

ABSTAIN:

Approved this \_\_\_\_ day of \_\_\_\_ 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EXHIBIT A

### Comprehensive Plan Update

#### Chapter -- Waukegan Road/Settlers' Square Business District

*As Recommended by the Plan Commission with Edits Based on Council Input*

##### *Charge*

An adhoc Working Group was appointed by former Mayor Lansing as a first step in the Comprehensive Plan update process. The charge of this first Working Group was to serve as advisory to staff in developing a preliminary draft of concepts for the Waukegan Road/Settler's Square Business District which will serve as a starting point for the Plan Commission's deliberations and public hearings on updates to a chapter of the City's Comprehensive Plan. The Working Group was charged with looking at the physical characteristics of the area, the opportunities and challenges.

##### *Working Group Members*

Chairman: Mike Adelman

Group members: Richard Sugar, Eileen Looby Weber, John Cortesi, Jack Frigo, Dennis Meulemans, Bob Shaw and Stephen Douglass

##### *Working Group Process*

- Took a walking tour of the area, reviewed data on existing uses, ownerships and densities.
- Held a community forum early in the process during which maps were available and members of the public were invited to share their ideas and concerns directly with Work Group members and in writing.
- Conducted discussion sessions including one with the City's Police and Fire Chiefs to talk through statistics related to accidents in the area and the challenges and opportunities of circulation through the area for vehicles, trains and pedestrians.
- Reviewed draft land use concepts for the area and identified short term and long term considerations and opportunities.
- Welcomed comments from members of the public.
- Developed a preliminary draft of concepts for the area to give the Plan Commission the benefit of the discussions, study and public input received to date.

##### *Working Group Product – Staff Draft Reflecting the Discussions*

The results of the Working Group's efforts are reflected in this draft presented by staff for Commission review: 1) an overview of the Waukegan Road/Settlers' Square Business District, 2) fundamental concepts to promote and support vitality of the area, 3) maps identifying *opportunity areas*, 4) short term actions and 5) concepts for a longer term vision for the area.

### **Overview of the Waukegan Road/Settlers' Square Business District**

The Waukegan Road/Settlers' Square Business District is linear in nature, extending along both sides of Waukegan Road, a State highway, for approximately a third of a mile. The Comprehensive Plan as adopted in 1998, envisioned the role of this business district as "providing convenience retail and commercial uses which would be sustained by the surrounding neighborhoods." included the following as part of the objective for the District at that time: "The District should provide convenience retail and commercial uses which can be sustained by the area neighborhood, and which enhance the vitality in the area." Today, it is recognized that in order to sustain a vital commercial district along Waukegan Road, the district needs to attract customers from a broader base, beyond the residents in the nearby neighborhoods.

In 2019, the area continues to be anchored by Sunset Foods, a grocery store that is well regarded in the community. Limited additional retail uses, food and beverage businesses, service businesses, professional offices, banks, a church, school and public facilities, including the City's fire station and the train station, are located in the area. The area serves as a transportation corridor and commuter hub with a heavily traveled rail line, a State highway and a local east/west arterial all extending through the area. The commercial sites within the area and the transportation corridor together result in noise, higher speed traffic and light impacts on the surrounding residential neighborhoods.

#### *Fundamental Concepts*

- ❖ Recognize that to thrive, the business district needs a customer base that extends beyond the surrounding neighborhoods to the larger community and includes those traveling through the area and people in surrounding communities.
- ❖ Provide the opportunity to increase residential densities in the area through development of vacant parcels and over the longer term, as parcels redevelop, by providing the flexibility to augment the business district with multi-family residential.
- ❖ Provide for a variety of housing products in the area, at various price points.
- ❖ Encourage a balance of different types of commercial uses recognizing that retail and restaurant businesses require support from professional offices, even banks at some level, located nearby to add to the customer base.
- ❖ Review and reconsider which uses should be permitted outright, permitted conditionally or as a special use, restricted, or prohibited in the District.
- ❖ Establish clear performance standards for desired uses and streamline the approval process for uses that meet the standards.
- ❖ Provide flexibility; the ability to incorporate various types of uses along Waukegan Road to create synergy and a vital business district.

- ❖ Strive to achieve an appropriate balance of retail and non-retail uses; avoiding a preponderance of non-retail uses which limit opportunities for restaurants and businesses that meet the needs of and are attractive to residents and visitors.
- ❖ Limit uses in the district to those that are low impact; non-industrial in nature with respect to noise, lighting levels, late night activity, public safety, congestion, odors, exhaust and mechanical equipment.
- ❖ Recognize that a major transportation corridor extends through the area north to south with a State highway and rail lines for commuter and freight trains.
- ❖ Encourage community events and consider opportunities to locate destination venues including businesses, entertainment, hospitality and recreational uses in the area to draw people into the business district.
- ❖ Strengthen links between the business district and Lake Forest High School West Campus, work to create synergies between the activities at West Campus and businesses.
- ❖ Encourage partnerships, collaboration and cooperation among businesses, institutions and professional offices located in the district such as merchants' associations or other groups.
- ❖ Work toward creating a distinct and cohesive identity for the business district through efforts including, but not limited to; entrance signs, consistent signage throughout the area, landscaping, lighting, hardscape treatments and other types of streetscape and visual enhancements, and by "telling the story" of the area and its history.
- ❖ Explore opportunities for the City alone, or in partnership with property owners or local organizations, to proactively support the business district and, to the extent possible, promote community support of existing businesses, play a role in retaining desired businesses, and attracting new businesses to the District.

#### *Infrastructure and Circulation – Short Term*

- ❖ Improve the Waukegan and Everett Roads intersection in the short term with the addition of turn lanes and in the longer term as opportunities arise to ease congestion and promote public safety.
- ❖ Reserve land for future right-of-way dedication as redevelopment occurs along Waukegan and Everett Roads as determined to be necessary by IDOT and the City Engineer, to meet future road improvement needs.
- ❖ Explore and work to implement ways to slow traffic on Waukegan Road as it moves through the district including, but not limited to, increased enforcement of the speed limit, discussions with IDOT about a reduction of the speed limit before entering and through the area and the possibility of a traffic signal at Conway and Waukegan Roads.
- ❖ Maximize safe and convenient pedestrian connections to and through the area. (Refer to Pedestrian Connections map.)

- ❖ Enhance the safety of existing pedestrian crossings with improved signage, increased lighting levels and pavement markings.
- ❖ Maintain public sidewalks: address drainage and ponding water, trim vegetation to keep walkways clear, repair hardscape surfaces.
- ❖ Consider shelters for pedestrians and green spaces to make walking to and through the area more comfortable in all types of weather.

#### *Infrastructure and Circulation – Long Term*

- ❖ Consider elimination of the at-grade railroad crossing on Everett Road and replacement with an underpass or overpass.
- ❖ Consider structures such as a pedestrian under pass or over pass to improve safety and convenience for those crossing the railroad tracks and Waukegan Road *only* after in-depth review of the costs and benefits of such projects and consideration of impacts, positive or negative, on the business district, surrounding residents, the larger community and the overall region.
- ❖ Provide connections through the area to existing bike paths.

*Please refer to accompanying maps for each Opportunity Area.*

### **Opportunity Area #1 – Commercial Area**

The Commercial Opportunity Area is located on the west side of Waukegan Road and extends in a linear, triangular form, from Everett Road to Conway Road. The area has limited access for vehicles and pedestrians because it is bordered on the east by Waukegan Road, and on the west by the railroad tracks.

#### *Recommendations*

- 1.1 Identify retail and restaurants as *priorities* for this area with supporting office and service business uses as necessary, but secondary.
- 1.2 Encourage internal pedestrian connections to promote a synergy between businesses located in the area and to encourage customers to park once, and walk to visit multiple businesses.
- 1.3 Encourage shared use of parking.
- 1.4 Consider destination type uses for the area or the surrounding area. (Entertainment, institutional or other specialty uses.)
- 1.5 Encourage outdoor dining, seating and gathering areas, green space.
- 1.6 Encourage businesses and property owners in the area to develop a consistent signage theme to create a unified character and to increase the visibility of the district from Waukegan Road.



## **Opportunity Area #2 – Mixed Use Area**

The Mixed Use Opportunity Area is located primarily on the east side of Waukegan Road and extends along Waukegan Road, between Everett and Conway Roads, east along Everett Road, and includes the southwest corner of Waukegan and Conway Road. This area includes properties that are currently developed with commercial, institutional and single family uses. Looking to the future, provide the opportunity for a mix of uses as redevelopment occurs in this area to augment, not displace, commercial businesses.

### *Recommendations*

- 2.1 Designate area to allow for a mix of commercial, office and multi-family residential uses and buildings.
- 2.2 Maintain commercial businesses in first floor spaces to assure that the overall business district is not reduced in size or converted solely to residential or office uses, and to encourage an ever increasing diversity in the number and types of retail, restaurant and service businesses in the area.
- 2.3 As redevelopment occurs, consider outlots to locate some uses close to the streetscape to increase visibility and awareness of the business district.
- 2.4 Encourage below grade/low structure parking as redevelopment occurs to meet parking needs. Minimize the expanse of surface parking lots to provide opportunities for increased density and intensity of use.
- 2.5 Consider pervious surfaces and innovative ways to reduce and manage stormwater runoff.
- 2.6 Encourage comprehensive planning, looking beyond property lines – shared parking, pedestrian connections, and consistent landscaping, signage and lighting.
- 2.7 Provide transition/buffer areas for adjacent residential uses. Direct the placement of delivery and trash areas away from neighboring homes.
- 2.8 Direct all exterior lighting downward and require fixtures to shield the source of light to avoid off site impacts on adjacent residential properties. Reduce lighting levels after business hours.

### **Opportunity Area #3 – Public Use/Parking/Limited Mixed Use**

The Public Use/Parking/Limited Mixed Use Area is located on the west side of the railroad tracks, east of Telegraph Road, and extends both north and south of Everett Road. Property within this area is owned by the City of Lake Forest. Public facilities, the Fire Station and the Train Station, are located in this area. Extensive surface parking lots are located in this area providing permit parking primarily for Metra commuters and offering overflow parking for employees of businesses within the district.

#### *Recommendations*

- 3.1 Identify this area as the primary location for parking to meet the needs of commuters and employees of the business district.
- 3.2 As needed, maximize parking opportunities in this area to avoid creating additional surface parking lots on other parcels in the subarea preserving the opportunity for higher priority uses to support the business district.
- 3.3 Encourage use of train station and surface parking lots for community events and activities at times that do not conflict with commuter use.
- 3.4 Promote small scale businesses in the train station as primarily an amenity for commuters and also to meet the needs of residents in the surrounding area.
- 3.5 Clearly identify and improve pedestrian crossings and connections from this area to businesses on the east side of the railroad tracks and to the surrounding neighborhoods.
- 3.6 Long term: Consider future opportunities for structured parking, below and above grade, on the surface lots north of Everett Road alone or in combination with a mix of uses; small scale commercial and residential.
- 3.7 Long term: Reserve the area south of Everett Road for parking expansion and green space. Avoid curb cuts on to Everett Road near the at-grade railroad crossing.
- 3.8 Long term: Consider recommendations in "Infrastructure and Circulation" section above which relate to this Opportunity Area.

#### **Opportunity Area #4 – Moderate Density Residential/Commercial**

This vacant parcel is owned by the City. The site was previously developed with a small structure that housed a mix of residential and office uses. The parcel is currently zoned for commercial use. The parcel is currently land banked as potential additional parking to support the train station. The parcel is approximately one and a half acres in size and is located adjacent to a single family neighborhood to the west and across the street from single family residential to the south.

#### *Recommendations for Consideration*

- 4.1 Encourage development of this property in the near term for multi-family residential, small scale commercial or office uses, or a mix of low impact uses.
- 4.1 Locate curb cuts away from the intersection.
- 4.2 Promote walkability – identify and improve pedestrian crossings in the area.
- 4.3 Require new residential developments to provide perimeter landscaping as a buffer for existing residential properties and to enhance the streetscapes.
- 4.4 Consider innovative ways to manage storm water runoff.
- 4.5 Consider traffic impacts in determining appropriate uses.

#### *Recommendations Related to Residential Use*

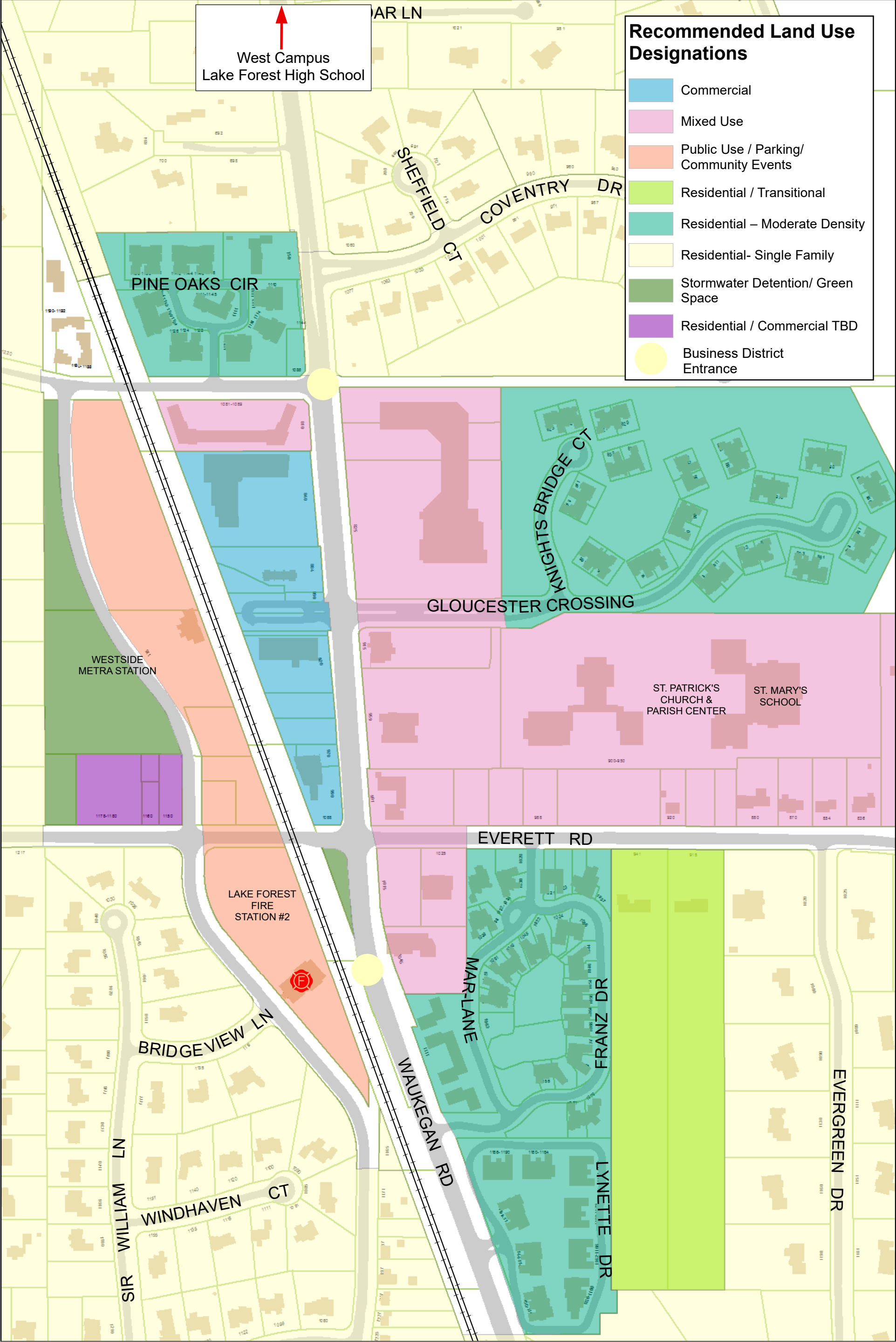
- 4.6 Designate site as an opportunity for townhomes and low rise multi-family housing types as a transition from the large lot single family properties to the west and south, to the train station and business district.
- 4.7 Encourage commuter oriented housing types to attract a variety of buyers.

### **Opportunity Area #5 – Residential – Transitional**

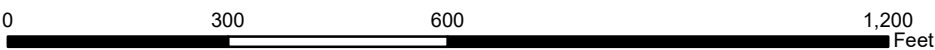
This 10-acre vacant parcel is privately owned and to a large part, landlocked. The property is long and narrow with access currently, only at the north end, on to Everett Road. The property abuts developed residential neighborhoods of various densities. To the east, the Evergreen Subdivision is developed at a density of one unit per one and a half acres. To the west, the parcel is bordered by the Lake Forest Chateau development at 4.5 units per acre and Colony Square at 6 units per acre. Further to the west, the Villas, fronting on Waukegan Road, is developed at 12 units per acre.

#### *Recommendations*

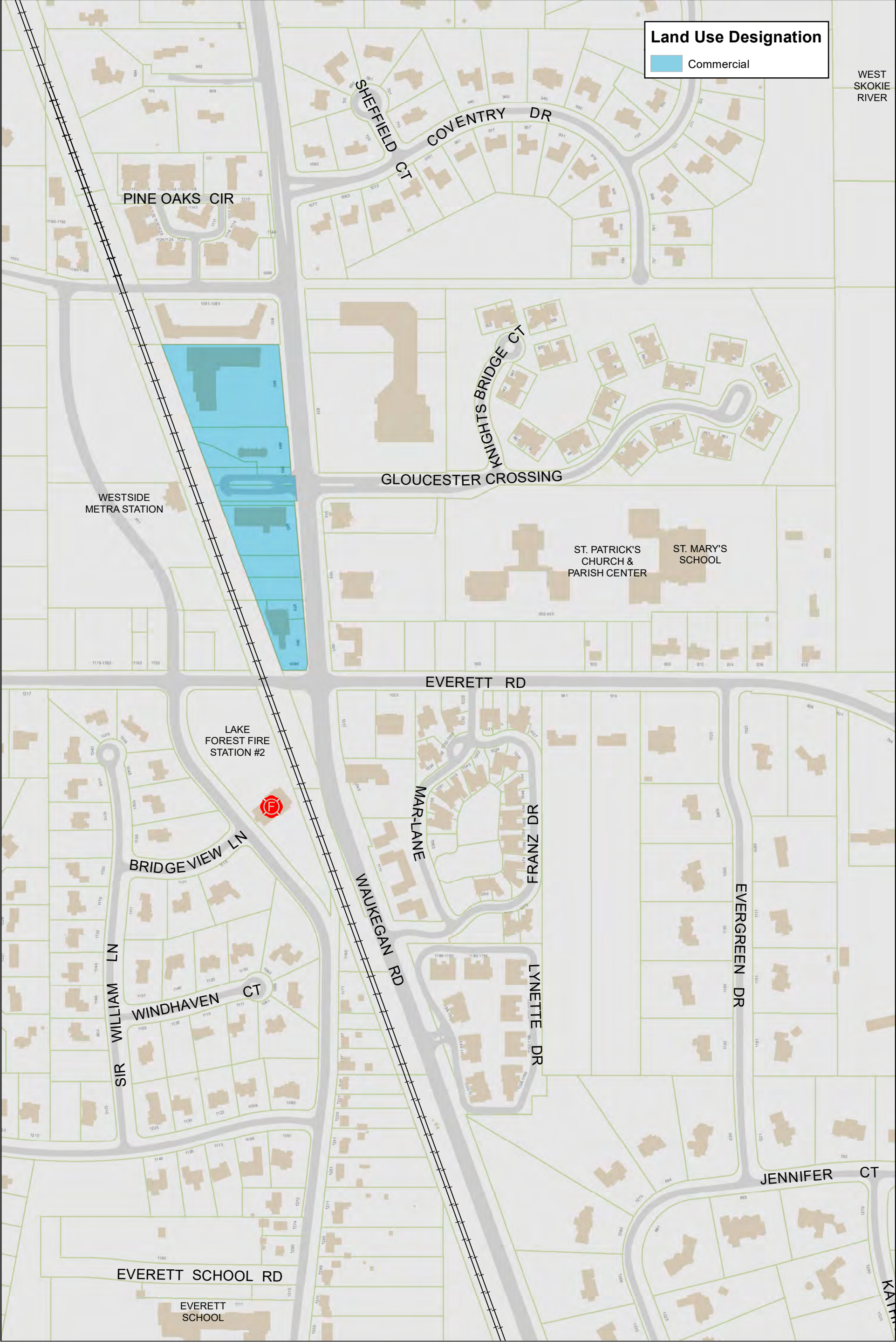
- 5.1 Designate the area for attached or detached housing units at a density that provides an appropriate transition between the densities to the east and west.
- 5.2 Explore opportunities to integrate new development on this site with the existing developments located to the west, Lake Forest Chateau and Colony Square, and providing for shared access with adjacent developments while retaining access through the parcel to Everett Road.
- 5.3 Provide perimeter landscape buffering as a transition to adjacent existing residential developments and along streetscapes.
- 5.4 Encourage pedestrian connections between residential developments, to public streets and to provide safe passageways to nearby commercial uses and the train station.



WAUKEGAN ROAD/SETTLERS' SQUARE BUSINESS DISTRICT







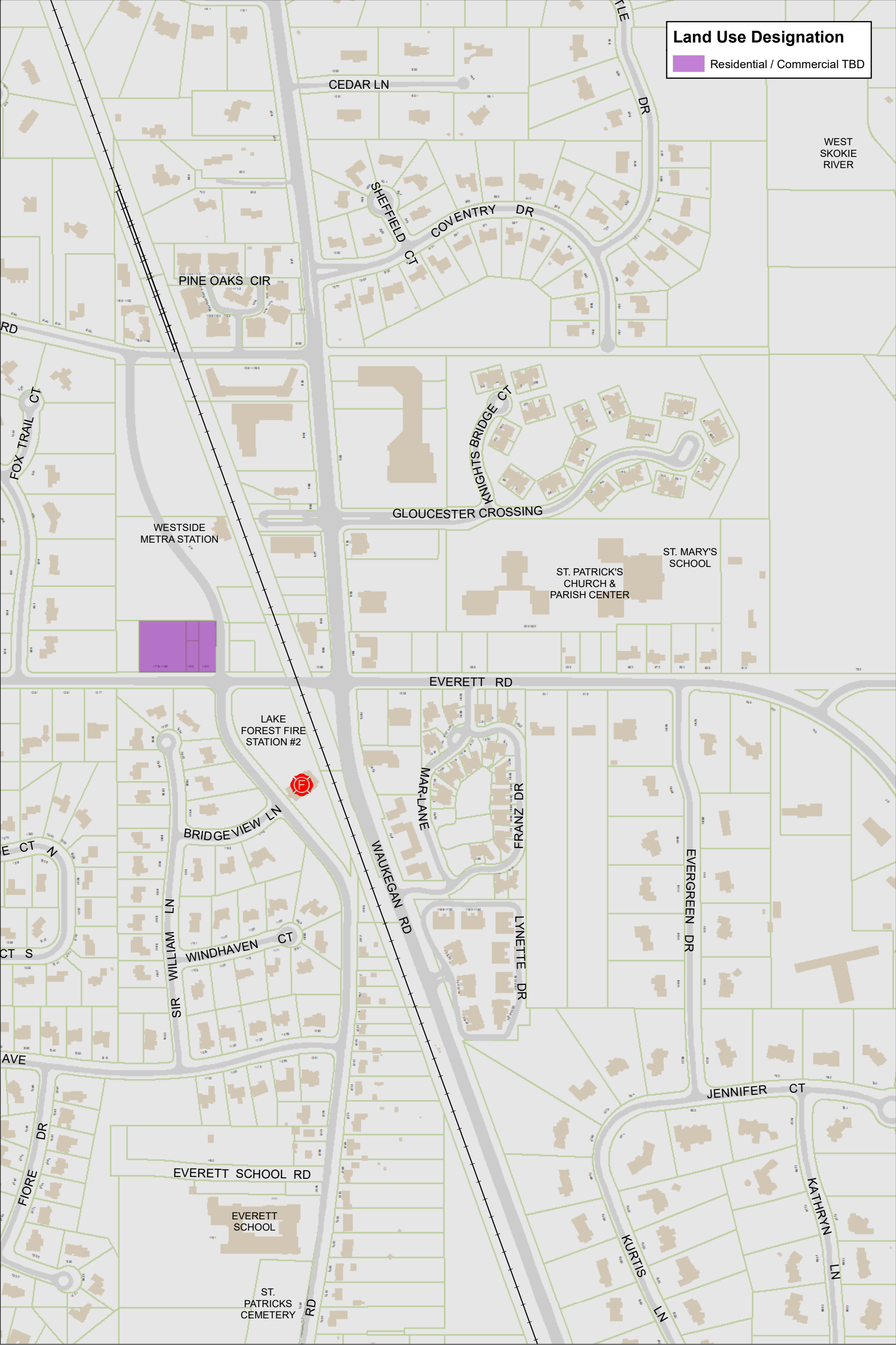




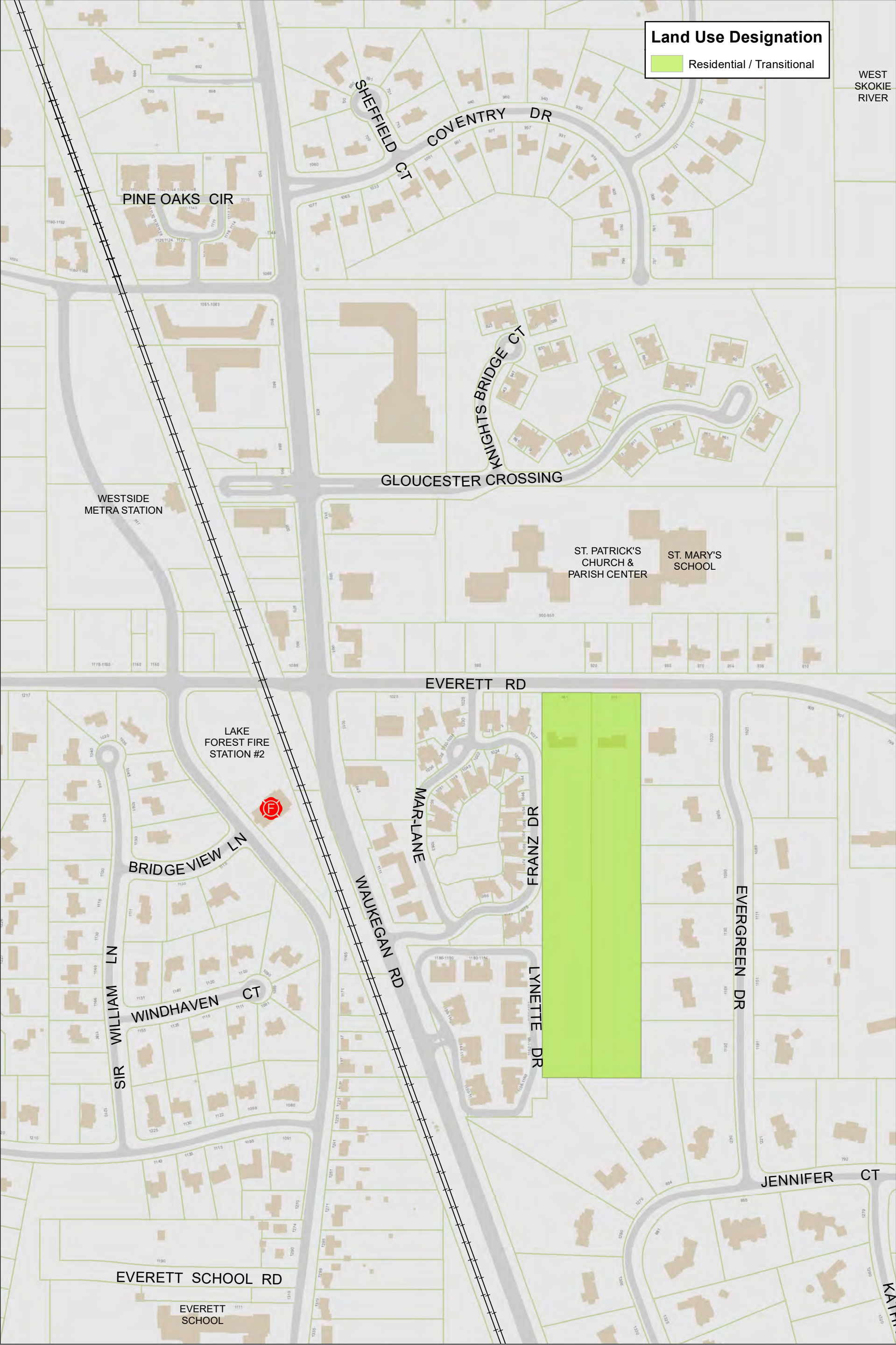








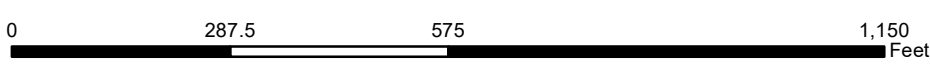








# Pedestrian Connections Waukegan Road/ Settlers' Square Business District





# MEMORANDUM

**To:** Mayor & City Council, City of Lake Forest  
**CC:** Jason Wicha, City Manager  
**From:** Julie Tappendorf  
**Subject:** Draft Ethics Regulations  
**Date:** July 31, 2019

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At its October 7, 2019 regular meeting, the City Council will discuss and consider the Legal Committee's recommendations on amendments to the City's ethics regulations, contained in Chapter 40 of the City Code. This memorandum provides the background on the Legal Committee's review and recommendations, as well as a summary of the draft amendments.

## LEGAL COMMITTEE PROCESS

Last year, at its July 19, 2018 meeting, the Legal Committee began a review of the City's ethics regulations. The Legal Committee directed the City Attorney to summarize the differences between the City's Ethics Ordinance and state ethics laws. In addition, the Legal Committee asked that the City Attorney review and provide information about ethics regulations adopted by nearby communities.

At its next meeting on October 18, 2018 Legal Committee meeting, the Committee reviewed the information provided by the City Attorney and then directed the City Attorney to prepare a first draft of amendments to Chapter 40 of the City Code, the City's ethics regulations. Specifically, the Committee asked that the regulations be reorganized in a more reader-friendly format and to incorporate specific statutory conflicts of interest into the City's ethics regulations. A draft was presented to the Legal Committee at its January 10, 2019 meeting for an initial discussion. At that meeting, a subcommittee was formed to work on the amendments for presentation back to the Legal Committee.

The subcommittee (consisting of Alderman Rummel and Legal Committee Chair Tauke) met with the City Attorney, the City Manager, and Assistant to the City Manager on January 16, 2019, February 6, 2019, April 17, 2019, and May 3, 2019, to discuss the draft amendments and make changes.

The subcommittee's final changes were presented to the Legal Committee at its May 9, 2019 meeting for discussion, and then further discussion at its July 18, 2019 meeting. At the July 18th

meeting, the Legal Committee voted to forward draft amendments to the City Council. The Legal Committee's recommended draft amendments are enclosed with this memorandum. A "redline" depicting the changes from the City's current ethics regulations is included along with a clean version of the draft amendments. Because of the significant nature of the changes and the reorganization of the regulations, it may be easier to follow the clean version.

### **SUMMARY OF DRAFT AMENDMENTS TO ETHICS CODE**

The following is a summary of the various changes to the City's ethics regulations. Note that section references are to the draft regulations, not the current regulations. Where appropriate, citations have been added throughout the regulations to refer to applicable and relevant statutes.

#### **I. Reorganization**

Chapter 40 of the City Code (which codifies the City's ethics regulations) has been reorganized into the following "categories" of regulations:

- General Provisions
- Conflicts of Interest
- Gift Ban
- Prohibited Political Activities
- Administration and Enforcement

#### **II. General Provisions**

40.01 – Policy and Purpose: Substantively unchanged, except to add a new Subsection (D) to reference the exercise of good judgment and avoidance of situations where there may be an appearance of impropriety.

40.02 – Definitions: Substantive changes include changes to the following definitions:

- Employee: This definition now clarifies that employees include contract employees and separates this definition from the definition of officer. The Legal Committee discussed the distinction between a "contract employee" (example: an individual retained through GovTemps or similar agency to temporarily fill a vacant employment position) and a vendor or service provider (example: copier repair person). The expectation is that the former would be subject to compliance with the ethics regulations. The Legal Committee suggested that any agreement between the City and the contract employee include language requiring compliance with the City's ethics regulations.
- Financial Interest: This definition has been rewritten to be consistent with Illinois court cases that have interpreted the statutory provisions relating to conflicts of interest.

- Person: The definition of person has been modified to include various organizations and entities.
- Prohibited Political Activity: This definition has been relocated to the substantive regulation (40.32) for ease in applying that regulation.
- Prohibited Source: This definition has been modified to reflect changes to state law.
- Relative: This definition has been rewritten for consistency sake and to reflect changes to the local conflicts of interest provisions (further discussed below).

40.03 – Disclosure of Confidential Information: Substantively unchanged, although this regulation was reorganized and rewritten to make it easier to follow.

40.04 – Impartiality at Hearings: The impartiality provisions have been separated out from the “reporting” obligations which are now in 40.08.

40.05 – Special Treatment of Others: Substantively unchanged.

40.06 – Private Use of Public Property or Services: Substantively unchanged, although a reference to use of City services has been added.

40.07 – Annual Disclosure Statements: Substantively unchanged.

40.08 – Reporting: The “reporting” obligation provision is now in its own section.

### **III. Conflicts of Interest**

40.10(A) – Statutory Conflicts of Interest. A summary of the statutory conflicts of interest provisions of the Illinois Municipal Code and the Public Officer Prohibited Activities Act has been incorporated in this Section, along with citations to those regulations. This Subsection (A) incorporates those conflicts that would disqualify a City officer from remaining in office. Although this Subsection (A) is “new” in the City’s ethics regulations, it has always been in place through state statute. Adding these references to the statutory conflicts of interest is intended to put City officers and employees on notice of those statutory restrictions.

The Legal Committee acknowledged that the statutory conflicts of interest language is not as clear as it could be but that the City was obligated to follow these state laws, as written.

40.10(B) – Exceptions to Disqualifying Conflicts of Interest: Subsection (B) incorporates the exceptions to the disqualifying statutory conflicts of interest, including statutory citations. These include minor ownership interests in companies, small contracts, and bank interests. Also included here is the statutory exception that allows an officer to hold a position on a non-profit board (see paragraph (6)) and the different restrictions depending on whether the board

membership is by appointment of the City Council or not, per state statute. Similar to Subsection (B), these exceptions may be “new” to the City’s ethics regulations but have always been in place through state statute.

40.11 – Local Conflicts of Interest: Section 40.10 contains the statutory “minimum” regulation for conflicts of interest in Illinois. Municipalities, can, if they choose, adopt stricter local conflicts of interest regulations. In this Section 40.11, new draft local conflict restrictions that are stricter than state laws have been incorporated.

(A)(1) – (4) The local ethics restrictions extend the statutory conflicts of 40.10 to any officer or employee whose relative has a financial interest. The Legal Committee discussed the fact that state law does not impose a relative’s interest on the officer or employee but determined that it was appropriate for the City to adopt a stricter local conflicts regulation that recognized relatives’ interests. In most circumstances, the officer or employee would be required to disclose the interest and refrain from taking any official action on the matter in which his or her relative has a financial interest.

(B) The local restrictions would also prohibit an officer or employee from appearing on behalf of anyone (except the City) at any City board, commission, or committee on which he or she is a member unless he or she discloses the interest and refrains from taking any official action.

#### **IV. Gift Ban**

40.20 to 40.22 - Gift Ban: The current gift ban regulations remain substantively unchanged since they are consistent with state statute, although the provisions relating to gifts from relatives/friends were consolidated.

#### **V. Prohibited Political Activities**

40.30 – 40.32 - Prohibited Political Activities: The current regulations on prohibited political activities remain substantively unchanged since they are consistent with state statute, although the section was modified to incorporate the definition of “prohibited political activities” for ease of following the restrictions. A few other changes were made to reflect changes to state statute. The Legal Committee discussed the issue of “compensated time” for officers who serve in unpaid positions, and noted that case law interprets this statute to apply to officers when they are conducting their official government duties or acting in their official capacity as a government officer, whether compensated or not.

#### **VI. Administration and Enforcement**

40.40 – Ethics Officer: No substantive changes were made.

40.41 – Ethics Commission:

(A) Establishment: No substantive changes were made except to delete references to salary since the City Council serves as the Ethics Commission and to remove language about City staff. Note that for consistency sake, references to the Audit Committee elsewhere in this Chapter were changed to either the Ethics Officer or the Ethics Commission.

(B) Powers and Duties: The powers and duties of the Ethics Commission have been streamlined, and reference made to an administrative policy which can be adopted by the Commission at the time of hearing of an ethics complaint (similar to the Electoral Board process for adopting rules).

(C) Complaint Procedure: This section has been significantly rewritten to streamline the process for filing, receiving, and hearing an ethics complaint. It also clarifies the options for the Commission in dismissing a complaint if unfounded before a hearing. The penalty/remedy provisions have been removed and relocated to the penalty provision of 40.43.

40.42 – Interpretaton: This section consolidates separate “interpretation” provisions into this section and streamlines the language.

## **VII. Penalty**

40.43 – Penalty: All penalties and remedies have been consolidated into this one section. This section also references the effect of a contract that is approved in violation of the statutory conflicts of interest laws (void).



## **CHAPTER 40: GOVERNMENTAL ETHICS**

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### ***CONFLICTS OF INTEREST***

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## **GENERAL PROVISIONS**

### **§ 40.01 POLICY AND PURPOSE.**

(A) It is essential to the proper operation of the city that (1) public offices be independent and impartial; (2) governmental decisions and policy be made through proper channels and in accordance with the Illinois Open Meetings Act, 5 ILCS 120, and other statutes and laws governing conduct by public offices; (3) public office not be used for private gain; and (4) there be public confidence in the integrity of government. Public officers and employees must serve the city in a fiduciary capacity and must not bestow special consideration on any person merely because of that person's relationship to the officer or employee. The city's goals are impaired whenever there is a conflict between the private interests of a city officer or employee and his or her public duties. As a result, the public interest requires that the law protect against conflicts of interest and establish appropriate ethical standards regarding the conduct of city officers and employees in situations where conflicts exist, as well as in situations where conflicts might develop.

(B) It is also essential to the proper operation of the city that those best qualified be encouraged to serve the city. Accordingly, legal safeguards against conflicts of interest must be designed so that they do not unnecessarily or unreasonably impede the recruitment and retention by the city of those individuals who are best qualified to serve it. Therefore, the right of each officer and employee to privacy in his or her financial affairs must not be limited beyond that disclosure necessary to ensure the integrity of the city. Moreover, because an essential principle underlying the staffing of the city is that its officers and employees should not be denied the opportunity that is available to all other citizens to acquire and retain private economic and other interests and to engage in political activities, those opportunities should not be restricted unless conflicts with the responsibility of the officers and employees to the public cannot be avoided.

(C) It is the policy and purpose of this chapter to implement these objectives of protecting the integrity of the city and of facilitating the recruitment and retention of qualified personnel by prescribing essential restrictions against conflicts of interest in city government without creating unnecessary barriers to public service and by establishing a Code of Ethics for officers and employees of the city.

(D) The policies set forth in this chapter are not intended to govern every circumstance, and officers and employees are expected to exercise good judgment and to avoid situations or circumstances that may create an appearance of impropriety.

### **§ 40.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions apply:

**CAMPAIGN FOR ELECTIVE OFFICE.** Any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office, or office in a political organization, but does not include activities:

- (1) Relating to the support or opposition of any executive, legislative, or

administrative action, as those terms are defined in § 2 of the Lobbyist Registration Act, 25 ILCS 170/2;

(2) Relating to collective bargaining, as defined in § 3 of the Illinois Public Labor Relations Act, 5 ILCS 315/3; or

(3) That are otherwise in furtherance of the person's official duties. (*See* 5 ILCS 430/1-5)

**CANDIDATE.** Any individual who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election. (*See* 5 ILCS 430/1-5)

**COMPENSATED TIME.** Any time worked by or credited to an employee that counts toward any minimum work time requirement imposed as a condition of his or her employment but, for purposes of this chapter, does not include any designated holidays, vacation periods, personal time, compensatory time off, or any period when the employee is on a leave of absence. With respect to employees whose hours are not fixed, compensated time includes any period of time when the employee is on the premises under the control of the employer and any other time when the employee is executing his or her official duties, regardless of location. (*See* 5 ILCS 430/1-5)

**COMPENSATORY TIME OFF.** Any authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment. (*See* 5 ILCS 430/1-5)

**COMPENSATION.** Any money, thing of value, or other pecuniary benefit received, or to be received, in return for, or as reimbursement for, services rendered or to be rendered.

**CONTRIBUTION.** As defined in 10 ILCS 5/9-1.4 of the Illinois Election Code. (*See* 5 ILCS 430/1-5)

**EMPLOYEE.** Any person employed by the city full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of the city with regard to the material details of how the work is to be performed. (*See* 5 ILCS 430/1-5)

**FINANCIAL INTEREST.** A certain, definable, pecuniary, and personal economic interest, whether in the officer's or employee's own name or the name of any other person from which the officer or employee is entitled to receive any financial benefit as a result of any contract, business, or other transaction which is, or which is known to become, the subject of an official act or action by or with the city.

**GIFT.** Any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to

government employment or the official position of an officer or employee. (See 5 ILCS 430/1-5)

**INTER-OFFICE GIFT.** Any gift given to an officer or employee of the city from a member, officer, appointee or employee of any state agency, as defined in the State Officials and Employees Ethics Act, federal agency, or unit of local government or school district. (See 5 ILCS 430/10-15)

**INTRA-OFFICE GIFT.** Any gift given to an officer or employee of the city from another officer or employee of the city. (See 5 ILCS 430/10-15)

**LEAVE OF ABSENCE.** Any period during which an employee does not receive:

- (1) Compensation for employment;
- (2) Service credit towards pension benefits; and
- (3) Health insurance benefits paid for by the city. (See 5 ILCS 430/1-5)

**OFFICER.** All appointed and elected individuals of the city, regardless of whether the individual is compensated.

**PERSON.** Any individual, entity, corporation, proprietorship, partnership, limited liability company, firm, association, trade union, trust, estate, or group, whether or not operated for profit.

**POLITICAL ORGANIZATION.** A party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under § 9-3 of the Election Code, 10 ILCS 5/9-3, but only with regard to those activities that require filing with the State Board of Elections or a county clerk. (See 5 ILCS 430/1-5)

**PROHIBITED POLITICAL ACTIVITY.** See §§ 40.30-40.32 of this chapter.

**PROHIBITED SOURCE.** Any person who:

- (1) Is seeking action by the city or by an officer or employee of the city in connection with city business;
- (2) Does business or seeks to do business with the city or with an officer or employee of the city;
- (3) Conducts activities regulated by the city or by an officer or employee of the city;
- (4) Has interests that may be substantially affected by the performance or non-performance of the official duties of the city or an officer or employee of the city;
- (5) Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, being 25 ILCS 170, except that an entity does not become a prohibited source merely because a registered lobbyist is one of its members or serves on

its board of directors; or

(6) Is an agent of, a spouse of, or a relative living with a “prohibited source.” (*See* 5 ILCS 430/1-5)

**RELATIVE.** A spouse, parent, sibling, child, grandparent, or grandchild, or spouse of any parent, sibling, child, grandparent, or grandchild of the officer or employee.

#### **§ 40.03 DISCLOSURE OF CONFIDENTIAL INFORMATION.**

(A) No officer or employee shall disclose confidential information concerning the property, government, or affairs of the city except when that disclosure is made in connection with the officer’s or employee’s official duties or with proper legal authorization.

(B) No officer or employee shall use confidential information concerning the property, government, or affairs of the city to advance the interest of the officer or employee or the officer’s or employee’s relatives.

#### **§ 40.04 IMPARTIALITY AT HEARINGS.**

Members of a city board or commission or authorized hearing officers have the affirmative duty to maintain their neutrality in any public hearing before that board or commission. The chair of the hearing body or hearing officer has the affirmative duty to report any perceived violation of this section to the Ethics Officer for review and recommendation to the Ethics Commission pursuant to § 40.40-40.41 of this chapter.

#### **§ 40.05 SPECIAL TREATMENT OF OTHERS.**

No officer or employee shall grant any special consideration, treatment, or advantage to any person beyond that which is available to every other citizen.

#### **§ 40.06 PRIVATE USE OF PUBLIC PROPERTY OR SERVICES.**

No officer or employee shall request or permit the use of city-owned vehicles, equipment, materials, services, or property for personal convenience or profit except as allowed by administrative order of the city or as approved by the City Council.

#### **§ 40.07 ANNUAL DISCLOSURE STATEMENTS.**

(A) For purpose of this chapter, each elected and appointed officer of the city, as well as each appointee and employee who is required by 5 ILCS 420/4A-101 to file statement of economic interest, shall file the required statement with the city as provided in this section.

(B) By May 1 of each year, the statement must be filed by each officer or employee whose position at that time requires him or her to file, unless the officer or employee has already filed a statement in that calendar year. The statement shall be a signed photocopy or signed duplicate of the statement of economic interest as required by 5 ILCS 420/4A-101 that is required to be filed with the County Clerk. The statement shall be filed with the City Clerk. If an officer or employee required to file the statement fails to file by May 1 of any year, the City Clerk shall notify that

officer or employee within seven days after May 1 of the failure to file and the officer or employee will not be considered in violation of this chapter for failure to file such statement until the later of seven days after delivery of such notice from the City Clerk or May 15 of any year. Upon any request to review these statements, the City Clerk will follow the same procedures followed by the County Clerk and notify the officer or employee filing the statement.

#### **§ 40.08 REPORTING.**

Any officer or employee should report any circumstances that may give rise to a violation of this chapter to the Ethics Officer for review and recommendation to the Ethics Commission pursuant to §§ 40.40-40.41 of this chapter. No officer or employee who makes a good faith report of an actual or perceived violation, or of circumstances that may give rise to any such violation, shall face any discipline or other retaliation as a consequence of making the report.

### ***CONFLICTS OF INTEREST***

#### **§ 40.10 STATUTORY CONFLICTS OF INTEREST.**

##### ***(A) Disqualifying Conflicts of Interest.***

(1) No officer or employee shall participate in any official action that would constitute a conflict of interest under state statute except as expressly authorized by 65 ILCS 5/3.1-55-10 or 50 ILCS 105/01 *et seq* or in § 40.10(B) of this chapter.

(2) No officer or employee shall have a financial interest in any contract, work, or business of the city or in the sale of any article whenever the expense, price, or consideration of the contract, work, business, or sale is paid out of city funds, except as expressly allowed by 65 ILCS 5/3.1-55-10 or 50 ILCS 105/01 *et seq.* or in § 40.10(B) of this chapter.

(3) No officer or employee shall have a financial interest in the purchase of any city property except as expressly allowed by 65 ILCS 5/3.1-55-10 or in § 40.10(B) of this chapter.

(4) No officer or employee may take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his or her vote or action in his or her official character. (*See* 50 ILCS 105/3(a))

(5) No officer may represent, either as agent or otherwise, any person with respect to any application or bid for any contract or work in regard to which the officer may be called upon to vote except as expressly allowed by 50 ILCS 105/01 *et seq.* or in § 40.10(B).

##### ***(B) Exceptions to Disqualifying Conflicts of Interest.***

(1) The prohibitions set forth in § 40.10(A) do not apply to an officer or employee serving on a city advisory board or commission unless the officer's duties include evaluating, recommending, approving, or voting to recommend or approve the contract, work, or business, as set forth in 65 ILCS 5/3.1-55-10(a).

(2) Notwithstanding the prohibitions set forth in § 40.10 (A), an officer or employee will not be deemed to have a disqualifying conflict of interest if the city officer or employee is an

employee of a company or an owner of 1% or less in a publicly traded company, or both, and the officer or employee (a) publicly discloses the officer's interest; (b) refrains from participating in the discussion; (c) abstains from voting on the contract; and (d) the contract is approved by a majority of members currently holding office, as set forth in 65 ILCS 5/3.1-55-10(a).

(3) Notwithstanding the prohibitions set forth in § 40.10 (A), an officer or employee will not be deemed to have a disqualifying conflict of interest if the officer owns or holds an interest of 1% or less in mutual funds in a publicly traded company, as set forth in 65 ILCS 5/3.1-55-10(a).

(4) Notwithstanding the prohibitions set forth in § 40.10 (A), a city council member may provide materials, merchandise, property, services, or labor to the city in the circumstances described below in (a), (b), (c), and (d):

(a) If the contract is with a person or business entity in which the city council member has less than a 7 ½% share in the ownership and (i) the member publicly discloses the interest before or during deliberations; (ii) the member abstains from voting on the contract, the contract is approved by majority vote of the members holding office; (iii) the contract is awarded by sealed bid to the lowest responsible bidder if the contract exceeds \$1,500; and (iv) the total contracts awarded to the same person or business entity in the same fiscal year does not exceed \$25,000, as set forth in 65 ILCS 5/3.1-55-10(b)(1).

(b) If the contract with a person or business entity in which the city council member has a financial interest does not exceed \$2,000 and (i) the member publicly discloses the interest before or during deliberations; (ii) the member abstains from voting on the contract; (iii) the contract is approved by majority vote of the members holding office; and (iv) the total contracts awarded to the same person or business entity in the same fiscal year does not exceed \$4,000, as set forth in 65 ILCS 5/3.1-55-10(b)(2).

(c) If the contract is with a person or business entity in which the city council member holds less than a 1% ownership interest and (i) the member publicly discloses the interest before or during deliberations; (ii) the member abstains from voting on the contract; and (iii) the contract is approved by majority vote of the members holding office, as set forth in 65 ILCS 5/3.1-55-10(b-5).

(d) If the contract is for the procurement of public utility services in which a city council member is either an officer or employee of the company or holds no more than 7 ½% interest, and the utility's rates are approved by the ICC, as set forth in 65 ILCS 5/3.1-55-10(c).

(5) Nothing in this section shall preclude the city from entering into a contract with a financial institution even if a city council member is an officer or employee of the financial institution or holds less than a 7 ½% ownership interest, so long as (a) the member publicly discloses interest; (b) the member does not participate in the deliberations; and (c) the member does not vote on the contract, as set forth in 65 ILCS 5/3.1-55-10(e).

(6) Notwithstanding the prohibitions set forth in this section, an officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or

business of the City in either of the following circumstances, as set forth in 65 ILCS 5/3.1-55-10(g) and 50 ILCS 105/10(f):

(a) If the officer is appointed by the city council to represent the interests of the city on a not-for-profit board, then the officer may actively vote on matters involving that board or the city, at any time, so long as the membership on the board is not a paid position, except that the officer may be reimbursed for expenses incurred as the result of membership on the board.

(b) If the officer is not appointed by the city council to the not-for-profit board, then the officer may continue to serve; however, the officer must abstain from voting on any matter before the city council that directly involves the not-for-profit corporation and, for these matters, will not be counted as present for the purposes of a quorum of the city council.

#### **§ 40.11 LOCAL CONFLICTS OF INTEREST.**

In addition to the statutory conflicts of interest that apply under Section 40.10, officers and employees are also subject to the following local conflicts of interest rules.

(A) For purposes of the local conflicts of interest rules set forth in this Subsection (A), a “financial interest” of a relative is defined as “a certain, definable, pecuniary, and personal economic interest from which the relative of the officer or employee is entitled to receive any financial benefit as a result of any contract, business, or other transaction which is, or which is known to become, the subject of an official act or action by or with the city.”

(1) An officer or employee whose relative has a financial interest in any contract, work, or business of the city or in the sale of any article whenever the expense, price, or consideration of the contract, work, business, or sale is paid out of city funds must disclose on the record of the board, commission, or committee that performs such official act or to the city manager, in the case of employees, the nature and extent of the relative’s financial interest and must refrain from taking any official action on that matter.

(2) An officer or employee whose relative has a financial interest in the purchase of any city property must disclose on the record of the board, commission, or committee that takes official action on the purchase or to the city manager, in the case of employees, the nature and extent of the relative’s financial interest and must refrain from taking any official action on that matter.

(3) No relative of an officer or employee shall take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing the officer’s or employee’s vote or action in his or her official character.

(4) No relative of any officer or employee may represent, either as agent or otherwise, any person with respect to any application or bid for any contract or work in regard to which the officer or employee may be called upon to vote unless the officer or employee discloses on the record of the board, commission, or committee that performs such official act or to the city manager, in the case of employees, the nature and extent of the relative’s financial



interest and refrains from taking any official action on that matter.

(B) No officer or employee shall appear on behalf of any person (other than the city itself) before any city board, commission, or committee of which that officer or employee is a member unless that officer or employee discloses on the record of the board, commission, or committee the nature and extent of the officer's or employee's financial interest and refrains from taking any official action on that matter.

### ***GIFT BAN***

#### **§ 40.20 GIFTS PROHIBITED.**

Except as otherwise provided in § 40.21 below, no officer or employee, or relative living with an officer or employee, shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or state statute, rule, or regulation. No prohibited source shall intentionally offer or make a gift that violates this chapter. (*see* 5 ILCS 430/10-10 et seq.)

#### **§ 40.21 EXCEPTIONS.**

The restrictions set forth in § 40.20 shall not apply to the following:

(1) Opportunities, benefits and services that are available on the same conditions as for the general public;

(2) Anything for which the officer or employee pays the market value or anything not used and promptly disposed of as provided in § 40.22;

(3) A contribution, as defined in Article 9 of the Illinois Election Code, 10 ILCS 5/9-1 et seq., that is lawfully made under that Code or under the State Officials and Employees Ethics Act, or activities associated with a fundraising event in support of a political organization or candidate;

(4) Educational materials and missions;

(5) Travel expenses for a meeting to discuss city business;

(6) Anything provided by an individual on the basis of a personal relationship unless the officer or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the officer or employee and not because of the personal relationship. In determining whether a gift is provided on the basis of a personal relationship, the officer or employee shall consider the circumstances under which the gift was offered, such as:

(a) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

(b) Whether to the actual knowledge of the officer or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(c) Whether to the actual knowledge of the officer or employee the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.

(7) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are:

- (a) Consumed on the premises from which they were purchased or prepared; or
- (b) Purchased ready to eat and delivered by any means.

(8) Food, refreshments, lodging, transportation and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer or employee as an office holder or employee) of the officer or employee, or the spouse of the officer or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee and are customarily provided to others in similar circumstances.

(9) Intra-office and inter-office gifts;

(10) Bequests, inheritances and other transfers at death; and

(11) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

#### **§ 40.22 DISPOSITION OF GIFTS.**

An officer or employee that is a recipient of a gift that is given in violation of this chapter may, at his or her discretion, return the item to the donor or give the item or an amount equal to its value to an appropriate charity that is exempt from income taxation under §501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

### ***PROHIBITED POLITICAL ACTIVITIES***

#### **§ 40.30 POLITICAL ACTIVITIES PROHIBITED.**

(A) No officer or employee shall intentionally perform any prohibited political activity during any compensated time. (*see* 5 ILCS 430/5-15)

(B) No officer or employee shall intentionally use any property or resources of the city in connection with any prohibited political activity. (*see* 5 ILCS 430/5-15)

(C) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity:

- (1) As part of that employee's duties;
- (2) As a condition of employment; or
- (3) During any compensated time, including compensated time off. (*see* 5 ILCS 430/5-15)

(D) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded any additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for the officer's or employee's participation in any prohibited political activity. (*see* 5 ILCS 430/5-15)

#### **§ 40.31 EXCLUSIONS.**

Nothing in this section prohibits activities that are otherwise permissible for an officer or employee to engage in as a part of his or her official or employment duties or activities that are undertaken by an officer or employee on a voluntary basis as permitted by law. (*see* 5 ILCS 430/5-15)

#### **§ 40.32 WHAT IS A PROHIBITED POLITICAL ACTIVITY?**

For purposes of § 40.30, prohibited political activities include the following:

- (1) Preparing for, organizing or participating in any political meeting, political rally, political demonstration or other political event;
- (2) Soliciting contributions, including but not limited to, the purchase of, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting or other political event;
- (3) Soliciting, planning the solicitation of or preparing any document or report regarding any thing of value intended as a campaign contribution;
- (4) Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;
- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question;
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls;
- (8) Initiating for circulation, preparing, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question;
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office;
- (10) Preparing or reviewing responses to candidate questionnaires in connection with a

campaign for elective office or on behalf of a political organization for political purposes;

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question;

(12) Campaigning for any elective office or for or against any referendum question;

(13) Managing or working on a campaign for elective office or for or against any referendum question;

(14) Serving as a delegate, alternate or proxy to a political party convention; and/or

(15) Participating in any recount or challenge to the outcome of any election.

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§ 40.40 ETHICS OFFICER.**

(A) The City Manager, or his or her designee, shall be designated the Ethics Officer for the city.

(B) The Ethics Officer's duties and responsibilities include:

(1) Providing guidance to officers and employees in completing statements of economic interest before they are filed with the appropriate office;

(2) Providing guidance to officers and employees in the interpretation and implementation of this chapter and the requirements of state statute; and

(3) Providing guidance to officers and employees in the interpretation and implementation of other applicable statutes, ordinances, rules or regulations of the city, the state, or the federal government dealing with ethics, conflicts of interest, interests in contracts, jobs, work, or materials, or the profits thereof, or services to be performed for or by the city.

#### **§ 40.41 ETHICS COMMISSION.**

(A) *Establishment.* There is hereby established in the city an Ethics Commission, consisting of the City Council. The Ethics Commission may contract for services to assist in the performance of its duties.

(B) *Powers and Duties.*

(1) The Ethics Commission has the following powers and duties:

(a) To adopt rules and procedures to govern the performance of the Commission's duties and the exercise of its powers as deemed necessary or appropriate, including the receipt and processing of complaints and other information, issuance of subpoenas, exercise of investigatory powers, and preparation of reports, among other procedures;

(b) The Commission may delegate to a subcommittee of the Commission or to the Audit Committee its authority to conduct investigations pursuant to this section, and require a report of the subcommittee's findings to the full Commission for final action; and

(c) In the event that a member of the Commission is the subject of a claimed violation of this chapter, that Commissioner must immediately recuse himself or herself from the investigation and shall take no part in the final action of the Commission regarding the claimed violation.

(2) The powers and duties of the Commission are limited to matters clearly within the purview of this chapter.

(C) *Complaint Procedure.*

(1) *Filing a Complaint.* A complaint alleging a violation of this chapter must be filed with the Ethics Officer or, if the subject of the complaint is the Ethics Office, then with the Mayor. The complaint must be in writing and signed by the complainant and must include a description of the circumstances and facts to support any allegations of a violation of this chapter. Upon receipt of a complaint, the Ethics Officer or the Mayor, as the case may be, must forward the complaint to the Ethics Commission. A complaint alleging the violation of this chapter must be filed within two years after the alleged violation.

(2) *Notice.* Within three business days after the filing of an ethics complaint, the Commission must notify (a) the respondent that a complaint has been filed and include a copy of the complaint and (b) the complainant of its receipt of the complaint. These notices must also include the date, time, and place of the initial meeting of the Commission held pursuant to (C)(3) below.

(3) *Initial Meeting.* Within 14 business days after receipt of the complaint, the Commission shall meet in a closed session at a duly noticed meeting to determine whether the complaint sufficiently alleges a violation of this chapter and whether there is probable cause to proceed. If the complaint is deemed to sufficiently allege a violation of this chapter and there is a determination of probable cause, then the Commission must notify both parties of its determination and the date, time, and place of the meeting held pursuant to (C)(4) below. If the Commission determines, in its discretion, that the complaint is insufficient, frivolous, or that there is no probable cause, then the Commission must notify the parties of its decision to dismiss the complaint.

(4) *Subsequent Meeting if Complaint is Sufficient and there is Probable Cause.* Within 30 days of the Commission's determination that the complaint is sufficient and there is probable cause, the Commission shall conduct a closed session on the complaint and allow both parties the opportunity to present testimony and evidence.

(5) *Decision.* Within two weeks after the conclusion of the meeting held pursuant to (C)(4) above, the Commission must either:

- (a) Dismiss the complaint; or

(b) Issue a decision finding a violation and, if appropriate, recommending the imposition of one or more penalties in accordance with § 40.43 of this chapter.

Notice of the Commission's decision will be sent to the complainant and the respondent.

(6) *Impact of Election.* If the complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the Commission shall render its decision within seven days after the complaint is filed, and during the seven days preceding that election, the Commission shall tender the decision before the date of the election, if possible.

(D) *Appeal.* The Ethics Commission's decision finding a violation is a final administrative decision subject to judicial review under the Administrative Review Law.

(E) *Exemption.* The proceedings conducted, and documents generated, under this chapter are exempt from the provisions of the Open Meetings Act and the Freedom of Information Act, except as expressly provided.

#### **§ 40.42 INTERPRETATION.**

It is the intent of the city that the provisions of this chapter shall be substantially in accordance with the requirements of state statute. To the extent that state statute is more restrictive than the requirements of this chapter or other ethics regulations adopted or imposed by the City, the provisions of state statute shall apply and control. To the extent that the regulations of this chapter or other ethics regulations adopted or imposed by the City are more restrictive than state statute, the more restrictive regulation shall apply and control. This chapter does not repeal other relevant personnel rules or regulations adopted by the city.

It is recognized that no written Code of Ethics of this nature can provide specifically for all possible contingencies. Any questions regarding the propriety of any transaction or the proper interpretation of this chapter may be brought to the Ethics Officer for review pursuant to § 40.40 of this chapter.

#### **§ 40.43 PENALTY.**

(A) *General penalty.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the general penalty provisions of § 10.99.

(B) *Violations of §§ 40.01 through 40.11.*

(1) Any person found guilty of knowingly violating any of the provisions of §§ 40.01 through 40.11 shall be punished by a fine as set forth in the city fee schedule as adopted by § 41.01. All action seeking the imposition of fines only shall be filed as other non-criminal violations of the city code. Prosecutions for violation of the provisions of §§ 40.01 through 40.11 may be subject to administrative adjudication.

(2) Any contract negotiated, entered into, or performed in violation of any of the provisions of § 40.10 shall be void as to the city in accordance with applicable statutes.

(C) *Failure to file statement of financial interests.* Any person who is required to file a

statement of financial interests pursuant to this chapter or state law and who fails to file such as provided therein, shall, in addition to any other penalty provided herein, be subject to immediate ineligibility for, or forfeiture of, office or employment, provided that no forfeiture shall result if a statement is filed within 30 days after notice of the failure to file.

(D) *Gift ban and prohibited political activities.* An individual who knowingly violates §§ 40.20 through 40.30 is guilty of a business offense and subject to a fine as set forth in the city fee schedule as adopted by § 41.01.

(E) *Disgorging corporate opportunity.* Any officer or employee shall, upon demand of the city attorney, account for all benefits accruing to such officer or employee as a result of any violation of the provisions of this chapter. Any officer or employee receiving any such benefits in violation of any of the provisions of this chapter shall disgorge such benefits, and, in addition to any other penalty provided herein, shall be subject to a penalty equal to two times the amount of such benefits. In the event that any such officer or employee refuses to account for benefits received in violation of any of the provisions of this section, the City Attorney may seek an accounting in a court of law.

(F) *Discipline.* The penalties provided in this section do not limit either the power of the City Council to discipline its own members or the power of any other city department, agency or commission to otherwise discipline its members or its employees.

(G) *Frivolous Complaint.* A fine may be imposed against any person who knowingly files a frivolous ethics complaint alleging a violation of this chapter in accordance with § 41.01.



LEGAL COMMITTEE RECOMMENDED VERSION – JULY 17, 2019

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## **CHAPTER 40: GOVERNMENTAL ETHICS**

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### **GENERAL PROVISIONS**

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**GENERAL PROVISIONS****§ 40.01 POLICY AND PURPOSE.**

(A) It is essential to the proper operation of ~~democratic government~~the city that (1) public ~~officials~~officers be independent and impartial; ~~that~~(2) governmental decisions and policy be made through proper channels; and in accordance with the Illinois Open Meetings Act, ~~being~~5 ILCS 120, and other statutes and laws governing conduct by public ~~officials; and~~officers; (3) public office not be used for private gain; and ~~that~~(4) there be public confidence in the integrity of government. Public ~~officials~~officers and employees must serve ~~their government~~the city in a fiduciary capacity and must not bestow special consideration ~~upon~~on any person merely because of that person's relationship to ~~an official~~the officer or employee. The ~~attainment of these ends is~~city's goals are impaired whenever there ~~exists~~is a conflict between the private interests of a ~~public official~~city officer or employee and his or her ~~public duties as such~~public duties. ~~The~~. As a result, the public interest ~~therefore~~requires that the law protect against ~~such~~conflicts of interest and establish appropriate ethical standards ~~with respect to~~regarding the conduct of ~~elected officials~~city officers and ~~government~~employees in situations where conflicts exist, as well as in situations where conflicts might develop.

(B) It is also essential to the proper operation of ~~government~~the city that those best qualified be encouraged to serve the ~~government~~city. Accordingly, legal safeguards against conflicts of interest must be ~~so~~designed ~~as so that they do~~not unnecessarily or unreasonably ~~to~~impede the recruitment and retention by the ~~government~~city of those ~~men and women~~individuals who are best qualified to serve it. ~~The~~Therefore, the right of each ~~official~~officer and employee to privacy in his or her financial affairs must not, ~~therefore~~be limited beyond that disclosure necessary to ensure the integrity of ~~government~~the city. Moreover, because an essential principle underlying the staffing of ~~our government~~the city is that its ~~officials~~officers and employees should not be denied the opportunity; ~~that is~~available to all other citizens; to acquire and retain private economic and other interests, ~~such opportunity and to engage in political activities, those opportunities~~should not be ~~limited~~restricted unless conflicts with the responsibility of ~~such officials~~the officers and employees to the public cannot be avoided.

(C) It is the policy and purpose of this chapter to implement these objectives of protecting the integrity of the city and of facilitating the recruitment and retention of qualified personnel by prescribing essential restrictions against conflicts of interest in city government without creating unnecessary barriers to public service and by establishing a Code of Ethics for ~~officials~~officers and employees of the city.

(D) The policies set forth in this chapter are not intended to govern every circumstance, and officers and employees are expected to exercise good judgment and to avoid situations or circumstances that may create an appearance of impropriety.

**§ 40.02 DEFINITIONS.**

~~—(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning apply:~~

~~—**COMPENSATION.** Any money, thing of value or other pecuniary benefit received or to be~~

received in return for, or as reimbursement for, services rendered or to be rendered.

~~— **CONTRIBUTION, CANDIDATE** and **AUTHORIZED POLITICAL COMMITTEE.** As used herein shall be defined as provided in 10 ILCS 5/9-1.3 of the Illinois Election Code.~~

~~— **FINANCIAL INTEREST.** Any economic interest or relationship, whether by ownership, trust, purchase, sale, lease, contract, option, investment, employment, gift, fee or otherwise; whether present, promised, or reasonably expected; whether direct or indirect, including interests as a consultant, representative or other person receiving (or who may be receiving) remuneration, either directly or indirectly, as a result of a contract, transaction or activity; whether or not legally enforceable; whether in the person itself or in a parent or subsidiary corporation, or in another subsidiary of the same parent. An **INDIRECT FINANCIAL INTEREST** shall include, but is expressly not limited to, any economic interest, as set forth above, of a spouse, minor child or relative, as well as any economic interest held by an agent on behalf of an official or employee, his or her spouse or minor child, by a business entity managed or controlled by, or by a trust which an official or employee has a substantial interest. A business entity is controlled by an official or employee when he or she, his or her spouse, minor child or relative, singly or in the aggregate, possess a majority ownership interest in the entity. An official or employee has a substantial interest in a trust when he or she, his or her spouse or his or her minor child, singly or in the aggregate, have a present or future interest worth more than \$1,000. **FINANCIAL INTEREST** shall not include ownership through purchase at fair market value of less than 1% of the shares of a parent, subsidiary or other affiliated corporation whose shares are registered on a national securities exchange pursuant to the Securities Exchange Act of 1934. **FINANCIAL INTEREST** shall also not include authorized compensation or salary paid to an official or employee for services rendered to the city, or any economic benefit provided equally to all residents of the city.~~

~~— **OFFICIAL** or **EMPLOYEE.** Any person elected or appointed to any office, board or commission of or employed by the city, whether paid or unpaid and whether part time or full time.~~

~~— **PERSON.** Any individual, entity, corporation, proprietorship, partnership, firm, association, trade union, trust, estate or group, as well as any parent or subsidiary of any of the foregoing entities, whether or not operated for profit.~~

~~— **PROHIBITED ACTIVITY.** The bestowing of special consideration upon any person merely because of that person's relationship to an official or employee.~~

~~—(B) As used throughout this chapter, all masculine terms shall include their feminine counterparts and all singular terms shall include their plural counterparts.~~

#### **§ 40.03 INTEREST IN CONTRACTS OR TRANSACTIONS.**

~~—(A) No public official or employee shall perform or participate in an official act or action with regard to a transaction in which he or she has or knows he or she will thereafter acquire an interest.~~

~~—(B) No public official or employee shall acquire an interest in or be affected by any~~

~~transaction or the subject matter thereof at a time when the public official or employee believes or has reason to believe that such transaction will directly or indirectly be affected by an official act or action.~~

**~~§ 40.04 DISCLOSURE OF INFORMATION.~~**

~~—No public official or employee with respect to any transaction which is or which is reasonably expected to become the subject of an official act or action, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city or use of such information to advance the interest of such public official or employee or his or her family members.~~

**~~§ 40.05 APPEARANCE BEFORE CITY AGENCIES, BOARDS AND THE LIKE.~~**

~~—No public official or employee and no member of any agency, board, committee or commission on any matter within the jurisdiction of such agency, board, committee or commission shall appear on behalf of any person or entity (other than the city itself) before any city agency, board, committee or commission. Notwithstanding the foregoing, an official or employee may appear before a city agency, board, committee or commission on behalf of himself, herself or an immediate family member with respect to such person's property.~~

**~~§ 40.06 DUTIES TO UPHOLD ETHICS POLICY.~~**

~~—Public officials have the affirmative duty to maintain their neutrality in a public hearing before any city board or commission. The chair of the board or commission has the affirmative duty to report any perceived violation of this chapter to the Audit Committee for its timely review and recommendation of action to the City Council. In addition, any official or employee should report any circumstances that may give rise to a violation of this chapter to the Mayor, City Manager or the Chairperson of the Audit Committee for review. No person who makes a good faith report of an actual or perceived violation, or of circumstances that may give rise to any such violation, shall face any discipline or other retaliation as a consequence of such report.~~

**~~§ 40.07 PRIVATE USE OF PUBLIC PROPERTY.~~**

~~—No public official or employee shall request or permit the use of city owned vehicles, equipment, materials or property for personal convenience or profit except as allowed by administrative order of the city.~~

**~~§ 40.08 SPECIAL TREATMENT OF OTHERS.~~**

~~—No public official or employee shall grant any special consideration, treatment or advantage to any person or business entity beyond that which is available to every other citizen.~~

**~~§ 40.09 DISCLOSURE OF INTEREST.~~**

~~—Any public official or employee who has (or whose family members have) an interest in a transaction which is the subject of an official act or action shall disclose on the record of the board or commission which performs such official act or to the City Manager, in the case of employees, the nature and extent of such interest.~~

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#### **~~§ 40.10 ANNUAL DISCLOSURE STATEMENTS.~~**

~~—(A) For purpose of this chapter, each elected and appointed official of the city, as well as each appointee and employee who is required by 5 ILCS 420/4A-101 to file statement of economic interest shall file such statement with the city as herein provided.~~

~~—(B) By May 1 of each year, such statement must be filed by each person whose position at that time requires him or her to file, unless he or she has already filed a statement in that calendar year. Such statement shall be a signed photocopy or signed duplicate of the statement of economic interest as required by 5 ILCS 420/4A-101 that is required to be filed with the County Clerk. Such statement shall be filed with the City Clerk. If a person required to file such statement fails to file by May 1 of any year, the City Clerk shall notify such person within seven days after May 1 or his or her failure to file and such person shall not be considered in violation of this chapter for failure to file such statement until the later of seven days after delivery of such notice from the City Clerk or May 15 of any year. Upon any request to review these statements, the City Clerk will follow the same procedures followed by the County Clerk and notify the person filing the statement.~~

#### **~~§ 40.11 INTERPRETATION.~~**

~~—It is recognized that no written Code of Ethics of this nature can provide specifically for all possible contingencies. Any questions regarding the propriety of any transaction or the proper interpretation of this chapter may be brought to the City Council at any time. The Council shall submit any question of impropriety or alleged violation of this chapter to the Audit Committee for investigation and review. The Audit Committee shall notify the individual who is the subject of such investigation that such investigation is taking place, the originator of the accusation and the specific charges, and shall report to the City Council, upon determination by a majority of the committee, that there is reason to believe that a violation of this chapter has occurred, that no violation has occurred, or that some other legislative action is required to address the alleged violation. The City Council shall then either uphold, reject or modify the recommendation of the Committee.~~

#### **~~GIFT BAN AND PROHIBITED POLITICAL ACTIVITIES~~**

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#### **~~§ 40.25 DEFINITIONS.~~**

~~—For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—**CAMPAIGN FOR ELECTIVE OFFICE.** Any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office, or office in a political organization, **or the selection, nomination or election of Presidential or Vice Presidential electors,** but does not include activities:~~

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(1) Relating to the support or opposition of any executive, legislative, or administrative action, as those terms are defined in § 2 of the Lobbyist Registration Act, 25 ILCS 170/2;

(2) Relating to collective bargaining, as defined in § 3 of the Illinois Public Labor Relations Act, 5 ILCS 315/3; or

(3) That are otherwise in furtherance of the person's official duties. (See 5 ILCS 430/1-5)

~~—CANDIDATE.~~ Any ~~person~~individual who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election. (See 5 ILCS 430/1-5)

~~—COMPENSATED TIME.~~ ~~With respect to an employee, any~~Any time worked by or credited to an employee that counts toward any minimum work time requirement imposed as a condition of his or her employment but, for purposes of this chapter, does not include any designated holidays, vacation periods, personal time, compensatory time off, or any period when the employee is on a leave of absence. With respect to ~~officers or~~ employees whose hours are not fixed, ~~COMPENSATED TIME—compensated time~~ includes any period of time when the ~~officer or~~ employee is on the premises under the control of the employer and any other time when the ~~officer or~~ employee is executing his or her official duties, regardless of location. (See 5 ILCS 430/1-5)

~~—COMPENSATORY TIME OFF.~~ Any authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment. (See 5 ILCS 430/1-5)

COMPENSATION. Any money, thing of value, or other pecuniary benefit received, or to be received, in return for, or as reimbursement for, services rendered or to be rendered.

CONTRIBUTION. As defined in 10 ILCS 5/9-1.4 of the Illinois Election Code. (See 5 ILCS 430/1-5)

EMPLOYEE. Any person employed by the city full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of the city with regard to the material details of how the work is to be performed. (See 5 ILCS 430/1-5)

FINANCIAL INTEREST. ~~—EMPLOYEE.~~ ~~All full-time, part-time and contractual employees of the city.~~

~~—A certain, definable, pecuniary, and personal economic interest, whether in the officer's or employee's own name or the name of any other person from which the officer or employee is entitled to receive any financial benefit as a result of any contract, business, or other transaction which is, or which is known to become, the subject of an official act or action by or with the city.~~

GIFT. Any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible or intangible item having monetary value including, but not limited to, cash,

food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee. (See 5 ILCS 430/1-5)

**~~—INTER-OFFICE GIFT.~~** Any gift given to an officer or employee of the city from a member ~~of the State General Assembly; or from the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Controller, the Treasurer or the Auditor General of the state; or from a member,~~ officer, appointee or employee of any state agency, as defined in the State Officials and Employees Ethics Act, ~~5 ILCS 430/1-1 et seq., or of any~~ federal agency, or ~~of any~~ unit of local government or school district. (See 5 ILCS 430/10-15)

**~~—INTRA-OFFICE GIFT.~~** Any gift given to an officer or employee of the city from another officer or employee of the city. (See 5 ILCS 430/10-15)

**~~—LEAVE OF ABSENCE.~~** Any period during which an employee does not receive:

- (1) Compensation for employment;
- (2) Service credit towards pension benefits; and
- (3) Health insurance benefits paid for by the city. (See 5 ILCS 430/1-5)

**~~—OFFICER.~~** All appointed and elected ~~officials~~individuals of the city, regardless of whether the ~~official~~individual is compensated.

**PERSON.** ~~**—POLITICAL ACTIVITY.** Any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities:~~

- ~~—(1) Relating to the support or opposition of any executive, legislative or administrative action;~~
- ~~—(2) Relating to collective bargaining; or~~
- ~~—(3) That are otherwise in furtherance of the person's official duties.~~

~~Any individual, entity, corporation, proprietorship, partnership, limited liability company, firm, association, trade union, trust, estate, or group, whether or not operated for profit.~~

**POLITICAL ORGANIZATION.** A party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under § 9-3 of the Election Code, 10 ILCS 5/9-3, but only with regard to those activities that require filing with the State Board of Elections or a county clerk. (See 5 ILCS 430/1-5)

**~~—PROHIBITED POLITICAL ACTIVITY.~~** See §§ 40.30-40.32 of this chapter,

- ~~(1) Preparing for, organizing or participating in any political meeting, political rally, political demonstration or other political event;~~

~~(2) Soliciting contributions, including but not limited to, the purchase of, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting or other political event;~~

~~(3) Soliciting, planning the solicitation of or preparing any document or report regarding any thing of value intended as a campaign contribution;~~

~~(4) Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;~~

~~(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;~~

~~(6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question;~~

~~(7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls;~~

~~(8) Initiating for circulation, preparing, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question;~~

~~(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office;~~

~~(10) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes;~~

~~(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question;~~

~~(12) Campaigning for any elective office or for or against any referendum question;~~

~~(13) Managing or working on a campaign for elective office or for or against any referendum question;~~

~~(14) Serving as a delegate, alternate or proxy to a political party convention; and/or~~

~~(15) Participating in any recount or challenge to the outcome of any election.~~

~~**PROHIBITED SOURCE.** Any person ~~or entity~~ who:~~

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(1) Is seeking ~~official~~ action by the city or by an officer or employee of the city in connection with city business;

(2) Does business or seeks to do business with the city or with an officer or employee of the city;



- (3) Conducts activities regulated by the city or by an officer or employee of the city;
- (4) Has interests that may be substantially affected by the performance or non-performance of the official duties of the city or an officer or employee of the city; ~~or~~
- (5) Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, being 25 ILCS 170, except that an entity does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; ~~or~~
- (6) Is an agent of, a spouse of, or a relative living with a “prohibited source.”  
(See 5 ILCS 430/1-5)

**RELATIVE.** ~~Those people related to—~~ A spouse, parent, sibling, child, grandparent, or grandchild, or spouse of any parent, sibling, child, grandparent, or grandchild of the officer or employee— ~~as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister and including.~~

#### **§ 40.03 DISCLOSURE OF CONFIDENTIAL INFORMATION.**

(A) No officer or employee shall disclose confidential information concerning the ~~father, mother, grandfather or grandmother~~ property, government, or affairs of the city except when that disclosure is made in connection with the officer’s or employee’s ~~spouse and~~ official duties or with proper legal authorization.

(B) No officer or employee shall use confidential information concerning the property, government, or affairs of the city to advance the interest of the officer or employee or the officer’s or employee’s ~~fiancé or fiancée~~ relatives.

#### **§ 40.2604 IMPARTIALITY AT HEARINGS.**

Members of a city board or commission or authorized hearing officers have the affirmative duty to maintain their neutrality in any public hearing before that board or commission. The chair of the hearing body or hearing officer has the affirmative duty to report any perceived violation of this section to the Ethics Officer for review and recommendation to the Ethics Commission pursuant to § 40.40-40.41 of this chapter.

#### **§ 40.05 SPECIAL TREATMENT OF OTHERS.**

No officer or employee shall grant any special consideration, treatment, or advantage to any person beyond that which is available to every other citizen.

#### **§ 40.06 PRIVATE USE OF PUBLIC PROPERTY OR SERVICES.**

No officer or employee shall request or permit the use of city-owned vehicles, equipment, materials, services, or property for personal convenience or profit except as allowed by

administrative order of the city or as approved by the City Council.

#### **§ 40.07 ANNUAL DISCLOSURE STATEMENTS.**

(A) For purpose of this chapter, each elected and appointed officer of the city, as well as each appointee and employee who is required by 5 ILCS 420/4A-101 to file statement of economic interest, shall file the required statement with the city as provided in this section.

(B) By May 1 of each year, the statement must be filed by each officer or employee whose position at that time requires him or her to file, unless the officer or employee has already filed a statement in that calendar year. The statement shall be a signed photocopy or signed duplicate of the statement of economic interest as required by 5 ILCS 420/4A-101 that is required to be filed with the County Clerk. The statement shall be filed with the City Clerk. If an officer or employee required to file the statement fails to file by May 1 of any year, the City Clerk shall notify that officer or employee within seven days after May 1 of the failure to file and the officer or employee will not be considered in violation of this chapter for failure to file such statement until the later of seven days after delivery of such notice from the City Clerk or May 15 of any year. Upon any request to review these statements, the City Clerk will follow the same procedures followed by the County Clerk and notify the officer or employee filing the statement.

#### **§ 40.08 REPORTING.**

Any officer or employee should report any circumstances that may give rise to a violation of this chapter to the Ethics Officer for review and recommendation to the Ethics Commission pursuant to §§ 40.40-40.41 of this chapter. No officer or employee who makes a good faith report of an actual or perceived violation, or of circumstances that may give rise to any such violation, shall face any discipline or other retaliation as a consequence of making the report.

#### **CONFLICTS OF INTEREST**

#### **§ 40.10 STATUTORY CONFLICTS OF INTEREST.**

##### (A) Disqualifying Conflicts of Interest.

(1) No officer or employee shall participate in any official action that would constitute a conflict of interest under state statute except as expressly authorized by 65 ILCS 5/3.1-55-10 or 50 ILCS 105/01 et seq or in § 40.10(B) of this chapter.

(2) No officer or employee shall have a financial interest in any contract, work, or business of the city or in the sale of any article whenever the expense, price, or consideration of the contract, work, business, or sale is paid out of city funds, except as expressly allowed by 65 ILCS 5/3.1-55-10 or 50 ILCS 105/01 et seq. or in § 40.10(B) of this chapter.

(3) No officer or employee shall have a financial interest in the purchase of any city property except as expressly allowed by 65 ILCS 5/3.1-55-10 or in § 40.10(B) of this chapter.

(4) No officer or employee may take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his or her vote or action in his or her official character. (See 50 ILCS 105/3(a))

(5) No officer may represent, either as agent or otherwise, any person with respect to any application or bid for any contract or work in regard to which the officer may be called upon to vote except as expressly allowed by 50 ILCS 105/01 *et seq.* or in § 40.10(B).

(B) Exceptions to Disqualifying Conflicts of Interest.

(1) The prohibitions set forth in § 40.10(A) do not apply to an officer or employee serving on a city advisory board or commission unless the officer's duties include evaluating, recommending, approving, or voting to recommend or approve the contract, work, or business, as set forth in 65 ILCS 5/3.1-55-10(a).

(2) Notwithstanding the prohibitions set forth in § 40.10 (A), an officer or employee will not be deemed to have a disqualifying conflict of interest if the city officer or employee is an employee of a company or an owner of 1% or less in a publicly traded company, or both, and the officer or employee (a) publicly discloses the officer's interest; (b) refrains from participating in the discussion; (c) abstains from voting on the contract; and (d) the contract is approved by a majority of members currently holding office, as set forth in 65 ILCS 5/3.1-55-10(a).

(3) Notwithstanding the prohibitions set forth in § 40.10 (A), an officer or employee will not be deemed to have a disqualifying conflict of interest if the officer owns or holds an interest of 1% or less in mutual funds in a publicly traded company, as set forth in 65 ILCS 5/3.1-55-10(a).

(4) Notwithstanding the prohibitions set forth in § 40.10 (A), a city council member may provide materials, merchandise, property, services, or labor to the city in the circumstances described below in (a), (b), (c), and (d):

(a) If the contract is with a person or business entity in which the city council member has less than a 7 ½% share in the ownership and (i) the member publicly discloses the interest before or during deliberations; (ii) the member abstains from voting on the contract, the contract is approved by majority vote of the members holding office; (iii) the contract is awarded by sealed bid to the lowest responsible bidder if the contract exceeds \$1,500; and (iv) the total contracts awarded to the same person or business entity in the same fiscal year does not exceed \$25,000, as set forth in 65 ILCS 5/3.1-55-10(b)(1).

(b) If the contract with a person or business entity in which the city council member has a financial interest does not exceed \$2,000 and (i) the member publicly discloses the interest before or during deliberations; (ii) the member abstains from voting on the contract; (iii) the contract is approved by majority vote of the members holding office; and (iv) the total contracts awarded to the same person or business entity in the same fiscal year does not exceed \$4,000, as set forth in 65 ILCS 5/3.1-55-10(b)(2).

(c) If the contract is with a person or business entity in which the city council member holds less than a 1% ownership interest and (i) the member publicly discloses the interest before or during deliberations; (ii) the member abstains from voting on the contract; and (iii) the contract is approved by majority vote of the members holding office, as set forth in 65 ILCS 5/3.1-55-10(b-5).

(d) If the contract is for the procurement of public utility services in which a city council member is either an officer or employee of the company or holds no more than 7 ½% interest, and the utility's rates are approved by the ICC, as set forth in 65 ILCS 5/3.1-55-10(c).

(5) Nothing in this section shall preclude the city from entering into a contract with a financial institution even if a city council member is an officer or employee of the financial institution or holds less than a 7 ½% ownership interest, so long as (a) the member publicly discloses interest; (b) the member does not participate in the deliberations; and (c) the member does not vote on the contract, as set forth in 65 ILCS 5/3.1-55-10(e).

(6) Notwithstanding the prohibitions set forth in this section, an officer may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the City in either of the following circumstances, as set forth in 65 ILCS 5/3.1-55-10(g) and 50 ILCS 105/10(f):

(a) If the officer is appointed by the city council to represent the interests of the city on a not-for-profit board, then the officer may actively vote on matters involving that board or the city, at any time, so long as the membership on the board is not a paid position, except that the officer may be reimbursed for expenses incurred as the result of membership on the board.

(b) If the officer is not appointed by the city council to the not-for-profit board, then the officer may continue to serve; however, the officer must abstain from voting on any matter before the city council that directly involves the not-for-profit corporation and, for these matters, will not be counted as present for the purposes of a quorum of the city council.

#### **§ 40.11 LOCAL CONFLICTS OF INTEREST.**

In addition to the statutory conflicts of interest that apply under Section 40.10, officers and employees are also subject to the following local conflicts of interest rules.

(A) For purposes of the local conflicts of interest rules set forth in this Subsection (A), a "financial interest" of a relative is defined as "a certain, definable, pecuniary, and personal economic interest from which the relative of the officer or employee is entitled to receive any financial benefit as a result of any contract, business, or other transaction which is, or which is known to become, the subject of an official act or action by or with the city."

(1) An officer or employee whose relative has a financial interest in any contract, work, or business of the city or in the sale of any article whenever the expense, price, or consideration of the contract, work, business, or sale is paid out of city funds must disclose on the record of the board, commission, or committee that performs such official act or to the city manager, in the case of employees, the nature and extent of the relative's financial interest and must refrain from taking any official action on that matter.

(2) An officer or employee whose relative has a financial interest in the purchase of any city property must disclose on the record of the board, commission, or committee that takes

official action on the purchase or to the city manager, in the case of employees, the nature and extent of the relative's financial interest and must refrain from taking any official action on that matter.

(3) No relative of an officer or employee shall take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing the officer's or employee's vote or action in his or her official character.

(4) No relative of any officer or employee may represent, either as agent or otherwise, any person with respect to any application or bid for any contract or work in regard to which the officer or employee may be called upon to vote unless the officer or employee discloses on the record of the board, commission, or committee that performs such official act or to the city manager, in the case of employees, the nature and extent of the relative's financial interest and refrains from taking any official action on that matter.

(B) No officer or employee shall appear on behalf of any person (other than the city itself) before any city board, commission, or committee of which that officer or employee is a member unless that officer or employee discloses on the record of the board, commission, or committee the nature and extent of the officer's or employee's financial interest and refrains from taking any official action on that matter.

#### **GIFT BAN**

#### **§ 40.20 GIFTS PROHIBITED.**

~~—(A) Gifts prohibited.~~ Except as otherwise provided in ~~division (B)~~ § 40.21 below, no officer or employee, ~~spouse of an officer or employee, or immediate family member~~ relative living with an officer or employee, shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or state statute, rule, or regulation. No prohibited source shall intentionally offer or make a gift that violates this chapter. (see 5 ILCS 430/10-10 et seq.)

#### ~~—(B) Exceptions.~~ § 40.21 EXCEPTIONS.

The restrictions set forth in ~~division (A) above~~ § 40.20 shall not apply to the following:

(1) Opportunities, benefits and services that are available on the same conditions as for the general public;

(2) Anything for which the officer or employee pays the market value or anything not used and promptly disposed of as provided in ~~division (C) below~~ § 40.22;

(3) A contribution, as defined in Article 9 of the Illinois Election Code, 10 ILCS 5/9-1 et seq., that is lawfully made under that Code or under the State Officials and Employees Ethics Act, or activities associated with a fundraising event in support of a political organization or candidate;

(4) Educational materials and missions;

(5) Travel expenses for a meeting to discuss city business;

(6) ~~A gift from a relative of an officer or employee;~~

~~(7)~~ Anything provided by an individual on the basis of a personal ~~friendship~~relationship unless the officer or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the officer or employee and not because of the personal ~~friendship~~relationship. In determining whether a gift is provided on the basis of ~~a~~ personal ~~friendship~~relationship, the officer or employee shall consider the circumstances under which the gift was offered, such as:

(a) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

(b) Whether to the actual knowledge of the officer or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(c) Whether to the actual knowledge of the officer or employee the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.

~~(8)~~ Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are:

(a) Consumed on the premises from which they were purchased or prepared; or

(b) Purchased ready to eat and delivered by any means.

~~(9)~~ Food, refreshments, lodging, transportation and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer or employee as an office holder or employee) of the officer or employee, or the spouse of the officer or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee and are customarily provided to others in similar circumstances.

~~(10)~~ Intra-office and inter-office gifts;

~~(11)~~ Bequests, inheritances and other transfers at death; and

~~(12)~~ Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

~~(C) Disposition of gifts.~~ **§ 40.22 DISPOSITION OF GIFTS.**

An officer or employee that is a recipient of a gift that is given in violation of this chapter may, at his or her discretion, return the item to the donor or give the item or an amount equal to its value to an appropriate charity that is exempt from income taxation under §-501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

**§ 40.27 PROHIBITED POLITICAL ACTIVITIES.**

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**§ 40.30 POLITICAL ACTIVITIES PROHIBITED.**

(A) ~~—~~ No officer or employee shall intentionally perform any prohibited political activity during any compensated time. (see 5 ILCS 430/5-15)

(B) No officer or employee shall intentionally use any property or resources of the city in connection with any prohibited political activity. (see 5 ILCS 430/5-15)

~~(B)~~ (C) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity:

(1) As part of that employee's duties;

(2) As a condition of employment; or

(3) During any compensated time ~~off, including compensated time off.~~ (see 5 ILCS 430/5-15)

~~(C)~~ (D) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded any additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for the officer's or employee's participation in any prohibited political activity. (see 5 ILCS 430/5-15)

~~—(D)—~~ **§ 40.31 EXCLUSIONS.**

Nothing in this section prohibits activities that are otherwise permissible for an officer or employee to engage in as a part of his or her official or employment duties or activities that are undertaken by an officer or employee on a voluntary basis as permitted by law. (see 5 ILCS 430/5-15)

**§ 40.32 WHAT IS A PROHIBITED POLITICAL ACTIVITY?**

For purposes of § 40.30, prohibited political activities include the following:

(1) Preparing for, organizing or participating in any political meeting, political rally, political demonstration or other political event;

(2) Soliciting contributions, including but not limited to, the purchase of, selling, distributing or receiving payment for tickets for any political fundraiser, political meeting or other political event;

(3) Soliciting, planning the solicitation of or preparing any document or report regarding any thing of value intended as a campaign contribution;

(4) Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question;

(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf

of a political organization for political purposes or for or against any referendum question;

(6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question;

(7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls;

(8) Initiating for circulation, preparing, circulating, reviewing or filing any petition on behalf of a candidate for elective office or for or against any referendum question;

(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office;

(10) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes;

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question;

(12) Campaigning for any elective office or for or against any referendum question;

(13) Managing or working on a campaign for elective office or for or against any referendum question;

(14) Serving as a delegate, alternate or proxy to a political party convention; and/or

(15) Participating in any recount or challenge to the outcome of any election.

~~—(E) No person shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club that is either:~~

~~—(1) In a position that is subject to recognized merit principles of public employment; or~~

~~—(2) In a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs.~~

#### **ADMINISTRATION AND ENFORCEMENT**

#### **§ 40.2840 ETHICS OFFICER.**

(A) The City Manager~~-,~~ or his or her designee, shall be designated the Ethics Officer for the city.

(B) The Ethics Officer's duties and responsibilities ~~shall~~ include:

(1) Providing guidance to officers and employees in completing statements of economic



interest before they are filed with the appropriate office;

(2) Providing guidance to officers and employees in the interpretation and implementation of this chapter and the requirements of ~~5 ILCS 430/5-15 and Article 10~~ state statute; and

(3) Providing guidance to officers and employees in the interpretation and implementation of other applicable statutes, ordinances, rules or regulations of the city, the state, or the federal government dealing with ethics, conflicts of interest, interests in contracts, jobs, work, or materials, or the profits thereof, or services to be performed for or by the city.

#### **§ 40.2941 ETHICS COMMISSION.**

(A) *Establishment.* There is hereby established in the city an Ethics Commission, consisting of the City Council. ~~Commission members shall be non-salaried, except that they may be reimbursed for their reasonable expenses incurred in the performance of their duties.~~ The Ethics Commission may contract for services ~~that cannot be satisfactorily performed by the city staff to assist in the performance of its duties.~~

(B) *Powers and ~~duties~~Duties.*

(1) The Ethics Commission ~~shall have~~ has the following powers and duties:

(a) To ~~promulgate such adopt rules and~~ procedures and rules governing to govern the performance of ~~its~~ the Commission's duties and the exercise of its powers as deemed necessary or appropriate;

~~— (b) Upon, including the receipt of a signed, notarized, written complaint, to investigate, conduct research, conduct closed hearings and deliberations, issue findings, decisions processing of complaints and recommendations and impose a fine when warranted;~~

~~— (c) To act only upon the receipt of a written complaint alleging a violation of this chapter, and not upon its own prerogative;~~

~~— (d) To receive other information from the public pertaining to its investigations and to require additional information and documents from persons who may have violated this chapter as the Commission deems appropriate, issuance of subpoenas, exercise of investigatory powers, and preparation of reports, among other procedures;~~

~~— (e) When necessary, to subpoena witnesses and compel the production of books and papers pertinent to an investigation authorized by this chapter;~~

~~— (f) When necessary, to request that the State's Attorney provide legal advice without charge to the Commission;~~

~~— (g) To prepare and publish such manuals and guides as the Commission deems appropriate explaining the duties of individuals covered by this chapter;~~

~~— (h) To prepare such public information materials as the Commission deems appropriate to facilitate compliance, implementation and enforcement of this chapter;~~

~~— (i) To prepare periodic statistical reports consisting of:~~

~~— 1. The number of complaints filed;~~

~~— 2. The number of complaints deemed to sufficiently allege a violation of this chapter;~~

~~— 3. The recommendation, fine or decision issued for each complaint;~~

~~— 4. The number of complaints resolved; and~~

~~— 5. The status of pending complaints.~~

~~(j)~~ (b) The Commission may delegate to a subcommittee of the Commission or to the Audit Committee its authority to conduct investigations pursuant to this section, and require a report of the subcommittee's findings to the full Commission for final action; and

(~~kc~~) In the event that a member of the Commission is the subject of a claimed violation of this chapter, ~~such that~~ Commissioner ~~shall must~~ immediately recuse himself or herself from the investigation ~~of such claimed violation~~, and shall take no part in the final action of the Commission regarding ~~such the~~ claimed violation.

(2) The powers and duties of the Commission are limited to matters clearly within the purview of this chapter.

(C) ~~Complaint procedure~~ Procedure.

(1) ~~Complaints~~ Filing a Complaint. A complaint alleging ~~the a~~ violation of this chapter ~~shall be filed as follows. If the complaint alleges a violation by an employee, appointed officer or elected officer of the city, then the complaint shall must~~ be filed with the Ethics Officer. ~~In the event that or, if the subject of the complaint is the Ethics Officer, such complaint shall be filed Office, then with the Mayor. Any complaint received by, or incident reported to, an employee~~ The complaint must be in writing and signed by the complainant and must include a description of the circumstances and facts to support any allegations of a violation of this chapter. Upon receipt of a complaint, the Ethics Officer or the Mayor, as the case may be, must forward the complaint to the Ethics Commission. A complaint alleging the violation of this chapter, shall be forwarded to the Ethics Officer or Mayor as provided above. Upon receipt of any such complaint, the Ethics Officer, or the Mayor, as the case may be, shall forward the complaint to each member of the Ethics Commission must be filed within two years after the alleged violation.

(2) Notice. Within three business days after the filing of an ethics complaint, the Commission ~~shall send by certified mail, return receipt requested, a notice to must notify (a) the respondent that a complaint has been filed against him or her and include a copy of the complaint. The Commission shall send by certified mail, return receipt requested, a confirmation of the receipt of the complaint to the complainant within three business days after the submittal to the Commission. The notices to the respondent and and (b) the complainant shall of its receipt of the complaint. These notices must also advise them of include the date, time, and place of the initial meeting on the sufficiency of the complaint and probable cause, which meeting shall be~~

Commission held within pursuant to (C)(3) below.

(3) Initial Meeting. Within 14 business days after ~~receiving~~receipt of the complaint:

~~— (3) Upon at least 48 hours' public notice of the session, the Commission shall meet in a closed session at a duly noticed meeting to review the sufficiency of determine whether the complaint and, if the complaint is deemed to sufficiently allege alleges a violation of this chapter; to determine if and whether there is probable cause, based on evidence presented by the complainant, to proceed. The Commission shall issue notice to the complainant and the respondent of the Commission's ruling on the sufficiency of the complaint, and, if necessary, on probable cause, to proceed. If the complaint is deemed to sufficiently allege a violation of this chapter and there is a determination of probable cause, then the Commission's notice to the Commission must notify both parties shall include a hearing date scheduled within four weeks after the issuance of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed not to sufficiently allege a violation or if there is no of its determination of and the date, time, and place of the meeting held pursuant to (C)(4) below. If the Commission determines, in its discretion, that the complaint is insufficient, frivolous, or that there is no probable cause, then the Commission shall send by certified mail, return receipt requested, a notice to must notify the parties of the its decision to dismiss the complaint and that notice shall be made public.~~

~~— (4) On the scheduled date and upon at least 48 hours' public notice of the hearing, (4) Subsequent Meeting if Complaint is Sufficient and there is Probable Cause. Within 30 days of the Commission's determination that the complaint is sufficient and there is probable cause, the Commission shall conduct a closed meeting session on the complaint and allow both parties the opportunity to present testimony and evidence.~~

~~(5) (a) Decision.~~ Within two weeks after the conclusion of the ~~hearing on the complaint meeting held pursuant to (C)(4) above,~~ the Commission ~~shall~~must either:

~~1. (a) Dismiss the complaint;~~

~~2. Issue a preliminary recommendation to the alleged violator and to the violator's ultimate jurisdictional authority or impose a fine upon the violator; or~~

~~3. Both.~~

~~(b) The particular findings in the instant case, the preliminary recommendation and any fine shall be made public.~~

~~— (6) Within seven business days after the issuance of the preliminary recommendation or Issue a decision finding a violation and, if appropriate, recommending the imposition of a fine, or both, the respondent may file a written demand for a public hearing on the complaint. The filing of the demand shall stay the enforcement of the preliminary recommendation or fine. Within two weeks after receiving the demand, the Commission shall conduct a public hearing on the complaint after at least 48 hours' public notice of the hearing and allow both parties the opportunity to present testimony and evidence. Within five business days after such public hearing, the Commission shall publicly issue a final recommendation to the alleged violator and~~

~~to the violator's ultimate jurisdictional authority or impose a fine upon the violator, or both one or more penalties in accordance with § 40.43 of this chapter.~~

~~—(7) Notice of the Commission's decision will be sent to the complainant and the respondent.~~

~~(6) *Impact of Election.* If the complaint is filed during the 60 days preceding the date of any election at which the respondent is a candidate, the Commission shall render its decision ~~as required under division (C)(6) above~~ within seven days after the complaint is filed, and during the seven days preceding that election, the Commission shall tender ~~such~~the decision before the date of ~~that~~the election, if possible.~~

~~—(8) The Commission may levy a fine of up to \$750 against any person who knowingly files a frivolous complaint alleging a violation of this chapter.~~

~~—(9) A complaint alleging the violation of this chapter must be filed within one year after the alleged violation.~~

(D) *Enforcement.*

~~—(1) The Commission may recommend to a person's ultimate jurisdictional authority disciplinary action against the person it determines to be in violation of this chapter. The recommendation may prescribe the following courses of action:~~

~~—(a) A reprimand;~~

~~—(b) An order to cease and desist the offensive action;~~

~~—(c) An return or refund of money or other items, or an amount of restitution for services received in violation of this chapter;~~

~~—(d) Dismissal, removal from office or expulsion; and~~

~~—(e) Donation to a charity of an amount equal to the gift.~~

~~—(2) The Ethics Commission may impose a fine of up to \$750 per violation to be deposited into the General Fund of the city.~~

~~—(3) (a) The city, through the ultimate jurisdictional authority of an officer or employee, may take disciplinary action against any such officer or employee:~~

~~—1. Who the Ethics Commission finds is in violation of this chapter;~~

~~—2. Who is the subject of a recommendation by the Ethics Commission; or~~

~~—3. Described by both divisions (D)(3)(a)1. and (D)(3)(a)2. above.~~

~~—(b) The city may take disciplinary action as recommended by the Ethics Commission, if any, or as it deems appropriate, to the extent it has constitutional and statutory authority to take that action.~~

~~—(c) The city shall make its action, or determination to take no action, available to the public.~~

~~—(4) If after a hearing, the Commission finds no violation of this chapter, the Commission shall dismiss the complaint.~~

~~—(E) Review/Appeal. The Ethics Commission’s decision to dismiss a complaint or its recommendation is not a final administrative decision, but its imposition of a fine finding a violation is a final administrative decision subject to judicial review under the Administrative Review Law of the Code of Civil Procedure.~~

~~(F) Exemption. The proceedings conducted, and documents generated, under this chapter are exempt from the provisions of the Open Meetings Act and the Freedom of Information Act, except as expressly provided.~~

#### **§ 40.3042 INTERPRETATION.**

~~—It is the intent of the city that the provisions of this chapter shall be substantially in accordance with the requirements of 5 ILCS 430/5-15 and Article 10 of the State Officials and Employees Ethics Act. To the extent that § 5-15 or Article 10 of the State Officials and Employees Ethics Act may be more restrictive than the requirements of this chapter or other ethics regulations adopted or imposed by the City, the provisions of § 5-15 and Article 10 of the State Officials and Employees Ethics Act shall apply and control. To the extent that the regulations of this chapter or other ethics regulations adopted or imposed by the City are more restrictive than state statute, the more restrictive regulation shall apply and control. This chapter does not repeal other relevant personnel rules or regulations adopted by the city (“existing regulations”). To the extent that the existing regulations are less restrictive than § 5-15 or Article 10 of the State Officials and Employees Ethics Act and this chapter, the provisions of § 5-15 and Article 10 of the State Officials and Employees Ethics Act and this chapter shall apply and control.~~

~~**§ 40.99** It is recognized that no written Code of Ethics of this nature can provide specifically for all possible contingencies. Any questions regarding the propriety of any transaction or the proper interpretation of this chapter may be brought to the Ethics Officer for review pursuant to § 40.40 of this chapter.~~

#### **§ 40.43 PENALTY.**

(A) *General penalty.* Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the general penalty provisions of § 10.99.

(B) ~~*In general*~~ Violations of §§ 40.01 through 40.11.

~~—(1) Any person found guilty of knowingly violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of §§ 40.01 through 40.11, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine up to \$750 per violation as set forth in the city fee schedule as adopted by § 41.01. All action seeking the imposition of fines only shall be filed as other non-criminal violations of the city code. Prosecutions for violation of the provisions of §§ 40.01 through 40.11 may be subject to~~

administrative adjudication.

~~— (2) Prosecutions for Any contract negotiated, entered into, or performed in violation of any of the provisions of §§ 40.01 through 40.11 shall be initiated and prosecuted by void as to the City Attorney.~~

~~— (3) The penalties provided in section do not limit either the power of the City Council to discipline its own members or the power of any other city department, agency or commission to otherwise discipline its members or its employees.~~

~~— (4) Nothing in §§ 40.01 through 40.11 is intended to or is to be construed as repealing in any way the provisions of any other law of the states or ordinance by the city accordance with applicable statutes.~~

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(C) *Failure to file statement of financial interests.* Any person who is required to file a statement of financial interests pursuant to this chapter or state law and who fails to file such as provided therein, shall, in addition to any other penalty provided herein, be subject to immediate ineligibility for, or forfeiture of, office or employment, provided that no forfeiture shall result if a statement is filed within 30 days after notice of the failure to file.

~~— (D) Void contracts; invalid licenses, permits, actions. Any contract negotiated, entered into or performed in violation of any of the provisions of this §§ 40.01 through 40.11 shall be void as to the city. Any permit, license, ruling, determination or other official action of the City Council, a committee or other subdivision thereof, or of any city department, agency, board, commission, other body, applied for or in any other manner sought, obtained or undertaken in violation of any of the provisions of §§ 40.01 through 40.11 shall be invalid and without any force or effect whatsoever.~~

(D) Gift ban and prohibited political activities. An individual who knowingly violates §§ 40.20 through 40.30 is guilty of a business offense and subject to a fine as set forth in the city fee schedule as adopted by § 41.01.

(E) *Disgorging corporate opportunity.* Any ~~official officer~~ or employee shall, upon demand of the ~~City Attorney~~ city attorney, account for all benefits accruing to such ~~official officer~~ or employee as a result of any violation of the provisions of ~~§§ 40.01 through 40.11~~ this chapter. Any ~~official officer~~ or employee receiving any such benefits in violation of any of the provisions of ~~§§ 40.01 through 40.11~~ this chapter shall disgorge such benefits, and, in addition to any other penalty provided herein, shall be subject to a penalty equal to two times the amount of such benefits. In the event that any such ~~official officer~~ or employee refuses to account for benefits received in violation of any of the provisions of this section, the City Attorney may seek an accounting in a court of law.

~~— (F) Gift ban and prohibited political activities. An individual who knowingly violates §§ 40.25 through 40.30 is guilty of a business offense and subject to a fine of up to \$750. (F) Discipline. The penalties provided in this section do not limit either the power of the City Council to discipline its own members or the power of any other city department, agency or commission to otherwise discipline its members or its employees.~~

LEGAL COMMITTEE RECOMMENDED VERSION – JULY 17, 2019

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(G) *Frivolous Complaint.* A fine may be imposed against any person who knowingly files a frivolous ethics complaint alleging a violation of this chapter in accordance with § 41.01.

THE CITY OF LAKE FOREST  
ORDINANCE NO. 2019-\_\_\_\_

**AN ORDINANCE AMENDING THE CITY CODE AS IT  
PERTAINS TO CANNABIS BUSINESSES**

**WHEREAS**, the Illinois General Assembly recently enacted the Cannabis Regulation and Tax Act and, as a result, the use and sale of recreational cannabis will be legal in Illinois beginning January 1, 2020; and

**WHEREAS**, The City of Lake Forest (the "City") is an Illinois home rule municipality operating in accordance with the Illinois Constitution of 1970; and

**WHEREAS**, the City is authorized pursuant to its home rule authority and other applicable law, including the Cannabis Regulation and Tax Act, to enact appropriate regulations and restrictions up to and including "opting out" of allowing cannabis related businesses to operate in the City; and

**WHEREAS**, on September 11, 2019, the City of Lake Forest Plan Commission held a public hearing to consider amendments relating to the prohibition of cannabis businesses and, after deliberation, voted to recommend to the City Council the adoption of said Code amendments; and

**WHEREAS**, the corporate authorities of the City have determined that it is in the best interests of the City and its residents to amend the City Code of the City of Lake Forest to enact regulations prohibiting all cannabis related businesses within the City as set forth in this ordinance;

**NOW, THEREFORE**, be it ordained by the corporate authorities of the City of Lake Forest, County of Lake, State of Illinois, as follows:

**SECTION ONE. Recitals.** The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth.

**SECTION TWO. Amendments to Chapter 159 of the City Code.** The City Code is hereby amended and shall hereafter be and read to include the following:

**§ 159.002 RULES AND DEFINITIONS.**

**"Cannabis business establishment" means "cannabis business establishment" as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended, and includes an on-premises cannabis consumption establishment.**



"Craft grower" means "craft grower" as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

"Cultivation center" means "cultivation center" as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

"Dispensing organization" or "dispensary" means "dispensing organization" or "dispensary" as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

"Infuser organization" or "infuser" means "infuser organization" or "infuser" as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

"On-premises cannabis consumption establishment" means a cannabis business establishment or other entity authorized or permitted to allow the on-premises or on-site consumption of cannabis in any form at or in a cannabis business establishment.

"Processing organization" or "processor" means "processing organization" or "processor" as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

"Transporting organization" or "transporter" means "transporting organization" or "transporter" as defined in Section 1-10 of the Cannabis Regulation and Tax Act, as amended.

#### § 159.068 CANNABIS BUSINESS ESTABLISHMENTS.

Cannabis business establishments are prohibited from locating in the City of Lake Forest. "Cannabis business establishments" include craft growers, cultivation centers, dispensing organizations or dispensaries, infuser organizations or infusers, on-premises cannabis consumption establishments, processing organizations or processors, transporting organizations or transporters, and such other cannabis business establishments that may be authorized by the Cannabis Regulation and Tax Act.

§ 159.003 INTERPRETATION.

(E) Unlisted uses are prohibited by this ordinance. The listing of a use as "prohibited" or "not permitted" in this ordinance shall not be construed to permit unlisted uses by inference.

**SECTION THREE. Effective Date.** This Ordinance shall be in full force and effect following its passage and approval in the manner provided by law.

PASSED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSENT:

APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk