

Agenda
Village of Glen Ellyn
Village Board Meeting
Monday, September 10, 2012
8:00 p.m. – Galligan Board Room

1. Call to Order
2. Roll Call
3. Pledge of Allegiance to be led by Geoff Bevington of the Glen Ellyn Lions Club.
4. Village Recognition:
 - A. A resident sent a letter of thanks to Forestry Crew Leader Eric Hendrickson for his assistance in the removal of a tree limb which was encroaching upon his house and two other trees.
 - B. A resident called Public Works to compliment them on the work being done on the streetlight poles on Roosevelt Road.
 - C. A letter was received from DuPage PADS thanking the Village for the grant they received recently through the 2012 Community Grant Program.
 - D. The Village accepts the resignation of Jason Popp from the Capital Improvements Commission and thanks him for his service.
5. Audience Participation
 - A. Proclamation in recognition of the accomplishments of the Glenbard West High School Boys Gymnastics Team and all-around champion Alex Diab.
 - B. Proclamation in recognition of Chamber of Commerce Week, September 10-14, 2012.
 - C. Proclamation in recognition of Fire Prevention Week, October 7-13, 2012.
 - D. Open:

Members of the public are welcome to speak to any item *not* specifically listed on tonight's agenda for up to three minutes. For those items which are on tonight's agenda, the public will have the opportunity to comment at the time the item is discussed. In either case, please complete the Audience Participation form and turn it in to the Village Clerk.
6. Consent Agenda

The following items are considered routine business by the Village Board and will be approved in a single vote in the form listed below: (*Trustee Ladesic*)

A. Village Board Meeting Minutes:

1. August 20, 2012 Regular Workshop
2. August 27, 2012 Regular Workshop
3. August 27, 2012 Regular Meeting

B. Total Expenditures (Payroll and Vouchers) - \$1,892,572.12.

The vouchers have been reviewed by Trustee Ladesic and by Manager Franz prior to this meeting, and are consistent with the Village's purchasing policy.

C. Motion to waive Sections 10-4-3 (Outdoor Merchandise) and 6-2-2.5 (Unnecessary Noises) of the Village Code and approve the 2012 Genevieve Cipriano Fundraising Event to be held at Lake Ellyn Park on Friday, September 21, 2012. *(Assistant to the Village Manager Schrader)*

D. Motion to Approve Change Order No. 1 with Schroeder Asphalt Services of Huntley, Illinois for the Additional Work Contemplated with the FY13 Skip Paving Program in the Amount of \$80,000 for a Revised Contract Cost of \$159,750. *(Public Works Director Hansen)*

E. Resolution No. 12-10, a Resolution Adopting Village of Glen Ellyn Tax Increment Financing and Economic Incentive Guidelines. *(Economic Development Coordinator Corner)*

F. Ordinance No. 6069, an Ordinance Expanding Liquor Licenses to BYOB Operations and Creating a New Class A-4 Liquor License – Bottle & Bottega. *(Economic Development Coordinator Corner)*

G. Ordinance No. 6070, an Ordinance Extending the Expiration Date of Ordinance No. 5513 which was Previously Extended by Ordinance Nos. 5652, 5797 and 5926 which Granted a Variation from the Lot Width Requirements for Property at 254 Glenwood Avenue. *(Planning and Development Director Hulseberg)*

H. Resolution No. 12-11, a Resolution Authorizing the Acquisition, Conveyance and Improvement of Certain Property Located within the Village of Glen Ellyn. *(Planning and Development Director Hulseberg)*

I. Motion to authorize the distribution of \$93,259.75 to PirTano Construction and to use \$45,000 for the completion of outstanding engineering issues for the Courtyards of Glen Ellyn development located at the northeast corner of Pennsylvania and Kenilworth Avenues. *(Planning and Development Director Hulseberg)*

J. Resolution No. 12-12, a Resolution Accepting Public Improvements and a Bill of Sale Associated with the Buena Vista Subdivision Located North of Buena Vista Drive between Milton Avenue and Taylor Road. *(Planning and Development Director Hulseberg)*

7. Ordinance No. 6071, an Ordinance Granting Approval of a Special Use Permit and Zoning Variations for Site Improvements Located on Property Commonly Known as 696 Plumtree Road. *(Trustee Cooper)*

Planning and Development Director Staci Hulseberg will present information about the requests of Michael Cushing, owner of property located at 696 Plumtree Road, for approval of a Special Use Permit and Zoning Variations for proposed site improvements including a swimming pool, pool equipment area, spa, patio, deck, fire pit, retaining wall, drive court and drive court turnaround.

8. Professional Engineer Bob Minix will present information on the Braeside Area Localized Drainage Improvements Project. The Project will install storm sewers, provide inlets and sump pump connections, and perform grading in the rear-yard utility easements between Surrey Drive and Heather Lane, Heather Lane and Londonberry Lane, and Londonberry Lane and Brighton Place. *(Trustee Hartweg)*

- A. Motion to reject the low bid submitted by Kovilic Construction as non-responsible and approve award of a construction contract to Apollo Trenchless, Inc. of Batavia for improvements associated with the Braeside Area Localized Drainage Improvements Project, in the amount of \$630,000 (including a 5% contingency), to be expensed to the FY13 Capital Projects Fund.

- B. Motion to approve an engineering services agreement with Civiltech Engineering, Inc. of Itasca for construction oversight services associated with the Braeside Area Localized Drainage Improvements Project in the amount of \$73,000 (including a 10% contingency), to be expensed to the FY13 Capital Projects Fund.

9. Reminders:

- The next Regular Village Board Workshop scheduled for Monday, September 17, 2012 has been cancelled.
- The next Regular Village Board Meeting is scheduled for Monday, September 24, 2012, with the Workshop beginning at 7:00 p.m. and the Regular Board Meeting beginning at 8:00 p.m. in the Galligan Board Room of the Glen Ellyn Civic Center.

10. Other Business?

11. Adjournment

12. Press Conference

A-5A



VILLAGE OF GLEN ELLYN

Proclamation

WHEREAS, Glenbard West High School, a District 87 High School attended by students from Glen Ellyn, is recognized as a school of distinction; and

WHEREAS, the dedication of faculty, administration, students and parents has produced high-quality academic, extracurricular, and athletic programs; and

WHEREAS, Alex Diab, a member of the 2012 Boys Gymnastics Team, won the 2012 IHSA boys all-around gymnastics championship;

NOW, THEREFORE, I, MARK PFEFFERMAN, President of the Village of Glen Ellyn, Illinois, do hereby convey the sincere congratulations of the Village Board and the residents of Glen Ellyn for the outstanding efforts and achievements of Alex Diab of Glenbard West, and wish him continued success in years to come, and extend our appreciation to Coach Frank Novakowski for his valuable service to the Glenbard West Boys Gymnastic Team and our best wishes for many happy and productive years to come.

Village President
attest:

Acting Village Clerk

Date

A-5B



VILLAGE OF GLEN ELLYN

Proclamation

WHEREAS, Illinois Governor Pat Quinn has proclaimed September 10 through September 14, 2012 as Chamber of Commerce Week throughout Illinois; and

WHEREAS, the Glen Ellyn Chamber of Commerce has joined the Illinois Chambers of Commerce in celebrating this special recognition of the contributions chambers of commerce make to Illinois civic and economic life; and

WHEREAS, Governor Quinn stated "Chambers of Commerce in the State of Illinois have encouraged the growth of new business, fostered economic development and supported the general community for the last 173 years"; and

WHEREAS, the Glen Ellyn Chamber of Commerce is part of the backbone of this community; and

WHEREAS, the Glen Ellyn Chamber of Commerce is celebrating their 80th year of service to the business, retail, professional and not-for-profit organizations in Glen Ellyn as well as the Glen Ellyn community;

NOW, THEREFORE, I, MARK PFEFFERMAN, President of the Village of Glen Ellyn, Illinois, do hereby proclaim September 10 through September 14, 2012, as Chamber of Commerce Week in Glen Ellyn and call its significance to our citizens as we extend our congratulations to the Glen Ellyn Chamber of Commerce and thank them for their service to our community.

Village President

attest:

Acting Village Clerk

Date



A-5c

VILLAGE OF GLEN ELLYN

Proclamation

WHEREAS, Fire Prevention Week has been observed since 1922 to commemorate the importance of informing the public about preventing fires and is being observed this year with the theme "Have Two Ways Out!"; and

WHEREAS, the Glen Ellyn Volunteer Fire Company is the finest example of the tradition of volunteerism in the Village, providing high-quality fire protection for our residents and businesses; and

WHEREAS, the Glen Ellyn Volunteer Fire Company firefighters are dedicated to reducing the occurrence of residential and commercial fires and fire injuries through prevention and protection education; and

WHEREAS, the courage, caring and commitment exemplified by past and present members of the Glen Ellyn Volunteer Fire Company help to keep Glen Ellyn a safe, great place in which to live;

NOW, THEREFORE, I, MARK PFEFFERMAN, President of the Village of Glen Ellyn, Illinois, do hereby declare the week of October 7-13, 2012 as Fire Prevention Week, and encourage all residents of the Village of Glen Ellyn to support the efforts of Glen Ellyn's fire and emergency services through their many fundraising events.

Village President

attest:

Acting Village Clerk

Date

Minutes
Regular Village Board Workshop
Glen Ellyn Village Board of Trustees
August 20, 2012

A-6A.

Time of Meeting: 7:00 p.m.

Present: President Pfefferman; Trustees Cooper, Friedberg, Hartweg, Ladesic and McGinley; Trustee Henninger via phone; Deputy Village Clerk Solomon; Staff present: Village Manager Franz, Assistant to the Village Manager Schrader, Police Chief Norton, Planning and Development Director Hulseberg, Public Works Director Hansen, Economic Development Coordinator Corner and Administrative Intern Strong.

1. Call to Order

President Pfefferman called the Board Workshop to order at 7:00 p.m. with a roll call. Trustees Cooper, Friedberg, Hartweg, Henninger, Ladesic and McGinley responded "Present."

2. Choose DuPage Presentation

Choose DuPage President Greg Bedalov presented information about Choose DuPage, an economic development and business relocation concept, which supports local municipal economic development initiatives, grow, retain, and attract businesses and address policy issues critical to the needs of business in DuPage County. Choose DuPage's marketing campaign is "DuPage County. What Businesses Need. What Families Want," which they are continuing to implement to enhance images of the municipalities in DuPage County. There is also a business attraction and retention plan which includes a soon-to-be-released cluster study that identifies leading and emerging markets in DuPage County and strategies on how to attract those businesses to the local communities.

A discussion followed around what the cluster study contains, how Choose DuPage is funded, broker events with matching grant programs, the Village's information on the Choose DuPage website, the possibility of marketing properties, how this helps small businesses and franchises, and what attracts businesses to DuPage County.

3. Economic and TIF Incentive Guidelines

Planning and Development Director Hulseberg presented information around the proposed TIF Incentive Guidelines and said the staff had taken the Village Board's initial feedback from the July 9th Village Board Workshop Meeting and comments and suggestions from other sources to come up with a blended single draft document for the Glen Ellyn Tax Increment Financing and Economic Incentive Guidelines. President Pfefferman asked if staff would have Choose DuPage look at this document to get their feedback too.

A discussion followed around the tools for opening a business in the Village, the timeframes for grant applications, how this will work with the Downtown Plan, specifics for eligibility of the grants, the flexibility built into the guidelines and encouraging landlords to care for their buildings.

4. Reforestation, Nuisance Trees and EAD Discussion

Public Works Director Hansen presented information on the urban forest that grows in the Village and requires citizens to assist the Village in the care of it in 3 ways: the Resident Share-Cost Parkway Tree Planting Program, removing nuisance trees and the treating or removing of Ash trees due to the Emerald Ash Borer.

Tree removals have outpaced tree planting due to the Emerald Ash Borer and severe storms, and the list for free tree replacements can take 2 to 3 years. Adjustments to the Resident Share-Cost Parkway Tree are recommended so trees could possibly be replaced sooner and only be a cost of \$85 per tree to residents instead of current replacement cost of \$100 to \$200 per tree.

The Village currently only has the right to require removal of nuisance trees on private property if the trees impact the right-of-way, or are diseased. However, some private-property trees could be a potential hazard to residents in close proximity of the dead tree, even though the tree may not be in the right-of way. The Village staff recommends a change to which the Village would require property owners to remove the tree with a deadline, and if the tree is not removed, the Village could then remove the tree, and the Village could charge the property owner an additional administrative fee in addition to the cost of the tree removal for not meeting the deadline. A discussion followed around building codes and specifics for the criteria and definitions.

In order to educate the residents on the importance of treatment of/removal of private property ash trees due to the Emerald Ash Borer (E.A.B.), the Village created a public service announcement (PSA) video which will educate residents on a variety of information on ash trees. This PSA will be posted on the Village's website and shown on the Village's TV station. President Pfefferman requested the public library have a copy of the PSA also.

5. Other Items?

Trustee Cooper reminded everyone that the Glen Ellyn Festival of the Arts would be at Lake Ellyn Park on Saturday, August 25 and Sunday, August 26, 2012.

President Pfefferman asked about Hawthorne Boulevard to which Village Manager Franz said it is almost completely open and should be fully open and in use by the end of the week.

6. Adjournment

At 9:00 p.m., Trustee Hartweg moved and Trustee Friedberg seconded the motion to adjourn. All voted "Aye." Meeting adjourned.

Respectfully Submitted,
Debbie Solomon,
Deputy Village Clerk

Minutes
Village Board Workshop
Glen Ellyn Village Board of Trustees
August 27, 2012

A-6A₂

Time of Meeting: 7:00 p.m.

Present: President Pfefferman; Trustees Friedberg, Hartweg and Ladesic; Trustee Henninger via phone; Trustee Cooper at 7:10 pm. Deputy Village Clerk Solomon; Staff present: Village Manager Franz, Assistant to the Village Manager Schrader, Police Chief Norton, Finance Director Wachtel, Planning and Development Director Hulseberg and Engineer Bob Minix; Attorney Diamond at 7:45 p.m.

1. Call to Order

President Pfefferman called the Board Workshop to order at 7:00 p.m. with a roll call. Trustees Cooper, Friedberg, Hartweg, Henninger and Ladesic responded "Present." Trustee McGinley was excused.

2. Quarterly Financial Report

Finance Director Wachtel presented information on the Budget Report from Fiscal First Quarter, which was May 1, 2012 to July 31, 2012. He covered the highlights of the Governmental Fund revenues and expenditures, the Enterprise funds, the Police Pension fund, the Cash Reserves and the General Fund projections and showed graphs for these highlights, comparing the last several Fiscal Years. There were some questions around some surpluses, possible spreading the budget over quarters and what ideals were in certain areas. He stated this report is available on the Village's website.

3. Aggregation Update

Assistant to the Village Manager Schrader presented information on the next steps for the Municipal Electric Aggregation. At the July 23, 2012 Village Board Meeting, the Village Board approved an ordinance allowing the Village to place the municipal aggregation referendum on the November 6, 2012 ballot, so the ballot question will read: "*Should the Village of Glen Ellyn have the authority to arrange for the supply of electricity for its residential and small commercial retail customers who have not opted out of such program?*"

The Village will have 2 public hearings in October to receive feedback from the residents on the Aggregation Plan of Operation and Governance. Also, there will be resident education through information in the Village newsletter and eNewsletter, a GETV video, press releases direct mailings, social media and use of the Village message board so the residents can be fully informed on municipal electric aggregation. The Village also created an aggregation webpage on the Village's website that provides a comprehensive review of all aggregation information, including a Frequently Asked Questions document. Village Manager Franz will follow-up on if the Trustees can have advocacy on a referendum issue or not.

4. Request for Proposal for Wayfinding Signage

Planning and Development Director Hulseberg presented information on the draft document for the Request for Qualifications (RFQ) for a signage and wayfinding plan for the Downtown and the Village and asked for feedback on this document. The desired outcome of this signage and wayfinding plan is to have a compilation of coordinated designs for a variety of updated signage throughout the Village. The Village has the ability to hire 1 or 2 consultants, depending on if design and fabrication will be done as 1 project or 2 separate projects. The staff is planning to get the RFQ out in the fall and then start the project in spring 2013.

A discussion followed about the scope of this project, how the Village signage could possibly influence other signage in the Village, the budget for this project and the use of the Village's logo and branding. The Village Board was in agreement that the RFQ draft document was good.

5. Other Items?

President Pfefferman asked for suggestions or questions about the Village's Commissions which will be discussed at a future Village Board Workshop.

6. Adjournment

At 7:55 p.m., Trustee Cooper moved and Trustee Hartweg seconded the motion to adjourn to the regular Village Board Meeting in the Galligan Board Room. All voted "Aye." Meeting adjourned.

Respectfully Submitted,
Debbie Solomon,
Deputy Village Clerk

Minutes
Regular Meeting
Glen Ellyn Village Board of Trustees
Monday, August 27, 2012

A-6A₃

Call to Order

Village President Pfefferman called the meeting to order at 8:00 p.m.

Roll Call

Upon roll call by Deputy Village Clerk Solomon, Village President Pfefferman and Trustees Cooper, Friedberg, Hartweg and Henninger answered, "Present." Trustee McGinley entered at 8:10 p.m. Trustee Hartweg moved and Trustee Cooper seconded the motion that Trustee Henninger be allowed to electronically attend the meeting. All voted "Aye." Motion carried.

Pledge of Allegiance

President Pfefferman led the Pledge of Allegiance after reading the Proclamation in remembrance of Bill Mueller.

Village Recognition:

- A. The Glen Ellyn Food Pantry called to thank the Village for providing a grant through the Community Grant Program.
- B. The Police Department received a note of thanks for their representation at the memorial service held for Richard Tretina who served in the Glen Ellyn Police Reserves many years ago.
- C. The Village Board and Management Team congratulate the following employees who recently celebrated an anniversary as a Village employee:

Kyle Duffie	Police Department	5 Years
Mark Campbell	Police Department	25 Years
Stephen Smith	Police Department	25 Years

Audience Participation

Proclamation and moment of silence in remembrance of Bill Mueller, President of the Village of Lombard.

Consent Agenda

Village Manger Franz presented the Consent Agenda. President Pfefferman called for questions and/or discussion of the items on the Consent Agenda.

- A. Village Board **Meeting Minutes:**
 - 1. August 13, 2012 Regular Workshop
 - 2. August 13, 2012 Regular Meeting
- B. Total **Expenditures** (Payroll and Vouchers) - \$1,353,035.97.

The vouchers have been reviewed by Trustee Henninger and by Manager Franz prior to this meeting, and are consistent with the Village's purchasing policy.

- C. Motion to approve a waiver of the requirement to install sidewalks for the property at 567 Lake Road.
- D. **Ordinance No. 6064-VC**, an Ordinance Relating to the Terms of Offices of the Members of the Board and Commissions.
- E. **Ordinance No. 6065-VC**, an Ordinance to Amend Section 9-5-8 (Schedule H; Parking Limits) of the Village Code of the Village of Glen Ellyn, Illinois regarding Parking on Main Street.
- F. **Ordinance No. 6066-VC**, an Ordinance to Amend Section 9-5-8 (Schedule H; Parking Limits) of the Village Code of the Village of Glen Ellyn, Illinois regarding Parking on Duane Street.

Trustee Henninger moved and Trustee Hartweg seconded the motion that items A through F be considered routine business by the Village Board and be approved in a single vote.

Upon roll call, Trustees Henninger, Hartweg, Cooper, Friedberg, Ladesic and McGinley voted "Aye." Motion carried.

Motion to waive Section 10-4-17.2(B)25 of the Village Code (Outdoor Merchandise)

Assistant to the Village Manager Kristen Schrader presented information on the request of Tap House Grill to host the 2012 Family Cookout Events at J&R Auto Repair on the proposed dates September 8, September 22, October 6, and October 20, 2012 from 10 a.m. to 2 p.m. Village Manager Franz said a Liquor License was issued for these events on August 3, 2012; however, due to a mistake in the Village Manager's office, this item did not get on the agenda for the Village Board for consideration before the first event, which was Saturday, August 25, 2012. There has been a lot of feedback and request for discussion on this.

Police Chief Norton opposes the Family Cookout Events as he said there should be no link between alcoholic consumption and high-school sports. He does not feel this will have a good effect on the youth in the community and is not appropriate modeling by adults to the youth around them. He cited the numbers on underage drinking and then some examples of under-age drinking in the Village that have occurred in the past year.

President Pfefferman said no one in the Village is promoting or wants to promote underage drinking. Chief Norton said there is a clear connection between these outdoor events and high-school sports, and he would have no problem with the location or the event if alcohol was not being served. Trustee Hartweg asked if there were any problems at the August 25, 2012 event to which Chief Norton said there was not; however, it is the modeling of the behavior to the youth that Chief Norton fears. Trustee Cooper asked if certain events i.e. sports events, dances, etc. caused more underage drinking to which Chief Norton said this is consistent across the board.

Dr. Jane Thorsen, principal at Glenbard West High School at 670 Crescent Boulevard, Glen

Ellyn, Illinois, thanked Mr. Sronkoski of the Tap House Grill for being a good neighbor and good to the community, and this is nothing personal against him. She said she has grave concerns about an event where alcohol is served in a parking lot at 10 a.m. before a high-school football game as it give the youth a terrible message about alcohol and the connection to a high-school football game. She said it is not good for the students or other communities to see this and was upset to hear these events were planned for every home football game. She said these events should not be happening a block away from campus, either in the morning or the afternoon, as it is an unhealthy message. She said they work hard at the school to give students and parents the message that underage drinking is bad, and the students need a consistent message which the parents have asked for also. She also said these pre-game events take revenues from the school's boosters and concessions. Trustee Ladesic asked if Dr. Thorsen would be fine with the event occurring after the game to which Dr. Thorsen said she would still oppose this. In the end, Dr. Thorsen said the school then has to deal with the aftermath of underage drinking.

Gilda Ross, 80 Sunset Avenue, Glen Ellyn, Illinois and employee of the Glenbard Schools, said the Tap House Grill has been a great support of community events, but feels it would be short-sighted as students would see the wrong modeling of behavior by adults, especially at a family event. She feels this could backfire to both the school and the Tap House Grill as it shows a casual attitude toward alcohol. She said you cannot compare this to a booster event where adults are invited and usually occur in the evening about once a year.

Norman Rahal, 970 Clifton Avenue, Glen Ellyn, Illinois, said the message would clearly not be good and wonders how the alcohol would be controlled at an event. He said it is not appropriate near school in the morning, and it is not morally right.

Danny Sronkoski, owner of Tap House Grill at 411 N. Main Street, Glen Ellyn, Illinois, said this process started on July 29, 2012, and this event was approved by the Liquor Commission. He said his company was not aware there needed to be a Special Event License and accepts the apologies from the Village about this. He said he appreciates the comments made by Chief Norton and Dr. Thorsen, but is disappointed that it got to this point. Trustee McGinley asked if they would consider doing the event without alcohol to which Mr. Sronkoski said they would consider it. Trustee McGinley asked if they could move the event to the Tap House to which Mr. Sronkoski stated this might be a possibility and have considered it. Trustee Ladesic asked if there is a limit on drinks to which Mr. Sronkoski said there was a wristband to indicate the person was over 21 issued by the BASSET-certified employee, but there was not a drink limit. Mr. Rahal asked about liability and how the liquor would be controlled to which Mr. Sronkoski said the crowd at the August 25, 2012 event was either over 38-40 or under 12, and there were no high-schoolers there, and this was promoted as a family cookout.

Dr. Thorsen said if they are talking about limiting drinks then she feels they are missing the point about the whole situation.

There was a motion made and seconded and then an amended motion made and seconded to exclude liquor from the event; however, these motions were not voted on as Mr. Sronkoski withdrew the entire event as he felt it was the right thing to do in the spirit of the community. Comments followed that the Trustees had a better understanding of a situation like this, and Mr. Sronkoski is very involved in the Village and the community. President Pfefferman apologized again to Mr. Sronkoski for the issues with the Village process on this.

Ordinance No. 6067 – Variations from the Accessory Building Requirements to allow a Shed Accessory Building at 970 Clifton Avenue

Planning and Development Director Hulseberg presented information on a request by Norman and Lynda Rahal, property owners at 970 Clifton Avenue, for two variations from the Glen Ellyn Zoning Code to allow the construction of an accessory shed structure that exceeds the maximum permitted area of a shed in Section 10-5-5(B)4 and exceeds the maximum accessory building area on a lot in Section 10-5-4(A)2a. At a Public Hearing on July 24, 2012 the Zoning Board of Appeals voted on a motion to recommend approval of the requested variations with conditions, which carried with four (4) “yes” votes and one (1) “no” vote. The imposed conditions were to locate the shed at least 20 feet from the rear and side lot lines and that some landscaping be installed between the shed and the rear property line to screen the shed from the property behind it. The Zoning Board of Appeals did feel there were hardships because of the wooded conditions on this property and the huge size of the property.

Trustee Ladesic recused himself from the discussion and vote on this Ordinance due to his relationship with the petitioners.

Trustee Friedberg moved and Trustee McGinley seconded the motion to adopt Ordinance No. 6067, an Ordinance Approving Variations from the Accessory Building Requirements of the Zoning Code to allow a Shed Accessory Building for Property at 970 Clifton Avenue.

Upon roll call, Trustees Friedberg, McGinley, Hartweg and Henninger voted “Aye.” Trustee Cooper voted “No.” Motion carried.

Ordinance No. 6068 – Approving a Construction Necessitated Variation from the Lot Coverage Ratio Requirements for 636 Harding Avenue

Planning and Development Director Hulseberg presented information on a request by Mark and Stephanie Wilson, property owners of 636 Harding Avenue, for a construction necessitated variation from the Glen Ellyn Zoning Code Section 10-4-8(E)1 to allow the completion of construction of a screened porch addition that will result in a lot coverage ratio of 22.5% in lieu of the maximum permitted lot coverage ratio of 20% on a property with a two-story home. In 2010, the Wilsons began construction on a screened porch addition with a permit and were notified to stop further work which they did. A revised permit application was submitted on March 8, 2012, and then a construction necessitated variation application was submitted on May 24, 2012.

At a Public Hearing on July 10, 2012 the Zoning Board of Appeals voted on a motion to recommend approval of the requested variations, which carried with four (4) “yes” votes and one (1) “no” vote. The Zoning Board of Appeals felt there were practical difficulties as the conditions of this property are unique as the property is adjacent to Panfish Park and are near a designated flood plain. Trustee Cooper said another factor the Zoning Board of Appeals considered was when the Wilsons purchased the home and constructed the deck in 1995, they had planned to construct the screened porch. At that time the Lot Coverage Ratio was 25% and since then has been reduced to 20%.

Mr. Wilson did ask to change his request as they would like to use a different material for the

screens (this would not change the Lot Coverage Ratio). Planning and Development Director Hulseberg said the original request showed a 3-season room, but this material would turn it into a 4-season room so the Ordinance would need to change some if the Village Board approves of this.

Trustee Friedberg asked if the Lot Coverage Ratio variation of 22.5% goes to the property to which Planning & Development Director Hulseberg stated it does. Trustee Friedberg asked if this screened porch was torn down in the future, could a 2-story structure be built in its place to which Planning & Development Director Hulseberg said no as the plans only approve a 1-story structure addition as of now.

Trustee Cooper amended the motion to permit the use of the plastic window material. Trustee Cooper moved and Trustee Hartweg seconded the amended motion to adopt Ordinance No. 6068, an Ordinance Approving a Construction Necessitated Variation from the Lot Coverage Ratio Requirements of the Zoning Code to allow a Screened Porch Addition for Property at 636 Harding Avenue.

Upon roll call for the motion, Trustees Cooper, Hartweg, Friedberg, Henninger, Ladesic and McGinley voted "Aye." Motion carried.

Motion to approve Engineering Services Agreement with RHMG Engineers
Motion to approve Engineering Services Agreement with Baxter & Woodman, Inc.
Motion to approve Engineering Services Agreement with Pavia-Marting and Co.

Engineer Minix presented information on the recommendation for the selection of consultants for design engineering services associated with 3 street improvement projects scheduled for construction in the 2013 calendar year. Engineer Minix said he would speak about all 3 potential projects as they are inter-related. The 3 potential projects are the Lenox-Linden Improvements Project, Oak-Euclid-Forest-Alley Improvements Project and 2013 Street Improvements Project.

Engineer Minix showed a map of the 3 potential projects. The Lenox-Linden Improvement Project will rehabilitate approximately 3,100 feet of Lenox Road between Hawthorne and Oak and Linden Street between Main and Lenox and would be done by RHMG Engineers of Mundelein. The Oak-Euclid-Forest-Alley Project will provide about one mile of upgraded roadways on Oak between Western and Main; Euclid between Hawthorne and Oak; Forest between Maple and Oak; and the alley east of Western between Oak and Elm and would be done by Baxter & Woodman, Inc. of Crystal Lake. The 2013 Street Improvements Project will include a variety of street rehabilitation measures for about 4,000 feet of roadways, including County Club Lane; Grandview from Smith to Hill; Miller Court; Brandon from Hill to Hillside; and Cranston Court and would be done by Pavia-Marting and Co. of Roselle. The scope of work on these projects most likely will include paving, new sidewalks, water main replacements and possible parking configuration changes.

The RFP was sent to 13 consultants in July, and the Village received 10 proposal submittals for each project. A discussion followed around the scopes of the projects, why it would be better to use 3 companies instead of one company, any possible stormwater issues, the timing of these projects and the costs, proposed personnel hours and qualifications of the recommended consultants. John Mick, with Baxter & Woodman, Inc., said their company has done work in

the Village before as well as many other communities around Chicagoland. Mr. Mick said their company does so many projects repeatedly that they have gained a number of efficiencies in their processes which allows them to use less personnel hours.

Trustee Friedberg moved and Trustee Hartweg seconded the motion to approve an engineering services agreement with RHMG Engineers of Mundelein for design of roadway and underground improvements associated with the Lenox – Linden Improvements Project, in the amount of \$105,000 (including a 10% contingency) to be expensed to the FY13 Water, Sanitary Sewer and Capital Projects funds.

Trustee Friedberg moved and Trustee Hartweg seconded the motion to approve an engineering services agreement with Baxter & Woodman, Inc. of Crystal Lake for design of roadway and underground improvements associated with the Oak – Euclid – Forest - Alley Improvements Project, in the amount of \$105,000 (including a 10% contingency) to be expensed to the FY13 Water, Sanitary Sewer and Capital Projects funds.

Trustee Friedberg moved and Trustee Hartweg seconded the motion to approve an engineering services agreement with Pavia-Marting and Co. of Roselle for design of roadway and underground improvements associated with the 2013 Street Improvements Project, in the amount of \$155,000 (including a 6% contingency) to be expensed to the FY13 Water, Sanitary Sewer and Capital Projects funds

Upon roll call for the 3 (three) motions, Trustees Friedberg, Hartweg, Cooper, Henninger, Ladesic and McGinley voted “Aye.” Motion carried.

Reminders:

The next Regular Village Board Meeting is scheduled for Monday, September 10, 2012, with the Workshop beginning at 7 p.m. and the Regular Board Meeting beginning at 8 p.m. in the Galligan Board Room of the Glen Ellyn Civic Center.

Other Business?

Trustee Cooper reminded the Village Board he would not be at the September 17, 2012 Village Workshop. Assistant to the Village Manager Schrader said the September 17, 2012 Village Workshop has been cancelled.

Adjournment

At 9:52 p.m. Trustee Friedberg moved and Trustee Hartweg seconded motion to adjourn the meeting.

Upon roll call, Trustees Friedberg, Hartweg, Cooper, Henninger, Ladesic and McGinley voted “Aye.” Motion carried. Meeting adjourned.

Respectfully submitted,
Debbie Solomon
Deputy Village Clerk



September 11, 2012

A-6C

Susan Slad
109 Tanager Drive
Bloomington, IL 60108

RE: 2012 Genevieve Fundraising Event

Dear Ms. Slad:

This letter is to confirm action taken at the Village Board Meeting on Monday, September 10, 2012, regarding the Genevieve Cipriano Fundraising Event scheduled for Friday, September 21, 2012, as described in your request letter received July 30, 2012. Approval of the event is outlined below. Please contact the appropriate Village Department should you have any questions on the Village's approval.

1. Approval for the event to occur on Friday, September 21, 2012, from 7:00 p.m. until 10:30 p.m. at Lake Ellyn Park.
2. Section 10-4-3 of the Village Code concerning outdoor merchandise, storage, promotional activities or tents in the CR Conservation/Recreation District has been waived for the event.
3. Section 6-2-2.5 (Unnecessary Noises) has been waived for the length of the event in order to permit amplified live music at the event.
4. Since beer and/or wine will be sold, a Class E Liquor License must be approved by the Liquor Commission. The Class E Liquor License Application is available online at www.glenellyn.org. In addition to the \$20 application fee for the Class E Liquor License, a dram shop (liquor liability) insurance and State of Illinois Liquor License must be provided. The sale of liquor is specifically approved to occur between the hours of 7:00 p.m. to 10:00 p.m. on Friday, September 21, 2012. All individuals consuming alcohol should be properly identified (i.e. wristbands), and beer may only be served in plastic cups. The consumption of liquor must be confined within the area agreed upon with the Glen Ellyn Police Department and all entrances and exits must be monitored by the Event Committee.
5. The event Committee will be required to send every individual serving alcohol at the event to attend Beverage Alcohol Sellers and Servers Education and Training (BASSET). Please contact the Police Department at 630-469-1187 to coordinate the details of this requirement.
6. Sale of food/drinks will be allowed during the approved event hours, only after approval by the DuPage County Health Department.
7. Police support to assist in parking or security can be accommodated as scheduling permits. There may be a cost associated with the assignment of uniformed Police Officers. Please work out the exact details of police assignments with the Police Chief or his representative in advance of the event. Additionally, please contact Bill Holmer, Deputy Police Chief at 630-469-1187, to identify additional parking lots that may be used for the length of the event.

Civic Center

535 Duane Street
Glen Ellyn, IL 60137

Administration

630-469-5000
Fax 630-469-8849

Finance

630-547-5235
Fax 630-469-1757

Planning and Development

630-547-5250
Fax 630-547-5370

Police

630-469-1187
Fax 630-469-1861

Public Works

30 South Lambert Road
Glen Ellyn, IL 60137
630-469-6756
Fax 630-469-3128

**The Village Links and
Recreation**

485 Winchell Way
Glen Ellyn, IL 60137
630-469-8180
Fax 630-469-8580

www.glenellyn.org
www.villagelinksgolf.com

8. The event Committee must provide enough volunteers to adequately staff the entrances and exits of the event.
9. Evidence of insurance in the amount of \$2 million listing the Village as additionally insured must be presented to Assistant to the Village Manager – HR Danamarie Izzo by Friday, September 14, 2012.

The Village expects the fundraising Committee to monitor the event to the best of its abilities to ensure that all conditions contained in this letter are observed. Violations that cannot be resolved at the scene may be reported to the Police Department.

Sincerely,

Mark Franz
Village Manager

cc: Staci Hulseberg, Planning and Development Director
Phil Norton, Police Chief
Dave Buckley, Assistant Public Works Director
Bill Holmer, Deputy Police Chief
Danamarie Izzo, Assistant to the Village Manager – HR
Joe Kvapil, Building and Zoning Official
Patti Underhill, Administrative Services Coordinator

MEMORANDUM

TO: Mark Franz, Village Manager *mf*

FROM: Jeffrey D. Perrigo, Civil Engineer
 Bob Minix, Professional Engineer
 Julius Hansen, Director of Public Works

DATE: August 31, 2012

RE: 2012 Skip Paving Program – Change Order No. 1



2012 Skip Paving Program

Annually, the Village endeavors to make substantial improvements to roadways that are otherwise not on the Standalone Street Resurfacing and Reconstruction Program (20-year Reconstruction Program). Typically, the streets that are targeted for this program are 3 to 5 years away from being resurfaced or reconstructed under the 20-year Reconstruction Program. Under the Skip Paving Program, Public Works identifies streets or street segments that could benefit from large scale patching (milling and overlaying to a typical depth of 1½-inch to 2-inch; surface patch areas too large for Public Works to effectively perform). Considerations for determining appropriate candidates include the roadway’s relative condition, age, and its place in the 20-year Reconstruction Program.

The FY 11-12 budgeted amount of skip paving of \$80,000 was bid this spring and the low-bidder was **Schroeder Asphalt Services** of Huntley. Schroeder recently completed the work last week and the quality of the work was exceptional. A review of the last three skip paving contracts indicates that the prices provided by Schroeder are extremely competitive.

Prices for the last Three Skip Paving Programs

Year	Unit Price	Pavement Removal Quantity (SY)	Unit Price	Pavement Replacement Quantity (tons)	Total Price
2009	\$5.00	5,000	\$101.50	475	\$73,213
2010	\$5.40	4,810	\$82.00	555	\$71,484
2011	\$4.00	4,500	\$95.00	650	\$79,750
2012	<i>\$4.00</i>	5,000	<i>\$95.00</i>	500	<i>\$67,500</i>

Their FY12 bid was 10% less than the in-house, engineer’s estimate and approximately 5% less than the second place bid. In an effort to increase efficiencies and reduce costs, staff is recommending Schroeder for additional work, aligning with the skip paving amounts budgeted for FY 2012/2013. By proceeding with this change order, the following objectives will be met: (1) we secure work performed by a highly competent contractor; (2) we are able to lock in very competitive pricing; (3) we are able to perform the work with minimal delay, the additional work can be done this fall; and (4) the expenses of bidding are directly translated into more square yards of pavement rehabilitated.

Action Requested

At this time, a Change Order to the existing construction contract with Schroeder Asphalt Services with project funding in the amount of \$80,000 is recommended. The 2013 Skip Paving Budget amount is \$80,000 and the work will be monitored to fit the prescribed budget.

An excerpt of the FY 2012/2013 Budget is provided below:

Contract Street Maintenance: (FY12/13 Budget - \$260,000)

The proposed FY12/13 contract street maintenance work will include:

A. Asphalt Roadway Surface Treatments	\$ 100,000
B. Asphalt Roadway Crack Sealing	45,000
C. Asphalt Street Major Patching Project	80,000
D. Concrete Curb & Street Pavement Repair	35,000
E. Concrete Street Grinding / Leveling	0
F. Concrete Street Joint and Crack Sealing	0
TOTAL	\$260,000



cc: Kristen Schrader, Assistant to the Village Manager – Administration

MEMORANDUM

A-6E

TO: Mark Franz, Village Manager *MF*
FROM: Martha Corner, Economic Development Coordinator
DATE: September 4, 2012
RE: Economic and TIF Incentive Guidelines



Background

At the August 20 Village Board Workshop meeting, Board members reviewed the proposed combined Economic and TIF Incentive Guidelines. At that meeting, Board members provided input and suggested further review of the document by staff at Choose DuPage, the county wide economic development organization. No substantive comments were received from Choose DuPage on the document.

Action Requested

The Village Board is requested to approve a Resolution in support of the proposed Guidelines.

Attachments

- August 2012 Draft Village of Glen Ellyn Tax Increment Financing and Economic Development Incentive Guidelines
- Resolution ____ Adopting Village of Glen Ellyn Tax Increment Financing and Economic Incentive Guidelines



Village of Glen Ellyn Tax Increment Financing and Economic Incentive Guidelines

August 2012

Introduction

The Village of Glen Ellyn believes that local businesses are a valuable and important part of our community. Businesses contribute to the vitality and strength of our Village and Glen Ellyn aims to be a welcoming place for businesses. We welcome the opportunity to discuss business and development opportunities within the Village and the possibility of incentives that enable desirable economic development.

The purpose of these Guidelines is to present the primary objectives of Village sponsored economic incentives for all parties involved and to provide a general framework which will ensure both consistency over time and fairness in the consideration of economic incentive proposals. These internal Guidelines are intended to be flexible in order to address specific circumstances and may be waived or amended as the Village Board of Trustees deems appropriate.

Incentives are a tool to encourage and maintain quality development in the Village and should be used in the best interest of the community by providing growth and long-term value. The impacts on all stakeholders should be considered before the Village Board decides to approve or deny a request for incentives.

The referenced incentives are not inclusive and use of any incentive is at the sole discretion of the Village Board. All requests for incentives will be reviewed on a case-by-case basis and upon the merits of each situation. Meeting policy guidelines does not guarantee assistance and the approval or denial of one project shall not set a precedent for approval or denial of other projects. The Village's intention should be to provide the minimum amount of assistance necessary to make the project viable while carefully considering the long-term financial and community impacts.

Parties to any incentive agreement must abide by the Village ethics policy to help protect against issues of conflict of interest (see "Attachment B" for details).

Goals and Objectives

The primary goal of economic development assistance is to enhance commercial districts in the Village by making possible development that would not take place without an incentive. In general, economic incentives are to bridge the financial gap for quality projects which will generate substantial new revenues for the Village or generate additional jobs, and which would not take place in Glen Ellyn but for the existence of the incentive.

These goals are to be met through the following objectives:

- Attracting, retaining or expanding businesses/development to improve the economic base;
- Attracting businesses/developers to high priority redevelopment sites;
- Encouraging development projects that enhance the streetscape and pedestrian experience and improve the vitality of the area by adding interest and activity on the first floor of mixed-use and commercial buildings;
- Improving public infrastructure such as parking and transit facilities, streetscapes, public gathering spaces and green spaces;
- Attracting high priority and unique businesses to the Village that improve the overall mix of uses;
- Improving properties which are considered unattractive or have been vacant for a long period of time;
- Providing higher quality architectural and landscape treatments than the market will bear to further improve the aesthetics of an existing or proposed development, enhance adjacent property values, and improve the overall appeal of the Village's commercial districts;
- Introducing uses which further the Village's reputation as a destination for shopping, dining, cultural events and entertainment;
- Improving the variety of quality housing choices to support community diversity and nearby businesses, and increase the vibrancy and economic development potential of the Village;
- Retaining and providing for growth of high priority or significant anchor businesses whose closure would have considerable negative impact on surrounding businesses and the community; and/or
- Fulfilling other goals expressed within the Village's 2001 Comprehensive Plan and 2009 Downtown Strategic Plan.

Types of Incentives

The following is a list of potential incentives the Board *may* wish to consider. Not all incentives will be appropriate for all projects and some projects may necessitate creative incentives that may not be listed below.

1. Tax Increment Financing (TIF);
2. Sales Tax Rebates;
3. Retail Façade and Interior Improvement Grants;
4. Other –
 - Use of Village property or right-of-way for development at reduced or no cost, excluding previously vacated right-of-way;
 - Contribution toward public improvements or infrastructure;
 - Fee waivers: zoning, permits, etc.;
 - Cooperative provision of municipal services;
 - Industrial Revenue Bonds (bond financing for specific industrial improvements);
 - Special Service Area (cooperation among property owners to fund a specific project);
 - Business Development District (an increase in sales tax over a specified period of time used to fund improvements in the district).

Tax Increment Financing

Tax Increment Financing (TIF) districts allow future increases in taxes for properties within the TIF district to be collected and used to stimulate investment within the district. The taxes within the district are frozen at the existing level and each taxing body continues to receive their portion of the taxes at that level. Only the new property taxes generated by the incremental increase in the value of these properties above the frozen level are pooled in a fund and used for financing projects within the district. Glen Ellyn has one TIF district which roughly encompasses the downtown C5A Central Business, Retail Core Sub-zoning district and the C5B Central Business, Service Sub-zoning district. The tax increases created by redevelopment, re-occupancy, new development and general assessed value in the downtown TIF District are collected and used for economic development within the district. TIF districts have a lifespan of 23 years, as mandated by State Statute

Specific TIF Guidelines are intended to provide guidance to the Village Board when deciding when and how to utilize Tax Increment Financing assistance for development within the TIF District. Assistance will be reserved for projects that have a demonstrated financial gap and that will assist the Village in meeting its goals. TIF Guidelines shall be used to process and review requests for TIF assistance; however, the Village Board may amend or waive portions of these Guidelines at any time as may be necessary or appropriate. The purpose of TIF assistance is to encourage desirable development that would not occur “but for” the TIF assistance provided. Only the minimum amount of TIF assistance necessary to make the project viable shall be used.

According to the Illinois Tax Increment Association, by current Illinois State Statute, activities eligible for TIF financing include (but are not limited to):

- Property acquisition;
- Rehabilitation or renovation of existing public or private buildings;
- Construction of public works or improvements;
- Job retraining programs;
- Relocation;
- Financing costs, including interest assistance;
- Studies, surveys and plans;
- Professional services such as architectural, engineering, legal, property marketing and financial planning; or
- Demolition and site preparation.

Generally, Village of Glen Ellyn projects eligible for TIF financing include extraordinary costs associated with infrastructure improvements, code required improvements for existing buildings, site preparation, and similar enhancement projects. TIF funds may not be used for construction.

State Statute also requires the “but for” test to determine if a project is eligible to use TIF funds. This test requires that a project would not be viable, “but for” the assistance provided by the TIF funding. An incentive or combination of incentives may be appropriate depending on the scope and impact of the project. The impact of incentives on all stakeholders should be considered.

TIF Eligible Projects

There are several types of eligible projects which may be considered for TIF assistance. Examples of these projects are:

- Business attraction, retention or expansion;
- Housing;
- Affordable housing;
- Historic revitalization;
- Public infrastructure enhancements;
- Development consistent with the TIF Redevelopment Plan.

TIF Financing Criteria

The Village Board reserves the right to deny any request for TIF assistance. There are many important criteria and considerations that must be taken into account when evaluating possible TIF projects. The following is a list of criteria a developer should take into account when developing a request for TIF assistance and the Village Board should consider when determining if TIF assistance is warranted:

1. As with other forms of Village incentives, assistance shall be limited to the minimum amount necessary to make the project feasible. Assistance will not be provided solely to increase the developer's profit margin. It is up to the Village's discretion to determine how much, if any, assistance is necessary to make the project feasible;
2. The petitioner should demonstrate that the project would not otherwise take place in Glen Ellyn "but for" the incentive;
3. A maximum dollar amount and term will be determined. Assistance should be at the lowest level possible within the least amount of time;
4. All projects shall be reviewed on a case-by-case basis. Meeting all the criteria for TIF assistance does not guarantee that assistance will be awarded, nor does the approval or denial of one project set a precedent for approval or denial of another;
5. Assistance will generally be provided by a "pay-as-you-go" method. Up-front financing requests will be considered on a case-by-case basis provided there is sufficient increment generation to meet initial financing and debt service costs;
6. Assistance for land/property purchases will not exceed the fair market value of the property. The Village will hire an independent appraiser and the appraisal cost will be reimbursed by the developer;
7. Assistance shall not be provided for projects that would result in extraordinary demands on Village infrastructure or services;
8. The developer is responsible for providing any additional information, such as market and feasibility studies, and appraisals, which the Village deems necessary to review the need for TIF assistance;

9. The developer must provide adequate financial guarantees to ensure completion of the project, not limited to letters of credit, cash escrow and personal guarantees. The developer must also demonstrate to the Village's satisfaction, the ability to construct, operate and maintain the proposed project;
10. All projects must demonstrate the probability of economic success. The developer shall submit to the Village preliminary sales, data projections, and/or pro forma analyses concerning the subject site. The Village will hire an independent consultant to verify the developer's submissions and the resulting cost will be reimbursed by the developer through an escrow;
11. The developer must retain ownership of the overall project until final completion. For projects intended as for-sale developments, individual condominium units may be sold as they are completed. For all other projects, the developer must retain ownership at least long enough to complete the project (as evidenced by the issuance of a final certificate of occupancy), stabilize its occupancy, establish project management and initiate property tax payments based on the increased project value;
12. For parcels that are "tax exempt" prior to redevelopment, the projections for incremental revenue generation will be based upon the projected revenue generation after the placement of an initial valuation on the property;
13. The level of assistance should be reduced to the lowest possible level in the least amount of time by maximizing the use of private debt and equity financing first;
14. Development receiving TIF assistance is required to provide a full reimbursement to the Village of the assistance provided in the event the project is removed from the tax rolls during the period of time the applicable development project area is in existence. The developer shall sign appropriate legal documents indicating agreement with this mandate; and
15. At least ten percent (10%) of the units in a Residential Development must be attainable (within the means of middle-, moderate- and/or low-income households).

TIF Submittal Guidelines

The Village requires certain information from every applicant requesting TIF funds. This information is critical to allow the Village to make proper and informed decisions. All applications for TIF funding shall include the following items:

1. Completed Village application for TIF Funding;
2. An initial deposit of one percent (1%) of the requested TIF assistance or \$10,000, whichever is greater. This deposit will be used to cover the Village's costs for review of the request. The applicant is responsible for reimbursing the Village for all costs that exceed the initial deposit. If at any point the escrow balance drops below \$500, the developer must replenish the escrow to the initial amount deposited. Any unused portion of the deposit will be returned to the applicant;
3. Preliminary financial commitment from a financial institution;
4. Plans and/or drawings for the proposed project;
5. Background information on the developer's experience, capabilities and similar projects;
6. Pro forma analysis for the project including sources and uses of funds, and annual income and operating projections;

7. Audited financial statements from the last three (3) years and an interim financial statement for the current year; and
8. Complete list of the names and addresses of all investors in the project including each individual's ownership interest.

The Village may request additional information from the developer if necessary to make an accurate and informed decision. The developer shall comply with all disclosure requirements of the Village. The Applicant should submit an original and two copies of all the requested documents. Packets should be sent to:

Village Manager's Office
Village of Glen Ellyn
535 Duane Street
Glen Ellyn, Illinois 60137

The Village will notify the developer when all the requested materials have been received. In the event the developer does not submit everything that was requested, the review of the request will not begin until those materials are received.

TIF Review Process

Applicants are encouraged to contact the Village Manager's Office to initiate discussion regarding potential TIF assistance. Once an application is received, the estimated timeframe for review is approximately 6 weeks and may include the following steps:

1. Submittal of documentation to Village management;
2. Review of documentation by Village management and consultant chosen by Village -
 - a. Calculate potential sales tax, property tax, utility tax, water revenue, miscellaneous one time fees (building permits, transfer tax, fee-in-lieu charges, etc.)
 - b. Determine if there are any State or County incentives available to coordinate a joint incentive package;
3. Presentation of request, management analysis and recommendation to Finance Commission;
4. Finance Commission Meeting for review and recommendation to Village Board;
5. Village management prepares draft TIF Assistance Agreement as recommended by Finance Commission, if applicable;
6. Finance Commission recommendation, management recommendation, and draft TIF Assistance Agreement forwarded to Village Board, if applicable; and
7. Village Board meeting for final consideration of TIF assistance request.

TIF Assistance agreements should include the following provisions:

- *Reimbursement for Failure:* The TIF Assistance Agreement will contain a claw-back provision to the Village for reimbursement of a pro-rated share of the assistance based on specified time periods should a developer associated with assistance cease to operate during the term of the agreement or another specified period of time;
- *Look-back Provision:* If the project generates a higher return than anticipated when the incentive was approved, the developer and Village shall split 50/50 any increase at or above a specified threshold of the original projected rate of return.

The Village Board has final authority to negotiate the terms of any economic incentive or to deny approval of an incentive proposal. The preceding guidelines do not limit Village Board action.

Non-TIF Incentives - Eligible Projects

The Village will consider non-TIF incentive requests on a case by case basis using the process described below. In addition, the Village offers Commercial Façade Grant and Downtown Interior Grant programs to assist businesses locating or growing their business. The Façade Grant program is available to businesses located in commercial districts throughout the Village, while the Interior Grant program is limited to certain commercial projects in the Downtown commercial area. The programs provide up to 50% matching funds for a maximum of \$15,000 in assistance (see detailed program guidelines in “Attachment C” and “Attachment D”).

There are several types of eligible projects not considered under TIF guidelines which may be considered for economic assistance. Examples of these projects are:

- Businesses attracted, retained, or expanded in the Village;
- Development of previously identified priority development sites;
- Business segments underserved in the Village;
- Development consistent with the Downtown Plan or Comprehensive Plan;
- Other projects that would enhance the Village and satisfy one or more of the identified objectives.

Non –TIF Incentives - Review Criteria

The threshold level of assistance given to the Developer should be limited to the minimum amount necessary to provide the Developer with a reasonable rate of return for the project in Glen Ellyn, and the level of return for the Village to consider an incentive proposal should be significant.

Requests for economic assistance shall be evaluated on the merit of the proposal and the following criteria:

1. Conformance with the Comprehensive Plan and Downtown Plan goals and objectives;
2. Improvement of economic base through attraction, retention or expansion of businesses;
3. Attraction of high priority business that would enhance diversity of businesses and vitality in the Village’s business districts;
4. Fulfillment of an underserved business segment;
5. Enhancement and diversification of Village revenue bases;
6. Presence of extraordinary costs above and beyond typical development improvement costs, such as prohibitively expensive -
 - a. Environmental remediation
 - b. Capital purchases
 - c. Facility expansion
 - d. Public infrastructure
7. Provision of a variety of quality housing choices including those that support community diversity;
8. Enhancement of streetscape and pedestrian experiences;
9. Improvement of public infrastructure;

10. Improvement of existing parking and/or traffic circumstances not created by the applicant;
11. Remediation of blighted property;
12. Enhancement of cultural and/or environmental circumstances;
13. Creation of more marketable real estate space;
14. Significant increase in quality full-time permanent employment;
15. Quality of development and aesthetics above and beyond code requirements and design standards;
16. Impact on the immediate neighborhood;
17. Demonstrated ability to construct, operate and maintain the proposed project based upon past experience, reputation and credit history; and
18. Demonstrated probability of economic success.

The above criteria are not inclusive and do not prohibit other criteria from being considered.

Non –TIF Incentives - Submittal Guidelines

By providing an incentive the Village is entering into a financial agreement; therefore is it appropriate to request detailed financial information from the developer or property owner to allow the Village to evaluate the likely success of the project and make an informed decision. The following is a general list of items the Village may wish to request of the developer in order to allow the Village a thorough review of the project, including any potential impacts and how the requested incentive may benefit the Village. The submitted documents should be considered the developer's application for incentive:

1. Program Details -
 - a. Summary of proposal and benefits to the Village
 - b. Area of property
 - c. Square footage of uses by type
 - d. Estimated number of employees (full-time and part-time)
 - e. Proposed construction timeframe
 - f. Complete list of all investors in the project identifying individual ownership interest;
2. Projected Annual Sales -
 - a. Total sales for 10 years
 - b. Breakdown of total sales between taxable items and exempt items (see “Attachment B” for details on items exempt from Home Rule Sales Tax);
3. Current equalized assessed value of the property;
4. Current property appraisal;
5. Market study, gap analysis and pro forma analysis of the project;
6. Estimated construction cost and purchase price of property;
7. Estimated utility usage (eg. electricity, natural gas, telecommunication);
8. Estimated water usage;
9. Description of incentive being requested -
 - a. Dollar amount and proposed structure of incentive request
 - b. Description and amount of extraordinary costs related to development;
10. Financial guarantees to ensure project completion such as letters of credit, and cash escrow; and
11. Any other relevant information requested by the Village and necessary to evaluate the request.

The Applicant should submit an original and two copies of all the requested documents. Packets should be sent to:

Village Manager's Office
Village of Glen Ellyn
535 Duane Street
Glen Ellyn, Illinois 60137

Petitioners should be prepared to provide full financial disclosure for evaluation by an independent financial consultant approved by the Village. An amount from the petitioner, paid at the time of application, should be deposited into an escrow account to cover the Village's costs for legal and financial consultation in reviewing the incentive request.

The Village should notify the developer when all the requested materials have been received. In the event the developer does not submit everything that was requested, review should not begin until those materials are received.

Non -TIF Incentives - Review Process

Glen Ellyn welcomes business and development opportunities within our Village. We desire to initiate an open dialogue with business owners interested in remaining or locating in Glen Ellyn. Village staff is readily available to respond to questions and offer assistance to prospective businesses and developers. Applicants are encouraged to contact management in the Village Manager's Office to initiate discussion regarding potential incentives and may include the following steps:

1. Submittal of documentation to Village management;
2. Review of documentation by Village management (and/or consultant if desired by Village) -
 - a. Calculate potential sales tax, property tax, utility tax, water revenue, miscellaneous one time fees (building permits, transfer tax, fee-in-lieu charges, etc.)
 - b. Determine if there are any State or County incentives available to coordinate a joint incentive package;
3. Presentation of request, management analysis and recommendation to Finance Commission;
4. Finance Commission Meeting for review and recommendation to Village Board;
5. Village management prepares draft Incentive Agreement as recommended by Finance Commission, if applicable;
6. Finance Commission recommendation, management recommendation, and draft incentive agreement forwarded to Village Board, if applicable; and
7. Village Board meeting for final consideration of incentive request.

Non-TIF incentive agreements should address the following items and include the following provisions:

- *"But For" Standard:* the petitioner should demonstrate that the project would not otherwise take place in Glen Ellyn "but for" the incentive;
- *Dollar Amount and Term:* A maximum dollar amount and term will be determined. Assistance should be at the lowest level possible within the least amount of time;
- *Eligible Project Costs:* incentives may not be used for soft costs such as legal, architectural or engineering consultant fees;

- *Reimbursement for Failure:* The incentive agreement should contain a claw-back provision to the Village for reimbursement of a pro-rated share of the incentive based on specified time periods should a business associated with an incentive cease to operate during the term of the incentive or another specified period of time;
- *Look-back Provision:* If the project generates a higher return than anticipated when the incentive was approved, the developer and Village shall split any increase at or above a specified threshold of the original projected rate of return;
- *Permanence:* Projects requesting an incentive should demonstrate their intent to remain within the Village for the foreseeable future. For example, a condition of the incentive may be a commitment for a lease period beyond the length of the incentive;
- *Ownership:* If the developer intends to sell the project (i.e. commercial or residential condominiums), the developer must retain ownership of the overall project until final completion;
- *Pay-As-You-Go:* Assistance will be provided by a “pay-as-you-go” method. Up-front financing requests will be considered on a case-by-case basis provided there is sufficient increment generation to meet initial financing and debt service costs;
- *Limitation:* no incentive will be provided for any project expenses incurred prior to approval of the project with the exception of Village grant funds;
- *Other Assistance:* when requested, the Village will assist developers in seeking State and Federal Incentives.

The Village Board has final authority to negotiate the terms of any economic incentive or to deny approval of an incentive proposal. The preceding guidelines do not limit Village Board action.

“Attachment A”

Conflicts of Interest

Glen Ellyn Village Code: Title 1: Administrative, Chapter 12: Ethics, Section 5: Conflicts of Interest

1-12-5: CONFLICTS OF INTEREST:

All civil servants shall avoid situations that present a conflict of interest, or a potential conflict of interest. It is the responsibility of all civil servants to solely serve the public interest of the village of Glen Ellyn. To achieve that requirement it is necessary to avoid situations that present dual interests that can compromise, or appear to compromise the objectivity of decisions.

(A) Prohibited Transactions: No civil servant shall participate in any transaction in which: 1) a "financial interest" as defined in this chapter would present a conflict of interest or a potential conflict of interest, 2) a "nonfinancial interest" as defined in this chapter would present a conflict of interest or a potential conflict of interest, 3) participation would constitute a conflict of interest under the statutes or common law of the state of Illinois.

(B) Recusal: Any civil servant shall recuse himself or herself in connection with any transaction that comes before such civil servant in the course of his or her duties, whenever such civil servant has: 1) any interest in the transaction; 2) any family relationship with a person having an interest in such transaction; or 3) any interest in an applicant appearing before the civil servant in an official capacity, even if the civil servant does not have an interest in the transaction itself.

(C) Notification: Upon becoming aware of any conflict of interest as described in subsection (A) of this section, any civil servant shall promptly provide written notification, within forty eight (48) hours, to the appropriate authority of such conflict and the civil servant's recusal from any official action with respect to the transaction, as follows:

1. Employees, appointed officers or appointed volunteers shall notify the director of the department and the village manager;
2. The village manager shall notify the village president and the board of trustees;
3. Members of boards and commissions shall notify the chairperson of such board or commission;
4. Chairpersons of boards and commissions shall notify the village manager, village president and the board of trustees;
5. The village president shall notify the village manager and the board of trustees;
6. Any person serving in an elected position shall notify the village president, village manager and the other members of the board of trustees.

(D) Nonappearance Before Same Board Or Commission: No civil servant required to recuse himself or herself in connection with a transaction shall appear before the board or commission of which he or she is a member with respect to such transaction.

- (E) Nonparticipation And Disclosure Before Other Board Or Commission: Any civil servant who has actual knowledge that he or she, individually or through a family relationship, has an interest in a transaction pending before a board or commission on which the civil servant does not serve as a member, either: 1) shall not appear or participate personally before the other board or commission on which he or she does not serve relating to such transaction; or 2) shall disclose such interest on the record prior to participating in any proceeding before a village board or commission.
- (F) Potential Conflict Of Interest: The Glen Ellyn community has a right to expect that the public interest will be served by all individuals involved in local government. To maintain the public trust it is imperative that civil servants present an image of objectivity and fairness in all official actions. Civil servants have the continual and ongoing obligation to promptly disclose not only any known conflicts of interest but also to identify any issues that may have the potential for a conflict of interest, and if they are in doubt to seek the opinion of the ethics officer. When such advice is sought, the ethics officer will determine if the potential conflict requires the civil servant to take or refrain from taking some action. (Ord. 5921, 2-28-2011)

“Attachment B”

Exemptions to Home Rule Retailers and Service Occupation Taxes *Village Ordinance 5740 (3/30/09)*

Retail and Service Sales that are Exempt from Taxes

- Food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption)
- Drugs and medical appliances
 - Prescription and non-prescription medicines
 - Drugs
 - Medical appliances
 - Insulin
 - Urine testing materials
 - Syringes
 - Needles used by diabetics
- Tangible personal property that is titled or registered with an agency of State government (e.g. Cars, trucks, motorcycles, trailers, snowmobiles, aircraft)

“Attachment C”



VILLAGE OF GLEN ELLYN

Commercial Façade Improvement Grant Program Application Packet

Village Manager's Office

535 Duane Street – Glen Ellyn, IL 60137 – Telephone 630.547.5345 – Fax 630.547.8849

VILLAGE OF GLEN ELLYN

Commercial Façade Improvement Grant Program

As of 5/01/12

Purpose

The Village of Glen Ellyn recognizes the positive impact that individual facade improvements can have on the overall appearance, quality and vitality of the Village's commercial districts. The Commercial Façade Improvement Grant Program was created to facilitate the private sector in making these desired exterior improvements. The Village Board reserves the sole right to amend, modify, add, or delete any part or subpart of this program.

Assistance Available

Approved projects are eligible to receive reimbursement after project completion in the form of a matching grant of up to 50 percent of the actual improvement costs up to a maximum grant of \$15,000.

Eligibility Requirements

Existing structures currently zoned commercial and in current commercial use or planned for commercial use within the corporate limits of the Village of Glen Ellyn are eligible for the grant. The exterior of the property must meet all Village of Glen Ellyn Codes and Ordinances. In the event that a violation is present, correction of the violation must be made prior to disbursement of grant monies.

Eligible applicants include the owner of a commercial building or the owner of a commercial business. All applications must be signed by the property owner to indicate consent for the proposed improvements.

All grant recipients are required to publicly display the Village of Glen Ellyn Grant Award Certificate in a conspicuous location in the building for a period of one year from the date grant funds are dispersed.

Financial assistance is available to business owners or property owners, for no more than \$15,000 every 3 years, per building.

The determination of eligibility and priority for assistance is at the discretion of the Village Board and is subject to funds availability. The Village Board may approve grants of less than a 50% match.

Eligible Improvements

The primary goal of the Village of Glen Ellyn Commercial Façade Improvement Grant Program is to achieve significant visual improvements in commercial facade appearance. Improvements that otherwise would be substantially difficult to undertake "but for" the grant assistance may be looked at more favorably. The determination of eligibility and priority for assistance is at the discretion of the Village Board.

Work which qualifies for assistance includes improvements to the exterior of a building which are visible from the public right-of-way. Applicants must plan to install at least \$1,000 of material improvements (excluding installation) to qualify. Work must be completed within one year of receiving the grant award. The list of qualifying exterior improvements appears below.

Eligible Uses

- Significant Facade repair and treatment
- New window systems or frame replacement and repair (excluding broken glass)
- Exterior Doors
- Awnings (without signage)
- Exterior lighting
- Restoration of original architectural features
- Exterior building materials for building additions
- Other permanent exterior improvements to property consistent with the architectural integrity of the building and the Village's *Appearance Review Guidelines*

Ineligible Uses

- Working capital
- Property acquisition
- Equipment or inventory acquisition
- Refinancing of existing debt or private funding
- Interior remodeling
- Sprinkler systems
- Resurfacing of parking lots
- Replacement of private sidewalks
- Architectural design fees or other plan preparation costs
- Building permits and related costs
- Signage of any kind
- Landscaping of any kind

The Village of Glen Ellyn is not obligated to reimburse any approved application for reimbursement after one year from the date of the original approval of the grant application or exterior appearance, whichever date is later. Written requests for time extensions can be considered by the Planning and Development Director.

Design Evaluation

Design evaluation and approval will be handled by the Village of Glen Ellyn. This process may require the applicant to undergo exterior appearance review by the Architectural Review Commission if required by the Village Appearance Review Guidelines.

Application Requirements

Required Submittals with Application:

1. Current digital photos of all building facades visible from the public right of way which will receive improvements
2. A schematic drawing with enough detail to depict the proposed improvements
3. Signed vendor contract(s) with detailed costs for each proposed improvement (excluding ineligible portions of improvements, e.g. lettering on awnings)
4. Consent from the building owner for proposed improvements, by signature on the attached form
5. Completed IRS Form W-9 Request for Taxpayer Identification Number and Certification

6. Projected sales tax* and/or property tax for the three years following the completion of the improvements covered by the grant.
7. A narrative as outlined below:
 - a. Description of proposed façade work including information about the proposed building materials and methodology for proposed changes.
 - b. Description of your business and the related industry.
 - c. Features and advantages of your product and how improvements sought will improve the business and/or Village.
 - d. Credentials and experience of business owner.
 - e. Any unusual or expected difficulties or hardships in making the proposed improvements.

**Please note that if you are awarded a grant, you must submit actual sales tax receipts for the three consecutive years following the completion of the improvements. The actual sales tax receipts from the State of Illinois of the prior calendar year shall be provided to the Village by February 15.*

Application and Approval Process

Submission and approval of a complete grant application is required prior to the completion of any improvements eligible for assistance. The review process will normally take approximately 4 weeks. The applicant must secure any required Village permits and exterior appearance approval by the Architectural Review Commission and the Village Board (if required) prior to starting improvements. The application process is outlined below:

1. Contact the Planning and Development Department for program information and to determine project eligibility.
2. Submit a grant application including all required submittals to the Planning and Development Department for funding assistance.
3. The Planning and Development Department will make a recommendation for approval, partial approval or denial to the Village Board. Village staff will attempt to review applications within 2 weeks of submittal.
4. Application is considered by the Village Board. Applicant's attendance is required at the Village Board meeting as part of the application review process. The Village Board typically meets the 2nd and 4th Monday evenings of every month.
5. Proposed improvements must be completed and the business must be operational within one year of grant approval by the Village Board.

Reimbursement Process

1. Once work is completed, the applicant submits copies of paid invoices from all contractors, proof of payment (copies of canceled checks or credit card receipts), a signed Reimbursement Request Certification (see attached form), a signed and notarized Affidavit for Reimbursement (see attached form), and photos of all improved façades to the Planning and Development Department.

2. The Planning and Development Department reviews the completed project to ensure that work was performed as outlined in application and in conformance with the Village Code.
3. Check is distributed.

Pay Back Provision

The following pay back schedule shall apply if a business closes or moves out of Glen Ellyn within 3 years of being awarded a Village grant.

Out of Business	< 1 year	1-2 years	2-3 years
% of Grant Repaid to the Village	75%	50%	25%

The applicant agrees to this provision when s/he signs the Reimbursement Request Certification and the Application Certification.

VILLAGE OF GLEN ELLYN
Commercial Façade Improvement Grant Application

REQUIRED SUBMITTALS WITH APPLICATION:

1. Current digital photos of all building facades visible from the public right of way which will receive improvements
2. A schematic drawing with enough detail to depict the proposed improvements
3. Signed vendor contract(s) with detailed costs for each proposed improvement (excluding ineligible portions of improvements, e.g. lettering on awnings)
4. Consent from the building owner for proposed improvements, by signature on the attached form
5. Completed IRS Form W-9 Request for Taxpayer Identification Number and Certification
6. Projected sales tax* and/or property tax for the three years following the completion of the improvements covered by the grant.
7. A narrative as outlined below:
 - a. Description of proposed façade work including information about the proposed building materials and methodology for proposed changes.
 - b. Description of your business and the related industry.
 - c. Features and advantages of your product and how improvements sought will improve the business and/or Village.
 - d. Credentials and experience of business owner.
 - e. Any unusual or expected difficulties or hardships in making the proposed improvements.

**Please note that if you are awarded a grant, you must submit actual sales tax receipts for the three consecutive years following the completion of the improvements. The actual sales tax receipts from the State of Illinois of the prior calendar year shall be provided to the Village by February 15.*

BUSINESS OWNER INFORMATION

Business Owner Name: _____

Home Address: _____

Business Name: _____

Business Address: _____

Business Phone: _____ Fax Number: _____

Home Phone: _____ Email Address: _____

If tenant, what is the expiration date of your current lease? _____

If buyer under contract or tenant, who is the property owner?

Property Owner Name: _____

Property Owner Address: _____

Property Owner Phone: _____

Property Owner Fax: _____

Property Owner E-mail: _____

DESCRIPTION OF PROPOSED IMPROVEMENTS

ITEMIZED ACTIVITY DESCRIPTION

COST

ITEMIZED ACTIVITY DESCRIPTION	COST
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

TOTAL PROJECT COST: _____

AMOUNT OF GRANT ASSISTANCE REQUESTED: _____

APPLICATION CERTIFICATION

I, the undersigned, certify that I have read the program description and requirements for the Village of Glen Ellyn Façade Improvement Grant Program. I certify that all information provided herein is true and accurate to the best of my knowledge. I understand that the improvements described in this application must receive all required permit approvals from the Village of Glen Ellyn prior to the commencement of construction.

Furthermore, I, the undersigned, my successors and assigns, hereby agree to save and hold harmless the Village of Glen Ellyn and any of its employees, officers and directors from all cost, injury and damage to any person or property whatsoever, any of which is caused by an activity, condition or event arising out of the performance, preparation for performance or nonperformance of any project improvement included in my grant application. The above cost, injury, damage or other injury or damage incurred by or to any of the above shall include, in the event of an action, court costs, expenses of litigation and reasonable attorneys' fees. I understand that if my business closes or moves out of the Village of Glen Ellyn within 3 years I will be required to repay the Village in an amount as described on page 3 of the grant packet.

Applicant Name (PRINT)

Applicant Signature

Date

CONSENT FROM PROPERTY OWNER (Required if different from Applicant)

Property Owner Name (PRINT)

Property Owner Signature

Date

*****Office Use
Only*****

Application is: _____ Approved

_____ Denied

Village President

Date

Planning and Development Director

Date

VILLAGE OF GLEN ELLYN
Commercial Façade Improvement Grant Program
Reimbursement Request Certification

SUBMITTAL FOR REIMBURSEMENT

Please submit the following information to the Planning and Development office once approved work is complete for grant payment:

- This signed Reimbursement Request Certification
- Copies of invoices stamped "PAID" from all contractors, companies, individuals
- Proof of payment (limited to copies of canceled checks and/or credit card receipts)
- Digital Photos of all building facades visible from the public right-of-way. A signed and notarized Applicant's Affidavit for Reimbursement form provided by the Village of Glen Ellyn
- Applicant's Affidavit for Reimbursement (Attached)

CERTIFICATION

I, the undersigned, warrant that all representations of the application submitted under the program are true and accurate and that there has been no material change which would in itself or cumulatively with other events impair the profitable functioning of my business operation. All agreements, warranties and representations made to the Village of Glen Ellyn are true at the time they were made and shall remain true at the time of submittal for reimbursement under the program. I will display the Village of Glen Ellyn Grant Certification in public at my business/property for one year. I understand that if my business closes or moves out of the Village of Glen Ellyn within 3 years I will be required to repay the Village in an amount as described on page 3 of the grant packet. The Village of Glen Ellyn may in its sole option cancel its assistance commitment either in whole or in part for failure to comply with the requirements of this grant program or applicable Village Codes and Regulations.

Applicant Name (PRINT)

Applicant Signature

Date

APPLICANT'S AFFIDAVIT FOR REIMBURSEMENT

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

TO: The Village of Glen Ellyn

The undersigned, _____ (Name) being duly sworn, deposes and says that he or she is the Owner/Tenant (strike one) of the property located at _____ (the "Premises") and has applied for a façade improvement grant from the Village of Glen Ellyn for _____ - _____ (the "Work.").

The total amount of the grant approved is \$ _____ toward which I, as Owner/Tenant (strike one), have as of this date paid \$ _____. I hereby attest that I have not received any other funds from a third party to pay for the Work which is paid for by this grant.

The attached proof of payment is true, correct, and genuine, and delivered unconditionally and the work set forth in said proof of payment has been completed and/or the materials set forth in the attached proof of payment has been used in connection with the Work in the Premises.

Upon payment of \$ _____ from the Village of Glen Ellyn, there shall be nothing due or to become due from the Village of Glen Ellyn in connection with the disbursement of the approved grant amount from the Village of Glen Ellyn based on the documentation submitted to the Village of Glen Ellyn for the Work set forth in said proof of payment.

Date: _____ Signature: _____

SUBSCRIBED AND SWORN to
before me this _____ day of
_____, 20__.

Notary Public

“Attachment D”



VILLAGE OF GLEN ELLYN

Interior Improvement Grant Program Application Packet

Village Manager's Office

535 Duane Street – Glen Ellyn, IL 60137 – Telephone 630.547.5345 – Fax 630.547.8849

Village of Glen Ellyn Downtown Interior Improvement Grant Program

As of 5/1/2012

Purpose

The goal of the Village of Glen Ellyn Downtown Retail Grant Program is to strengthen the downtown shopping district by attracting new retail businesses and by assisting existing retailers with eligible expansion plans in the downtown commercial district. The Village Board reserves the sole right to amend, modify, add, or delete any part or subpart of this program.

Assistance Available

Approved projects are eligible to receive reimbursement after project completion in the form of a matching grant of up to 50 percent of the actual improvement costs up to a maximum grant of \$15,000.

Eligibility Requirements

Commercial property owners or retail business owners in the downtown who are proposing a new or expanding business which meets the eligibility and application requirements are invited to submit applications.

All new retail businesses that generate retail sales tax can be considered for the grant. Existing retail businesses in the Village must expand in the downtown to receive assistance. For the purpose of this program, "expansion" is defined as significantly increasing the retail sales area, enlarging the square footage of the retail space to include expanding into an adjacent space or relocating to a larger space or building an addition on the interior or exterior of an existing building to be used as additional retail space.

Grant applicants will be reviewed on a case by case basis. Uses that have the potential to increase foot traffic and improve the pedestrian experience will be preferred.

Financial assistance is available to property or business owners, for no more than \$15,000 every 3 years, per unit.

All grant recipients are required to publicly display the Village of Glen Ellyn Grant Award Certificate in a conspicuous location in the building for a period of one year from the date grant funds are dispersed.

The determination of eligibility and priority for assistance is at the discretion of the Village Board and is subject to funds availability. The Village Board may approve grants of less than a 50% match.

Eligible Improvements

This program funds permanent tenant and building code improvements necessary to open a new, or expand an existing, downtown retail business. Improvements that otherwise would be substantially difficult to undertake “but for” the grant assistance may be looked at more favorably. Eligible improvements must remain with the improved building to be considered permanent and may include:

Eligible Uses

- Walls
- Ceilings
- Sub-floors
- Permanent fixtures excluding shelving that is bolted on (e.g., non-removable, permanently affixed)
- Hard surface materials for exterior (non-façade) retail space (concrete, brick, blue stone, etc.)
- Life safety upgrades (sprinklers, fire alarm systems, fire doors)
- Utility related improvements (heating, air conditioning, plumbing, electrical)
- Major kitchen equipment (e.g. commercial grade, permanently installed equipment) *Note: equipment must remain in the building unit and may not be transferred if business relocates or closes*
- Changes brought about due to the uniqueness or nature of the structure of the building
- Other extraordinary expenses required by government codes or regulations

Projects not listed above will be considered on a case by case basis. In general, changes to the project scope will not be considered for supplemental assistance after grant approval is obtained. Unforeseeable changes will be considered on a case by case basis.

Ineligible Uses

- Façade improvements (see separate Village of Glen Ellyn Façade Improvement Grant Program)
- Acquisition of land or buildings
- Product inventory
- Interior signage
- Lighting fixtures
- Hard surface materials for non-retail exterior space (parking lots, sidewalks, etc.)
- Display window enhancements (hanging grid system, lighting, display shelf, etc.)
- Rent
- Media marketing and advertising
- Payroll
- Day-to-day operational costs (e.g. utilities, taxes, maintenance, refuse)
- Moving expenses
- Business consulting expenses
- Exterminator services
- Landscaping

The Village of Glen Ellyn is not obligated to reimburse any approved application for reimbursement after one year from the date of the original approval of the grant application or exterior appearance, whichever date is later. Written requests for time extensions can be considered by the Planning and

Development Director.

Required Submittals With Application:

1. Signed lease, committing to minimum of a 3-year lease term is required for all new and relocating businesses (if a lease has not yet been signed, disbursement of the approved funds will be contingent on the Village receiving a signed lease).
2. Signed vendor contract(s) with detailed costs for each proposed improvement.
3. Consent from the building owner for proposed improvements, by signature on the attached form.
4. Digital photos depicting the interior areas where proposed improvements will take place.
5. Completed IRS Form W-9 Request for Taxpayer Identification Number and Certification
6. Projected sales tax* and/or property tax for the three years following the completion of the improvements covered by the grant.
7. A narrative or current Business Plan that addresses the following:
 - a) Description of your business and the related industry.
 - b) Features and advantages of your product and how improvements sought will improve the business and/or benefit Village.
 - c) List any unusual or unexpected difficulties faced in making the proposed improvements or completing the work.
 - d) Credentials and experience of business owner.
 - e) Market research and analysis including a definition of your current or anticipated customers and where they come from. May also include information on future customer markets as a result of interior improvements (i.e. will improvements attract new customers).
 - f) Describe or demonstrate why these improvements would not take place “but for” the grant program.

**Please note that if you are awarded a grant, you must submit actual sales tax receipts for the three consecutive years following the completion of the improvements. The actual sales tax receipts from the State of Illinois of the prior calendar year shall be provided to the Village by February 15.*

Application and Approval Process

Submission and approval of a complete grant application is required prior to the completion of any improvements eligible for assistance. The applicant must submit all required documents as outlined on the first page of the application. Applicants should expect the review and approval process to take approximately 4 weeks. The applicant must secure any required Village approvals, licenses or permits prior to starting improvements. The application process is outlined below:

1. Contact the Planning and Development Department for program information and to determine project eligibility.
2. Submit a grant application, including all required submittals, to the Planning and Development Department.

3. The Planning and Development Department will review the application and make a recommendation of approval, partial approval or denial of the grant application to the Village Board. Village staff will attempt to review applications within 2 weeks of submittal.
4. The application will be considered by the Village Board. The applicant's attendance is required at Village Board meeting as part of the application review process. The Village Board typically meets on the 2nd and 4th Monday evenings of every month.
5. Proposed improvements must be completed and the business must be operational within one year of grant approval by the Village Board.

Reimbursement Process

1. Once work is completed, applicant submits copies of paid invoices from all contractors, proof of payment (copies of canceled checks and/or credit card receipts), a signed Reimbursement Request Certification form (attached) and Applicant's Affidavit for Reimbursement (attached) to the Planning and Development Department.
2. The Planning and Development Department reviews completed project and work for conformance to the application and the Village Code.
3. Check is distributed.

Pay Back Provision

The following pay back schedule will apply if a grant recipient business closes or moves out of Glen Ellyn within 3 years of receiving the grant.

Out of Business	< 1 year	1-2 years	2-3 years
% of Grant Repaid to the Village	75%	50%	25%

The applicant agrees to this provision when s/he signs the Application Certification and Reimbursement Request Certification.

VILLAGE OF GLEN ELLYN
Downtown Interior Improvement Grant Program Application

REQUIRED SUBMITTALS WITH APPLICATION:

1. Signed lease, committing to minimum of a 3-year lease term is required for all new and relocating businesses (if a lease has not yet been signed, disbursement of the approved funds will be contingent on the Village receiving a signed lease).
2. Signed vendor contract(s) with detailed costs for each proposed improvement.
3. Consent from the building owner for proposed improvements, by signature on the attached form.
4. Digital photos depicting the interior areas where proposed improvements will take place.
5. Completed IRS Form W-9 Request for Taxpayer Identification Number and Certification
6. Projected sales tax* and/or property tax for the three years following the completion of the improvements covered by the grant.
7. A narrative or current Business Plan that addresses the following:
 - a) Description of your business and the related industry .
 - b) Features and advantages of your product and how improvements sought will improve the business and/or benefit Village.
 - c) List any unusual or unexpected difficulties faced in making the proposed improvements or completing the work.
 - d) Credentials and experience of business owner.
 - e) Market research and analysis including a definition of your current or anticipated customers and where they come from. May also include information on future customer markets as a result of interior improvements (i.e. will improvements attract new customers).
 - f) Describe or demonstrate why these improvements would not take place “but for” the grant program.

**Please note that if you are awarded a grant, you must submit actual sales tax receipts for the three consecutive years following the completion of the improvements. The actual sales tax receipts from the State of Illinois of the prior calendar year shall be provided to the Village by February 15.*

BUSINESS OWNER INFORMATION

Business Owner Name: _____

Home Address: _____

Business Name: _____

Business Address: _____

Business Phone: _____

Other Phone: _____

Email Address: _____

Fax Number: _____

Estimated Opening Date of Business: _____

PROPERTY OWNER INFORMATION

Property Owner Name: _____

Address: _____

Phone: _____

Email Address: _____

Fax Number: _____

DESCRIPTION OF PROPOSED IMPROVEMENTS

ITEMIZED ACTIVITY DESCRIPTION

COST

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

TOTAL PROJECT COST: _____

AMOUNT OF GRANT ASSISTANCE REQUESTED: _____

APPLICATION CERTIFICATION

I, the undersigned, certify that I have read the program description and requirements for the Village of Glen Ellyn Downtown Retail Grant Program. I certify that all information provided herein is true and accurate to the best of my knowledge. I understand that the improvements described in this application must receive all required permit approvals from the Village of Glen Ellyn prior to the commencement of construction. I further understand all eligible improvements assisted by the Retail Grant Program are permanent fixtures and will remain with the building.

Furthermore, I, the undersigned, my successors and assigns, hereby agree to save and hold harmless the Village of Glen Ellyn and any of its employees, officers and directors from all cost, injury and damage to any person or property whatsoever, any of which is caused by an activity, condition or event arising out of the performance, preparation for performance or nonperformance of any project improvement included in my grant application. The above cost, injury, damage or other injury or damage incurred by or to any of the above shall include, in the event of an action, court costs, expenses of litigation and reasonable attorneys' fees. I understand that if my business closes or moves out of the Village of Glen Ellyn within 3 years I will be required to repay the Village in an amount as described on page 3 of the grant packet.

Applicant Name (PRINT)

Applicant Signature

Date

CONSENT FROM PROPERTY OWNER (Required if different from Applicant)

Property Owner Name (PRINT)

Property Owner Signature

Date

*****Office Use
Only*****

Application is: _____ Approved

_____ Denied

Village President

Date

Planning and Development Director

Date

VILLAGE OF GLEN ELLYN
Downtown Interior Improvement Grant Program
Reimbursement Request Certification

SUBMITTAL FOR REIMBURSEMENT

Please submit the following information to the Planning and Development Department office once approved work is complete for grant payment:

- This signed certification
- Copies of invoices stamped "PAID" from all contractors, companies, individuals
- Proof of payment limited to copies of canceled checks and/or credit card receipts
- Digital Photos depicting the interior improvements
- A signed and notarized Applicant's Affidavit for Reimbursement form

CERTIFICATION

I, the undersigned, warrant that all representations of the application submitted under the program are true and accurate and that there has been no material change which would in itself or cumulatively with other events impair the profitable functioning of my business operation. All agreements, warranties and representations made to the Village of Glen Ellyn are true at the time they were made and shall remain true at the time of submittal for reimbursement under the program. I will display the Village of Glen Ellyn Grant Certification in public at my business for one year. I understand that if my business closes or moves out of the Village of Glen Ellyn within 3 years I will be required to repay the Village in an amount as described on page 3 of the grant packet. The Village of Glen Ellyn may in its sole option cancel its assistance commitment either in whole or in part for failure to comply with the requirements of this grant program or applicable Village Codes and Regulations.

Applicant Name (PRINT)

Applicant Signature

Date

Resolution ____

A Resolution Adopting Village of Glen Ellyn Tax Increment Financing and Economic Incentive Guidelines

Whereas, in February of 1998, internal Village Guidelines for sales tax rebate proposals were established; and

Whereas, the Village anticipates receiving new requests for economic incentives in the near future; and

Whereas, the Village desires to review and update the 1998 Guidelines to assist in the review of future economic incentive requests in order to provide for a more consistent framework for review and to evaluate and modify the objectives of offering economic incentives to ensure that they continue to further the Village's goals; and

Whereas, updated Guidelines expanded to address a variety of different types of economic incentives and establishing a new review process for the consideration of incentive requests have been prepared; and

Whereas, the Village President and Board of Trustees reviewed the Guidelines at workshop meeting on August 20, 2012 and believe it is in the best interest of the Village to adopt the updated Guidelines.

Now, Therefore, be it Resolved by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois as follows:

Section One. The Tax Increment Financing and Economic Incentive Guidelines dated August 2012 are hereby adopted by the Village President and Board of Trustees.

Section Two. The Guidelines approved herein are to be used as a Guide to review requests for economic incentives from the Village.

Section Three. The granting of Economic Incentives shall continue to be at the sole discretion of the Village Board.

Passed by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this _____ day of _____ 2012.

Ayes:

Nays:

Absent:

Approved by the Village President of the Village of Glen Ellyn, Illinois, this _____ day of _____, 2012.

Village President of the
Village of Glen Ellyn, Illinois

Attest:

Village Clerk of the
Village of Glen Ellyn, Illinois

MEMORANDUM

A-6F

TO: Mark Franz, Village Manager 3

FROM: Patricia Underhill, Administrative Service Coordinator
Danamarie Izzo, Asst. to the Village Manager - HR

DATE: September 5, 2012

RE: Liquor License – Bottle & Bottega – 498 Crescent Blvd.



Background

John Day is opening up a retail art store at 498 Crescent Blvd, for the purpose of offering an art event where participants learn to use a variety of mediums (mosaics, glass paintings, canvas paintings and more) to create their own piece of art. He will have an artist at each event to teach the class and will provide all of the materials. The art events will be approximately three hours. Part of the business model for Bottles & Bottega is a Bring your Own Bottle (BYOB). The BYOB concept is to enhance the Bottle & Bottega experience. Bottle & Bottega would provide the wine glasses, bottle opener and light snacks. Since we do not have a liquor license that would meet this type of business, the Class A-4 license was created. The Class A-4 shall authorize the BYOB on the specified premises during the art events. Any open bottle is to be sealed prior to the participant leaving the art event with the alcohol. The permitted hours are 1:00 p.m. through 9:00 p.m. Sunday through Thursday and 12:00 noon through 10:00 p.m. on Friday and Saturday. The business owner has provided all the necessary documents and the application fee with this license.

The following is a brief overview from John Day about Bottle & Bottega-Glen Ellyn (BBGE):

At the proposed studio site in the Village (498 Crescent Blvd), we would host BYOB art events where the participants would bring their own wine or beer to enjoy during the art parties. As currently planned, the space would be made up of three studios that could be combined depending on the size of the group (an average event has 15). The studio would typically only be open when classes are scheduled, the majority of which will be scheduled on weekday evenings and weekend afternoons and evenings. BBGE will partner with Glen Ellyn restaurants to provide BBGE guests with menu choices for food selections that can be picked up at or delivered by the restaurants.

BYOB has been a part of the Bottle & Bottega business model since its start in 2009. Some even say a glass of wine makes them a better painter. BBGE would provide wine glasses along with openers for attendees to use, however we would not pour or serve these beverages. The provision of light snacks will add to the social interchange at the event. BBGE does not wish to sell liquor, but merely use the BYOB concept to enhance the Bottle and Bottega experience.

The Company strategy is to offer:

"A sophisticated yet casual adult experience that is an alternative to a typical night out, a typical celebratory event, a typical team building session. Offers a variety of art experiences and mediums (mosaics, glass paintings, canvas paintings, live models and more).

The Bottle and Bottega “Art Party” product line consists of Public and Private Events. For all events, we do all of the work, providing all art supplies (including aprons) and an artist instructor for our guests to create art together. The art mediums are limitless spanning paintings to mosaics and food. Events are offered in studio or off-site (at businesses, homes and partner locations), and guests can enhance their experience with packages of decorations, catering, hands-on cooking lessons, wine tasting, live music, live models and more.”

B&B's main location is in Chicago (2900 N. Lincoln). A franchise just opened this month in LaGrange. Others that are approved but do not have a final site are in Evanston, Denver, and San Diego. More information on Bottle and Bottega can be found on their web site: <http://bottleandbottega.com/about-us>.

Action Requested

Establish the Class A-4 Liquor License and Authorize one (1) license. The Liquor Control Commission listened to John Day’s proposal and directed staff to prepare the attached ordinance.

Recommendations

Approve the Ordinance and issue the license

Attachments

Ordinance

Marketing Brochure

ORDINANCE No _____

**AN ORDINANCE EXPANDING LIQUOR LICENSES
TO BYOB OPERATIONS AND CREATING A NEW
CLASS “A-4” LIQUOR LICENSE—BOTTLE & BOTTEGA.**

WHEREAS, the Village of Glen Ellyn has received an application from a proposed business, Bottle & Bottega, proposed to be located at 498 Crescent Boulevard; and

WHEREAS, Bottle & Bottega is a business, which will offer meetings associated with the viewing or the production of art and at these meetings, Bottle & Bottega will provide the materials and a professional artist and will serve light snacks; and

WHEREAS, Bottle & Bottega has indicated to the Village that it wishes to invite its customers to bring alcoholic liquor, generally beer and wine, to such events; and

WHEREAS, the Village of Glen Ellyn wishes to require a license where an establishment offering at retail, goods or services, wishes to invite patrons to bring alcoholic liquor into the retail establishment, and the Village wishes to modify its ordinances to reflect that change, and

WHEREAS, the Corporate Authorities find that, where a retail establishment invites or permits its patrons to bring their own alcoholic liquor as beverages to be consumed at the retail establishment, all of the concerns of the Corporate Authorities regarding the misuse of alcoholic liquor come into play; and

WHEREAS, the purpose of this Ordinance is to clarify that a BYOB (“Bring Your Own (Alcoholic) Beverage”) operation in a retail establishment will require an application for and the granting of a liquor license within the Village of Glen Ellyn; and

WHEREAS, the Village has concluded, after consulting in detail with its Police Department that the dangers of the unregulated use of alcoholic liquor within a retail

establishment should be subject to the same general regulations as apply to all other facilities where alcoholic liquor is sold at retail of given away;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GLEN ELLYN, DU PAGE COUNTY, ILLINOIS, IN THE EXERCISE OF ITS HOME RULE POWERS, as follows:

SECTION 1: Chapter 19, "Liquor Control Code," in Section 3-19-7, shall be amended in that the first sentence of that section, with the rest of the section remaining the same shall be modified to read, as follows:

3-19-7: LICENSE REQUIRED:

It shall be unlawful to sell or offer for sale at retail, to give away or to keep with intention of selling at retail or giving away or in a business offering goods or services at retail permitting patrons to bring onto the premises, alcoholic liquor within the Village without having a local retail liquor dealer's license.

SECTION 2: Chapter 19, "Liquor Control Code," Section 3-19-11: "Classification of Licenses," shall be amended in that there shall be added to the Class "A" licenses, a new Class A-4 License, which shall be, as follows:

Class A-4 license which authorizes a retail facility offering goods or services relating to the viewing or the production of art, on the specified premises, to permit patrons to bring onto the premises and to consume alcoholic liquor but only when offered in conjunction with the goods or services offered for sale and offered in conjunction with the service of food, which can be light snacks. When patrons are permitted to bring onto the premises and consume alcoholic liquor, either the Owner or a Manager of the premises must be present. All alcoholic liquor brought onto the premises shall either be consumed on the premises or sealed if it is to be carried off the premises. The Owner or Manager will be required to observe the patrons to use their reasonable best efforts to prevent patrons from leaving the premises who are under the influence of the alcoholic liquor and the Owner or Manager will, in that case, offer the patron alternate transportation to their home, rather than permitting the patron to drive while under the influence of alcoholic liquor. The alternate transportation will be offered without charge.

SECTION 3: Chapter 19, "Liquor Control Code," Section 3-19-12: "Restriction on Number of Licenses:" shall be modified in that there shall be inserted at the appropriate place a new class of license, "Class A-4," with the designation "no more than 1."

SECTION 4: Chapter 19, "Liquor Control Code," Section 3-19-13: ; "License Fees," Section (A) shall be modified in that there shall be inserted at the appropriate place Class A-4" with an annual fee of \$500.00.

SECTION 5: This Ordinance amending the Glen Ellyn Code of Ordinances shall be reprinted in the volume which bears the title "Village Code."

SECTION 6: This Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form, as provided by law.

PASSED THIS _____ day of _____, 2012.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2012.

Village President

ATEST:

Village Clerk



Prepare to Release Your Inner Artist

Go ahead. Don't be afraid.
We'll take you through the process step by step.
It's **WAY** better than your kindergarten art class!
(this time there's wine)



We have an art party for every creative craving.

Host a party with us! We provide materials, an original work of art for inspiration and a professional artist as your guide. Parties are hosted at your chosen venue.

Public Art Parties

- Forget the bar scene and get into the art scene!
- Bring a friend
 - Make a friend
 - Improve your art
 - Enjoy your favorite beverage

Be sure to check out our Events Calendar!

Private Art Parties

Celebrate a special occasion or just have fun and enjoy some company. We'll find the artist in everyone just waiting to be uncorked!

- Birthdays
- Baby showers
- Bridal showers
- Bachelorette parties
- Just because!

Corporate Art Parties

There are lots of reasons to throw an art party for employees—and no excuses for anything dull. We'll plan a customized, interactive event that your team will be crazy about and applaud!

- Foster teamwork
- Celebrate success
- Generate creativity
- Raise morale
- Show appreciation



bottle & bottega
ART UNCORKED

www.bottleandbottega.com/glennlyn

Ask about our franchise opportunities!



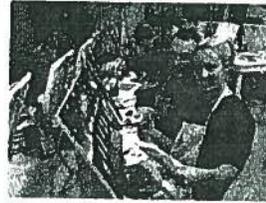
There's nothing like a friend with connections.
Join us on Facebook!



Check out cool photos of friends hosting friends at art parties.

•
 Get updated on upcoming public parties and specials.

•
 And tell your friends about us!



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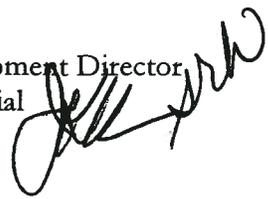
630-984-4955

Ask about our franchise opportunities!

A-69

MEMORANDUM

TO: Mark Franz, Village Manager

FROM: Staci Hulseberg, Planning and Development Director
 Joe Kvpil, Building and Zoning Official 

DATE: September 4, 2012

FOR: September 10, 2012 Village Board Meeting

RE: 254 Glenwood Avenue – Fourth Variation Extension

Background. On October 23, 2006, the Village Board approved a lot width variation for 254 Glenwood Avenue to allow the construction of a new home on this lot which has a width of 48.45 feet. A minimum lot width of 66 feet is required in the R2 Residential District where the property is located. The variation was recommended for approval by the ZBA by a vote of 6-0. No one spoke at the ZBA public hearing in opposition to the request. By a vote of 6-0, the Village Board subsequently passed Ordinance 5513 which approved the request.

The lot width variation approved by Ordinance 5513 has since been extended by the Village Board on three occasions, including on February 11, 2008 by the adoption of Ordinance 5652, on September 28, 2009 by the adoption of Ordinance 5797 and on March 28, 2011 by the adoption of Ordinance 5926. The lot width variation is set to once again expire on October 23, 2012. Due to current market conditions, the property owner, Ray Whalen, is requesting a 12-month extension. The conditions related to this variation request have not changed since the original request was approved in 2006.

On September 10, 2010, the Village Board approved Ordinance 5887 which grants the Planning and Development Director the authority to grant up to one 12-month extension. The granting of such a request is at the discretion of the Planning and Development Director. Subsequent requests for Ordinance extensions must be considered by the Village Board. The previous three requests were considered by the Board and the current extension request will extend this request to 5.5 years beyond the original expiration date.

Action Requested. The Village Board is being asked to consider the petitioner's request for a fourth and final extension of the lot width variation approved by Ordinance 5513. Language has been added to the ordinance indicating this will be the final extension for this variation. A draft Ordinance approving the request and extending the length of the original variation approval to October 23, 2013 is attached.

Attachments.

- Email from Ray Whalen dated August 14, 2012
- Ordinance 5513
- Ordinance 5652
- Ordinance 5797
- Ordinance 5926
- Draft Ordinance

Cc: Joe Kvpil, Building and Zoning Official
 X:\Plandev\BUILDING\ZBA\MEMOS\GLENWOOD254 - EXT 5.doc

Staci Hulseberg

From: rjw177@aol.com
Sent: Tuesday, August 14, 2012 6:30 PM
To: Staci Hulseberg
Subject: Variation Extension

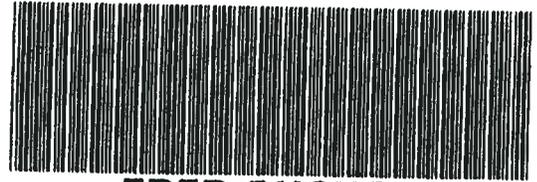
Hello Staci,

I am writing to request a further extension of Ordinance No. 5797, which granted a lot width variation for the property at 254 Glenwood Avenue, Glen Ellyn, due to expire on October 23, 2012. I am requesting extension of the expiration date for an additional twelve (12) months in consideration of the following conditions:

1. The economic downturn and its' impact on new construction has reached historical proportion.
2. The variation requested will have no negative impact on surrounding or other properties in the Village of Glen Ellyn if granted.
3. Without a variation in effect, the value of this property may further decline, thereby impacting surrounding properties.
4. Additionally, over the years, to my knowledge, lot width variation requests with similar circumstances have historically been granted by the Village of Glen Ellyn.
5. If it expires and the process must begin again, it would unfortunately require repetition of much of the work that staff and commission and board members have already expended, which is a waste of staff/commissioners/board members time and effort in my estimation and incurs greater cost to me as applicant.

I gratefully acknowledge your attention to this matter. Please advise regarding your thoughts.

Very truly,
Ray Whalen



FRED BUCHOLZ
DUPAGE COUNTY RECORDER
DEC. 15, 2006 11:29 AM
OTHER 05-14-121-019
011 PAGES R2006-241083

Village of Glen Ellyn

Ordinance No. 5513

**An Ordinance Approving a Variation from the
Lot Width Requirements
Of the Zoning Code
To Allow the Construction of a New Two-Story Single-Family Residence
On the Property at
254 Glenwood Avenue**

Adopted by the
President and the Board of Trustees
Of the Village of Glen Ellyn
DuPage County, Illinois
This 23 Day Of October, 2006.

Published in pamphlet form by the authority of the
President and Board of Trustees of the Village of
Glen Ellyn, DuPage County, Illinois, this 26
day of October, 2006.

PREPARED BY AND MAIL TO
VILLAGE OF GLEN ELLYN
ATTN: VILLAGE CLERK
535 Duane Street
Glen Ellyn, IL 60137

Ordinance No. 5513

**An Ordinance Approving a Variation from the
Lot Width Requirements
Of the Zoning Code
To Allow the Construction of a New Two-Story Single-Family Residence
On the Property at
254 Glenwood Avenue**

Whereas, Ray Whalen, contract purchaser and authorized agent for Gary and Ellen Green, owners of the property at 254 Glenwood Avenue, Glen Ellyn, Illinois, which is legally described as follows:

The North half of Lot 4 in Block 2 of J. W. Turner's Addition to Glen Ellyn, being a Subdivision in Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 14, 1910, as document No. 99833, in DuPage County, Illinois.

P.I.N.: 05-14-121-019

has petitioned the President and Board of Trustees of the Village of Glen Ellyn for a variation from Section 10-4-5(D)8(a) to allow the construction of a new home on a lot with a width of 48.45 feet in lieu of the minimum required lot width of 66 feet; and

Whereas, following due notice by publication in The Glen Ellyn News not less than fifteen (15) nor more than thirty (30) days prior thereto, and by mailing notice to all property owners within 250 feet of the subject property at least ten (10) days prior thereto, and following the placement of a placard on the subject property not less than fifteen (15) days prior thereto, the Glen Ellyn Zoning Board of Appeals conducted a public hearing on September 26, 2006, at which the petitioner presented evidence, testimony, and exhibits in support of the variation request and one person appeared in favor of and no persons appeared in opposition thereto; and

Whereas, based upon the evidence, testimony, and exhibits presented at the public hearing, the Zoning Board of Appeals adopted findings of fact and, by a vote of six “yes” and zero “no,” recommended that the variation be approved as set forth in its Report and Recommendation dated September 26, 2006, appended hereto as Exhibit "A"; and

Whereas, the President and Board of Trustees have reviewed the exhibits and evidence presented at the aforementioned public hearing and have considered the findings of fact and recommendations of the Zoning Board of Appeals; and

Whereas, the President and Board of Trustees make the following findings of fact:

- A. Any development on the subject property would require a variation;
- B. The proposed new house would be in conformance with all other relevant Building and Zoning Code regulations;
- C. Adjacent properties do not have land available that could be acquired to increase the size of the subject property;
- D. Numerous developed properties in the neighborhood possess similar size characteristics;
- E. The deteriorated condition of the existing house makes it impractical to remodel or construct an addition; and
- F. The proposed home will conform to the essential character of the neighborhood; and

Whereas, the President and Board of Trustees, based on the aforementioned findings of fact, find it appropriate to grant the variation as recommended by the Zoning Board of Appeals;

Now, therefore be it ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in exercise of its home rule powers, as follows:

Section One: The Report and Recommendation of the Glen Ellyn Zoning Board of Appeals, Exhibit "A" appended hereto, is hereby accepted, and the findings of fact and conclusions set forth in the preamble above are hereby adopted as the findings of fact and conclusions of the corporate authorities of the Village of Glen Ellyn.

Section Two: Based upon the above findings of fact, the President and Board of Trustees hereby approve a variation from Section 10-4-5(D)8(a) to allow the construction of a new home on a lot with a width of 48.45 feet in lieu of the minimum required lot width of 66 feet for property at 254 Glenwood Avenue, Glen Ellyn, Illinois, which is legally described as follows:

The North half of Lot 4 in Block 2 of J.W. Turner's Addition to Glen Ellyn, being a Subdivision in Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 14, 1910, as document No. 99833, in DuPage County, Illinois.

P.I.N.: 05-14-121-019.

Section Three: The grant of variation is conditioned upon the construction of the new home being in substantial compliance with the testimony provided at the September 26, 2006, Zoning Board of Appeals meeting and the Petitioner's Application for Variation, including:

- Table of Contents
- Letter from Owners dated August 28, 2006 authorizing Ray Whalen permission to seek variations
- Proof of Ownership (Warranty Deed)
- Plat of Survey
- Building Sketches dated August 28, 2006 including:
 - Site Plan
 - Front Elevation
- Site Information
- Real Estate Contract
- Zoning Worksheet
- Photos of existing home

Section Four: The Building and Zoning Official is hereby authorized and directed to issue building permits for the subject property, consistent with the variation granted herein, provided that all conditions set forth hereinabove have been met and all other applicable laws and ordinances are complied with. This grant of variation shall expire and become null and void eighteen (18) months from the date of passage of this Ordinance unless a building permit to begin construction in reliance on this variation is applied for within said eighteen (18)-month time period and construction is continuously and vigorously pursued, provided, however, the Village Board, by motion, may extend the period during which permit application, construction, and completion shall take place.

Section Five: The Planning and Development Department is hereby authorized and directed to cause a copy of this Ordinance approving the variation to be recorded with the DuPage County Recorder of Deeds.

Section Six: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form.

Section Seven: Failure of the owner or other party in interest or a subsequent owner or other party in interest to comply with the terms of this Ordinance, after execution of said Ordinance, shall subject the owner or party in interest to the penalties set forth in Section 10-10-18 "A" and "B" of the Village of Glen Ellyn Zoning Code.

PASSED by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this 23 day of October, 2006.

Ayes: *Pfefferman, Naitan, Armstrong, Chopman,*
Gardner, Lee

Nays: - 0 -

Absent: - 0 -

Approved by the Village President of the Village of Glen Ellyn, Illinois, this 23 day of October, 2006.

Wicky Hase
Village President of the
Village of Glen Ellyn, Illinois

Attest:

Andrea Mathis
Village Clerk of the
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the 26 day of October, 2006 .)

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Exhibit "A"

**Report and Recommendation of the
Glen Ellyn Zoning Board of Appeals
on the Petition of Ray Whalen, contract purchaser
and authorized agent for Gary and Ellen Green,
for a Lot Width Variation
at 254 Glenwood Avenue
September 26, 2006**

TO: The President and Board of Trustees,
Village of Glen Ellyn, Illinois

Ray Whalen, contract purchaser and authorized agent for Gary and Ellen Green, owners of the property at 254 Glenwood Avenue, is proposing to construct a two-story, single-family residence in place of an existing non-conforming house on a non-conforming lot. The zoning for the property requires that all properties have a minimum lot width. The property owners are requesting approval of a variation from the Glen Ellyn Zoning Code, Section 10-4-5(D)8(a), to allow the construction of a new home on a lot with a width of 48.45 feet in lieu of the minimum required lot width of 66 feet.

The petitioner was referred to the Zoning Board of Appeals to conduct a public hearing thereon as required by the Zoning Code. The Zoning Board of Appeals set the date of the required public hearing for Tuesday, September 26, 2006. Notice of the public hearing was published in The Glen Ellyn News on September 7, 2006. Notices were sent to the property owners within 250 feet of the subject property as required. A sign was placed on the subject property announcing that a public hearing would be held regarding the site.

The Zoning Board of Appeals issued the following Report and Recommendation:

I. Report:

- A. Location -- The property is located on the west side of Glenwood Avenue between Turner Avenue and Greenfield Avenue. The property is legally described as follows:

The North half of Lot 4 in Block 2 of J.W. Turner's Addition to Glen Ellyn, being a Subdivision in Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 14, 1910, as document No. 99833, in DuPage County, Illinois.

P.I.N.: 05-14-121-019

- B. Characteristics of the Surrounding Area -- The property at 254 Glenwood Avenue and the surrounding areas are zoned R2 - Residential District. The properties consist of a variety of lot sizes and building configurations.

- C. Public Hearing -- Mr. Wilson, Building and Zoning Official, reviewed the characteristics of the property and the surrounding area, presented plans of the proposed new two-story single-family residence and introduced the requested variation. Mr. Wilson described the lot configuration and setback definitions as they relate to this property as well as the layout of the home. He explained that the variation is being requested because the Zoning Code prohibits redevelopment of lots that are less than 50 feet wide without a variation and that the structure complies with all zoning code regulations.

Ray Whalen described the existing structure that would be demolished as well as the new replacement structure. He indicated that the existing home is outdated and that many of the components such as the electrical systems, mechanical systems, plumbing and structure could not be saved. He indicate that the lot was platted as a 50-foot wide lot but the accuracy of the surveys reduced the front lot line to 49.95 feet and the definition for lot width is the width at the minimum front setback. The lot narrows from front to back, which creates the 48.45-foot lot. Mr. Whalen reiterated that the new structure would comply with all zoning requirements.

One person spoke in favor of the request.

Tony Vopenka of 251 Sunset

Mr. Vopenka remarked that he supported the variation and wondered what would happen to the older home if a variation were not granted. He did not want to see a blighted structure left in perpetuity.

No persons appeared in opposition to the request.

D. Exhibits:

- Exhibit 1: Staff Report from the Building & Zoning Official to the Zoning Board of Appeals dated September 19, 2006.
- Exhibit 2: Notice of Public Hearing, published in the September 7, 2006, edition of The Glen Ellyn News, names and addresses of property owners notified, and location map.
- Exhibit 3: Application for Variation including:
- Table of Contents
 - Letter from Owners dated August 28, 2006 authorizing Ray Whalen permission to seek variations
 - Proof of Ownership (Warranty Deed)
 - Plat of Survey
 - Building Sketches dated August 28, 2006 including:
 - o Site Plan
 - o Front Elevation

- Site Information
- Real Estate Contract
- Zoning Worksheet
- Photos of existing home

E. Deliberations: The Zoning Board of Appeals discussed the request based on testimony presented by the petitioner and the public. The ZBA agreed with the petitioner's request. The ZBA felt that the narrow lot was platted long before the current lot width requirements and that purchasing adjacent land is a hardship. This property could not be redeveloped without a variation and the builder demonstrated that the zoning characteristics of the lot would be consistent with wider lots as the new structure will comply with all other applicable zoning requirements. The ZBA felt that the design and placement of the structure on the lot are consistent with other homes in the area. The ZBA also referred back to similar variations granted for the redevelopment of other properties that were less than 50 feet in width, all of which were occupied by an existing structure.

F. Findings of Fact: After hearing testimony from the petitioner, the Zoning Board of Appeals established the following Findings of Fact:

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would bring particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out because the property could not be developed.
2. That the conditions upon which the petition for variation is based would not be applicable generally to the other properties within the same zoning district because other properties meet the current required regulations.
3. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property because the owner is redeveloping the property as the only plausible solution for this property.
4. That the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property or by the applicant because the property was platted long before the current minimum lot width requirements.
5. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located because the new home will meet the same setbacks as a conforming lot.
6. That the proposed variation:
 - a). Will not impair an adequate supply of light and air to adjacent property;
 - b). Will not substantially increase the hazard from fire or other dangers to said

- c). property or adjacent property;
Will not otherwise impair the public health, safety, comfort, morals, or general welfare of the inhabitants of the Village;
 - d). Will not diminish or impair property values within the neighborhood;
 - e). Will not unduly increase traffic congestion in the public streets and highways;
 - f). Will not create a nuisance; or
 - g). Will not result in an increase in public expenditures.
7. That the variation is the minimum variation that will make possible the reasonable use of the land, building or structure because the characteristics of the new home are consistent with other properties in the area.

II. Recommendation:

The Zoning Board of Appeals forwards to the Village Board the following recommendation: On a motion made to approve the requested variation by Member Siligmueller and seconded by member Waterman, the Zoning Board of Appeals recommends that the Village Board approve the requested variation from the Glen Ellyn Zoning Code, Section 10-4-5(D)8(a), to allow the construction of a new home on a lot with a width of 48.45 feet in lieu of the minimum required lot width of 66 feet.

Upon a roll call vote, Board Members Fried, Kolar, Ozog, Siligmueller, Waterman and Chairman Garrity voted "yes". The motion to approve the requested variation carried unanimously with six "yes" votes.

The Zoning Board of Appeals has found that a practical difficulty or particular hardship exists because the lot cannot be redeveloped without a variation. If a variation were denied, the existing house would become dilapidated and blighted if not maintained. The ZBA felt that the proposed home fits the character of the neighborhood and lot as it will comply with all applicable building and zoning code requirements.

Respectfully submitted,



Richard Garrity, Chairman
Zoning Board of Appeals

Date of Hearing: September 26, 2006

Present: Members Fried, Kolar, Ozog, Siligmueller, Waterman and Chairman Garrity

Absent: Member Leuzzi

Also Present: Trustee Liaison Pfefferman, Building and Zoning Official Wilson and Transcriber Utterback



CERTIFICATION

I, Andrea L. Draths, duly elected Village Clerk of the Village of Glen Ellyn, Illinois, do hereby certify that the attached is the true original copy of Ordinance No. 5513, passed by the Board of Trustees of the Village of Glen Ellyn, Illinois, at the Regular Meeting of said Board held on the 23 day of October, 2006, and that the same was signed and approved by the President of said Village on the 23 day of October, 2006.

I do further certify that the original is entrusted to me as Village Clerk of said Village for safekeeping and that I am the lawful custodian and keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Glen Ellyn, Illinois, this 15 day of November, 2006.

Andrea Draths
Village Clerk

CORPORATE SEAL.

Village of Glen Ellyn

Ordinance No. 5652

**An Ordinance Extending the Expiration Date
of Ordinance No. 5513 which Granted
a Variation from the Lot Width Requirements
For Property at 254 Glenwood Avenue**

Adopted by the
President and Board of Trustees
Of the Village of Glen Ellyn
DuPage County, Illinois
this 11 day of February, 20 08.

Published in pamphlet form by the authority of the
President and Board of Trustees of the Village of
Glen Ellyn, DuPage County, Illinois, this 13
day of February, 20 08.

Ordinance No. 5652

**An Ordinance Extending the Expiration Date
of Ordinance No. 5513 which Granted
a Variation from the Lot Width Requirements
For Property at 254 Glenwood Avenue**

Whereas, Ray Whalen, contract purchaser and authorized agent for Gary and Ellen Green, owners of the property at 254 Glenwood Avenue, Glen Ellyn, Illinois, which is legally described as follows:

The North half of Lot 4 in Block 2 of J. W. Turner's Addition to Glen Ellyn, being a Subdivision in Section 14, Township 39 North, Range 10, East of the Third Principal Meridian, according to the Plat thereof recorded March 14, 1910, as document No. 99833, in DuPage County, Illinois.

P.I.N.: 05-14-121-019

requested a Lot Width variation for the construction of a new home on a lot with a width of 48.45 feet in lieu of the minimum required lot width of 66 feet and appeared before the Zoning Board of Appeals on September 26, 2006; and

Whereas, the Village President and Board of Trustees of the Village of Glen Ellyn passed Ordinance No. 5513 on October 23, 2006, which granted a variation from the lot width requirements of the Zoning Code for the property at 254 Glenwood Avenue; and

Whereas, Section Four in Ordinance No. 5513 indicates that the grant of variations shall become null and void eighteen (18) months from the date of passage; and

Whereas, Ray Whalen has requested an extension of the expiration date to October 23, 2009, as outlined in the email dated January 17, 2008, which is attached hereto as "Exhibit A"; and

Whereas, the Village President and Board of Trustees have considered said request and have determined that good cause has been shown to grant an extension until October 23, 2009, and that it is in the best interest of the Village of Glen Ellyn that this extension be granted.

Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in the exercise of its home rule powers, as follows:

Section One: A building permit to begin construction in reliance on these variations must be applied for by October 23, 2009, and construction must thereafter be continuously and vigorously pursued.

Section Two: In the event a permit is not submitted for the construction as approved within the prescribed extended time frame, then the Village Board, without the requirement for a public hearing, may, by motion, grant an additional time extension.

Section Three: This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form.

Passed by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this 11 day of February, 2008.

Ayes: Lee, Comerford, Lodesic, Norton, Sharsell

Nays: - 0 -

Absent: Recuse: Armstrong

Approved by the Village President of the Village of Glen Ellyn, Illinois, this 11 day of February, 2008.

Wichy Hase
Village President of the
Village of Glen Ellyn, Illinois

Attest:

Andrea Mathis
Village Clerk of the
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the 13 day of February 2008).

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Staci Hulseberg

Exhibit "A"

From: RJW177@aol.com [mailto:RJW177@aol.com]
Sent: Thursday, January 17, 2008 8:20 AM
To: Staci Hulseberg
Subject: 254 Glenwood Avenue

Staci,

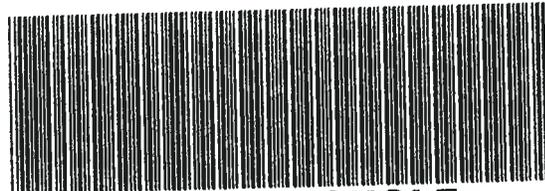
I am writing to request of the Village Board an extension of ordinance 5513, received on October 23, 2006 approving a variation for lot width respective to 254 Glenwood Avenue, Glen Ellyn. It was a unanimous decision on behalf of both the Village Board and Zoning Board of Appeals. I am requesting an extension of an additional eighteen (18) months in consideration of current market conditions.

I gratefully acknowledge your attention to this matter. Please advise should you require any additional information.

Very truly,

Ray Whalen

Start the year off right. [Easy ways to stay in shape](#) in the new year.



5

FRED BUCHOLZ
DUPAGE COUNTY RECORDER
DEC.30,2009 12:20 PM
OTHER 05-14-121-019
006 PAGES R2009-194565

Village of Glen Ellyn

Ordinance No. 5797

An Ordinance Extending the Expiration Date
of Ordinance No. 5513, which was Previously Extended
by Ordinance No. 5652 which Granted a Variation
from the Lot Width Requirements
For Property at 254 Glenwood Avenue
Glen Ellyn, IL 60137

Adopted by the
President and Board of Trustees
Of the Village of Glen Ellyn
DuPage County, Illinois
this 28 day of Sept., 2009.

Published in pamphlet form by the authority of the
President and Board of Trustees of the Village of
Glen Ellyn, DuPage County, Illinois, this 30
day of Sept., 2009.

PREPARED BY AND MAIL TO:
VILLAGE OF GLEN ELLYN
ATTN: VILLAGE CLERK
535 Duane Street
Glen Ellyn, IL 60137

Ordinance No. 5797

**An Ordinance Extending the Expiration Date
of Ordinance No. 5513, which was Previously Extended
by Ordinance No. 5652 which Granted a Variation
from the Lot Width Requirements
For Property at 254 Glenwood Avenue
Glen Ellyn, IL 60137**

Whereas, Ray Whalen, owner of the property at 254 Glenwood Avenue, Glen Ellyn, Illinois,
which is legally described as follows:

The North half of Lot 4 in Block 2 of J. W. Turner's Addition to Glen Ellyn, being a
Subdivision in Section 14, Township 39 North, Range 10, East of the Third Principal
Meridian, according to the Plat thereof recorded March 14, 1910, as document No. 99833, in
DuPage County, Illinois.

P.I.N.: 05-14-121-019

requested a Lot Width variation for the construction of a new home on a lot with a width of 48.45
feet in lieu of the minimum required lot width of 66 feet and appeared before the Zoning Board of
Appeals on September 26, 2006; and

Whereas, the Village President and Board of Trustees of the Village of Glen Ellyn passed
Ordinance No. 5513 on October 23, 2006, which granted a variation from the lot width requirements
of the Zoning Code for the property at 254 Glenwood Avenue; and

Whereas, the Village President and Board of Trustees of the Village of Glen Ellyn passed
Ordinance No. 5652 on February 11, 2008, which granted an extension from the expiration date until
October 23, 2009 for the property at 254 Glenwood Avenue; and

Whereas, Section One in Ordinance No. 5652 indicates that a building permit to begin construction must be applied for by October 23, 2009; and

Whereas, Section Two in Ordinance No. 5652 indicates that in the event a permit is not submitted for construction within this time frame, then the Village Board, without the requirement for a Public Hearing, may, by motion, grant an additional time extension; and

Whereas, Ray Whalen has requested an extension to the expiration date of October 23, 2009, as outlined in the email dated July 23, 2009, which is attached hereto as "Exhibit A"; and

Whereas, the Village President and Board of Trustees have considered said request and have determined that good cause has been shown to grant an extension until April 23, 2011, and that it is in the best interest of the Village of Glen Ellyn that this extension be granted.

Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in the exercise of its home rule powers, as follows:

Section One: A building permit to begin construction in reliance on these variations must be applied for by April 23, 2011, and construction must thereafter be continuously and vigorously pursued.

Section Two: In the event a permit is not submitted for the construction as approved within the prescribed extended time frame, then the Village Board, without the requirement for a public hearing, may, by motion, grant an additional time extension.

Section Three: This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form.

Passed by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this

28 day of September, 2009.

Ayes: *Ibsrael, Hartweg, Comerford, Henning, Godwin*

Nays: *- 0 -*

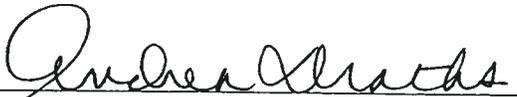
Absent: *Cooper*

Approved by the Village President of the Village of Glen Ellyn, Illinois, this 28 day of September, 2009.



Village President of the
Village of Glen Ellyn, Illinois

Attest:



Village Clerk of the
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the 30 day of September, 2009).

Staci Hulseberg

Exhibit "A"

From: RJW177@aol.com
Date: Thursday, July 23, 2009 11:55 AM
Subject: Staci Hulseberg
254 Glenwood Avenue

Hello Staci,

I am writing to request an extension of Ordinance number 5562, which was originally an extension of Ordinance number 5513, dated October 23, 2006, granting variation from lot width requirements. This Ordinance was extended once prior. Due to the unique nature of the present economic climate, I am requesting an extension at this time, in consideration of the lack of sales. Similar requests have been granted multiple times by the Village Board and I am requesting same in advance of expiration, as I do not wish to allow this to expire. Please advise.

Thanks very much,
Ray Whalen

Dell Deals: Treat yourself to a sweet deal on popular laptops!



CERTIFICATION

I, Andrea Draths, duly elected Village Clerk of the Village of Glen Ellyn, Illinois, do hereby certify that the attached is the true original copy of Ordinance No. 5797, passed by the Board of Trustees of the Village of Glen Ellyn, Illinois, at the Regular Meeting of said Board held on the 28 day of Sept. 2009, and that the same was signed and approved by the President of said Village on the 28 day of Sept. 2009.

I do further certify that the original is entrusted to me as Village Clerk of said Village for safekeeping and that I am the lawful custodian and keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Glen Ellyn, Illinois, this 28 day of December 2009.

Andrea Draths
Village Clerk

CORPORATE SEAL

Village of Glen Ellyn

Ordinance No. 5926

**An Ordinance Extending the Expiration Date
of Ordinance No. 5513 which was Previously Extended
by Ordinance Nos. 5652 and 5797 and which Granted a Variation
from the Lot Width Requirements
For Property at 254 Glenwood Avenue
Glen Ellyn, IL 60137**

**Adopted by the
President and Board of Trustees
Of the Village of Glen Ellyn
DuPage County, Illinois
this 28th day of March, 2011.**

Published in pamphlet form by the authority of the
President and Board of Trustees of the Village of
Glen Ellyn, DuPage County, Illinois, this 29th
day of March, 2011.

Ordinance No. 5926

**An Ordinance Extending the Expiration Date
of Ordinance No. 5513 which was Previously Extended
by Ordinance Nos. 5652 and 5797 and which Granted a Variation
from the Lot Width Requirements
For Property at 254 Glenwood Avenue
Glen Ellyn, IL 60137**

Whereas, Ray Whalen, owner of the property at 254 Glenwood Avenue, Glen Ellyn, Illinois,
which is legally described as follows:

The North half of Lot 4 in Block 2 of J. W. Turner's Addition to Glen Ellyn, being a
Subdivision in Section 14, Township 39 North, Range 10, East of the Third Principal
Meridian, according to the Plat thereof recorded March 14, 1910, as document No. 99833, in
DuPage County, Illinois.

P.I.N.: 05-14-121-019

requested a lot width variation for the construction of a new home on a lot with a width of 48.45 feet
in lieu of the minimum required lot width of 66 feet and appeared before the Zoning Board of
Appeals on September 26, 2006; and

Whereas, the Village President and Board of Trustees of the Village of Glen Ellyn passed
Ordinance No. 5513 on October 23, 2006, which granted a variation from the lot width requirements
of the Zoning Code for the property at 254 Glenwood Avenue; and

Whereas, the Village President and Board of Trustees of the Village of Glen Ellyn passed
Ordinance No. 5652 on February 11, 2008, which granted an extension from the expiration date until
October 23, 2009 and Ordinance No. 5797 on September 28, 2009, which granted an extension from
the expiration date until April 23, 2011 for the property at 254 Glenwood Avenue; and

Whereas, Section One in Ordinance No. 5797 indicates that a building permit to begin construction must be applied for by April 23, 2011; and

Whereas, Section Two in Ordinance No. 5797 indicates that in the event a permit is not submitted for construction within this time frame, then the Village Board, without the requirement for a Public Hearing, may, by motion, grant an additional time extension; and

Whereas, Ray Whalen has requested an extension to the expiration date of April 23, 2011, as outlined in the email dated February 24, 2011, which is attached hereto as "Exhibit A"; and

Whereas, the Village President and Board of Trustees have considered said request and have determined that good cause has been shown to grant an extension until October 23, 2012, and that it is in the best interest of the Village of Glen Ellyn that this extension be granted.

Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in the exercise of its home rule powers, as follows:

Section One: A building permit to begin construction in reliance on these variations must be applied for by October 23, 2012, and construction must thereafter be continuously and vigorously pursued.

Section Two: In the event a permit is not submitted for the construction as approved within the prescribed extended time frame, then the Village Board, without the requirement for a public hearing, may, by motion, grant an additional time extension.

Section Three: This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form.

Passed by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this

28th day of March, 2011.

Ayes: *Thorsell, Comerford, Cooper, Hartweg, Ladesic*

Nays: - 0 -

Absent: *Henninger*

Approved by the Village President of the Village of Glen Ellyn, Illinois, this 28th day of

March, 2011.



Village President of the
Village of Glen Ellyn, Illinois

Attest:

Suzanne R. Connors

Village Clerk of the
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the 29th day of March 2011).

Staci Hulseberg

Subject: FW: Variation Extension

From: rjw177@aol.com [mailto:rjw177@aol.com]
Sent: Thursday, February 24, 2011 1:15 PM
To: Staci Hulseberg
Subject: Variation Extension

Hello Staci,

I am writing to request a further extension of Ordinance No. 5797, which granted a lot width variation for the property at 254 Glenwood Avenue, Glen Ellyn, due to expire on April 23, 2011. I am requesting extension of the expiration date for an additional eighteen (18) months in consideration of current market conditions.

I gratefully acknowledge your attention to this matter. Please advise should you require any additional information.

Very truly,
Ray Whalen

Village of Glen Ellyn

Ordinance No. _____

**An Ordinance Extending the Expiration Date
of Ordinance No. 5513 which was Previously Extended
by Ordinance Nos. 5652, 5797 and 5926 which Granted a Variation
from the Lot Width Requirements
For Property at 254 Glenwood Avenue
Glen Ellyn, IL 60137**

**Adopted by the
President and Board of Trustees
Of the Village of Glen Ellyn
DuPage County, Illinois
this ____ day of _____, 20 ____.**

Published in pamphlet form by the authority of the
President and Board of Trustees of the Village of
Glen Ellyn, DuPage County, Illinois, this _____
day of _____, 20 ____.

Ordinance No. _____

**An Ordinance Extending the Expiration Date
of Ordinance No. 5513 which was Previously Extended
by Ordinance Nos. 5652, 5797 and 5926 which Granted a Variation
from the Lot Width Requirements
For Property at 254 Glenwood Avenue
Glen Ellyn, IL 60137**

Whereas, Ray Whalen, owner of the property at 254 Glenwood Avenue, Glen Ellyn, Illinois,
which is legally described as follows:

The North half of Lot 4 in Block 2 of J. W. Turner's Addition to Glen Ellyn, being a
Subdivision in Section 14, Township 39 North, Range 10, East of the Third Principal
Meridian, according to the Plat thereof recorded March 14, 1910, as document No. 99833, in
DuPage County, Illinois.

P.I.N.: 05-14-121-019

requested a lot width variation for the construction of a new home on a lot with a width of 48.45 feet
in lieu of the minimum required lot width of 66 feet and appeared before the Zoning Board of
Appeals on September 26, 2006; and

Whereas, the Village President and Board of Trustees of the Village of Glen Ellyn passed
Ordinance No. 5513 on October 23, 2006, which granted a variation from the lot width requirements
of the Zoning Code for the property at 254 Glenwood Avenue; and

Whereas, the Village President and Board of Trustees of the Village of Glen Ellyn passed
Ordinance No. 5652 on February 11, 2008, which granted an extension from the expiration date until
October 23, 2009, Ordinance No. 5797 on September 28, 2009, which granted an extension from the
expiration date until April 23, 2011 and Ordinance No. 5926 on March 11, 2011 which granted an

extension from the expiration date until October 23, 2012 for the property at 254 Glenwood Avenue;
and

Whereas, Section One in Ordinance No. 5926 indicates that a building permit to begin construction must be applied for by October 23, 2012; and

Whereas, Section Two in Ordinance No. 5926 indicates that in the event a permit is not submitted for construction within this time frame, then the Village Board, without the requirement for a Public Hearing, may, by motion, grant an additional time extension; and

Whereas, Ray Whalen has requested an extension to the expiration date of October 23, 2012, as outlined in the email dated August 14, 2012, which is attached hereto as "Exhibit A"; and

Whereas, the Village President and Board of Trustees have considered said request and have determined that good cause has been shown to grant an extension until October 23, 2013, and that it is in the best interest of the Village of Glen Ellyn that this extension be granted.

Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in the exercise of its home rule powers, as follows:

Section One: A building permit to begin construction in reliance on these variations must be applied for by October 23, 2013, and construction must thereafter be continuously and vigorously pursued.

Section Two: This extension shall be the final extension for the lot width variation granted by Ordinance No. 5513, and further extension requests will not be considered.

Section Three: This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form.

Passed by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this _____ day of _____, 20_____.

Ayes:

Nays:

Absent:

Approved by the Village President of the Village of Glen Ellyn, Illinois, this _____ day of _____, 20_____.

Village President of the
Village of Glen Ellyn, Illinois

Attest:

Village Clerk of the
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the _____ day of _____).

X:\Plandev\BUILDING\ZBA\ORDINANCE\GLENWOOD254- EXT 4.doc

A-6H

MEMORANDUM

TO: Mark Franz, Village Manager
FROM: Staci Hulseberg, Director of Planning & Development
DATE: August 28, 2012
RE: Potential Duane Street Commuter Parking Lot Resolution



Introduction

In April 2012 the Village Board approved a motion authorizing the execution of an agreement to purchase 460-478 Duane Street for the sum of \$445,000.00 and the operation of a parking lot by the Village pursuant to a Commuter Facility Improvement Funding Agreement with Metra. The agreement would provide funds for the project in an amount of \$780,000. A copy of the agenda memo for that action is attached. The closing for the purchase of the property is scheduled for September 20. In advance of the closing, the Village must approve a Resolution authorizing the purchase. An amendment to the previously approved agreement is also necessary to address some minor issues that have arisen during the last couple months.

Background

In 1999, the Village was awarded a federal Congestion Mitigation and Air Quality (CMAQ) grant administered by Metra in the amount of \$780,000 for the construction of a new commuter parking lot on the vacant property south of the intersection of Western and Pennsylvania. Harris Bank subsequently purchased the property and developed a local bank on the site. Since that time, the Village has worked to find an alternate location to use the grant funds for the construction of a commuter parking lot. Over the years, the Village has discussed a number of potential locations for the lot. Metra has informed us that if the grant funds are not used soon, they will be eliminated.

Earlier this year, the Village Board decided to use the grant funds for the construction of a commuter parking lot on the property located at 460-478 Duane Street, immediately west of Citibank. The Village had previously approved the construction of seven townhomes on this site in May 2009. However, the development never went forward and the approving ordinance expired in November 2011. The property was ultimately foreclosed upon by Elgin State Bank.

There is currently a demand for downtown commuter permit parking spaces evidenced by a waiting list. Similar to the other commuter parking lots in the downtown, the spaces would be available to the public at no charge after 11 am.

Please note that a special use permit and exterior appearance approval are required prior to the construction of a commuter parking lot on the property. In the past, the Village Attorney has advised that the Village may choose to amend the Village Code to exempt Village projects on Village property from zoning and architectural review processes. Perhaps this may be an appropriate time to consider such an amendment.

Issues

Attorney Paula Randall has informed us that the Village's purchase or sale of property should generally be approved by Resolution for purposes of removing title exceptions reflected on title commitments. Please see a Resolution prepared by Attorney Randall attached.

As we have progressed through the process, we have also identified a couple of changes necessary to the previously approved agreement including the identification of a completion date (May 1, 2014), defining how the deal would unwind if the Village were not to approve the zoning for the commuter parking lot, and modifying an incorrect purchase price identified in the original agreement. Attorney Randall has reviewed and approved the proposed amendment. A copy of the amendment is attached for your review.

Action Requested

Approval of the attached Resolution.

Attachments: Resolution with Attachments
Village Board Agenda Memo for April 23, 2012 Meeting

cc: Stewart Diamond, Village Attorney
Paula Randall, Village Attorney
Phil Norton, Police Chief
Kevin Wachtel, Finance Director
Julius Hansen, Public Works Director
Bob Minix, Professional Engineer
Michele Stegall, Village Planner

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE
ACQUISITION, CONVEYANCE AND IMPROVEMENT
OF CERTAIN PROPERTY LOCATED
WITHIN THE VILLAGE GLEN ELLYN**

WHEREAS, the Village of Glen Ellyn ("Village") and Elgin State Bank and/or Owner of Record ("Seller") have entered into a Real Estate Purchase Contract (copy attached hereto and made a part hereof as "Exhibit A"), wherein the Village will purchase certain property commonly known as 460-478 Duane Street, Glen Ellyn, in DuPage County, Illinois ("Subject Property"), for municipal purposes, said property legally described in "Exhibit B" attached hereto; and

WHEREAS, the Board of Trustees of the Village of Glen Ellyn find it necessary and convenient for the Village to purchase the Subject Property; and

WHEREAS, the Village will purchase the Subject Property (as shown on "Exhibit B") from the Seller on or before October 19, 2012, or as mutually agreed by the parties; and

WHEREAS, the Village and the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("CRD") have entered into a Commuter Facility Improvement Funding Agreement ("Funding Agreement") (copy is attached hereto and made a part hereof as "Exhibit C"), wherein the Village shall convey the Subject Property to CRD and construct a commuter parking facility thereon; and

WHEREAS, the Village and CRD have agreed to modify certain terms of the

Funding Agreement as set forth in the First Amendment to Commuter Facility Funding Agreement for a Commuter Parking Facility in the Village of Glen Ellyn ("First Amendment") (copy is attached hereto as "Exhibit D"); and

WHEREAS, the Board of Trustees of the Village of Glen Ellyn find it in the best interest of the Village to convey the Subject Property to CRD and construct a commuter parking facility thereon pursuant to the terms of the Funding Agreement and First Amendment.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, as follows:

Section 1: That the Village President and Acting Village Clerk of the Village of Glen Ellyn are authorized to execute and attest to any and all legal documents necessary to finalize the acquisition of the Subject Property by the Village of Glen Ellyn and the subsequent conveyance of the Subject Property from the Village of Glen Ellyn to CRD.

Section 2: That the Village President and Acting Village Clerk of the Village of Glen Ellyn are authorized to execute and attest to any and all legal documents necessary to enter into the Commuter Facility Improvement Funding Agreement and First Amendment to the Commuter Facility Funding Agreement.

Section 3. That this Resolution shall be in full force and effect from and after its passage and approval as provided by law.

PASSED this _____ day of _____, 2012.

AYES:

NAYS:

ABSENT:

APPROVED this ____ day of _____, 2012.

VILLAGE OF GLEN ELLYN

Mark Pfefferman, Village President

Attest:

Patti Underhill, Acting Village Clerk

"Exhibit A"
(Real Estate Contract)

Real Estate Sales Contract

1. Village of Glen Ellyn, a municipal corporation (Purchaser) agrees to purchase at a price of \$ 445,000.00 on the terms set forth herein, the following described real estate in Glen Ellyn DuPage County Illinois:
 LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, AND 16 (EXCEPT THE NORTHERLY 50 FEET OF ALL OF SAID LOTS) IN BLOCK 1 IN GLENWOOD, BRING G.A. PHILLIPS SUBDIVISION OF PART OF SECTION 10, AND ALL PART OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 22, 1873 AS DOCUMENT NUMBER 1688, IN DUPAGE COUNTY, ILLINOIS.
 Permanent Index Numbers: 05-11-32-004 to -006; -010; -015 to -017.
 commonly known as 460-478 Duane Street, Glen Ellyn, Illinois and with approximate lot dimensions of 20,604 sq. feet, together with the following property presently located thereon:

2. Glen Ellyn State Bank and/or Owner of Record (Seller) agrees to sell the real estate and the property described above, if any, at the price and terms set forth herein, and to convey or cause to be conveyed to Purchaser or nominee title thereto by a recordable WARRANTY deed, with release of homestead rights, if any, and a proper bill of sale, subject only to (a) covenants, conditions and restrictions of record; (b) private, public and utility easements and roads and highways, if any; (c) party wall rights and agreements, if any; (d) special taxes or assessments for improvements heretofore completed; (e) special taxes or assessments for improvements not yet completed; (f) installments not due at the date hereof of any special tax or assessment for improvements heretofore completed; (g) mortgage or trust deed specified below, if any; (h) general taxes for the year 2012 and subsequent years including taxes which may accrue by reason of new or additional improvements during the year(s) _____, and in _____

3. Purchaser has paid \$ 445,000.00 as earnest money to be applied on the purchase price, and agrees to pay or satisfy the balance of the purchase price, plus or minus prorations, at the time of closing as follows: *(strike language and subparagraphs not applicable)*

(a) The payment of \$ 445,000.00
 (b) ~~The payment of \$ _____ and the balance payable as follows: _____

 to be evidenced by the note of Purchaser (if made) providing for full prepayment privileges without penalty, which shall be secured by a part-purchase money mortgage (trust deed), the latter instrument and the note to be in the form hereto attached as Schedule B, or in the absence of this attachment, the forms prepared by _____ and identified as Nos. _____ and by a security agreement (as in which Purchaser will execute or cause to be executed such financing statements as may be required under the Uniform Commercial Code in order to make the lien created thereunder effective), and an assignment of rents, said security agreement and assignment of rents to be in the forms appended hereto as Schedules C and D. Purchaser shall furnish to Seller an American Land Title Association loan policy insuring the mortgage (trust deed) issued by the Chicago Title Insurance Company.
 (if Schedule B is not attached and the blank space not filled in, the note shall be secured by a trust deed, and the note and trust deed shall be in the form used by The Chicago Title Company)
 (c) ~~The acceptance of the title to the real estate by Purchaser subject to a mortgage or trust deed of record securing a principal indebtedness of which the Purchaser (buyer) does not agree to assume or guarantee, _____ bearing interest at the rate of _____ % a year, and the payment of a sum which represents the difference between the amount due on the indebtedness at the time of closing and the balance of the purchase price.~~~~

4. Seller, at his own expense, agrees to furnish Purchaser a current ^{ALTA} ~~plat~~ survey of the above real estate made, and so certified by the surveyor as having been made, in compliance with the Illinois Land Survey Standards.

5. The time of closing shall be on Per 31 day or on the date, if any, to which such time is extended by reason of paragraphs 2 or 10 of the Conditions and Stipulations hereafter becoming operative (whichever date is later), unless subsequently mutually agreed otherwise, at the office of Chicago Title or of the mortgage lender if any, provided title is shown to be good or is accepted by Purchaser.

6. Seller agrees to pay a broker's commission to _____ in the amount set forth in the broker's listing contract or as follows: _____

7. The earnest money shall be held by N/A for the mutual benefit of the parties.

8. Seller warrants that Seller, his beneficiaries or agents of Seller or of his beneficiaries have received no notices from any city, village or other governmental authority of zoning, building, fire or health code violations in respect to the real estate that have not been heretofore corrected.

9. A duplicate original of this contract, duly executed by the Seller and his spouse, if any, shall be delivered to the Purchaser within five (5) days from the date hereof, otherwise, at the Purchaser's option, this contract shall become null and void and the earnest money shall be refunded to the Purchaser.

This contract is subject to the Conditions and Stipulations set forth on the back page hereof, which Conditions and Stipulations are made a part of this contract.

Dated: 2012
 Purchaser: Village of Glen Ellyn, a municipal corporation Address: 535 Duane Street, Glen Ellyn, IL 60137
 By: [Signature]
 Seller: [Signature] Address: 411 W. Main St., St. Charles, IL 60174

CONDITIONS AND STIPULATIONS

ALTA

1. Seller shall deliver or cause to be delivered to Purchaser or Purchaser's agent, not less than 3 days prior to the time of closing, the ~~purchase~~ survey (if one is required to be delivered under the terms of this contract) and a title commitment for an owner's title insurance policy issued by the Chicago Title Insurance Company in the amount of the purchase price, covering title to the real estate on or after the date hereof, showing title in the intended grantor subject only to (a) the general exceptions contained in the policy, (b) the title exceptions set forth above, and (c) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of closing and which the Seller may so remove at that time by using the funds to be paid upon the delivery of the deed fall of which are herein referred to as the permitted exceptions. The title commitment shall be conclusive evidence of good title as therein shown as to all matters insured by the policy, subject only to the exceptions or therein stated. Seller also shall furnish Purchaser an affidavit of title in customary form covering the date of closing and showing title in Seller subject only to the permitted exceptions to foregoing items (b) and (c) and unpermitted exceptions or defects in the title disclosed by the survey, if any, as to which the title insurer consents to extend insurance in the manner specified in paragraph 2 below.

2. If the title commitment or ~~purchase~~ survey (if one is required to be delivered under the terms of this contract) discloses either unpermitted exceptions or survey matters that render the title unmarketable (herein referred to as "survey defects"), Seller shall have 30 days from the date of delivery thereof to have the exceptions removed from the commitment or to correct such survey defects or to have the title insurer consent to insure against loss or damage that may be occasioned by such exceptions or survey defects, and, in such event, the time of closing shall be 35 days after delivery of the commitment or the time expressly specified in paragraph 3 on the front page hereof, whichever is later. If Seller fails to have the exceptions removed or correct any survey defects, or in the alternative, to obtain the commitment for title insurance specified above as to such exceptions or survey defects within the specified time, Purchaser may terminate this contract or may close, upon notice to Seller within 10 days after the expiration of the 30-day period, to take title as it then is with the right to deduct from the purchase price lien or encumbrances of a definite or ascertainable amount. If Purchaser does not so elect, this contract shall become null and void without further action of the parties.

3. Rent, premiums under assignable insurance policies, water and other utility charges, fuel, prepaid service contracts, general taxes, accrued interest on mortgage indebtedness, if any, and other similar items shall be adjusted ratably as of the time of closing. The amount of the current general taxes not then ascertainable shall be adjusted on the basis of (a), ~~SECTION below (Strike subparagraphs not applicable)~~:

(a) 105% of the most recent ascertainable taxes;

(b) ~~the most recent ascertainable taxes and subsequent readjustments thereof pursuant to the terms of referendum letter attached hereto and incorporated herein by reference.~~

(c) ~~Other~~

The amount of any general taxes which may accrue by reason of new or additional improvements shall be adjusted as follows:

All payments are final unless otherwise provided herein. Existing ~~assignable~~ insurance policies, if any, shall then be assigned to Purchaser. Seller shall pay the amount of any stamp tax imposed by State law on the transfer of the title, and shall furnish a completed Real Estate Transfer Declaration signed by the Seller or the Seller's agent in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois and shall furnish any declaration signed by the Seller or the Seller's agent as meet other requirements as established by any local ordinance with regard to a transfer or transaction tax; such tax required by local ordinance shall be paid by the party upon whom such ordinance places responsibility therefore. If such ordinance does not so place responsibility, the tax shall be paid by the Purchaser (Seller). (Strike one.)

4. The provisions of the Uniform Vendor and Purchaser Risk Act of the State of Illinois shall be applicable to this contract.

5. ~~If the contract is terminated without Purchaser's fault, the earnest money shall be returned to the Purchaser but if the termination is caused by the Purchaser's fault, then upon notice to the Purchaser, the earnest money shall be forfeited to the Seller and applied first in the payment of Seller's expenses and then in payment of Seller's commitment the balance, if any, to be retained by the Seller as liquidated damages.~~

6. At the election of Seller or Purchaser upon notice to the other party not less than 3 days prior to the time of closing, this sale shall be closed through an escrow with Chicago Title and Trust Company, in accordance with the general provisions of the usual form of Deed and Money Return Agreement then in use by Chicago Title and Trust Company, with such special provisions inserted in the escrow agreement as may be required to conform with this contract. Upon the creation of such an escrow, anything herein in the contrary notwithstanding, payment of purchase price and delivery of deed shall be made through the escrow and this contract and the earnest money shall be deposited in the escrow. The cost of the escrow shall be divided equally between Seller and Purchaser. (Strike paragraph if applicable.)

7. Time is of the essence of this contract.

8. All notices herein required shall be in writing and shall be served on the parties at the addresses following their signatures. The mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service.

9. Alternative 1:

Seller represents that he is not a "foreign person" as defined in Section 1443 of the Internal Revenue Code and is therefore exempt from the withholding requirements of said Section. Seller will furnish Purchaser at closing the Exemption Certification set forth in said Section.

Alternative 2:

Purchaser represents that the transaction is exempt from the withholding requirements of Section 1443 of the Internal Revenue Code because Purchaser intends to use the subject real estate as a qualifying residence under said Section and the sales price does not exceed \$300,000.

Alternative 3:

With respect to Section 1443 of the Internal Revenue Code, the parties agree as follows:

(Strike two of the three alternatives.)

10. (A) Purchaser and Seller agree that the disclosure requirements of the Illinois Responsible Property Transfer Act (do) (do not) apply to the transfer contemplated by this contract. (If requirements do not apply strike (B) and (C) below.)

(B) Seller agrees to execute and deliver to Purchaser and each mortgage lender of Purchaser such disclosure documents as may be required by the Illinois Responsible Property Transfer Act.

(C) Purchaser agrees to notify Seller in writing of the name and post office address of each mortgage lender who has issued a commitment to finance the purchase hereunder or any part thereof; such notice shall be furnished within 10 days after issuance of any such commitment, but in no event less than 40 days prior to delivery of the deed hereunder unless waived by such lender or lenders. Purchaser further agrees to place of record, simultaneously with the deed recorded pursuant to this contract, any disclosure statement furnished to Purchaser pursuant to paragraph 10(B) and, within 30 days after delivery of the deed hereunder, to file a true and correct copy of said disclosure document with the Illinois Environmental Protection Agency.

Rider A

This Rider A is made hereto as part of the Real Estate Contract dated _____, 2012, between the Village of Glen Ellyn ("Purchaser") and Elgin State Bank and/or Owner of Record ("Seller") for the property commonly known as 460-478 Duane Street Glen Ellyn, Illinois ("Subject Property").

1. **Approval:** This Contract shall be subject to the approval of the Mayor and the Board of Trustees of the Village of Glen Ellyn by the passage of the appropriate Ordinance/Resolution prior to closing.

2. Seller and Purchaser stipulate and agree that the closing shall be contingent upon the following:

a. Purchaser receiving approval by METRA of the financial grant to acquire the Subject Property and entering into an Intergovernmental Agreement setting forth the terms and conditions of same.

b. Purchaser's completion of an environmental inspection and any necessary testing or re-testing of the Subject Property.

Failure of Purchaser to satisfy the aforementioned contingencies shall render the Contract null and void and of no force and effect without any penalty to Purchaser. Upon occurrence of same, any and all earnest money previously paid by Purchaser shall be returned to Purchaser.

3. Upon full satisfaction of the contingencies set forth in Paragraph 2 herein, closing shall occur not later than thirty (30) days from the date the last contingency is satisfied, unless subsequently mutually agreed to otherwise, at an office of Chicago Title, to be mutually determined by the parties.

4. Purchaser, shall deposit with Chicago Title the sum of TEN THOUSAND and NO/100 DOLLARS (\$10,000.00) as and for earnest money to be held and applied to the purchase price at the time of closing. Upon full satisfaction of the contingencies set forth in Paragraph 2 herein, the earnest money shall become non-refundable.

5. Seller and Purchaser agree that the selling price shall be the appraised value as identified in an appraisal currently being performed on the Subject Property at Seller's sole cost. Purchaser shall pay the sum of FOUR HUNDRED FORTY-FIVE THOUSAND and NO/100 DOLLARS (\$445,000.00) in monetary consideration and the difference between said sum and the appraisal amount shall be accepted by the Purchaser as a gifted portion which Purchaser shall acknowledge receipt of same and cooperate in the execution of any documentation to effectuate same.

6. Seller and Purchaser stipulate and agree that the following are outstanding issues relative to the Subject Property:

a. final utility disconnects (four @ \$5,000 each = \$20,000), removal of four (4) existing aprons and curb restoration (\$2,000);

b. the outstanding sum of SEVEN THOUSAND NINE HUNDRED FORTY-FOUR and 27/100 DOLLARS (\$7,944.27) payable to the Purchaser as and for escrow money due and owing the Village of Glen Ellyn from the prior owner; and

c. the outstanding water bill due and owing on the Subject Property in the amount of NINE HUNDRED SEVENTY-FOUR and 33/100 DOLLARS (\$974.33).

d. Seller and Purchaser agree that in lieu of the Seller completing the items set forth in Paragraph 6(a) and paying the sums set forth in Paragraph 6(b) and (c) herein, Purchaser shall retain the sum of FIFTEEN THOUSAND THREE HUNDRED FIFTY and NO/100 DOLLARS (\$15,350.00) as and for building permit deposits, and Seller shall provide to Purchaser a credit at closing in the amount of SEVEN HUNDRED FIFTY DOLLARS (\$750.00) as and for removal of a hazardous tree on the Subject property.

7. If this Contract is terminated without Purchaser's fault, the earnest money shall be returned to the Purchaser, but if the termination is caused by the Purchaser's fault, then upon notice to the Purchaser, the earnest money shall be forfeited to the Seller and retained by Seller as full and final satisfaction as its sole damages.

8. Seller and Purchaser agree the word "ALTA" shall be deleted from Paragraph 4 of the Real Estate Sales Contract, and Seller shall provide a current staked and flagged plat of survey to Purchaser at the time of closing.

9. The parties hereto acknowledge and agree that Seller shall be solely responsible for any and all real estate broker's commission incurred in the subject transaction.

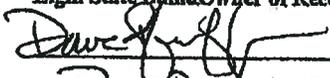
10. Each party shall be solely responsible for its respective attorneys' fees and costs.

11. This Rider is hereby made a part of that certain Contract between Purchaser and Seller to the extent any of the provisions contained in this Rider shall be inconsistent with any of the terms or typewritten provisions of the Contract, the provisions of this Rider shall control.

IN WITNESS WHEREOF, the Parties have executed this Rider A to the Contract this day of _____, 2012.

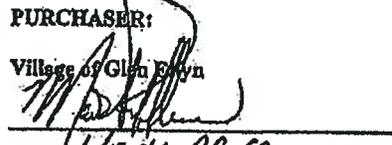
SELLER:

Elgin State Bank/Owner of Record


By: DAVE PFEIFFER
(Print Name)

PURCHASER:

Village of Glen Ellyn


By: Mark Pfefferman
(Print Name)

"EXHIBIT B"
(Legal Description)

Common Address: 460-478 Duane Street, Glen Ellyn, Illinois

Permanent Index Numbers: 05-11-320-004; 05-11-320-005; 05-11-320-006;
05-11-320-010; 05-11-320-015; 05-11-320-016
and 05-11-320-017

Legal Description:

LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 AND 16 (EXCEPT THE NORTHERLY 50 FEET OF ALL OF SAID LOTS) IN BLOCK 1 IN GLENWOOD, BEING C. A. PHILLIPS SUBDIVISION OF PART OF SECTION 10, AND PART OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 22, 1873 AS DOCUMENT NUMBER 16688, IN DUPAGE COUNTY, ILLINOIS.

**“EXHIBIT C”
(Commuter Facility
Improvement Funding Agreement)**

Staci's Copy



547 W Jackson Blvd. Chicago, Illinois 60661 (312) 322-6900 TTY#1-312-322-6774



July 26, 2012

Staci Hulseberg, AICP
Director, Planning and Development Department
Village of Glen Ellyn
535 Duane Street
Glen Ellyn, Illinois 60137

Staci:

Enclosed for your records is a fully executed original of the Intergovernmental Agreement between Metra and the Village of Glen Ellyn allowing Metra to pass through grant funds for the acquisition of property and development of a commuter parking facility on the Duane Street.

As I expressed in my message earlier, Exhibit D of the Agreement, "Terms and Conditions for the Transfer of Real Property in Glen Ellyn, Illinois," lays out the requirements for the transfer of the property to Metra. We need to get those things in place in order to proceed to closing. The requirements are probably very similar to the Village's requirements, hopefully they don't create a lot more work.

If you have any questions, please feel free to contact me at 312/322-6779.

Sincerely,

Keith Pardonnet

ENCLOSURE

COMMUTER FACILITY IMPROVEMENT FUNDING AGREEMENT

PART I

Between

**THE COMMUTER RAIL DIVISION OF THE
REGIONAL TRANSPORTATION AUTHORITY**

and

THE VILLAGE OF GLEN ELLYN

CONTRACT NO. 100485

PROJECT NO. 3189

THIS AGREEMENT is made by and between the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation (“**CRD**”), created under the Regional Transportation Authority Act, 70 ILCS 3615/1.01 et seq., and the Village of Glen Ellyn, a municipal corporation created under the laws of Illinois (“**Municipality**”).

PRELIMINARY STATEMENT

The Municipality desires to undertake a public transportation capital project (“**Project**”) and has made letter application to the CRD for funding for the Project.

The Project has been approved for funding by the CRD Board of Directors.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, this Agreement is made to provide financial assistance to the Municipality in the form of pass through funds pursuant to a Federal Transit Administration Grant (“**FTA Grant**”), to set forth the terms and conditions upon which the funds will be provided, and to set forth the agreement of the Parties as to the manner in which the Project will be undertaken, completed and used.

ITEM 1. DEFINITIONS

As used in this Commuter Facility Improvement Funding Agreement, the following terms, when capitalized, shall have the following meanings:

Agreement -- Parts I and II of this Commuter Facility Improvement Funding Agreement and all exhibits and appendices hereto as from time to time modified or amended pursuant to the terms hereof.

Approved Project Budget -- As defined in Section 8 of Part II.

Commuter Service -- Public Transportation Services by rail within the Metropolitan Region as defined in the Regional Transportation Authority Act.

CRD B The Commuter Rail Division of the Regional Transportation Authority as established by amendments to the Regional Transportation Authority Act, November 9, 1983.

Eligible Costs -- Expenditures made by Municipality in carrying out the Project which are reimbursable under the terms of Section 10 of Part II.

Indemnitees-- The Commuter Rail Division of the Regional Transportation Authority (Metra), the Regional Transportation Authority (RTA), Northeast Illinois Regional Commuter Railroad Corporation (NIRCRC), and any federal and/or state agency providing funds to this project, and all of their respective directors, administrators, officers, employees, agents, successors, and assigns.

Metropolitan Region -- As defined in the Illinois RTA Act.

Municipality -- An Illinois municipal corporation as named in Part I.

NIRCRC-- The Northeast Illinois Regional Commuter Rail Corporation (d/b/a "Metra")

Net Project Cost -- The sum of the Eligible Costs (as set forth in Section 10 of Part II) incurred in performance of the Work on the Project, including Work done by Municipality, less refunds, rebates, or other items of value received by Municipality which have the effect of reducing the cost actually incurred, and proceeds, if any, from the sale of scrap and replaced facilities.

Plans -- As defined in Section 3 of Part II.

Premises -- Property purchased by the Municipality, ownership of which shall be transferred to CRD upon which the Project Facilities shall be constructed and maintained.

Project Account -- As defined in Section 9 of Part II.

Project Facilities -- Any facilities, equipment, acquired, constructed, improved, renovated or refurbished as part of the Project. Project Facilities are also referred to as Improvements.

Project Funds -- An amount not to exceed the sum set forth in Item 3 of Part I.

RTA -- The Regional Transportation Authority.

Total Project Cost -- The total of all line items shown in Exhibit B of Part II.

Use Term -- As defined in Section 28 of Part II.

Work -- The work to be performed under this Project as described in Item 2, Part I hereof.

ITEM 2. THE PROJECT

The Municipality agrees to undertake and complete the Project and to provide for the use of Project Facilities and equipment as described in the Approved Project Budget and in accordance with this Agreement and all applicable laws. The Project, which is to be more particularly described in the plans, specifications and schedules set forth in Part II generally includes, but is not limited to:

Land acquisition and construction of a parking facility to be located generally at 460-478 Duane Street, Glen Ellyn, Illinois in accordance with **Exhibit B, "Approved Project Budget,"** attached to and made a part of this Agreement. The new Project Facilities will meet the requirements of the Americans with Disabilities Act.

ITEM 3. AMOUNT OF FUNDING

CRD agrees to make funding available to the Municipality in the form of pass through funds pursuant to an FTA Grant in an amount not to exceed Seven Hundred Eighty Thousand Dollars (\$780,000) as shown on Exhibit B.

In no event, shall CRD be liable for the payment of funds that have not been authorized by and received from the funding source. The total amount provided by the CRD under this Agreement shall not exceed the actual Net Project Cost. CRD is not liable for any amount in excess of the amount of funds available to pass through.

The Municipality agrees that it will provide, or cause to be provided, the cost of project elements which are not approved for CRD participation.

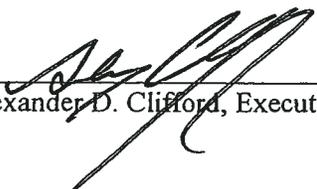
ITEM 4. DOCUMENTS FORMING THIS AGREEMENT

The Parties agree that this Agreement with all of its Parts and Exhibits constitutes the entire Agreement between the Parties hereto, that there are no agreements or understandings, implied or expressed, except as specifically set forth in the Agreement and that all prior arrangements and understandings in this connection are merged into and contained in this Agreement. This Agreement may only be amended in writing, signed by both parties. The Parties hereto further agree that this Agreement consists of Part I, entitled "Commuter Facility Improvement Funding Agreement", together with Part II, entitled "Commuter Facility Improvement Funding Agreement --General Terms and Conditions," Exhibit A, entitled "Operation and Maintenance Agreement for a Parking Facility In the Village of Glen Ellyn," Exhibit B, entitled "Approved Project Budget," Exhibit C, entitled "Project Sign," Exhibit D, entitled "Terms And Conditions For The Transfer of Real Property In Glen Ellyn, Illinois," all of which are by this reference specifically incorporated herein.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be made effective and executed as of the 23rd day of July, 20 , by their respective duly authorized officials.

THE REGIONAL TRANSPORTATION
THE COMMUTER RAIL DIVISION OF
AUTHORITY:

VILLAGE OF GLEN ELLYN:

By: 
Alexander D. Clifford, Executive Director/CEO

By: 
Its: Village President

STATE OF ILLINOIS)
)
COUNTY OF DuPAGE)

Before me, PATRICIA A. UNDERHILL, a Notary Public within and for the State and County aforesaid, personally appeared MARK PFEFFERMAN, with whom I am personally acquainted and who, upon his/~~her~~ oath acknowledged himself/~~herself~~ to be the VILLAGE PRESIDENT, of the Village of Glen Ellyn, an Illinois municipal corporation, and that they as such, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing and attesting the same. Witness my hand and official seal on the 16 day of MAY, 2012.

Patricia A. Underhill
Notary Public



STATE OF ILLINOIS)
)
COUNTY OF COOK)

Before me, Alvin T. Terry, a Notary Public within and for the State and County aforesaid, personally appeared Alexander D. Clifford with whom I am personally acquainted and who, upon his oath acknowledged himself to be the Executive Director/CEO of the Commuter Rail Division of the Regional Transportation Authority, and as such, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing and attesting the same. Witness my hand and official seal at Chicago, Illinois on the 23rd day of July, 2012.



Notary Public



CERTIFICATE OF MUNICIPALITY'S ATTORNEY

I, STEWART DIAMOND, acting as Attorney for the Municipality, do hereby certify that I have examined this Agreement and the proceedings taken by the Municipality relating thereto, and that the execution of the Agreement by the Municipality has been duly authorized by the Municipality's action dated APRIL 23, 2012 (certified copy of which is attached), and that the execution of this Agreement is in all respects due and proper and in accordance with applicable Federal, State, and local laws, funding conditions and regulations pertaining to this Agreement and further that, in my opinion, said Agreement constitutes a legal and binding obligation of the Municipality in accordance with the terms thereof. I further certify that to the best of my knowledge there is no legislation or litigation pending or threatened which might affect the performance of the Project in accordance with the terms of this Agreement.

Dated this 14 day of MAY, 2012

[Handwritten Signature]
Signature

Village Attorney
Title

Village of Glen Ellyn, Municipality

COMMUTER FACILITY IMPROVEMENT FUNDING AGREEMENT

PART II

GENERAL TERMS AND CONDITIONS

Between

**THE COMMUTER RAIL DIVISION OF THE
REGIONAL TRANSPORTATION AUTHORITY**

and

THE VILLAGE OF GLEN ELLYN

CONTRACT NO. K00-85

PROJECT NO. 3189

1. **DEFINITIONS.** The terms capitalized in Part II Commuter Improvement Agreement General Terms and Conditions shall have the same definitions as found in Part I, Item 1.

2. **GENERAL REQUIREMENTS.** ~~Municipality shall commence, carry on, and complete the Project with all practicable dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions of this Agreement.~~ *Amended*

3. **SUBMISSION OF PROCEEDINGS, CONTRACTS AND OTHER DOCUMENTS.** Municipality and CRD hereby agree that the documents governing the Work shall be the designs, surveys, plans, estimates, working drawings, schedules and specifications hereinafter called "**Plans.**" Municipality shall submit all requests for proposals, bid documents, contracts and Plans necessary for the completion of the Work to CRD for approval. After CRD approval is received, no change shall be made in such documents without the prior written consent of CRD.

4. **CHANGED CONDITIONS AFFECTING PERFORMANCE.** Municipality shall immediately notify CRD of any change in conditions or local law, or of any other event, which may significantly affect its ability to perform or complete the Project in accordance with the provisions of this Agreement.

5. **NO OBLIGATIONS TO THIRD PARTIES.** Neither CRD nor any state or federal funding agency shall be subject to any obligations or liabilities of contractors of the Municipality or their subcontractors or any other person not a party to this Agreement without CRD's specific consent. This limitation shall apply despite the fact that CRD concurred in or approved of the award of any contract, subcontract or the solicitation thereof. Unless expressly authorized in writing by CRD, the Municipality agrees to refrain from executing any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, funding anticipation note, alienation, or other obligation that in any way would affect CRD's interest in any Project Facilities or obligating itself in any manner to any third party with respect to the Project Facilities

6. **PURSUANT TO FEDERAL, STATE, AND LOCAL LAW.**

(a) In the performance of its obligations pursuant to this Agreement, the Municipality and its contractors shall comply with all applicable provisions of federal, state and local law, including the applicable grant provisions of any Master Grant Agreement signed between CRD and a state or federal funding agency. All limits and standards set forth in this Agreement that are to be observed in the performance of the Project are minimum requirements and shall not affect the application of more restrictive standards.

(b) The Municipality agrees that the most recent of such state and federal requirements will govern the administration of this Agreement at any particular time, except if there is sufficient evidence in the Agreement of a contrary intent. Such contrary intent shall be evidenced by a letter signed by CRD, the language of which modifies or otherwise conditions the text of a particular provision of this Agreement. Likewise, new state and federal laws, regulations, policies and administrative practices may be established after the date the Agreement has been executed and may

apply to this Agreement. To achieve compliance with changing government requirements, the Municipality agrees to include in all third party contracts financed with government assistance specific notice that government requirements may change and the changed requirements will apply to the Project as required. Specifically, the Municipality and its contractors agree to administer the Project in accordance with the most recent federal and state provisions, including all applicable OMB or USDOT Circulars and regulations.

7. **PERMITS.** Municipality shall obtain all necessary permits, licenses, consents and other approvals for the performance of the Work.

8. **APPROVED PROJECT BUDGET.** A budget shall be prepared by CRD and submitted to Municipality. Municipality shall carry out the Project and shall incur obligations against and make disbursements of Project Funds only in conformity with the latest Approved Project Budget shown in Exhibit B ("**Project Budget**"). The Project Budget may be revised in writing from time to time in accordance with guidelines established by CRD.

9. **PROJECT ACCOUNTS.**

(a) Municipality shall establish and maintain as a separate set of accounts, or as an integral part of its current accounting scheme, accounts for the Project ("**Project Account**").

(b) Municipality shall appropriately record in the Project Account and deposit in a bank or trust company, which is a member of the Federal Deposit Insurance Corporation, all payment installments received by it from CRD pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the Project. CRD payments and other funds are herein collectively referred to as "**Project Funds**".

10. **ELIGIBLE COSTS.**

(a) Expenditures incurred by Municipality shall be reimbursable under the Project as Eligible Costs to the extent they meet all of the requirements set forth below. They must:

1. Be made in conformance with the final Project Budget and all other provisions of this Agreement;
2. Be necessary in order to accomplish the Project;
3. Be reasonable in amount for the goods or services purchased;
4. Be actual net costs to Municipality (i.e., the price paid minus any refunds, rebates, or other items of value received by Municipality which have the effect of reducing the cost actually incurred). Local fees which would normally be applicable to the Work shall be waived by Municipality and shall not be considered Eligible Costs hereunder;

5. Be incurred (and be for work performed) after the date of this Agreement, unless specific written authorization from the CRD to the contrary is received;

6. Be satisfactorily documented; and

7. Be treated uniformly and consistently under accounting principles and procedures approved or prescribed by the CRD for Municipality and those approved or prescribed by Municipality for its contractors.

(b) Expenditures incurred by the Municipality which exceed the amount budgeted for a specific project line item (i.e., project element, job order or item) may be reimbursable as Eligible Costs at the time of completion of the project line item to the extent that those expenditures meet all of the requirements below:

1. Written justification to CRD is provided to explain the reason for the over expenditure and why that over expenditure was not anticipated prior to exceeding the budget for the project line item;

2. The budget for the project line item covers the full scope of the project line item, i.e., the budget of the project line item is intended to be adequate for the completion of the project line item (including, but not limited to, all engineering, material procurement, construction);

3. There are sufficient unspent funds in the Project Budget which may be reallocated to the budget of the project line item;

4. The funds remaining in the Project Budget after reallocation of the funds to the budget of the project line item are sufficient to provide for the uncompleted portions of all project line items;

5. The Total Project Cost for the CRD funding shall not be exceeded.

6. The expenditures conform to the applicable state and/or federal grant requirements.

(c) In the event that it may be impractical to determine exact costs of indirect or service functions, Eligible Costs will include such allowances for these costs as may be approved in writing by the CRD.

11. **REQUESTS FOR PAYMENT BY MUNICIPALITY.** Unless CRD provides for another payment method, Municipality may make monthly requests for payment of preliminary Eligible Costs, and the CRD will honor such requests in the manner set forth in this Section. In order to receive CRD payments, Municipality must:

- (a) Completely execute and submit to CRD a monthly requisition approved by CRD;
- (b) Submit to CRD an explanation of the purposes and copies of invoices for which costs have been incurred to date;
- (c) Have submitted all financial and progress reports currently required by CRD; and
- (d) Have received approval by CRD for all budget revisions required to cover all costs to be incurred by the end of the requisition period.

12. **PAYMENT BY THE CRD.** Upon receipt of the completed requisition form and the accompanying information in satisfactory form, the CRD shall process the requisition and the CRD shall then reimburse preliminary Eligible Costs incurred by Municipality within 60 days of the date upon which such payment requisition form was timely received by it, if Municipality is in compliance with its obligations pursuant to the Agreement. If all obligations have been met, CRD shall reimburse apparent allowable costs incurred by Municipality up to the maximum amount of the CRD funding payable. Municipality shall submit invoices for actual costs incurred within each month within 45 days after submission of each month's preliminary Eligible Costs, and succeeding payments by CRD shall be adjusted to actual costs. Reimbursement of any cost pursuant to this Section shall not constitute a final determination by the CRD of the allowability of such cost and shall not constitute a waiver of any violation of the terms of this Agreement committed by Municipality. The CRD will make a final determination as to the allowability only after a final audit of the Project has been conducted.

13. **DOCUMENTATION OF PROJECT COSTS.** All costs charged to the Project, including any approved services contributed by Municipality or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and property of the charges.

14. **AUDIT AND INSPECTION.** Municipality shall permit, and shall require its contractors to permit, CRD, RTA, or any other state or federal agency providing funds, or their designated agents, authorized to perform such audit and inspection, to inspect all work, materials, payrolls, and other data and records with regard to the Project, and to audit the books, records, and accounts of Municipality and its contractors with regard to the Project. CRD also may require the Municipality to furnish, at any time prior to close-out of the Project, audit reports prepared according to generally accepted accounting principles at Municipality's expense. Municipality agrees to promptly comply with recommendations contained in CRD's final audit report.

15. **DISALLOWED COSTS.** In determining the amount of the CRD funding, CRD will exclude all Project costs incurred by Municipality prior to the date of this Agreement, or another date specifically authorized by CRD; costs incurred by Municipality which are not provided for in the Project Budget except as otherwise provided under Section 10(b); and costs attributable to goods or services received under a contract or other arrangement which has not been concurred in or approved in writing by the CRD.

16. **RIGHT OF CRD TO TERMINATE.** Upon written notice to Municipality, CRD reserves the right to suspend or terminate all or part of the financial assistance herein provided for convenience of either party or if Municipality is, or has been, in violation of the terms of this Agreement. Any failure to make progress which significantly endangers substantial performance of the Project within a reasonable time shall be deemed to be a violation of the terms of this Agreement. Termination of any part of the Agreement will not invalidate obligations properly incurred by Municipality and concurred in by CRD prior to the date of termination, to the extent they are noncancellable. The acceptance of a remittance by CRD of any or all Project Funds previously received by Municipality or the closing out of CRD financial participation in the Project shall not constitute a waiver of any claim which CRD may otherwise have arising out of this Agreement. In the event of termination of this Agreement during the construction phase for reasons other than violation of the terms hereof by Municipality, CRD shall determine the most appropriate course of action to be taken with respect to the Project.

17. **PROJECT SETTLEMENT AND CLOSE-OUT.** Upon receipt of notice of successful completion of the Project or upon termination by CRD, Municipality shall cause a final audit to be performed of the Project to determine the allowability of costs incurred and make settlement of the CRD funding. If CRD has made payments to Municipality in excess of the Total Project Cost of such CRD funding or if CRD has advanced funds pursuant to requisitions under Section 12 which exceed the Net Project Cost, Municipality shall promptly remit such excess funds to CRD. Project close-out occurs when CRD notifies Municipality and forwards the final payment or when an appropriate refund of CRD funds has been received from Municipality and acknowledged by CRD. Funds which have not been dispersed to the Municipality will automatically revert to CRD upon completion of the Project.

Close-out shall be subject to any continuing obligations imposed on Municipality by this agreement or contained in the final notification or acknowledgment from CRD.

18. **CONTRACTS AND PROJECT MANAGEMENT.** Municipality shall execute all contracts and perform all project management activities in accordance with the terms of this Agreement and Municipality's funding application.

19. **COMPETITIVE BIDDING.** Municipality agrees to give full opportunity for free, open, and competitive bidding in accordance with federal and state statutes, as applicable, and the Municipality's established rules, regulations and ordinances for each contract to be let by Municipality that requires constructing or furnishing of any materials, supplies, or equipment to be paid for with Project Funds and Municipality shall give such publicity in its advertisements or calls for bids for each contract as will provide adequate competition. The award for each such contract shall be made by Municipality as soon as practicable to the lowest responsive and qualified bidder or as otherwise specifically approved by CRD. Contracts for the purchase of land, real estate, transit property, or other real or personal property not normally acquired through competitive bidding are specifically excluded from the requirements of this Section, except that contracts for professional and consulting services shall be awarded only after competitive solicitation of proposals.

20. SETTLEMENT OF THIRD PARTY CONTRACT DISPUTES OR BREACHES.

CRD has a vested interest in the settlement of disputes, defaults, or breaches involving any CRD-assisted third party contracts. CRD retains a right to a proportionate share, based on the percentage of the CRD share committed to the Project, of any proceeds derived from any third party recovery. Therefore, Municipality shall avail itself of all legal rights available under any third party contract. Municipality shall notify CRD of any current or prospective litigation pertaining to any compromise or settlement of the Municipality's claim(s) involving any third party contract, before making CRD assistance available to support that settlement. If the third party contract contains a liquidated damages provision, any liquidated damages recovered shall be credited to the project account involved unless CRD permits otherwise.

21. ASSIGNMENT OF CONTRACT - SUBCONTRACTORS.

The Municipality agrees that no contract for construction work or professional or consulting services of any kind in connection with the Project shall be assigned, transferred, conveyed, sublet, or otherwise disposed of without the prior written consent of CRD.

22. CONSTRUCTION PROJECTS - SIGNS.

When a Project involves construction work, the Municipality shall cause to be erected and maintained at the construction site, signs satisfactory to CRD during construction and in accordance with the specifications set forth on Exhibit C, attached to and made a part of this Agreement, identifying the Project and indicating that CRD is participating in the development of the Project.

23. LABOR LAW COMPLIANCE.

Municipality agrees to comply with all applicable federal laws, state laws and regulations including, but not limited to, such laws and regulations relating to minimum wages to be paid to employees, limitations upon the employment of minors, minimum fair wage standards for minors, payment of wages due employees, and health and safety of employees. Municipality also agrees to require any contractor doing construction work or performing professional or consulting service in connection with the Project to agree to adhere to the requirements of this Section. Municipality agrees to pay its employees, if any, all rightful salaries, medical benefits, pensions and social security benefits pursuant to applicable labor agreements and federal and state statutes, and Municipality further agrees to make all required withholdings and deposits therefor. In addition, Municipality agrees to require all contractors and subcontractors for this project to pay their employees all their rightful salaries, medical benefits, pensions and social security benefits pursuant to applicable labor agreements and federal and state statutes and to further require withholdings and deposits therefor. Such requirements shall be included by the Municipality in all its contracts and agreements with contractors and subcontractors for this Project. CRD reserves the right to withhold final payment for this Project in the event that it is notified that the Municipality or any contractor and subcontractor has refused to pay any employee his/her salary, medical benefits, pension or social security benefits or to make the required withholdings and deposits therefor, until such time as the CRD is satisfied that the Municipality, its contractors and subcontractors have made all such payments, withholdings, or deposits. Upon request, Municipality shall provide CRD, and cause any or all of its contractors and subcontractors to provide CRD, access to all books and records pertaining to payments, withholdings, or deposits of the Municipality or the

Municipality's contractors or subcontractors relating to employees' salaries, medical benefits, and pension or social security benefits. Any such inspection by the CRD shall occur on regular business days and during normal working hours.

24. **PREMISES.** The Municipality agrees to purchase the Premises, upon which the Improvements are being installed, and transfer to ownership of said Premises to the CRD.

25. **EQUAL EMPLOYMENT OPPORTUNITY.** Municipality shall comply with 775 ILCS 5/2-101 et seq.

26. **ACCEPTANCE OF PROJECT FACILITIES.** Upon completion of the Work, Municipality and CRD shall conduct a joint inspection of the Project Facilities.

27. **MAINTENANCE, USE AND OPERATION OF PROJECT FACILITIES.** The Municipality shall maintain the Project Facilities, or cause them to be maintained, in a safe and operable condition throughout the term of this Agreement. The specific maintenance, use, and operation requirements for the Project Facilities shall be in accordance with the provisions of Exhibit A, attached hereto and made a part of this Agreement.

28. **CONTINUANCE OF SERVICES.** Municipality agrees that the Premises shall be used to enhance the commuter railway station facility. Municipality agrees to continue to provide, either directly or by contract, as the case may be, the administrative and maintenance services described in Exhibit A for 40 years from the execution of this Agreement (“**Use Term**”).

29. **RETENTION OF RECORDS AND INSPECTION.** Municipality shall keep satisfactory records with regard to the use of the Project Facilities for three years after project close-out, or longer if required by state or federal agencies providing funds. Specifically, if state funds are used, Municipality shall fully comply with the Five Year Record Retention requirements and the burdens of proof specified in the Grant Agreement executed between CRD and the Illinois Department of Transportation. Such requirements are specifically incorporated herein by reference if required. Municipality shall submit to CRD upon request such information as is required in order to assure compliance with the terms of this Agreement and shall immediately notify CRD in all cases where Project Facilities are used in a manner substantially different from that intended by this Agreement. CRD and Municipality shall conduct a yearly joint inspection of the Project Facilities to assure compliance with the terms of this Agreement.

30. **INDEMNIFICATION AND WAIVER.** To the extent permitted by law, Municipality agrees to protect, indemnify, defend and forever save and keep harmless the Indemnitees as defined in Part I, Item 1.

31. **OWNERSHIP.** CRD shall own the real estate purchased with CRD provided funding (“**Property**”) pursuant to the “Terms and Conditions for the Transfer of Real Property in Glen Ellyn, Illinois,” attached to and made part of this Agreement as **Exhibit D**. Metra shall also own the Improvements constructed on the Premises with CRD funds (**AI**Improvements@).

32. **RELOCATION OF PARKING FACILITY.** In the event Municipality desires to use the Property for an alternate purpose and take the Improvements out of commuter service, or if, for any reason, Municipality should voluntarily take the Improvements out of commuter service, CRD shall allow the Municipality, at Municipality's sole cost and expense, to relocate the parking facility on a space for space basis in the vicinity of the Commuter Facility ("**Relocated Spaces**"). The Relocated Spaces shall be at a location mutually agreed to by the Parties, requiring concurrence by the funding agency. For purposes of this Agreement, said Relocated Spaces shall become the Improvements and shall be governed in all ways by the terms and conditions of this Agreement.

33. **LIENS.** Municipality shall not cause any of the Project Facilities to become subject to liens or encumbrances of any kind. If any such lien shall be filed on property of CRD by Municipality or any contractor, subcontractor or supplier of Municipality, the Municipality shall promptly take such steps as may be required to have the lien released and shall provide evidence thereof to CRD. CRD agrees to notify the Municipality of any lien of which CRD may become aware.

34. **NON-COLLUSION.** Municipality warrants that it has not paid and agrees not to pay any bonus, commission, fee, or gratuity for the purpose of obtaining any approval of its application for any grant pursuant to this Agreement. No CRD officer or employee, or member of any unit of local government which contributes to the Project Funds shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

35. **MUNICIPALITY'S WARRANTIES.** Municipality agrees to initiate and consummate all actions necessary to enable it to enter into this Agreement, as evidenced by its "Certificate of Municipality's Attorney" attached to and made a part of Part I of this Agreement.

36. **SEVERABILITY.** CRD and Municipality agree that if any provision of this Agreement is held invalid for any reason whatsoever, the remaining provisions shall not be affected thereby if such remainder would then continue to conform to the purposes, terms and requirements of applicable law.

37. **ASSIGNMENT OF AGREEMENT.** Municipality agrees that this Agreement shall not be assigned, transferred, conveyed, sublet or otherwise disposed of without the prior written consent of CRD.

38. **AMENDMENT.** CRD and Municipality agree that no change or modification to this Agreement or any Exhibits or Attachments hereto, shall be of any force or effect unless such amendment is dated, reduced to writing, executed by both parties, and attached to and made a part of this Agreement. No work shall be commenced and no costs or obligations incurred in consequence of any amendment to this Agreement or any attachments hereto unless and until such amendment has been executed and made a part of this Agreement and the Project Budget has been amended to conform thereto.

39. **TITLES.** Municipality and CRD agree that the titles of the items of this Agreement, hereinabove set forth, are inserted for convenience of identification only and shall not be considered for any other purpose.

40. **AGREEMENT PERIOD.** The terms of this Agreement shall begin as of the date hereof and shall end upon the completion of all obligations hereunder.

41. **GOVERNING LAW.** This Agreement shall be construed in accordance with the internal laws of the State of Illinois.

42. **NOTICES.** All notices, demands, elections, and other instruments required or permitted to be given or made by either Party upon the other under the terms of this Agreement or any statute shall be in writing. Such communications shall be deemed to have been sufficiently served if sent by certified or registered mail with proper postage prepaid, hand delivered or sent by facsimile transmission, with proof of successful transmission sent by regular mail by CRD or Municipality at the respective addresses shown below or to such other party or address as either Party may from time to time furnish to the other in writing.

(a) Notices to CRD shall be sent to:

Commuter Rail Division
547 W. Jackson Boulevard
Chicago, Illinois 60661
Attn: Director, Real Estate and Contract Management
Phone: (312) 322-6696
Fax: (312) 322-6698

(b) Notices to Municipality shall be sent to:

Village of Glen Ellyn
535 Duane St
Glen Ellyn, Illinois 60137
Attn: Village President
Phone: (630) 469-5000
Fax: (630) 469-8849

Such notices, demands, elections and other instruments shall be considered delivered to recipient on the second business day after deposit in the U.S. Mail, on the day of delivery if hand delivered or on the first business day after successful transmission if sent by facsimile transmission.

43. **COUNTERPARTS.** This Agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

44. **EXPENDITURE OF FUNDS.** Municipality agrees that the Funds for this Project must be expended upon approved Project elements within twenty-four (24) months of execution of this Agreement. Unless otherwise specified in writing by CRD, all unexpended Grant Funds will automatically revert to CRD upon the expiration of this twenty-four (24) month time period.

Exhibit "A"
**OPERATION AND MAINTENANCE OF COMMUTER
PARKING FACILITY IN THE VILLAGE OF GLEN ELLYN**

THIS AGREEMENT is entered into as of this _____ day of _____, 20____, by and between the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("**Metra**") and The Village of Glen Ellyn, an Illinois municipal corporation ("**Municipality**"). Metra and Municipality are hereinafter sometimes individually referred to as a "**Party**" and jointly referred to as the "**Parties**."

RECITALS

A. Metra will own the commuter parking facility funded through Metra with state, federal or Metra funds located at 460-478 Duane St. ("**Parking Facility**") on the property to be owned by Metra identified by permanent index number(s) 05-11-32-004 to 006; 010; 015 to 017 as delineated on **Exhibit A-1** attached to and made a part of this Agreement ("**Premises**").

B. Metra desires to grant to Municipality the right to manage, operate, and maintain the Parking Facility on the Premises.

C. The Parties have determined that the management, operation, and maintenance of the Parking Facility on the Premises is in the best interest of the public and serves a valid public purpose.

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which are hereby incorporated into and made a part of this Agreement and the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted by the Parties, Metra does hereby grant to Municipality the right to manage, operate and maintain the Parking Facility subject to and in accordance with the following terms covenants and conditions:

1. **FEE AND TERM.** Municipality covenants and agrees to pay Metra the sum of Ten Dollars (\$10.00) as an annual use fee for the Parking Facility. Municipality's obligations and right to use the Parking Facility under the terms and provisions of this Agreement shall commence on _____ and shall continue in force and effect for a period of forty (40) years from said date ("**Use Term**") unless otherwise ~~terminated~~ ^{Amended} as provided under the terms and conditions of this Agreement.

2. **PURPOSE OF USE.**

(a) The Parties agree that the purpose of this Agreement is to ensure that the Premises is protected, maintained and operated as a Parking Facility for public parking.

Municipality desires to control access to said Premises and operate and maintain the Parking Facility pursuant to the terms and conditions of this Agreement.

(b) Parking lot fees set and collected by Municipality shall be standardized for all patrons of the Parking Facility and Municipality shall under no circumstances discriminate against non-residents of the Municipality in setting parking fees. The Parking Facility shall be operated as a daily fee parking lot with spaces available on a first come, first served basis. Municipality may also allow the use of "convenience permits," as long as said convenience permits do not guaranty a space in the Parking Facility, thus discriminating between permit holders and the general public. Metra reserves the right, at any time, to review and approve the amount of the parking fees charged by Municipality, which approval shall not be unreasonably withheld provided, however, that the amount charged is consistent with regional standards for Metra parking lots.

(c) As long as adequate indemnification and insurance are provided to Metra and Metra has given Municipality prior written approval, the Municipality shall be permitted to use or allow others to use, the Parking Facility, or any lesser portion thereof, on Saturdays and Sundays for municipal or civic events sponsored by or approved by the Municipality. Prior written approval from Metra shall not be unreasonably withheld.

3. **USE BY METRA AND PUBLIC.** Metra further reserves unto itself, its successors and assigns, permittees and licensees the right to use said Premises in the general conduct of its railroad business including endeavors for the convenience of its commuters and the public. Municipality shall not interfere with or infringe upon Metra's or the public's lawful use of the said Premises so reserved. Municipality further agrees that Municipality and Municipality's employees and invitees in and about said Parking Facility shall be subject to the general rules and regulations of Metra relating to said commuter parking facilities and to Metra's railroad operations. Metra reserves the nonexclusive right to regulate and control the people who enter said Premises and their conduct and reserves the right to enter upon said Premises at any time and to eject therefrom any disorderly person or persons.

4. **MAINTENANCE, ACCESS, AND RELOCATION.**

(a) Municipality, at its own cost and expense, shall manage the Parking Facility and shall be responsible for the performance of "**Routine Maintenance**" throughout the Use Term. Routine Maintenance shall include but shall not be limited to snow removal, insurance, lighting upkeep, sealing and patching pavement, patrolling the Premises and payment of utility expenses associated with the operation of the Parking Facility. Municipality shall also be responsible for capital improvements to the Parking Facility including but not limited to major rehabilitation, excavation, demolition of structures, new construction, light standard placement or replacement necessitated by damage to a structure.

(b) In the event Municipality fails to manage, operate or maintain the Premises and the Parking Facility in accordance with the terms and provisions of this Agreement, Metra may

provide, or cause to be provided, such management, operation and maintenance services and Municipality shall reimburse Metra for the cost of said management, operation and maintenance services within thirty (30) days of Municipality's receipt of a written demand for payment from Metra.

(c) Municipality, at its own cost and expense, shall be responsible for the “**Standard Maintenance**” of all landscaping on and along the Premises. For purposes of this Agreement, Standard Maintenance shall include without limitation watering, weeding, mowing, trimming, and mulching as dictated by the specific plantings on the Premises and Parking Facility.

(d) Metra reserves the right to relocate the Parking Facility or any portion thereof, at its own cost and expense, in the vicinity of the Premises with no liability for damages to Municipality's interest in the Parking Facility resulting from such relocation; provided, however, that Metra shall give Municipality sixty (60) days prior written notice of its intention to relocate the existing Parking Facility or portion thereof.

(e) - Inserted by amendment

5. **RAIL SERVICE.** Metra makes no warranties or representations, expressed or implied, as to continued rail service to the Premises.

6. **PARKING REVENUES.**

(a) All parking fees or other revenue derived from Municipality's use of the Premises and the Parking Facility (“**Revenues**”) shall first be utilized for Routine Maintenance, Standard Maintenance and administrative expenses incurred from the operation of the Parking Facility. The remainder shall be deposited in a capital improvement account, designated specifically for the Parking Facility or Metra improved facilities to be used for future renovation or rehabilitation of the Parking Facility. Municipality agrees not to use the revenues from the Parking Facility or from Metra improved facilities for capital improvements to non-Metra facilities. Upon termination of this Agreement, Municipality shall deliver all remaining revenues, including, without limitation, those on deposit in such capital improvement account, to Metra.

(b) Municipality shall establish and maintain adequate accounting records of all Revenues collected and expenses incurred based on generally accepted accounting principles consistent with the manner Municipality maintains records of its other accounts in order to ensure compliance with this Agreement. Municipality shall permit and shall require its contractors to permit Metra, the Regional Transportation Authority (“**RTA**”), the Northeast Illinois Regional Commuter Railroad Corporation (“**NIRCRC**”) or any other agency authorized to perform such audit and inspection, to inspect all work, material and other data and records with regard to the Revenue collected and to audit the books and accounts of Municipality and its contractors with respect to said Revenues. Municipality shall submit to Metra an annual audit of its records relating to the Revenue collected and shall make its records available to Metra at mutually convenient times. Furthermore, Municipality shall immediately notify Metra if the Parking Facility is to be used in a manner substantially different from that intended by this Agreement. At the option of Metra, Metra and

Municipality shall conduct a yearly joint inspection of the Premises and the Parking Facility to assure compliance with the terms of this Agreement.

7. **LICENSE TO OPERATE.** Municipality shall pay for the cost of any licenses, permits, or fees required by federal, state or local rule, regulation, ordinance or law necessary to manage, operate and maintain the Parking Facility.

8. **SIGNS.**

(a) Municipality shall not post or place any signs on the Premises without having first received Metra's approval of the content, design and location of the sign.

(b) The Municipality shall permit Metra, by or through its advertising agent, to place banners from light poles located on Metra's commuter parking lots for the advertising of local and regional businesses.

(c) The Municipality shall not cause any tax or fee to be assessed against the signs or be required of Metra or Metra's contractor(s) for the installation and maintenance of the signage described in this Section.

9. **COMPLIANCE (LEGAL AND INSURANCE).**

(a) Municipality shall not use or permit upon the Premises anything that will invalidate any policies of insurance held by Metra or Municipality now or hereinafter carried on or covering the Premises, the Parking Facility or any improvements thereon. Municipality shall manage, operate, maintain, and use the Premises and the Parking Facility in compliance with the requirements of all local, state, and federal ordinances, laws, rules, and regulations in effect during the Use Term.

(b) Throughout the Use Term, Municipality agrees to furnish insurance in form and in such amounts as required by Metra's Risk Management Department (312-322-6991) and shall deliver to Metra's Risk Management Department certificates of insurance or such other documentation acceptable to Metra's Risk Management Department evidencing the acquisition of the required insurance. Such policies of insurance or self-insurance shall include commercial general liability, automobile, workers compensation, and when required, railroad protective liability insurance coverage as stated on **Exhibit B-2** attached to and made a part of this Agreement ("**Insurance Requirements**"). To the extent permitted by law, said insurance shall show *The Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation, both operating under the service mark Metra, as now exists or may hereafter be constituted or acquired, and the Regional Transportation Authority, an Illinois municipal corporation*, as additional insureds and shall be endorsed to assume the contractual obligations of Municipality as set forth in this Agreement. A duplicate copy of such insurance policy

or a certificate of insurance and signed copy of a report showing established insurable value shall be furnished to Metra and must show on the insurance policy or the certificate of insurance that Metra will be properly notified in writing at least thirty (30) days prior to any modification or cancellation of such policy.

(c) Municipality and its agents shall not permit the existence of any nuisance on the Premises or during the operation of the Parking Facility; shall not create dangerous or hazardous conditions on the Premises, nor allow dangerous, explosive, flammable, or combustible materials on the Premises which would increase or tend to increase the risk of fire; and further, the Municipality or its agent shall keep, observe and comply with all federal, state and local rules, regulations, ordinances, and laws having jurisdiction over the Premises or the Parking Facility. If, as a result of the Municipality's occupancy of the Premises hereunder, any such rule, regulation, ordinance or law is violated, the Municipality shall protect, hold harmless, defend and indemnify Metra, RTA and NIRCRC from and against any and all losses, penalties, fines, costs, damages or expenses, including court costs and attorneys' fees, caused by, resulting from, or connected with such violation or violations.

(d) Municipality and its agents agree to use their reasonable best efforts to prevent the occurrence of contamination, hazardous materials or any related environmental damage or condition on the Premises during the Use Term. Should any contamination or other environmental condition occur or result from Municipality's use or occupancy of the Premises, Municipality will be responsible for all costs associated with its mitigation, cleanup and any related liability. Municipality specifically agrees to indemnify, defend and hold harmless Metra, RTA and NIRCRC from all such loss, damages, costs or liabilities, including court costs and attorneys' fees, arising from Municipality's use or occupancy of the Premises.

(e) Municipality's failure to obtain or to cause its contractors to obtain proper insurance coverage or to insure Metra, the RTA or the NIRCRC as additional insureds shall not, at any time, operate as a waiver to Metra's right to indemnification and defense against any claims, damages or injuries covered under the terms and provisions of this Agreement.

(f) During the Use Term, Metra may make commercially reasonable increases in the amount of insurance required by Municipality or its contractor(s) and/or sub-contractor(s) under the terms and provisions of this Agreement.

10. WAIVER AND INDEMNIFICATION.

(a) To the fullest extent permitted by law, the Municipality hereby assumes and agrees to release, acquit and waive any rights which Municipality may have against and forever discharge Metra, the RTA and the NIRCRC, their respective directors, administrators, officers, employees, agents, successors, assigns and all other persons, firms and corporations acting on their behalf or with their authority, from and against any and all claims, demands or liabilities imposed upon them by law or otherwise of every kind, nature and character on account of personal injuries,

including death at any time resulting therefrom, and on account of damage to or destruction of property arising out of or in any way relating to or occurring in connection with the activities permitted under the terms and provisions of this Agreement or which may occur to or be incurred by the Municipality, its employees, officers, agents and all other persons acting on the Municipality's behalf while on the Premises or arising from the condition of the Premises during the term of this Agreement, except to the extent such injuries or damages are caused by the negligence or willful misconduct of Metra, the RTA, or the NIRCRC. Notwithstanding anything in this Agreement to the contrary, the releases and waivers contained in this paragraph shall survive termination of this Agreement.

(b) To the fullest extent permitted by law, the Municipality agrees to indemnify, defend and hold harmless Metra, the RTA and the NIRCRC, their respective directors, administrators, officers, agents, employees, successors, assigns and all other persons, firms and corporations acting on their behalf or with their authority, from and against any and all injuries, liabilities, losses, damages, costs, payments and expenses of every kind and nature (including, without limitation, court costs and attorneys' fees) for claims, demands, actions, suits, proceedings, judgments, settlements arising out of or in any way relating to or occurring in connection with: (i) the activities permitted under the terms and provisions of this Agreement; (ii) the condition of the Premises; (iii) the failure to investigate claims; or (iv) which may occur to or be incurred, by the Municipality, its employees, officers, agents, and all other persons acting on its behalf while on the Premises, or, except to the extent such injuries, liabilities, losses, damages, costs, payments or expenses are caused by the negligence or willful misconduct of Metra, the RTA or the NIRCRC. Metra agrees to notify the Municipality in writing within a reasonable time of any claim of which it becomes aware which may fall within this indemnity provision. The Municipality further agrees to defend Metra, the RTA, the NIRCRC, their respective directors, administrators, officers, agents and employees against any claims, suits, actions or proceedings filed against any of them with respect to the subject matter of this indemnity provision provided, however, that Metra, the RTA and the NIRCRC, may elect to participate in the defense thereof at their own expense or may, at their own expense, employ attorneys of their own selection to appear and defend the same on behalf of Metra, the RTA, the NIRCRC, and their respective directors, administrators, officers, agents or employees. The Municipality shall not enter into any compromise or settlement of any such claims, suits, actions or proceedings without the consent of Metra, the RTA and the NIRCRC, which consent shall not be unreasonably withheld.

(c) Notwithstanding anything to the contrary contained in this Agreement, the indemnities contained in this paragraph shall survive termination of this Agreement and the indemnification and hold harmless provisions set forth in this Agreement shall not be construed as an indemnification or hold harmless against and from the negligence or willful misconduct of Metra, the RTA or the NIRCRC with respect to any construction work performed by the Municipality or those performing on behalf of or with the authority of the Municipality in violation of the Illinois Construction Contract Indemnification for Negligence Act, 740 ILCS 35/0.01 et seq.

11. **CONTRACTOR INDEMNIFICATION AND INSURANCE.**

(a) In all contracts executed by Municipality for maintenance of the Premises and the Parking Facility (including snow removal) or for the construction, rehabilitation, improvement, repair or maintenance of structures, facilities or improvements located on the Premises, or to be located on such Premises, Municipality will require appropriate clauses to be inserted requiring contractors to indemnify, hold harmless and defend Metra, RTA and NIRCRC, their directors, employees, agents, licensees, successors and assigns from and against any and all risks, liabilities, claims, demands, losses, and judgments, including court costs and attorneys' fees, arising from, growing out of, or related in any way to work performed by such contractor(s), or their officers, employees, agents or subcontractors, and their agents or employees or the failure to perform such work.

(b) Municipality will further cause appropriate clauses to be inserted in all such contracts requiring contractors to procure and maintain comprehensive policies of insurance, insuring contractor, Metra, RTA and NIRCRC, their directors, employees, agents, successors and assigns from and against any and all risks, liabilities, claims, demands, losses and judgments, including court costs and attorneys' fees, arising from, growing out of or in any way related to the work performed or to be performed by such contractor(s), whether or not any such liability, claim, demand, loss or judgment is due to or arises from the acts, omissions or negligence of such contractor(s), or their officers, employees, agents or subcontractors and their agents or employees.

12. **IMPROVEMENTS.** Municipality shall not make any improvements to the Premises without having first obtained the prior written consent of Metra. Municipality shall submit to Metra all plans and specifications for improvements on or to any portion of the Premises and the Parking Facility (improvements shall not include such items of Routine Maintenance and Standard Maintenance as described in section 4 of this Agreement). Metra reserves the right to have its employees, agents or independent contractors perform such work set forth in the plans and specifications it approves and Municipality agrees to pay the cost of all such improvements performed by or on behalf of Metra, whether by Metra's employees, agents or independent contractors.

13. **LIENS.** Municipality agrees not to suffer or permit any lien of mechanics or materialmen to be placed against any portion of the Premises or Parking Facility, and in case of any such lien attaching to the Premises or Station Facility, Municipality shall, at its own cost and expense, cause the same to be discharged of record within thirty (30) days or provide a bond or security acceptable to Metra sufficient to discharge such lien and any interest accrued thereon. It is further agreed by the Parties hereto that Municipality has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Municipality, operation of law, or otherwise, to attach to or to be placed upon Metra's title or interest in the Parking Facility, and any and all liens and encumbrances created or suffered by Municipality or its tenants shall attach to Municipality's interest only.

14. **TAXES.** Municipality shall be responsible for payment of all real estate taxes and special assessments, if any, assessed against the Premises, including but not limited to real estate taxes assessed as a result of Municipality's assignment or license of all or any portion of the Premises to a third party. Municipality shall protect, indemnify, defend and forever save and keep harmless Metra, RTA, NIRCRC, and their directors, employees and agents licensees, successors and assigns against and from, and to assume all liability and expense, including court costs and attorneys' fees, for failure to pay real estate taxes or special assessments assessed against the Premises on or before the date payments of such taxes are due. Metra represents that the Premises is currently exempt from real estate taxes and Metra shall use its reasonable best efforts not to take any actions during the Use Term that would result in the loss of the tax exempt status of the Premises; provided, however, that nothing in this Agreement shall be construed to prohibit the lease or license of the Premises, or any portion thereof, to a third party as long as such third party is responsible for the payment of all real estate taxes assessed against the leased or licensed premises.

15. **CAUSE FOR BREACH.** If Municipality defaults in any of Municipality's undertakings or obligations of this Agreement and Municipality receives written notice of such default from Metra, then such event or action shall be deemed to constitute a breach of this Agreement and if such default remains uncured for thirty (30) days after notice in writing, this Agreement and Municipality's use of the Premises shall automatically cease and terminate unless such cure period is extended in writing by Metra.

16. **WAIVER OF REMEDIES.** No waiver of any default of Municipality shall be implied from omission by Metra to take any action on account of such default. No express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. No receipt of money by Metra from Municipality (a) after any default by Municipality, (b) after the termination of Municipality's use, (c) after the service of any notice or demand, (d) after the commencement of any suit, or (e) after final judgment for possession of the Premises, shall waive such default or reinstate, continue or extend the Use Term or affect in any way such notice or suit, as the case may be.

17. **SURRENDER OF PREMISES.** Upon the termination of this Agreement or Municipality's use of the Premises by any manner, means, or contingency whatsoever, Municipality shall, if required by Metra, remove all of Municipality's improvements and/or property from the Premises, fill all excavations that have been made by Municipality and deliver possession of the Premises to Metra in as good a condition than that which existed immediately prior to the commencement of the Use Term, ordinary wear and tear excepted. Should the Municipality fail to perform such removal or restoration, then Metra, at its election, may either remove the Municipality's improvements and property and restore the Premises to its former state at the sole expense of Municipality or may retain the Municipality's improvements and property as Metra's sole property. Should Municipality retain possession or use of the Premises or any part thereof after the termination of Municipality's use by Metra or as otherwise provided for in this Agreement, any such holding over shall not constitute an extension of Municipality's use and Municipality shall pay Metra all damages, incidental or consequential as well as direct, sustained by Metra, RTA and NIRCRC and their

respective directors, employees, agents and licensees by reason of such retention of possession or use. The provisions of this Section 17 do not exclude the Metra's rights of reentry or any other rights to recover use and possession of the Premises afforded Metra by law.

18. **REENTRY.** If Municipality shall breach or default in any of the terms of this Agreement and if such breach or default is not cured as provided in Section 15 above, or if Municipality's use of the Premises shall expire or terminate in any manner, it shall be lawful for Metra then or at any time thereafter to reenter the Premises and take possession thereof, with or without process of law, and to use any reasonable or necessary force for regaining possession of the Parking Facility; provided, however, that Municipality shall have the right to remove certain of Municipality's property as hereinabove provided and to use its property in any manner that does not reasonably interfere with Metra's property rights. No termination of Municipality's use shall release the Municipality from any liability or obligation that accrued prior to said termination.

19. **CUMULATIVE RIGHTS.** All rights and remedies of Metra shall be cumulative, and none shall exclude any other rights and remedies allowed by law.

20. **SALE OR ASSIGNMENT.** Any assignment or transfer of this Agreement or the Premises by Municipality without the written consent of Metra its successors and assigns shall be void. Unless specifically released in writing by Metra, Municipality shall remain primarily liable to Metra regardless of Metra's consent to an assignment or sublicense by Municipality. No act of Metra, including acceptance of money by Metra from any other party, shall constitute a waiver of this provision.

21. **NOTICES.** All notices, demands, elections, and other instruments required or permitted to be given or made by either Party upon the other under the terms of this Agreement or any statute shall be in writing. Such communications shall be deemed to have been sufficiently served if sent by certified or registered mail with proper postage prepaid, hand delivered or sent by facsimile transmission, with proof of successful transmission sent by regular mail by Metra or Municipality at the respective addresses shown below or to such other party or address as either Party may from time to time furnish to the other in writing.

(a) Notices to CRD shall be sent to:

Commuter Rail Division
547 W. Jackson Boulevard
Chicago, Illinois 60661
Attn: Director, Real Estate and Contract Management
Phone: (312) 322-6696
Fax: (312) 322-6698

(b) Notices to Municipality shall be sent to:

Village of Glen Ellyn
535 Duane St
Glen Ellyn, Illinois 60137
Attn: Village President
Phone: (630) 469-5000
Fax: (630) 469-8849

Such notices, demands, elections and other instruments shall be considered delivered to recipient on the second business day after deposit in the U.S. Mail, on the day of delivery if hand delivered or on the first business day after successful transmission if sent by facsimile transmission.

22. **USE RESTRICTIONS.** Municipality agrees that none of the Premises and the Parking Facility will be used, nor will Municipality permit them to be used, for parking within twenty (20) feet of the centerline of any trackage. Any portion of the Premises within twenty (20) feet from the nearest rail of any trackage shall be used only for the construction, maintenance, repair and renewal of platforms and other railroad improvements located within the railroad right of way (subject to legal clearance requirements and Metra's clearance requirements) and for no other purpose whatsoever. Any construction, rehabilitation or repair work performed by or on behalf of the Municipality occurring within twenty (20) feet of the outer rail of any track will require flagging protection provided by Metra at Municipality's sole cost and expense. Municipality and/or its contractors shall also purchase and keep in full force and effect railroad protection liability insurance during the performance of any such work.

23. **MISCELLANEOUS PROVISIONS.**

(a) This Agreement shall be binding upon and shall inure to the benefit of the Parties, and their respective successors or assigns.

(b) The captions of the Sections of this Agreement are for convenience and are not to be interpreted as part of this Agreement.

(c) Whenever the context requires or permits the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

(d) In the event the time for performance hereunder falls on a Saturday, Sunday or holiday, the actual time for performance shall be the next business day.

(e) This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

24. **SEVERABILITY.** Metra and Municipality agree that if any provision of this

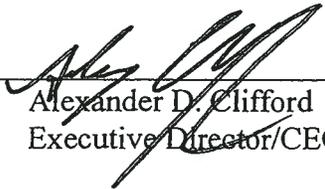
Agreement is held to be invalid for any reason whatsoever, the remaining provisions shall not be affected thereby if such remainder would then continue to conform to the terms, purposes and requirements of applicable law and does not represent a material change to the rights or obligations of the Parties.

25. **ENTIRE AGREEMENT.** All of the representations and obligations of Metra are contained herein. Metra and Municipality agree that no change or modification to this Agreement, or any exhibits or attachments hereto, shall be of any force or effect unless such amendment is dated, reduced to writing, executed by both Parties and attached to and made a part of this Agreement. No work shall be commenced and no costs or obligations incurred as a consequence of any amendment to this Agreement or any attachments hereto unless and until such amendment has been executed and made a part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first above written.

THE COMMUTER RAIL DIVISION OF
THE REGIONAL TRANSPORTATION
AUTHORITY:

By: _____


Alexander D. Clifford
Executive Director/CEO

VILLAGE OF GLEN ELLYN:

By: _____


Its: Village President

Exhibit A-1

Page 1 of 2

LEGAL DESCRIPTION

LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, AND 16 (EXCEPT THE NORTHERLY 50 FEET OF ALL OF SAID LOTS) IN BLOCK 1 IN GLENWOOD, BEING C. A. PHILLIPS SUBDIVISION OF PART OF SECTION 10, AND PART OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 22, 1873 AS DOCUMENT NUMBER 16688, IN DUPAGE, COUNTY ILLINOIS

PLAT OF SURVEY
LEGAL DESCRIPTION

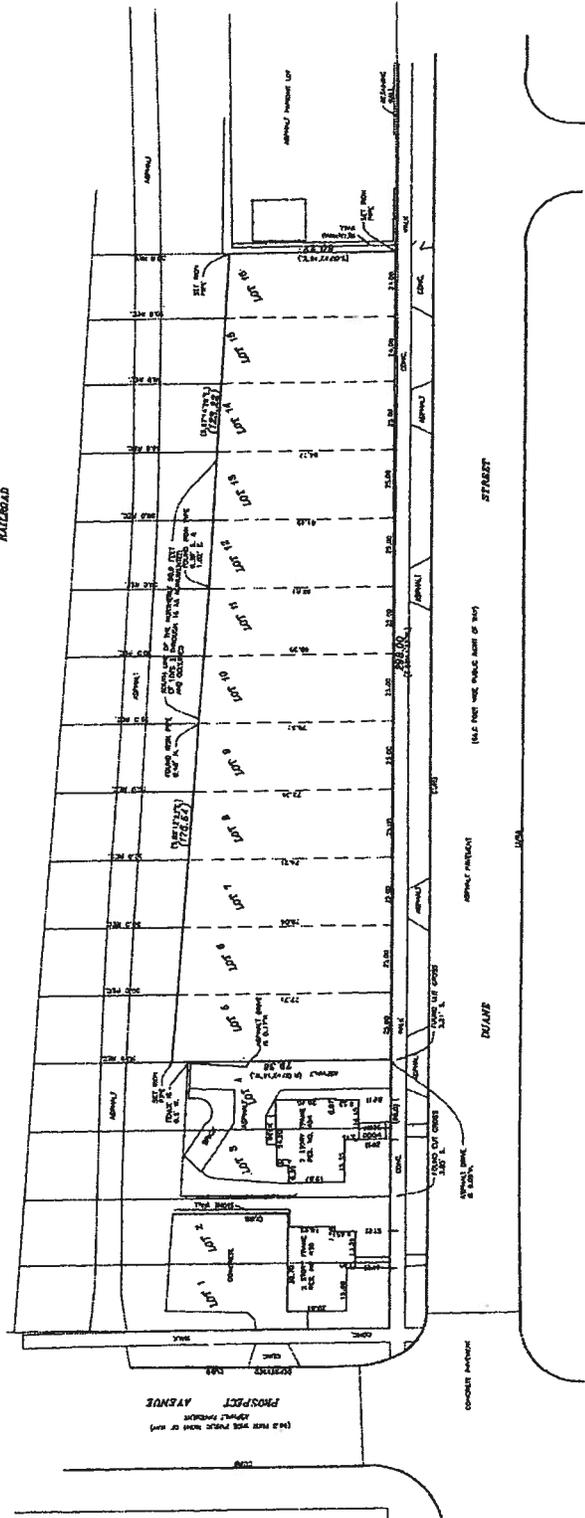
Exhibit A-1
Page 2 of 2

THIS PLAT OF SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT COMES IN ACCORDANCE WITH THE REQUIREMENTS OF THE CHICAGO ZONING ORDINANCES AND THE CHICAGO PLAT ACT.



SCALE: 1" = 20'

ALL DIMENSIONS SHOWN ON THIS PLAT OF SURVEY ARE IN FEET AND INCHES. DIMENSIONS IN FEET AND INCHES SHALL BE CONSIDERED TO BE THE TRUE DIMENSIONS UNLESS OTHERWISE SPECIFIED.



NOTES:

1. ALL DIMENSIONS ARE BASED ON THE BOUNDARY LINE SHOWN ON THIS PLAT OF SURVEY. DIMENSIONS IN FEET AND INCHES SHALL BE CONSIDERED TO BE THE TRUE DIMENSIONS UNLESS OTHERWISE SPECIFIED.
2. ALL DIMENSIONS ARE BASED ON THE BOUNDARY LINE SHOWN ON THIS PLAT OF SURVEY. DIMENSIONS IN FEET AND INCHES SHALL BE CONSIDERED TO BE THE TRUE DIMENSIONS UNLESS OTHERWISE SPECIFIED.
3. ALL DIMENSIONS ARE BASED ON THE BOUNDARY LINE SHOWN ON THIS PLAT OF SURVEY. DIMENSIONS IN FEET AND INCHES SHALL BE CONSIDERED TO BE THE TRUE DIMENSIONS UNLESS OTHERWISE SPECIFIED.

CONVENTIONAL SURVEYING, INC. (REGISTRATION NO. 121-03327)

HARRINGTON
LAND SURVEYING LTD.
ILLINOIS & WISCONSIN

REGISTERED PROFESSIONAL SURVEYOR
STATE OF ILLINOIS
NO. 121-03327

OFFICE: 140-1718 DUNBAR STREET
CHICAGO, ILLINOIS 60642

PHONE: (773) 348-1111
FAX: (773) 348-1112

WWW.HARRINGTONSURVEYING.COM

DATE: 11/11/11

SHEET 1 OF 1

THIS PLAT OF SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT COMES IN ACCORDANCE WITH THE REQUIREMENTS OF THE CHICAGO ZONING ORDINANCES AND THE CHICAGO PLAT ACT.

DATE: 11/11/11

BY: [Signature]

REGISTERED PROFESSIONAL SURVEYOR
STATE OF ILLINOIS
NO. 121-03327

DATE: 11/11/11

BY: [Signature]

REGISTERED PROFESSIONAL SURVEYOR
STATE OF ILLINOIS
NO. 121-03327



INSURANCE REQUIREMENTS

Exhibit A-2

REQUISITION NUMBER n/a

EVENT Glen Ellyn Commuter Station
Parking Facility

DATE OF EVENT n/a

Effective concurrently with the commencement of the work, the contractor/vendor shall obtain and maintain throughout the life of the work, the insurance coverage as noted in pages 1-4. With the exception of Professional Liability, all coverage needs to be written on an occurrence form and with an insurer carrying a minimum AM Best rating of at least A-VIII. Should you have any questions, please call Nancy McIntosh at 312-322-7073.

TYPE OF COVERAGE	AMOUNT REQUIRED
1. WORKERS' COMPENSATION Coverage A - Statutory Coverage B - \$ <u>1,000,00</u>	\$ <u>1,000,000</u> Limits of Liability
2. COMPREHENSIVE GENERAL LIABILITY (BROAD FORM): Bodily Injury Liability & Property Damage Liability (combined)	\$ <u>1,000,000</u> Each Occurrence \$ <u>2,000,000</u> Aggregate
3. UMBRELLA COMPREHENSIVE GENERAL LIABILITY-EXCESS OF PRIMARY LIMITS (2), Auto Liability (4), Employers' Liability (1) Bodily Injury Liability & Property Damage Liability (combined)	\$ <u>1,000,000</u> Each Occurrence \$ <u>2,000,000</u> Aggregate
4. AUTOMOBILE LIABILITY: Bodily Injury Liability & Property Damage Liability (combined)	\$ <u>1,000,000</u> Combined Single Limit
OTHER INSURANCE"	\$ _____

Additional Insureds for all coverages shall be as follows: The Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation, both operating under the service mark Metra as now exists or may hereafter be constituted or acquired, and the Regional Transportation Authority, an Illinois municipal corporation and other railroads operating on Metra's property and the Union Pacific Railroad.

METRA'S INSURANCE REQUIREMENTS APPLICABLE TO ALL POLICIES:

- Include a waiver of subrogation, thereby waiving your rights of subrogation against Metra and any additional insureds.
- Include the Additional Insured Endorsement for all coverages including products and completed operations.
- Be primary and non-contributory on all coverages.
- Remove any XCU exclusion
- Not carry a deductible greater than \$10,000. All deductibles applicable to the insurance coverage shall be borne by the contractor/vendor. The certificate of insurance shall clearly state how defense costs (also known as "allocated loss adjustment expenses") shall apply in terms of the deductible and the insurance limits. (SIR programs are prohibited, absent prior approval by Metra's Risk Management Department.)
- All subcontractors retained or hired for the work shall be required to maintain limits and term equivalent to those required of the prime contractor.
- All insurance policies must specify that they are not subject to cancellation, non-renewal, material change or reduction in coverage unless a minimum of sixty (60) days prior notification is given by the insurer, except for non-payment of premium wherein a ten (10) day notice will apply. Contractor/Vendor will immediately notify Metra of the cancellation, non-renewal, material change or reduction in coverage of any required insurance policy. Such notice shall be sent certified mail to Metra, care of Director of Risk Management, 547 W. Jackson, Suite 1500, Chicago, IL 60661.
- In no event, shall the failure by Metra to receive certificates of insurance required hereunder, or to receive them by the date(s) required hereunder, be construed as a waiver of the contractor/vendor's obligation to obtain the required insurance coverages. Failure by Metra to demand any certificate of insurance or other evidence of full compliance with the insurance requirements set forth herein, or failure by Metra to identify a deficiency in the evidence provided, shall not be construed as a waiver of the obligation to procure or maintain the insurance required hereunder. The acceptance of delivery by Metra of any certificate of insurance does not constitute approval or agreement that the insurance requirements have been met or that the insurance policies identified in the certificates of insurance are in compliance with such requirements.

METRA'S INSURANCE REQUIREMENTS – SPECIFIC CONDITIONS

Commercial General Liability Insurance

The coverage is to be no less restrictive than the latest filed Insurance Services Office (ISO) occurrence form.

The CGL policy shall include the following coverage limits when limits are indicated:

\$2,000,000 for completed operations & products liability
\$1,000,000 per occurrence for personal injury and advertising injury
\$1,000,000 per occurrence damage to rented premises

Automobile Liability Insurance

The Automobile policy shall include the following additional coverage limits:

Include "any" auto (i.e. all autos owned by the contractor/vendor as well as hired and non-owned autos used by the contractor/vendor and autos used by the contractor/vendors' employees while on Metra property).

\$25,000 for Medical Payments
\$500,000 for Property Damage (if not combined in single limit)

Workers Compensation and Employers Liability Insurance

Workers Compensation Insurance coverage should be at statutory limits and include:

- Other States Insurance
- USL&H Insurance
- Voluntary Compensation Insurance

As a minimum, the Employers Liability policy shall include coverage limits of:

\$1,000,000 for bodily injury by accident
\$1,000,000 for bodily injury by disease, each employee
\$1,000,000 aggregate liability

Contractor's Pollution Liability Insurance (when limits are listed on page one)

Coverage shall:

-Cover losses caused by pollution conditions (including sudden and non-sudden pollution conditions) arising from the services and operations of the contractor/vendor and all subcontractors involved in the work.

-Apply, without limitation, to bodily injury, property damage (including loss of use of damaged property or of property which has not been physically injured or destroyed) and clean-up costs.

-Provide coverage for pollution conditions which arise from encountering pre-existing environmental conditions at the project site.

-Provide coverage for liability resulting from the transportation of hazardous wastes.

-Shall be written on a "project specific" basis.

Railroad Protective Liability Insurance (when noted on page one)

If policy limits or "Covered by Metra's Policy" is noted on page 1, then coverage shall:

Insure all liabilities assumed under the provisions of the Hold Harmless and Indemnity Clause in the contract and not exclude any construction and/or demolition work performed within 50 feet of railroad track. Commercial General Liability policies, including excess/umbrella, must contain contractual language covering construction and/or demolition being performed on or near railroad property. Commercial General Liability must be written on the ISO Occurrence Form CG 00 01 12 04 (or a substitute form providing equivalent coverage) and include the following endorsement: Contractual Liability Railroads ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage).

Contact Information:

For additional information please contact Nancy McIntosh at 312-322-7073.

EXHIBIT B
APPROVED PROJECT BUDGET

AGREEMENT BETWEEN METRA
AND
CITY OF GLEN ELLYN

GRANT NUMBERS:
IL-90-X350/MET-033

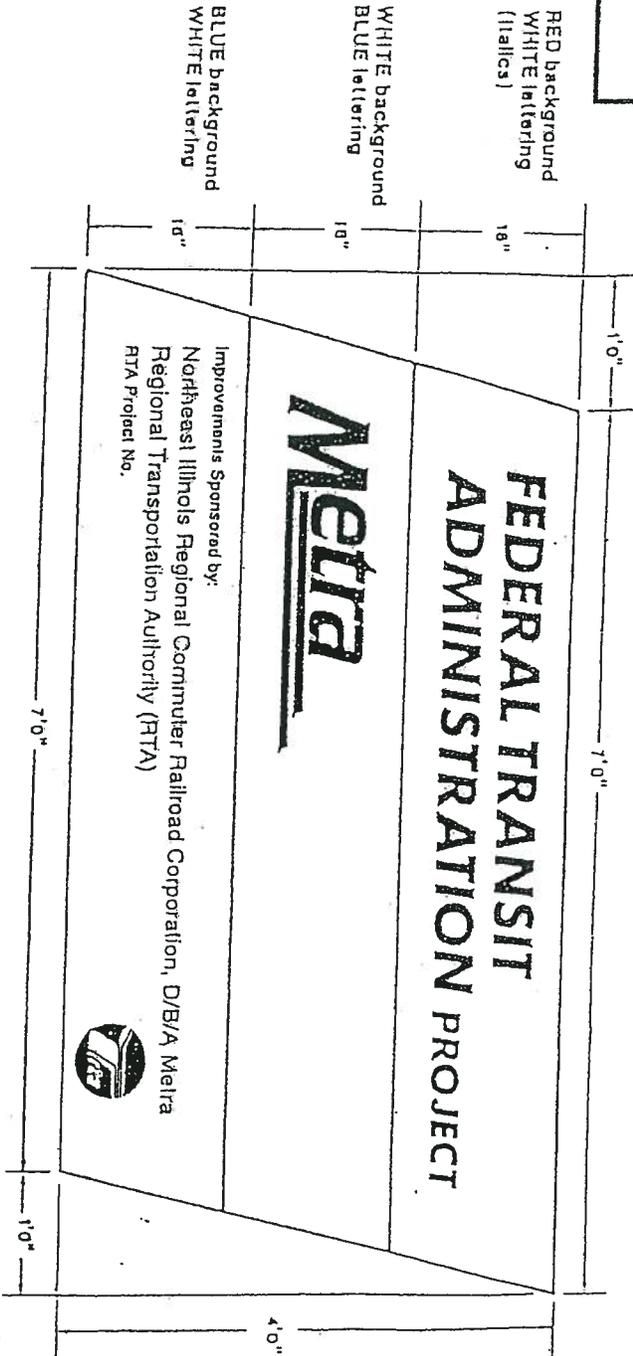
PROJECT NO. 3189
CONTRACT NO: _____

*Replaced
by Amendment*

PROJECT DESCRIPTION: Land Acquisition and Parking Lot Construction

PROJECT ACTIVITY	FTA / METRA OBLIGATION	TOTAL PROJECT BUDGET
<u>Construction</u>		
TL3189-53404006	\$268,000	\$268,000
<u>Land Acquisition</u>		
TL3189-57691009	\$512,000	\$512,000
TOTAL	\$780,000	\$780,000

**Exhibit C
Signs**



RED background
WHITE lettering
(Italics)

WHITE background
BLUE lettering

BLUE background
WHITE lettering

Lettering: Futura Bold (italic (top)
Futura Bold (center)
Futura Demi Bold (bottom)
RTA Logo: Black circle, reversed
white letters

EXHIBIT "D"

TERMS AND CONDITIONS FOR THE TRANSFER OF REAL PROPERTY IN GLEN ELLYN, ILLINOIS

THIS AGREEMENT is made by and between the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation ("CRD" or "METRA") created under the Regional Transportation Authority Act, 70 ILCS 3615/1.01 et seq., and the Village of Glen Ellyn, an Illinois municipal corporation ("Municipality"). Municipality and CRD are hereinafter sometimes individually referred to as a "Party" and jointly referred to as the "Parties

RECITALS

A. The Parties have entered into a Commuter Facility Funding Agreement ("Funding Agreement") of even date hereof, to which this Agreement is attached and made a part thereof as Exhibit "D" to obtain funding for the land acquisition, and construction of a commuter parking facility (the "Project") on real property to be owned by Metra located at 460-478 Duane Street, Glen Ellyn, Illinois identified as permanent index numbers 05-11-320-004, 005, 006, 010, 015, 016, and 017 in Milton Township, DuPage County, Illinois (the Land") as legally described and delineated on Exhibit "D-1" attached hereto and made a part of this Exhibit, to be confirmed by the survey provided for in this Exhibit.

B. Pursuant to the Funding Agreement, CRD has committed to assist Municipality in obtaining FTA funding in the amount not to exceed Seven Hundred Eighty Thousand Dollars (\$780,000) (the "Funding").

C. The Funding will be used for the acquisition of the Land, and towards the completion of the Project by the Municipality.

D. Municipality will be the record owner of the Land. For the purposes of this Exhibit, Municipality is also referred to as "Seller", and CRD or Metra is also referred to as "Purchaser."

E. At such time as funding has been approved by the applicable federal funding agency and all conditions of the Funding Agreement are met, Seller desires to sell, transfer and convey the Land to Purchaser and Purchaser desires to purchase the Land from Seller subject to and in accordance with the terms, covenants, conditions and provisions set forth below.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which are hereby incorporated into and made a part of this Agreement and the mutual representations, covenants, warranties and agreements contained below, the parties represent, covenant, warrant and agree as follows:

1. AGREEMENT FOR SALE AND PURCHASE. Seller agrees to sell, transfer and convey, and Purchaser agrees to purchase, the Land together with all right, title and interest of Seller in and to all rights, privileges, easements, hereditaments and appurtenances in any way incident, appertaining or belonging to the Land and all improvements currently existing or hereafter constructed or installed on, in, over or under the Land ("Property") subject to and in accordance with each of the terms and conditions set forth below.

2. CLOSING. Provided that all the contingencies and conditions subsequent set forth in Section 5 below have been satisfied or waived, the closing shall take place at the downtown Chicago offices of Chicago Title Insurance Company ("Title Insurer"), or some other location acceptable to the Seller and the Purchaser, within thirty (30) days of completion of the Environmental Remediation provided for herein or such other date as may be agreed upon by the Parties, after all the contingencies and conditions precedent set forth in Section 5 below have been satisfied or waived ("Closing Date").

3. PURCHASE PRICE. The purchase price for the Property shall be equal to the amount set forth as the fair market value of the Property in Seller's most current appraisal for the Property (the "Purchase Price"). Seller's most current appraisal is effective January 9, 2012 (which appraisal indicates a fair market value for the property of \$500,000), and is valid for a period of six (6) months from the effective date of such appraisal. In the event the Closing Date (defined below), does not occur by the date which is six (6) months from the date of Seller's most current appraisal (such six month date being August 9, 2012), then Seller shall obtain an updated appraisal for the Property (the "Review Appraisal"), and the Purchase Price shall be adjusted, if necessary, and if the Seller consents thereto in writing, such that it is equal to the amount determined to be the then current fair market value of the Property as determined by such Review Appraisal. In the event the Seller does not consent to adjusting the Purchase Price to the amount set forth in the Review Appraisal, then this Agreement (and all agreements relating to the Project) shall be deemed terminated.

Amended

4. TITLE. Seller shall convey to Purchaser on the Closing Date for consideration of Ten Dollars (\$10) fee simple title to and all of Seller's right, title and interest in the Property by recordable, stamped special warranty deed acceptable to Purchaser and the Title Insurer ("Deed") subject only to those title exceptions set forth on Exhibit "E-2" attached to and made a part of this Agreement ("Permitted Exceptions").

5. CONTINGENCIES OR CONDITIONS PRECEDENT. Notwithstanding anything to the contrary which may be contained in this Agreement, Purchaser's obligation to consummate this transaction is subject to and conditioned upon satisfaction of the following express conditions precedent. Each of the conditions precedent may be waived in writing by Purchaser, such conditions being intended for the exclusive protection and benefit of Purchaser. In the event that such conditions are not satisfied or waived by Purchaser on or before the Closing Date, then at the sole option of Purchaser, this Agreement may be either: (i) declared null and void; or (ii) extended upon the mutual agreement of the parties.

A. The continued validity of each and every representation, covenant and warranty contained in this Agreement.

B. All conditions of the Funding Agreement, including without limitation Part II General Terms and Conditions, have been satisfied, and Purchaser has obtained funding for the Project and authorization to expend such Funding on the Project by the federal funding agency.

C. Prior to the Closing Date, Seller shall, at its sole expense, provide Purchaser with an environmental survey report prepared by Seller's environmental consultant, confirming that all required remediation has been completed at the Property to the satisfaction of the Illinois Environmental Protection Agency, or any other governmental agency having jurisdiction over at the Property, and an engineering report that the Property is suitable for its intended use as a commuter rail parking facility. The reports shall be subject to the review and approval by the Purchaser, which approval shall not be unreasonably withheld, delayed or conditioned. Purchaser, its agents, consultants, and designees shall have the right to enter upon the Property for the purpose of inspecting Property. Purchaser shall indemnify and hold Seller harmless from and against any loss, cost damage or expense for personal injury, including death, to any person or property damage occurring or arising as a result of Purchaser's activities on the Property pursuant to the terms of this Section 5 C. In the event Seller's reports are unacceptable to Purchaser, Purchaser shall have the right to terminate this Agreement without further liability or obligation to Seller, provided however, that the Purchaser shall only deem such reports to be unacceptable if they: (i) are not prepared with reasonable professional skill and the City does not cure such deficiency within thirty days of notice thereof from the Purchaser; (ii) indicate a level of contamination remaining above amounts permitted by applicable Federal funding agency guidelines or policies; or, (iii) indicate the existence of new or previously undisclosed environmental contamination.

D. Prior to the Closing Date, Seller shall remove from the Property all debris and personal property not being conveyed and to deliver possession of the Property in clean condition.

E. Seller shall deliver to Purchaser within thirty (30) days of the date hereof, copies of the following, if any, which are in Seller's possession or control: (i) all tax bills, surveys and title policies; (ii) all engineering studies, soil tests, chemical tests, environmental reports, analyses or assessments of the Property; and (iii) all site plans, drawings, documents showing the installation of utilities, or other documents relating to the Property or the improvements thereon.

F. On the Closing Date, Seller shall deliver to Purchaser an affidavit executed by Seller, dated the same date as the Closing Date, representing and affirming that there are no recorded or unrecorded brokers', mechanics' or materialmens' liens arising by or through the actions of Seller and there has been and is no work performed or material being furnished at the request of Seller with respect to the Property and there are no payments or outstanding balances due under any agreements pertaining to the Property for which payment has not previously been fully made.

G. On the Closing Date, Seller shall deliver to Purchaser an affidavit of title in customary form covering the Closing Date.

H. On or before the Closing Date, Purchaser shall have confirmed to Purchaser's satisfaction that the property is properly zoned to be used as a commuter rail parking facility under applicable zoning laws, ordinances, rules and regulations.

I. On the Closing Date, Seller shall deliver to Purchaser a closing statement prepared by Seller in a manner which reflects the terms and conditions, as applicable, of this Agreement and otherwise in a form reasonably acceptable to Purchaser (hereinafter referred to as the "Closing Statement").

J. On or before the Closing Date, Purchaser shall have received all grant monies or other funding necessary for acquisition of the Property in accordance with the terms of this Agreement.

K. Purchaser shall be satisfied with all title and survey matters in accordance with Sections 6 and 7 below.

L. No new or previously undisclosed environmental contamination has been discovered on the Property.

6. **TITLE POLICY.** Within thirty (30) days from the date of this Agreement, Seller shall, at its sole cost and expense, provide Purchaser or Purchaser's attorney with a title insurance commitment for the issuance of an ALTA owner's title insurance policy ("**Title Policy**") covering the Property, issued by the Title Insurer, dated subsequent to the date of this Agreement in the amount of the Purchase Price, with extended coverage over the general exceptions contained in the Title Policy and showing title in the Seller subject only to: (a) the Permitted Exceptions, and (b) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money from Seller at the time of closing, (and which Seller shall so remove at that time by using the funds to be paid upon the delivery of the Deed). On or before the Closing Date, Seller shall cause the Title Company to issue a zoning endorsement to the said title commitment evidencing to Purchaser's satisfaction that development and use of the Property as a commuter parking facility is permitted under applicable zoning ordinances. On the Closing Date, Seller, at its sole cost and expense, shall cause the Title Insurer to issue: (i) the pro-forma Title Policy covering the Closing Date, as hereinafter defined, showing title in Seller subject only to the Permitted Exceptions and unpermitted exceptions or defects in the title disclosed by the Survey, as hereinafter defined, if any, accepted and approved by Purchaser, and (ii) the zoning endorsement.

7. **SURVEY.**

A. Within sixty (60) days of the date of this Agreement, Seller shall, at its sole cost and expense, deliver to Purchaser or Purchaser's attorney, a current survey of the Property by a licensed Illinois Property surveyor and certified

to Purchaser and the Title Insurer to have been prepared in accordance with the ALTA/ACSM Property survey standards ("Survey"). To the extent such information may be obtained by a visual inspection of the Property or a review of the public records, the Survey shall set forth the legal description, location, acreage and dimensions of the Property and any structures or improvements located thereon, show all water lines, sanitary sewers, storm sewers, any other utilities, building lines, setback lines, easements and other restrictions affecting the Property, all encroachments onto and from adjoining properties, building lines, access to public roads and street address(es). The Survey must be acceptable to the Title Insurer for purposes of providing extended coverage over the general title exceptions relating to matters of survey.

B. If the Survey required to be furnished under this Section discloses encroachments over which the Title Insurer will not insure or which Purchaser is unwilling to accept even with such title insurance, or if, after reviewing such Survey, the Title Insurer raises unpermitted exceptions ("Survey Defects") on or before the Closing Date, Seller shall correct any Survey Defects; provided, however, that if Seller is unable or unwilling to correct such Survey Defects, Purchaser may elect either to terminate this Agreement or accept title to the Property subject to such Survey Defects as set forth in Section 9.C below.

8. **TRANSFER AND TRANSACTION DECLARATIONS.** Seller shall pay the amount of any stamp taxes imposed by state or county law on the transfer of the title to the Property and shall furnish a completed Real Estate Transfer Declaration signed by Seller or Seller's agent in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois, and shall furnish any declaration signed by Seller or Seller's agent or meet other requirements as established by any local ordinance with regard to a transfer or transaction tax. Under present law, conveyances to Purchaser are exempt from state and local transfer and transaction taxes, however, State, County, and, if applicable, local transfer declarations must be presented to the County Recorder's Office with the Deed.

9. CLOSING.

A. When all the contingencies and conditions precedent set forth in this Agreement which are required to be satisfied prior to the Closing Date have been satisfied or waived by Purchaser, Purchaser shall notify Seller of such and Seller shall order a later dated title commitment covering the Property from the Title Insurer and cause such commitment to be delivered to Purchaser. Provided the later dated title commitment is acceptable to Purchaser, and all other obligations of Seller set forth in this Agreement have been satisfied, the Parties will close the purchase and sale of the Property on the Closing Date. On the Closing Date, Seller shall deliver to Purchaser all documents required to be delivered at closing under the terms and conditions of this Agreement.

B. The transaction shall be closed by means of a so-called "New York Style" closing, with the concurrent delivery of the documents of title, transfer of interests, delivery of the pro-forma Title Policy and payment of the Purchase Price; provided, however, that the Purchase Price shall be disbursed to Seller only after all of the contingencies and conditions precedent and all other obligations of Seller set forth in this Agreement have been satisfied ("Disbursement Date"). Seller, at its sole cost and expense, shall provide the standard gap undertaking ("Gap Undertaking") to the Title Company necessary for the New York style closing to occur and any other clearance required by the Title Insurer. The cost of the closing, other than the Gap Undertaking, shall be divided equally between Seller and Purchaser.

C. In the event that the pro-forma title policy presented at the closing discloses unpermitted exceptions or the Survey discloses Survey Defects which Purchaser is unwilling to accept, Seller shall have five (5) days within which to have the unpermitted exceptions or Survey Defects waived or insured over and approved by Purchaser. In the event Seller is unable to have the unpermitted exceptions or Survey Defects waived, insured over and approved by Purchaser, then Purchaser shall have the option either:

1. To terminate this Agreement; or
2. To extend the cure period for an additional thirty (30) days by written notice to Seller, in which event Seller shall have the right within such thirty (30) days to remove said unpermitted exceptions or Survey Defects or to insure over such unpermitted exceptions which constitute liens or encumbrances of a definite or

ascertainable amount, failing which, Purchaser may terminate this Agreement in the manner set forth above or Purchaser may take title to the Property and direct Seller to pay, pursuant to the terms of this Agreement, liens or encumbrances of a definite or ascertainable amount and to proceed with the remaining terms and conditions of this Agreement.

10. POSSESSION. Possession of the Property shall be delivered to Purchaser on the Disbursement Date.

11. CONDEMNATION/CASUALTY. Intentionally Omitted.

12. SELLER'S REPRESENTATIONS AND WARRANTIES. Seller makes the following representations and warranties to Purchaser, which representations and warranties shall be deemed to have been remade on and shall survive the Closing Date.

A. As of the Closing Date there will be no third party leases of any portion of the Property or any other third party agreements, nor will there be such leases or agreements for a future period, and no third party licenses or any other possessory rights will exist in any person or entity with respect to the Property, other than public utility easements and other matters of record.

B. No undertaking by Seller under this Agreement will constitute a default by Seller under any agreements to which Seller is a party.

C. Seller has or will have on the Closing Date full authority and power to convey fee simple title to the Property free and clear of any liens, claims or encumbrances of third parties and has full authority and power to perform Seller's obligations under this Agreement.

D. No litigation, legal proceedings or administrative proceedings of any type relating to or affecting the Property (including condemnation or similar proceedings) have been instituted or, to the best of Seller's knowledge, are contemplated against Seller, the Property or any part thereof, including without limitation any claims for brokers', mechanics' or materialmen's liens.

E. All real estate taxes assessed against the Property are currently paid and, to the best of Seller's knowledge, there are no assessed, levied, pending or contemplated special real estate taxes or regular or special assessments of any nature with respect to the Property or any part thereof.

F. Seller has received no notice of any pollution or contamination on the Property, nor of any violations with respect to the Property including without limitation violations of zoning, conservation or environmental laws, ordinances, codes or regulations, or other laws, codes or regulations relating to public health and safety.

G. There are no above-ground storage tanks and, to the best of Seller's knowledge, no other underground storage tanks are present on the Property which contain any Hazardous Materials, as hereinafter defined, and no such tanks were previously removed from the Property.

H. Seller will attempt to obtain the representations and indemnification stated below from the previous owner prior to purchasing the Property from such owner, [previous owner] has no knowledge of any hazardous or toxic materials or substances, as such terms are defined under applicable current local, state or federal laws, ordinances, rules or regulations ("Hazardous Materials") that are now located on the Property and, to the best of [previous owner's] knowledge and belief, no other person has ever caused or permitted any Hazardous Materials to be placed, held, located or disposed of, on, under, or at the Property or any part thereof. To the best of [previous owner's] knowledge and belief after due inquiry, no part of the Property has ever been used as a manufacturing, storage or dump site for Hazardous Materials, nor is any part of the Property affected by any Hazardous Materials contamination. To the best of [previous owner's] knowledge and belief, no property adjoining the Property has ever been used as a manufacturing, warehousing, storage or dump site for Hazardous Materials, nor is any other Property adjoining the Property affected by any Hazardous Materials contamination. To the fullest extent [previous owner] would be responsible by law for the existence and

remediation of Hazardous Materials or Hazardous Materials Contamination, [previous owner] shall defend, indemnify and hold harmless Purchaser from any and all liabilities (including strict liability) actions, demands, penalties, losses, costs or expenses (including, without limitation, reasonable attorneys' fees and remedial costs), suits, costs of any settlement or judgment and claims of any and every kind whatsoever which may now or in the future (whether before or after the Closing Date) be paid, incurred or suffered by or asserted against Purchaser or by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials prior to the Closing Date or arise out of or result from the environmental condition of the Property prior to the Closing Date, or the applicability of any governmental requirement relating to Hazardous Materials on the Property prior to the Closing Date (including without limitation, CERCLA or any so called federal, state or local "Superfund" or "Superlien" laws, statute, ordinance, code, rule, regulation, order or decree, (regardless of whether or not caused by or within the control of [previous owner])).

I. Other than as set forth in the Permitted Exceptions, to the best of Seller's knowledge, there are no ordinances, restrictions, easements or licenses, whether recorded or unrecorded, affecting any portion of the Property which will interfere with the Purchaser's intended use of the Property.

J. There are no obligations or responsibilities of Seller that will survive the Closing Date with respect to any persons or entities involved in the operation, maintenance and management of the Property that would become the obligation or responsibility of the Purchaser, and Seller indemnifies Purchaser against any and all such obligations and responsibilities to such persons or entities, which arise before or will arise after the Closing Date.

K. In the event of any alleged breach of any such representations, warranties, or covenants set forth above prior to the Closing Date, Purchaser shall deliver written notice of such breach to Seller, and Seller shall have thirty (30) days to cure such breach and in the event Seller is unable to cure such breach to the reasonable satisfaction of Purchaser, then Purchaser shall have the option to terminate this Agreement. In the event of any alleged breach of any such representations, warranties, or covenants subsequent to the Closing Date, Seller agrees to defend, indemnify and hold harmless Purchaser from and against any and all liens, loss, cost, damage, injury or expense, including without limitation demolition, reconstruction or remediation costs, court costs or attorney's fees, directly or indirectly arising or resulting from such breach.

13. REAL ESTATE TAXES. All real estate taxes, levies, and charges, if any, due and payable shall be paid by Seller or Seller shall provide Purchaser with a credit for such unpaid taxes, levies, and charges at closing. Real estate taxes and all other levies and charges that are assessed against or which are a lien on the Property, but are not yet due and payable shall be prorated through the Closing Date based on one hundred and ten percent (110%) of the most recently assessed valuation of the Property on record at the Will County Assessor's office. All real estate taxes, levies and charges, if any, assessed against the Property subsequent to the Closing Date shall be paid by Purchaser.

14. PRORATIONS. The following items shall be paid, prorated and adjusted through the Closing Date and subsequent thereto as follows:

A. Seller shall be responsible for payment of all personal property taxes, sewer rents, water rents, transit taxes, utilities, maintenance, insurance, operating and all other charges and costs associated with or charged or assessed against the Property on or before the Closing Date.

B. Owner's title insurance and customary Seller's title and recording charges shall be paid by Seller. Customary Purchaser's title and recording charges shall be paid by Purchaser.

C. All accounts payable, contractual and other obligations incurred by Seller prior to the Closing Date shall be paid or performed by Seller on or before the Closing Date and Purchaser assumes no obligation or responsibility for the payment or performance of such obligations.

15. DOCUMENTS FOR CLOSING. Seller shall prepare or cause to be prepared the Deed, the Seller's Closing Statement, an Affidavit of Title and any other documents required of Seller under the terms of this Agreement or deemed necessary or appropriate by Purchaser or the Title Insurer to consummate this transaction, all of which shall be in form, scope and substance reasonably acceptable to Purchaser and the Title Insurer.

16. DEFAULT.

A. Except as specifically provided otherwise in this Agreement, in the event that Seller shall fail to comply with any of the obligations to be performed by Seller hereunder, then Purchaser shall have all rights and remedies available to it at law and/or in equity to seek additional damages and/or to strictly enforce the terms of this Agreement and thereby require conveyance of title to the Property.

B. Except as specifically provided otherwise in this Agreement, in the event that Purchaser shall fail to comply with any of the obligations to be performed by Purchaser hereunder, then Seller shall have all rights and remedies available to it at law and/or in equity to seek additional damages and/or require a reconveyance of title to the Property.

17. SUBSEQUENT INSPECTION. Purchaser shall have the right to periodically inspect the Property so long as Purchaser is not in default under this Agreement and this Agreement has not been terminated pursuant to its terms. Such inspections shall be made after having given notice to Seller and during the normal business hours of Seller or at such other times reasonably satisfactory to the Parties and shall be conducted in a manner so as not to unreasonably interfere with the Seller's use of the Property and Purchaser shall repair any damage to the Property caused thereby. Purchaser hereby indemnifies Seller against any loss, cost, liability or damage to person or property occurring in the course of the conduct of such inspections, tests or surveys performed by or on behalf of Purchaser.

18. POST-CLOSING OBLIGATIONS. Subject to Purchaser's compliance with this Agreement, the Funding Agreement and the Operation and Maintenance Agreement, Seller agrees to construct, operate and maintain commuter facilities on the Property in accordance with the terms stated in the Operation and Maintenance Agreement for a Parking Facility in Glen Ellyn, Illinois of even date hereof signed by both Parties.

19. MISCELLANEOUS.

A. Time is of the essence of this Agreement.

B. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective representatives, successors or assigns. It is expressly understood by the Parties that this Agreement does not constitute an offer until the Commuter Rail Board of the Regional Transportation Authority has passed an ordinance approving the signing hereof.

C. The terms, conditions, provisions, covenants, representations and warranties herein contained shall survive the Closing Date and delivery of the Deed by Seller, shall not be merged into the Deed and shall extend to the successors and assigns of Seller and Purchaser.

D. The captions of the Sections of this Agreement are for convenience and are not to be interpreted as part of this Agreement.

E. The unenforceability or invalidity of any provision or provisions of this Agreement shall not render any other provision or provisions unenforceable or invalid provided that the Agreement, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of either of the Parties.

F. Whenever the context requires or permits the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

G. In the event the time for performance hereunder falls on a Saturday, Sunday or holiday, the actual time for performance shall be the next business day.

H. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

I. Seller shall cooperate with Purchaser in its efforts to apply for and obtain grant funds for the purchase of the Property.

20. NOTICES. All notices, demands, elections, and other instruments required or permitted to be given or made by either Party upon the other under the terms of this Agreement or any statute shall be in writing delivered in accordance with the provision of the Funding Agreement to which this Exhibit E is attached.

21. BROKERAGE COMMISSION.

A. Purchaser hereby represents and warrants to Seller that there has been no involvement of any real estate broker in connection with the purchase and sale of the Property to whom Purchaser has agreed to pay a commission. Based on the foregoing representation, the Purchaser hereby agrees to indemnify and hold Seller harmless against and from any loss or expense, including, but not limited to, attorneys' fees, arising from the alleged liability of Purchaser for brokerage commissions or finders fees claimed from persons with whom Purchaser has dealt.

B. Seller hereby represents and warrants to Purchaser that there has been no involvement of any real estate broker in connection with the purchase and sale of the Property to whom Seller has agreed to pay a commission. Based on the foregoing representation, the Seller hereby agrees to indemnify and hold Purchaser harmless against and from any loss or expense, including, but not limited to, attorneys' fees, arising from the alleged liability of Seller for brokerage commissions or finders fees claimed from persons with whom Seller has dealt.

22. DISCLOSURE OF INTERESTS. In accordance with 50 ILCS 105/3.1, prior to execution of this Agreement by Purchaser, an owner, authorized trustee, corporate official or managing agent must submit a sworn affidavit to Purchaser disclosing the identity of every owner and beneficiary having any interest, real or personal, in the Property, and every shareholder entitled to receive more than 7 ½ % of the total distributable income of any corporation having any interest, real or personal, in the Property or, alternatively, if a corporation's stock is publicly traded, a sworn affidavit by an officer of the corporation or its managing agent that there is no readily known individual having greater than a 7 ½ % interest, real or personal, in the Property. The sworn affidavit shall be substantially similar to the one described on Exhibit "E-3" attached to and made a part of this Agreement.

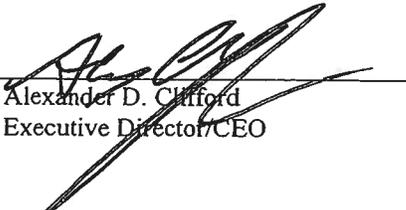
23. VOLUNTARY SALE. As a voluntary sale, in the event negotiations fail to result in amicable agreement, Purchaser will not pursue acquisition of the Property through eminent domain proceedings.

[Signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be made effective and executed as of the 23rd day of July, 2012 by their respective duly authorized officials.

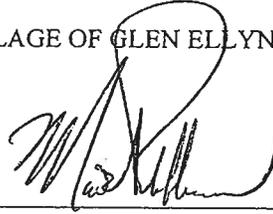
COMMUTER RAIL DIVISION OF THE REGIONAL
TRANSPORTATION
AUTHORITY:

By: _____


Alexander D. Clifford
Executive Director/CEO

VILLAGE OF GLEN ELLYN:

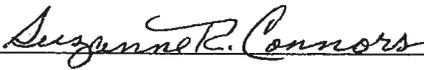
By: _____



Its: Village President

ATTEST:

By: _____



Its: Village Clerk

LEGAL DESCRIPTION

LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, AND 16 (EXCEPT THE NORTHERLY 50 FEET OF ALL OF SAID LOTS) IN BLOCK 1 IN GLENWOOD, BEING C. A. PHILLIPS SUBDIVISION OF PART OF SECTION 10, AND PART OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 22, 1873 AS DOCUMENT NUMBER 16688, IN DUPAGE, COUNTY ILLINOIS

EXHIBIT D-2

PERMITTED EXCEPTIONS

1. Unpaid general real estate taxes but only if such taxes are not yet due or payable.
2. Exceptions which in Purchaser's sole discretion will not interfere with Purchaser's intended use of the Property as a commuter parking facility.

EXHIBIT D-3

**ALL SELLERS MUST SIGN AN AFFIDAVIT THAT IS
SUBSTANTIALLY SIMILAR TO THE ONE BELOW**

State of Illinois)

County of _____)

DISCLOSURE AFFIDAVIT

I, _____, reside at _____ in the town of _____, County of _____, State of _____, being first duly sworn and having personal knowledge of the Property in question, swear to the following:

1. I am over the age of eighteen and the (choose one) _____ (i.e. owner, authorized trustee, corporate official or managing agent or partner) of the property being sold to the Commuter Rail Division of the Regional Transportation Authority ("Purchaser");

2. The property in question has a common street address referred to as: _____ in the town of _____, County of _____, State of _____, and with a property index number of _____ (hereinafter "Property");

3. I understand that prior to execution of the Agreement to purchase the Property between the owner of record and Purchaser, Section 3.1 of the Public Officer Prohibited Activities Act ("Act"), 50 ILCS 105/3.1, requires that every beneficiary and every owner having *any* interest, real or personal, in the Property, and every shareholder entitled to receive more than 7 ½% of the total distributable income of *any* corporation having *any* interest, real or personal, in the Property must be disclosed. As required by the Act, the term "ownership" shall be liberally construed to accomplish the purpose of requiring the identification of the actual parties benefiting from this transaction with Purchaser. The term "owner" shall also include contract purchasers, partnerships, limited partnerships, and option holders. The Act requires that this disclosure of interest be in writing and subscribed by an owner, authorized trustee, corporate official or managing agent or partner under oath;

4. As the owner, authorized trustee, corporate official or managing agent or partner, I declare under oath that:

(a) The owners, partners, and/or trust beneficiaries are:

and/or

(b) The shareholders with more than 7 ½ % interest are:

or

(c) The corporation is publicly traded and there is no readily known individual having greater than a 7½% interest in the corporation; and

5. This instrument is made under oath on this ____ day of _____, 20 __, to induce the Purchaser to purchase the Property in accordance with the Act. I understand that if I knowingly provide a false statement or knowingly omit a material fact relating to the identification of an individual or entity that has an ownership interest, I may be subject to a criminal offense of perjury under 50 ILCS 105/4.5 of the Act.

SIGNED AS OF THE DATE WRITTEN ABOVE BY:

PRINT NAME:

State of Illinois)

) ss.

County of _____)

The undersigned, a Notary Public in and for the above County and State, do hereby certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged signing and delivering the instrument as their free and voluntary act, and being thereunto duly authorized for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 20 __.

Notary Public

“EXHIBIT D”
(First Amendment to the Commuter Facility
Improvement Funding Agreement)

**FIRST AMENDMENT TO
COMMUTER FACILITY FUNDING AGREEMENT FOR
A COMMUTER PARKING FACILITY IN THE VILLAGE OF GLEN ELLYN**

THIS AMENDMENT, dated this _____ day of _____, 2012, shall amend and modify the COMMUTER FACILITY FUNDING AGREEMENT entered into on July 23, 2012 (“**Funding Agreement**”) by and between the Village of Glen Ellyn, an Illinois municipal corporation (“**Municipality**”) and the Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, (“**CRD or Metra**”), for the acquisition, construction, operation and maintenance of commuter facilities located at 460-478 Duane Street, Glen Ellyn, Illinois. To the extent that a provision or provisions of the Funding Agreement are in conflict with a provision or provisions of this Amendment, the provision or provisions of this Amendment shall control. Metra and Municipality are hereinafter sometimes jointly referred to as the “**Parties**”.

RECITALS

- A. The Parties have entered into the Funding Agreement attached to and made a part hereof as **Exhibit “A”**, to provide for the land acquisition, including closing costs, and, to the extent excess funds remain, the construction of a commuter parking facility on real property owned or to be owned by Metra located at 460-478 Duane Street, Glen Ellyn, DuPage County, Illinois identified as permanent index number 05-11-320-004, 005, 006, 010, 015, 016 and 017 (the “**Land**”) as legally described and delineated on **Exhibit “A-1”** to the Funding Agreement.
- B. Municipality has indicated to CRD that it will not immediately construct the Parking Facility, and has agreed to assume all maintenance of the Land until such time as it completes the Parking Facility and the Parking Facility has opened for business.
- C. The Parties have determined it is in their mutual best interests that the Funding Agreement be modified to clarify certain terms thereof, including, without limitation, the purchase price for the Land and the Parties respective obligations, the date by which the Parking Facility shall be completed, and to otherwise provide for the operation and maintenance of the Land both prior to and after completion of the Parking Facility.

NOW, THEREFORE, for and in consideration of the mutual agreements set forth herein and the foregoing Recitals, which are hereby incorporated into and made a part of this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, Metra and Municipality agree that the Funding Agreement shall be amended as follows:

- 1. Amend Part II, Paragraph 2 of the Funding Agreement by deleting the paragraph in its entirety and inserting the following in lieu thereof:

2. **GENERAL REQUIREMENTS.** Municipality shall commence, carry on, and complete the Project with all practicable dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions of this Agreement, provided however, that Municipality shall complete the Project no later than May 1, 2014, unless otherwise extended by the Parties in writing. Within a reasonable time after the date of this Agreement, but in no event after May 1, 2014, Municipality shall grant a special use permit and exterior appearance approval to allow the construction of a commuter parking lot or otherwise cause the Land to be rezoned such that a Commuter Parking Facility is a permitted use on the Land pursuant to Municipality's existing Zoning Ordinance (the "Rezoning"). In the event Municipality fails to obtain the Rezoning, or otherwise complete the project by May 1, 2014, and the parties have not otherwise agreed in writing to extend the Agreement, then, at the sole option of Metra: (i) Municipality shall repay all grant monies paid by Metra to Municipality pursuant to this Agreement (including Metra's non-grant monies and expenses incurred in connection with this Agreement) and Metra shall re-convey the Land back to Municipality by Quit Claim Deed; or, (ii) Metra may elect to terminate the Agreement, complete the Project and operate the Commuter Parking Facility (notwithstanding the failure of the Municipality to complete the Rezoning) in accordance with Metra's exemption from local zoning regulations as a governmental entity providing regional transportation services.

2. Amend Part II, Exhibit A (Operation and Maintenance of Commuter Parking Facility in the Village of Glen Ellyn) by deleting Paragraph 1 in its entirety and inserting the following in lieu thereof:

1. **FEE AND TERM.** Municipality covenants and agrees to pay Metra the sum of Ten Dollars (\$10.00) as an annual use fee for the Parking Facility. Municipality's obligations and rights to use the Parking Facility under the terms and provisions of this Agreement shall commence on the date Municipality opens the completed Parking Facility to the public for commuter parking purposes and shall continue in force and effect for a period of forty (40) years from said date ("Use Term") unless otherwise terminated as provided under the terms and conditions of this Agreement.

3. Amend Part II, Exhibit A (Operation and Maintenance of Commuter Parking Facility in the Village of Glen Ellyn) by inserting sub-paragraph (e) as the last grammatical paragraph of existing paragraph 4 (Maintenance, Access, and Relocation), including all existing subparagraphs:

(e) Municipality shall maintain the Premises prior to the commencement of the Use Term in accordance with applicable, local, state and federal laws. Such maintenance shall include, but not be limited to, periodic mowing and weed removal.

4. Amend Part II, Exhibit B (Project Budget 4/13/12) of the Funding Agreement by deleting the existing Exhibit B and replacing with the Project Budget attached hereto as Exhibit B-1.

5. Amend Part II, Exhibit D (Terms and Conditions for the Transfer of Real Property in Glen Ellyn, Illinois) of the Funding Agreement by deleting paragraph 3 to such Exhibit D in its entirety and inserting the following in lieu thereof:

3. **PURCHASE PRICE.** The purchase price for the Property shall be the lesser of: (i) \$445,000; or, (ii) the fair market value of the Property (the “Purchase Price”). In the event a Purchase Price indicates a present fair market value for the Property less than the amount set forth in Seller’s most current appraisal for the Property, Seller shall provide to CRD at Closing a Donation Letter from the then current owner of the Property verifying that such owner is donating the difference between the fair market value of the Property (as disclosed by the then current appraisal) and \$445,000. Such Donation Letter shall comply with the requirements of Section 24.108 of the Code of Federal Regulations and be in a form acceptable to CRD. Seller’s most current appraisal for the Property, as confirmed by an updated Review Appraisal, is effective August 10, 2012 (which appraisal indicates a fair market value for the property of \$500,000), and is valid for a period of six (6) months from the effective date of such appraisal. In the event the Closing Date (defined below), does not occur by the date which is six (6) months from the date of Seller’s most current appraisal (such six month date being from August 10, 2012), then Seller shall obtain an updated Review Appraisal for the Property, which Review Appraisal may be in letter form and comply with applicable Federal Regulations. In the event an updated Review Appraisal indicates the fair market value of the Property is less than \$445,000, and if the Seller consents thereto in writing, the Purchase Price shall be such that it is equal to the amount determined to be the then current fair market value of the Property. In the event the Seller does not consent to adjusting the Purchase Price to the amount set forth in the Review Appraisal, then this Agreement (and all agreements relating to the Project) shall be deemed terminated.

6. Amend Part II, Exhibit D (Terms and Conditions for the Transfer of Real Property in Glen Ellyn, Illinois) of the Funding Agreement by deleting paragraph 6 to such Exhibit D in its entirety and inserting the following in lieu thereof:

6. **TITLE POLICY.** Within thirty (30) days from the date of this Agreement, Seller shall, at its sole cost and expense, provide Purchaser or Purchaser's attorney with a title insurance commitment for the issuance of an ALTA owner's title insurance policy ("**Title Policy**") covering the Property, issued by the Title Insurer, dated subsequent to the date of this Agreement in the amount of the Purchase Price, with extended coverage over the general exceptions contained in the Title Policy and showing title in the Seller subject only to: (a) the Permitted Exceptions, and (b) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money from Seller at the time of closing, (and which Seller shall so remove at that time by using the funds to be paid upon the delivery of the Deed). On the Closing Date, Seller, at its sole cost and expense, shall cause the Title Insurer to issue: (i) the pro-forma Title Policy covering the Closing Date, as hereinafter defined, showing title in Seller subject only to the Permitted Exceptions and unpermitted exceptions or defects in the title disclosed by the Survey, as hereinafter defined, if any, accepted and approved by Purchaser, (ii) extended coverage; and; (iii) such other additional endorsements requested by CRD, provided the cost for such additional endorsements shall be borne by CRD.

7. Metra and Municipality further agree that capitalized terms, not otherwise defined herein, shall have the same meanings ascribed to them in the Funding Agreement. The Parties hereby ratify the remaining terms, covenants, provisions and conditions of the Funding Agreement, and acknowledge same shall remain in full force and effect.

8. This Amendment may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. A facsimile signature shall have the same legal effect as if it were an original.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

COMMUTER RAIL DIVISION OF THE
REGIONAL TRANSPORTATION
AUTHORITY:

VILLAGE OF GLEN ELLYN:

By: _____
Name: Alexander D. Clifford
Title: Executive Director/CEO

By: _____
Name: Mark Pfefferman
Title: Mayor

ATTEST:

By: _____
Name: Patti Underhill
Title: Acting Village Clerk

Exhibit B-1

Exhibit B to Part II of Commuter Funding Agreement
Approved Project Budget

EXHIBIT B
APPROVED PROJECT BUDGET

AGREEMENT BETWEEN METRA
AND THE VILLAGE OF
GLEN ELLYN

GRANT NUMBER: IL-90-X350/MET - 033

PROJECT NO. 3189
CONTRACT NO. K00485

PROJECT DESCRIPTION:
GLEN ELLYN STATION PARKING

PROJECT BUDGET

<u>ACTIVITY</u>	
TL3189 - 57691009 Acquisition of Real Estate	\$ 445,000
TL3189 - 57691009 Misc. Real Estate Costs	\$ 5,000
TL3189 - 53404006 Construction	\$ 330,000
TOTAL	<u>\$ 780,000</u>

A-9



To: Mark Franz, Village Manager

From: Staci Hulseberg, Director of Planning and Development

Date: April 17, 2012

Re: Purchase of Duane Street Property for Commuter Parking Lot

Background

In 1999, the Village was awarded a federal Congestion Mitigation and Air Quality (CMAQ) grant administered by Metra in the amount of \$780,000 for the construction of a new commuter parking lot on the vacant property south of the intersection of Western and Pennsylvania. Harris Bank subsequently purchased the property and developed a local bank on the site. Since that time, the Village has been working to find an alternate location to use the grant funds and construct a commuter parking lot. Over the years, the Village has discussed a number of potential locations for the lot. Metra has informed us that if the grant funds are not used soon, they will be eliminated.

One of the potential parking lot locations evaluated more recently was the Duane Street Rowhouse property located at 460-478 Duane Street, immediately west of Citibank. In May 2009, the Village approved the construction of seven townhomes on this site. The development never went forward and the approving ordinance expired in November 2011. The property was ultimately foreclosed upon by Elgin State Bank.

Following the foreclosure, the initial list price for the property was \$1.2 million. In November 2010, the list price was reduced to \$825,000. A recent appraisal reflects a value of \$500,000 for the land. The Village has negotiated a purchase price of \$445,000 for the property. A Phase I Environmental Study has been approved by Metra which shows the property to be clean.

The property is very narrow in depth and therefore, uses for the site are limited. Due to its location being quite separated from other retail uses and the downtown core, the site is not a prime location for retail development. Office
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Memo Re Duane Street Prop Purchase 4-17-12 (2).docx

or residential development could be workable on the site. However, the poor economy as created an additional challenge for the redevelopment of the land. A commuter parking lot would be appropriate as a permanent or interim use for the site. In the future, if the Village would like the property to be redeveloped with a different use, it would be possible to relocate these parking stalls to elsewhere in the downtown. The commuter parking spaces are required to remain in the downtown for 40 years.

Issues

We would potentially be able to construct 55 commuter parking spaces on the property. A parking lot at this location would be more desirable to commuters than the daily fee Duane-Lorraine lot since it is closer to the train station. There is currently a demand for downtown permit parking spaces since there is a 2-year waiting list for a first-available permit spot and a 7-year waiting list for the premium permit lots. We would likely price the spaces in this lot similar to the spaces in the Fire Station lot, which is \$280 per year. With the oversell, we would anticipate approximately \$20,000 in revenue from the sale of annual permits. This revenue would be dedicated to the Parking Fund which is used to maintain the commuter lots in the Village. As with the other commuter parking lots in the downtown, the spaces would be available to the public at no charge after 11 am.

We are able to use the CMAQ grant for both land acquisition and construction. The Village's cost estimate for the construction of a parking lot on the property is approximately \$600,000. With a purchase price of \$445,000 for the site, the total cost for acquisition and construction would be \$1,045,000. Less the \$780,000 grant, the Village would need to cover the remaining \$270,000. The Parking Fund could accommodate this cost. The Village could also choose to finance this through future TIF revenues.

In order to move forward, the Village must approve a Commuter Facility Improvement Funding Agreement with Metra and a Real Estate Sales Contract with the property owner. The Funding Agreement with Metra has a term of 40 years. Therefore, the commuter spaces must exist on this property, or another site acceptable to Metra and the Federal Transportation Authority, for at least 40 years. The Sales Contract with Elgin State Bank is contingent upon the Village receiving the CMAQ grant funding. If the Village Board approves the Purchase Contract and Funding Agreement with Metra on Monday evening, the documentation will be forwarded to the Federal Transportation Authority (FTA) for review and approval shortly thereafter. The FTA's review could take up to six weeks. Once we receive their approval, the funding will be made available to

the Village (on a reimbursement basis), and we will be able to schedule a closing for the property and proceed with selecting an engineer to design the parking lot. Applicable Commission reviews would take place prior to the construction of the lot.

Action Requested

The Funding Agreement and Sales Contract are ready for Village Board consideration at this time. Therefore, it is requested that the Village Board approve the following motion:

I MOVE THAT the Village President, Clerk and other officials be authorized to execute an agreement to purchase 460-478 Duane Street for the sum of \$445,000.00, with funds for that purchase and some additional construction costs being transferred to the Village under a Commuter Facility Improvement Funding Agreement, the execution of which is also authorized, including the terms and conditions for the transfer of the Duane Street property to the CRD or Metra, and the operation of a parking lot by the Village pursuant to a Commuter Facility Improvement Funding Agreement, the execution of which is also authorized. Under the latter agreement, the Village will receive funds from Metra in an amount of \$780,000. The execution of these agreements is also made subject to the final approval of documents by the Village Attorney.

Attachments

- Commuter Facility Improvement Funding Agreement
- Real Estate Sales Contract

C: Stewart Diamond, Village Attorney
Phil Norton, Police Chief
Kevin Wachtel, Finance Director
Julius Hansen, Public Works Director
Bob Minix, Professional Engineer
Michele Stegall, Village Planner
Michelle Urbina, Accounts Manager
Geoff Dowling, Subject Property Broker

A-6i

MEMORANDUM

TO: Mark Franz, Village Manager

FROM: Staci Hulseberg, Director of Planning & Development *SHW*

DATE: August 28, 2012

RE: Authorization to Use Letter of Credit funds from the Courtyards of Glen Ellyn Development to Complete Outstanding Engineering Issues and Pay PirTano Construction



Background

The Village granted PUD approval for the Courtyards of Glen Ellyn townhome development in March 2007. With this approval, the 1.5 acre property at the northeast corner of Pennsylvania and Kenilworth was approved for the construction of 24 townhome units in 4 buildings. Construction commenced thereafter on the first six-unit building. The remaining buildings have not yet been constructed due to the downturn in the economy and the associated financial difficulties experienced by the developer, Kenar Glen Ellyn LLC.

As required, Kenar posted a Letter of Credit (LOC) in the amount of \$184,080.00 prior to the start of construction. The LOC secures the developer's obligations related to stormwater and public improvements both in the public right-of-way and on private property. The developer requested, and received a reduction to the LOC in January 2008 leaving a balance of \$138,259.75.

Issues

Outstanding engineering issues have remained on the property since 2009. We estimate it would cost the Village approximately \$45,000 to complete the outstanding work. We were also contacted by PirTano Construction Company with a request to draw on the LOC in order to pay them for work completed on the project including the construction of underground water main, sanitary sewer, and storm sewer. PirTano indicated that the outstanding amount due to them from Kenar was \$109,909.91. PirTano submitted all the necessary documentation to justify their request. The Village Attorney reviewed and approved PirTano's documentation and confirmed that the LOC does allow the Village to use funds from the LOC for the purpose requested by PirTano.

In March 2012, Village Board members indicated to Manager Franz that they supported the Village drawing the balance of the letter of credit and using \$45,000 to complete the outstanding engineering issues in the development (see letter outlining issues attached) and forwarding the remaining balance of \$93,259.75 to PirTano Construction. The Village recently received LOC funds in an amount of \$138,259.75 and is ready to move forward with the engineering work and wiring PirTano their requested funds.

Action Requested

At this time, we are requesting the Village Board approve a motion authorizing the use of \$45,000 to hire consultants to finish the outstanding work for the Courtyards of Glen Ellyn development and to transfer \$93,259.75 to PirTano Construction.

Attachment

11/17/11 Letter from ERA Regarding Outstanding issues

C: Stewart Diamond, Village Attorney
 Julius Hansen, Public Works Director
 Kevin Wachtel, Finance Director
 Bob Minix, Professional Engineer
 Joe Kvapil, Building and Zoning Official
 Michele Stegall, Village Planner
 Kerry Behr, Consulting Engineer
 Mike Piraino, President, PirTano Construction Company Inc.



ENGINEERING RESOURCE ASSOCIATES, INC.
Consulting Engineers, Scientists, & Surveyors

November 17, 2011

Ms. Staci Hulseberg
Director, Planning and Development
Village of Glen Ellyn
535 Duane Street
Glen Ellyn, IL 60137

Subject: Courtyards of Glen Ellyn – LOC and Permit Review
ERA Project No. 220703.01 Ph. D

Dear Staci:

As requested, Engineering Resource Associates, Inc. (ERA) has inspected the site and reviewed the permit files related to both the initial demolition and subsequent site development to determine any outstanding work and associated cost to allow for the permits to be closed. This estimate does not include long-term maintenance of the site, including mowing and removal of leaves and grass, to ensure functioning of the sites storm sewer inlets.

Letter Of Credit Review

A Letter Of Credit, required for the site development building permit, was provided for 125% of the engineer's cost estimate for all public improvements, underground improvements, excavation and grading. The LOC amount was \$184,040. One reduction was requested and granted in June 2008 for \$44,695.25. Therefore, the LOC should have a remaining balance of \$139,344.75.

The Village is also in possession of a bond for \$10,600, which was required for the demolition permit. The LOC taken for the subsequent site development permit was not reduced an identical amount. Therefore, the bond does not appear to have been applied to the second site development building permit. There are no outstanding issues related to the demolition permit.

Outstanding Site Issues

Marilyn Sucoe visited the property on November 9, 2011. The following items should be addressed prior to closing the site development building permit. An estimate for the cost to have this work completed is attached.

Final Improvements for Lot 4 and 5 (building 4)

A Final Grading Survey prepared by Manhard Consulting, Ltd. was submitted on July 16, 2009. The

www.eraconsultants.com

Chicago
10 S. Riverside Plaza, Suite 1800
Chicago, IL 60606
T 312.683.0110
T 312.474.6099

Geneva
501 West State Street, Suite 203
Geneva, IL 60134
T 630.262.8689
F 630.262.8698

Warrenville
3s701 West Avenue, Suite 150
Warrenville, IL 60555
630.393.3060 T
630.393.2152 F

survey was rejected and comments were issued via a letter by ERA on September 2, 2009. A final survey should be prepared addressing the comments below and any changes due to the final site improvements, also listed below.

Final Grading Survey:

1. Add the PIN number for this lot to the survey.
2. Provide a statement indicating whether or not flood plain exists and make reference to the current map by number and date.
3. Add the manhole (with rim and inverts) in Pennsylvania where the storm sewer from this site connects to the Village's storm sewer.
4. Label size and material of storm sewer and water main installed as part of this project depicted on this survey.
5. Add water service sizes for this lot. Assuming they are all the same, a single notation with the word typical will suffice.

Final Site Improvements:

1. Lower to grade seven (7) b-boxes (6 for the buildings and 1 for irrigation).
2. Lower one (1) sanitary sewer cleanout, just behind the public sidewalk on the west side of the building.
3. Locate and adjust, as necessary, one (1) cleanout shown on the survey but not visible. If only one cleanout is present, the final grading survey should be corrected.
4. Backfill behind the curb at the east end of the bituminous pavement and along the public sidewalk (1 cu. yd.)
5. Pave the driveway with the final 1 inch of asphalt surface course.

Final Improvements Unimproved Parcels

1. Lower to grade eighteen (18) b-boxes.
2. Lower to below grade three sanitary sewer cleanouts and install miniature manholes over cleanouts.
3. Lower center storm sewer inlet by removing one adjusting ring (the one with the curb box).
4. Regrade and reseed approximately 1000 sq ft, including the removal of approximately 8 cubic yards of soil around the three storm sewer inlets.
5. Backfill and/or regrade small areas within the Village right-of-way, totally approximately 200 sq. ft., Coordination with Public Works staff is required. A rough description of the areas are as follows:
 - i. the north end of the property near the fire hydrant (in public ROW)
 - ii. numerous areas along the parkways
 - iii. numerous areas adjacent to the sidewalk



If you have any questions, I can be reached at (630) 393-3060.

Respectfully submitted,
ENGINEERING RESOURCE ASSOCIATES, INC.

John F Mayer

John F. Mayer, PE, CFM
Project Manager

Kerry K. Behr

Kerry K. Behr, PE, CFM
Project Engineer

W:\GlenEllyn\220703 Site Plan Reviews\Commercial Reviews\D - Courtyards of Glen Ellyn\Final Courtyards Letter of Credit 2011-11-17.doc



ENGINEERING RESOURCE ASSOCIATES, INC.
Consulting Engineers, Scientists, & Surveyors

A-6j

MEMORANDUM

TO: Mark Franz, Village Manager
FROM: Staci R. Hulseberg, Planning and Development Director 
DATE: August 29, 2012
FOR: September 10, 2012 Village Board Meeting
SUBJECT: Resolution to Accept Public Improvements for the Buena Vista Subdivision

History: On August 27, 2001, the Village Board approved Ordinance No. 4986 which approved the Plat of Subdivision for the Buena Vista Subdivision. The Buena Vista Subdivision is located north of Buena Vista Drive between Milton Avenue and Taylor Road and consists of 8 lots with single-family homes over approximately 5-acres in the R2 Residential District.

Request: McMaster Custom Homes L.L.C., the developer, has requested the Village accept the public improvements and Bill of Sale for the subdivision. All improvements in the subdivision have been completed and the final as-built drawings have been submitted to, and approved by, Consulting Village Engineer Bill McGurr. Consulting Engineer McGurr has recommended acceptance of the improvements and the Bill of Sale (see attached letter dated August 17, 2012). The public improvements include storm and sanitary sewer, water main, and street and light systems on and in the vicinity of the Buena Vista Subdivision.

Village Board Action: The Village Board is requested to approve the Resolution accepting the public improvements and the Bill of Sale.

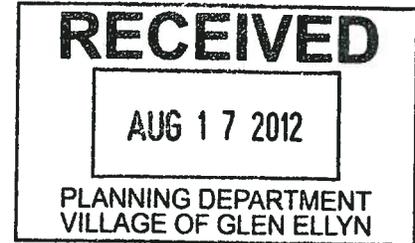
Attachments: Bill McGurr's letter dated August 17, 2012
Bill of Sale date stamped June 19, 2012
Resolution

cc: Julius Hansen, Public Works Director
Bob Minix, Professional Engineer
Bill McGurr, Village Consulting Engineer
Glen McMaster, McMaster Custom Homes L.L.C.

AMcGURR, Ltd., P.C.

consulting engineers

P. O. Box 308 • Wheaton, IL 60187-0308
630 / 665-1170 amcgurrltd@att.net



17 August 2012

Mr. Mark Franz
Village Manager
Village of Glen Ellyn
535 Duane Street
Glen Ellyn, Illinois 60137

Re: Acceptance of Public Improvements
Buena Vista Subdivision
Glen Ellyn, Illinois
AML File No. 007.565 DPCSWMPA No. 00-17-0071

Dear Mr. Franz:

The public improvements constructed for the Buena Vista Subdivision have been completed and are ready for acceptance by the Village Board.

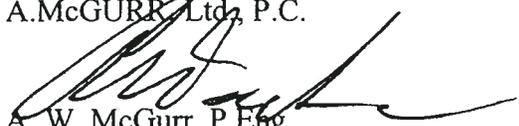
The Final Plans of the Buena Vista Subdivision were approved by the Village Board on 27 August 2001.

The Public Works Department is recommending that the required Maintenance Security be waived.

We recommend that the Village Board accept the completed public improvements.

If you have any questions, please call our office.

Sincerely yours,
A. McGURR, Ltd., P.C.



A. W. McGurr, P.Eng.
Consulting Village Engineer
Village of Glen Ellyn

Encl: Bill of Sale dated 16 June 2012 (copy) w/Bill of Sale Exhibit dated 16 June 2012

Cc: S. Hulseberg, Village of Glen Ellyn w/ original Bill of Sale and Exhibit
R. Minix, Village of Glen Ellyn
G. McMaster, McMaster Custom Homes, LLC
Mr. Richard L. Woodford, P.Eng., Civil Engineering Services, Inc

RECEIVED

JUN 19 2012

PLANNING DEPARTMENT
VILLAGE OF GLEN ELLYN

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that McMaster Custom Homes, LLC, an Illinois limited liability company ("Developer") in consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, does hereby grant, sell, transfer and deliver unto the Village of Glen Ellyn, Illinois, a Municipal corporation in DuPage County, Illinois ("Village"), the following goods, chattels and other items of personal property, contained in the Buena Vista Estates Subdivision in Glen Ellyn, Illinois ("Subdivision").

ONE: Each and every part and item of a system of storm sewers, consisting of 150 feet of 8 inch P.V.C. lines, 80 feet of 10 inch P.V.C. lines, 695 feet of 12 inch R.C.P. lines, 246 feet of 15 inch R.C.P. lines, 292 feet of 18 inch R.C.P. lines, 381 feet of 24 inch R.C.P. lines and 32 feet of 30 inch R.C.P. lines, which drain public roadway rights-of-way installed by Developer at the direction of the Village as identified on Exhibit "A" attached hereto ("Constructed Improvement Exhibit") and as indicated on the marked up Record Drawings entitled "Buena Vista Overall Utility Plan" prepared by Civil Engineering Services, Inc., Job No. 57000, with a last revision date of 6/16/12 ("Record Drawings"), a copy of which is and shall be maintained on file in the Village Planning and Development Department as Record Drawings, for the purpose of the collection, transport, and flow of surface and storm waters in the Subdivision.

TWO: Each and every part and item of a system for the collection, transportation and treatment of sewage, consisting of 2213 linear feet of 8 inch P.V.C. lines, installed by Developer for the Subdivision at the direction of the Village, as identified on said Exhibit "A" and as indicated on the Record Drawings, with the exception of those pipes which transport the sewage of a single building into a common sewer commonly known as house service.

THREE: Each and every part and item of a system for the distribution of water, consisting of 755 feet of 8 inch lines, installed by Developer for the Subdivision at the direction of the Village, as identified on said Exhibit "A" and as indicated on the Record Drawings, with the exception of those pipes which transport water from the buffalo box to a single building commonly known as house service.

FOUR: Each and every part and item of a system for the distribution of electricity for the electrification of street lights, consisting of 3 light poles, installed by Developer for the Subdivision at the direction of the Village, if any, as indicated on the Record Drawings.

FIVE: Each and every part of the 1500 linear feet of street pavement, curb and gutter, and the 5880 linear feet of sidewalk installed by Developer for the Subdivision at the direction of the Village within the public right-of-way for Marston Avenue and Buena Vista Drive and easements adjacent thereto and the Marston Avenue extension and Buena Vista Drive improvements, as identified on said Exhibit "A" and on the Record Drawings.

SIX: The object of this Bill of Sale is to grant, sell, transfer and deliver to the Village of Glen Ellyn, with the exceptions noted, the ownership in all items of personalty which comprise the storm sewer, sanitary sewer, water distribution, and street and street light systems installed by Developer in the Subdivision within the Village. Developer does hereby covenant that it is the lawful owner of the aforescribed goods, chattels and personalty; that such items are free from all encumbrances; that the Developer has the right to sell the same as aforesaid; and that Developer will defend the same against the claims and demands of all persons; and that the execution of this Bill of Sale is an authorized act of said limited liability company.

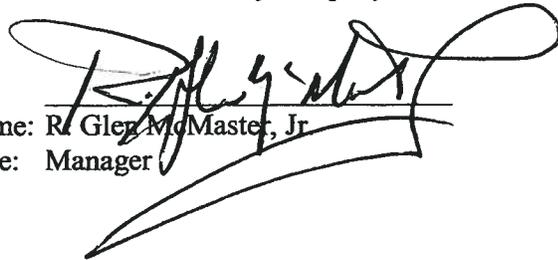
Dated at Glen Ellyn, Illinois this 16TH day of JUNE 2012.

McMASTER CUSTOM HOMES, L.L.C.,
an Illinois limited liability company

By:

Name: R. Glen McMaster, Jr

Title: Manager

A large, stylized handwritten signature in black ink, appearing to read "R. Glen McMaster, Jr.", is written over the printed name and title. The signature is fluid and cursive, with a prominent loop at the end.

Resolution No. _____

**A Resolution Accepting Public Improvements and
A Bill of Sale Associated with the Buena Vista Subdivision
Located north of Buena Vista Drive between
Milton Avenue and Taylor Road**

Whereas, the Plat of Subdivision for the Buena Vista Subdivision was approved by Ordinance No. 4986 on August 27, 2001; and

Whereas, as part of the Buena Vista Subdivision, the developer, McMaster Custom Homes L.L.C., agreed to construct certain public improvements including storm sewer, sanitary sewer, water main, roadways, public sidewalks, and street light systems on and in the vicinity of the Buena Vista Subdivision; and

Whereas, McMaster Custom Homes L.L.C. has requested that the Village accept the above-mentioned public improvements which have all been completed; and

Whereas, the Village Consulting Engineer has submitted a certification pursuant to Section 502 of the Glen Ellyn Subdivision Regulations Ordinance No. 5334, as amended, which specifies that all public improvements required to be constructed or installed in connection with the approval of the Buena Vista Subdivision have been fully completed and approved by him, which certification is attached hereto as Exhibit "A"; and

Whereas, "as-built" plans have been received which indicate the location, dimensions, materials, and other information required by the Village Consulting Engineer to establish that the construction of said improvements has been completed and may be transferred to the Village of Glen Ellyn free and clear of all liens and encumbrances; and

Whereas, McMaster Custom Homes L.L.C. has transferred and delivered the public improvements constructed on and in the vicinity of the Buena Vista Subdivision by Bill of Sale, attached hereto as Exhibit "B," by which it has sold, conveyed, and transferred to the Village

those public improvements constructed by McMaster Custom Homes L.L.C., including storm sewer, sanitary sewer, water main, roadways, public sidewalks, and street light systems on and in the vicinity of the Buena Vista Subdivision; and

Whereas, as the public improvements required and installed on and in the vicinity of the Buena Vista Subdivision have been fully completed and certified by the Village Consulting Engineer, the President and Board of Trustees deem it to be in the best interest of the Village of Glen Ellyn to approve and accept said public improvements; and

Whereas, a maintenance surety cash deposit is not required since the subdivision has been completed and the improvements have been inspected and ready for acceptance for more than 1 year.

Now, Therefore Be It Resolved by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in the exercise of its home rule powers, as follows:

Section One: The findings of fact and conclusions set forth hereinabove are hereby adopted by the President and Board of Trustees as the findings of fact and conclusions of the corporate authorities of the Village of Glen Ellyn.

Section Two: The President and Board of Trustees hereby approve and accept the public improvements as installed by McMaster Custom Homes L.L.C. and as required by the Final Plat of Subdivision as specifically identified and set forth in Exhibits "A" and "B" attached hereto and made a part hereof as if fully set out herein, including storm sewer, sanitary sewer, water main, roadways, public sidewalks, and street light systems on and in the vicinity of the Buena Vista Subdivision.

Section Three: This Resolution shall be in full force and effect upon its passage and approval.

Passed by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this day of _____, 20____.

Ayes:

Nays:

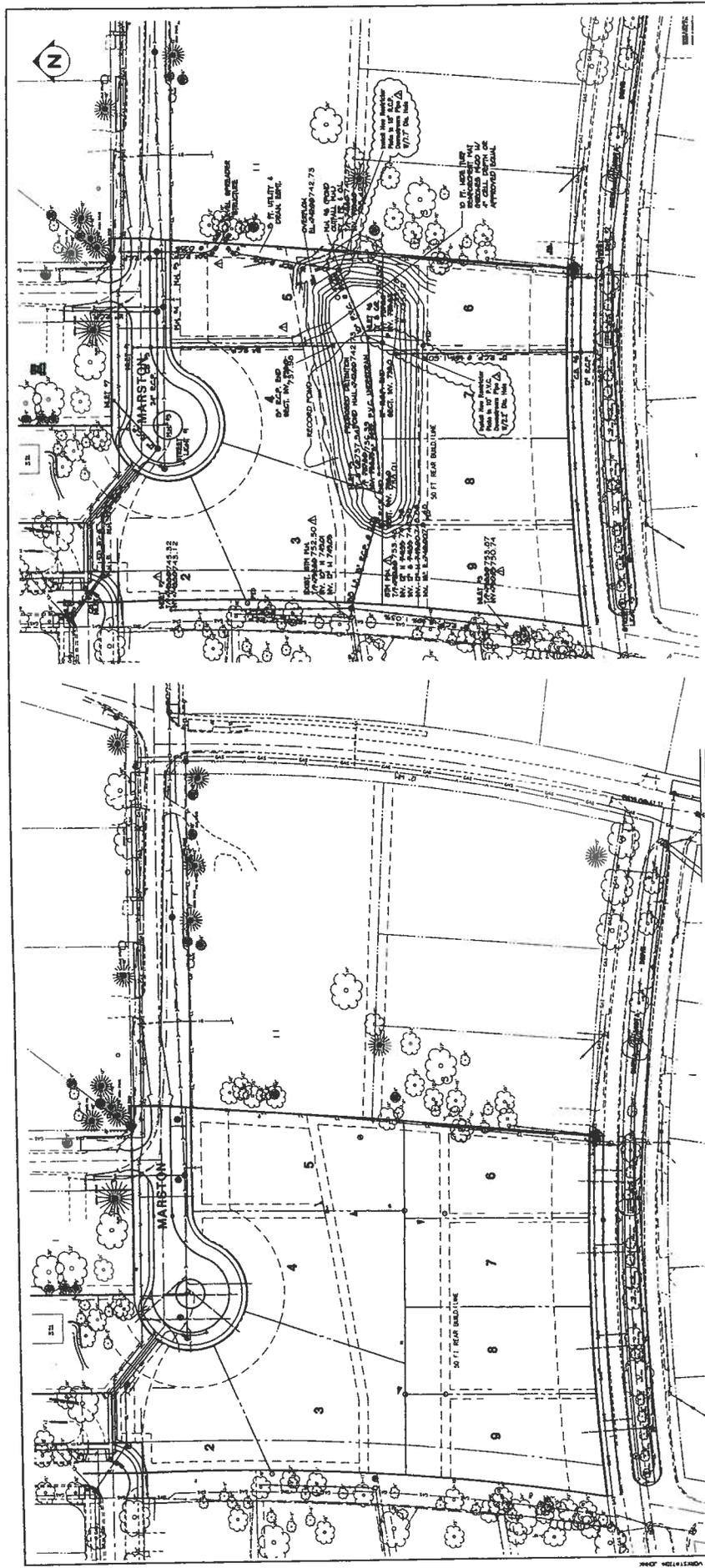
Absent:

Approved by the Village President of the Village of Glen Ellyn, Illinois, this day of _____, 20____.

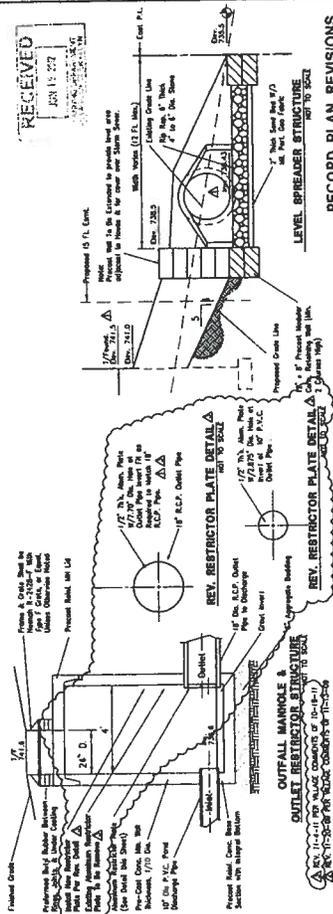
Village President of the
Village of Glen Ellyn, Illinois

Attest:

Village Clerk of the
Village of Glen Ellyn, Illinois



OVERALL STORM SEWER & STREET LIGHTING



OVERALL SANITARY SEWER & WATER DISTRIBUTION

POND CAPACITY:

ELEV.	AREA (S.F.)	REGULATED VOLUME (AC. FT.)	REGULATED VOLUME (AC. FT.)
737.50	793.0	0.00	0.00
736.00	1184	0.08	0.08
735.00	1508	0.37	0.37
734.00	1804	0.77	0.77
733.00	2498	1.54	1.54
732.00	2830	2.48	2.48
731.00	3072	3.61	3.61

PROPOSED IMPROVEMENTS

- PROPOSED CONTOUR 1 FT.
- PROPOSED CONTOUR 3 FT.
- PROPOSED SANITARY SEWER
- PROPOSED WATER MAIN
- PROPOSED STORM SEWER
- PROPOSED WATER SERVICE
- PROPOSED MANHOLE
- PROPOSED STORM VALVE & SLASH BASK
- PROPOSED VALVE & VALVE WALK
- PROPOSED STREET LIGHT
- PROPOSED SHORF FENCE LINE
- PROPOSED EROSION CONTROL FENCE

LEGEND

- EXISTING CONTOUR 1 FT.
- EXISTING CONTOUR 3 FT.
- EXISTING SANITARY SEWER
- EXISTING WATER MAIN
- EXISTING STORM SEWER
- EXISTING WATER SERVICE
- EXISTING MANHOLE
- EXISTING STORM VALVE & SLASH BASK
- EXISTING VALVE & VALVE WALK
- EXISTING STREET LIGHT
- EXISTING SHORF FENCE LINE
- EXISTING EROSION CONTROL FENCE

RECORD INFORMATION INCLUDES ONLY THE FIGURES GROSSED OUT AND REPLACED WITH NEW INFORMATION, UNLESS NOTED OTHERWISE.

GRAPHIC SCALE

1" = 40'

RECORD PLAN REVISIONS

NO.	DATE	DESCRIPTION
1	12/15/22	ISSUE FOR PERMITS
2	01/10/23	ISSUE FOR PERMITS
3	01/10/23	ISSUE FOR PERMITS

BUENA VISTA ESTATES SUBDIVISION
OVERALL UTILITY PLAN
GLEN ELLYN, ILLINOIS

700 East DuSable Road, Suite 120
 Glen Ellyn, Illinois 60135
 630-577-1567
 630-577-0574 Fax

Civil Engineering Services, Inc.
 Consulting Engineers

Robert L. Woodruff, P.E. 082-003589

MEMORANDUM

TO: Mark Franz, Village Manager

FROM: Staci Hulseberg, Planning & Development Director *SH*
 Michele Stegall, Village Planner *MJS*
 Daniel Dickerson, Planning Intern *DD*



DATE: September 4, 2012

FOR: September 10, 2012 Village Board Meeting

RE: 696 Plumtree Road
 Special Use Permit and Zoning Variations

Background. The petitioner, Mr. Michael Cushing, is requesting approval of a special use permit and zoning variations for proposed site improvements to his property at 696 Plumtree Road. The project includes the construction of approximately 4,734 square feet of improvements to the property. The proposed improvements include a swimming pool, pool equipment area, spa, patio, deck and fire pit which would all be located in the rear of the house. Driveway improvements are proposed in front of the house and include a driveway and driveway turnaround. Retaining walls are also proposed to partially surround the driveway along the east property line and to partially surround the driveway turnaround to the south.

The petitioner plans to begin construction of the improvements in October and the project duration would be through May 2013.

In order to accommodate the project, the petitioner is specifically requesting approval of the following:

- A. A special use permit in accordance with Section 10-6-4(B)3 of the Glen Ellyn Zoning Code to allow residential structures to be constructed less than 30 feet from the 100-year flood plain. The proposed amenities would be as close as 3 feet to the flood plain, and include a pool, fire pit (including seating and walkway), fence, steps and a gravel turnaround.
- B. The following variations from the Glen Ellyn Zoning Code:
 - 1. Variations from Section 10-5-5(B)4(29, 34, 37) of the Glen Ellyn Zoning Code to allow construction of a fire pit 13 feet 1½ inches from the property line, a spa 14 feet from the property line and a pool 3 feet from the property line; all in lieu of the minimum required setback of 22 feet (10% of the lot width). Additionally, a retaining wall would be constructed 6 inches from the property line in lieu of the minimum required setback of 11 feet (5% of the lot width).
 - 2. A variation from Section 10-5-4(A)4(c) of the Glen Ellyn Zoning Code to allow construction of a deck 8 feet from the property line in lieu of the minimum setback of 11 feet (5% of the lot width).

3. Variations from Section 10-5-5(C)1 and 2 of the Glen Ellyn Zoning Code to allow construction of a driveway 3 feet from the property line, a turnaround 4 feet from the property line, paving around the fire pit 6 feet 6 inches from the property line and paving around the deck 5 feet from the property line; all in lieu of the minimum required setback of 11 feet (5% of the lot width).
4. A variation from Section 10-5-11(M) of the Glen Ellyn Zoning Code to allow a gravel driveway turnaround in lieu of a hard surface driveway as required.

Plan Commission Recommendation. The Plan Commission reviewed the requested special use permit and zoning variations at a public hearing on August 23, 2012. No members of the public spoke at the hearing. By a vote of 7-3, the Plan Commission recommended approval of the requested special use permit and all of the requested zoning variations. Some members of the Plan Commission that voted against the requests noted that the property owner was aware of the unique dimensions and characteristics of the property when it was purchased. Additionally, there were concerns from many commissioners regarding the proposed fire pit and its proximity to heavily forested neighboring properties. The Plan Commission's recommendation was made subject to the following conditions.

1. The project shall be constructed in substantial conformance with the plans and testimony presented at the August 23, 2012 Plan Commission meeting.
2. The fire pit must either be gas-only or must have a spark arrester.

It is the staff's interpretation of the Building Code that a spark arrester would be required on the outdoor fire pit with or without recommended condition #2 above. However, given that this requirement is not expressly stated, staff recommends that condition #2 be maintained in the approving Ordinance.

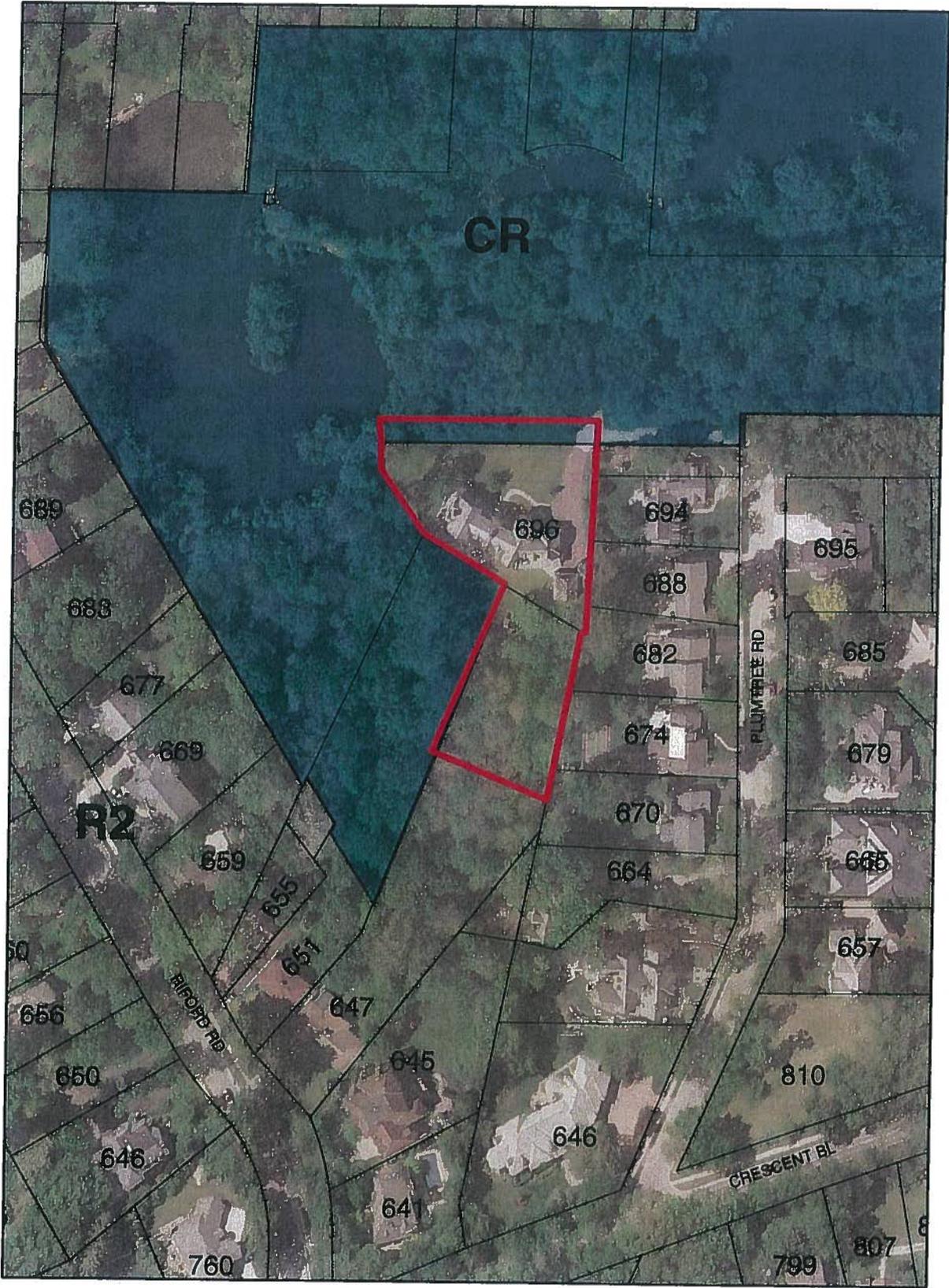
Action Requested. The Village Board may approve, approve with conditions or deny the requested special use permit and zoning variations. An Ordinance approving the requests as recommended by the Plan Commission is attached.

Attachments.

- Aerial Photo
- Draft Minutes from August 23, 2012 Plan Commission Meeting
- Ordinance
- Excerpts from Petitioner's Application Packet

Cc: Michael Cushing, Property Owner
Larry Dziurdzik, Project Consultant
Michelle Wilson, Landscape Architect
Aaron Postma, Landscape Architect

696 Plumtree Road



Prepared By: Planning and Development
Date: August 17, 2012



DRAFT
PLAN COMMISSION
MINUTES
AUGUST 23, 2012

The meeting was called to order by Chairman Julie Fullerton at 7:34 p.m. Plan Commissioners Craig Bromann, Tim Elliott, Erik Ford, Jeff Girling, Tracy Heming-Littwin, Heidi Lannen, Jay Strayer, Ray Whalen and Lyn Whiston were present. Plan Commissioner Todd Buckton was excused. Also present were Village Trustee Robert Friedberg, Village Planner Michele Stegall, Village Engineering Consultant Marilyn Sucoe, Village Intern Dan Dickerson and Recording Secretary Barbara Utterback.

Plan Commissioner Heming-Littwin moved, seconded by Plan Commissioner Whiston, to approve the July 26, 2012 Plan Commission minutes. The motion carried unanimously by voice vote.

Chairman Fullerton stated that the only item on the agenda was a public hearing for the the property at 696 Plum Tree Road and she explained the public hearing procedures.

PUBLIC HEARING – 696 PLUM TREE ROAD, SPECIAL USE PERMIT AND ZONING VARIATIONS.

PUBLIC HEARING WITH DISCUSSION, CONSIDERATION AND RECOMMENDATION REGARDING REQUESTS FOR APPROVAL OF A SPECIAL USE PERMIT AND ZONING VARIATIONS FOR VARIOUS ACCESSORY STRUCTURES AND IMPROVEMENTS INCLUDING A SWIMMING POOL, SPA, PATIO, DECK, FIRE PIT AND DRIVEWAY. THE SUBJECT SITE IS A LANDLOCKED PROPERTY LOCATED WEST OF AND BEHIND THE HOMES AT 688 AND 694 PLUM TREE ROAD AND BORDERS THE CHURCHILL WOODS FOREST PRESERVE TO THE NORTH. THE PROPERTY IS ZONED R2 RESIDENTIAL DISTRICT.

(Michael Cushing, owner)

Plan Commissioner Ford moved, seconded by Plan Commissioner Whalen to open the public hearing. The motion carried unanimously by voice vote.

Staff Report

Planning Intern Daniel Dickerson displayed a map of the subject property at 696 Plum Tree Road. Mr. Dickerson described the surrounding zoning classifications and stated that the land to the north is the Churchill Woods Forest Preserve. He stated that the property in question includes three parcels, one of which is the main parcel where Mr. Cushing's house is located. The parcel to the north is an easement granted by the Forest Preserve District for the location of the driveway, and the parcel to the south was acquired in 2011. Mr. Dickerson also stated that the property is a flag lot and because the driveway is an easement and no part of the land borders a roadway, the front of the lot is

considered to be the northern 220.17 feet. Mr. Dickerson stated for Zoning Code purposes, 10 percent of the lot length is 22 feet and 5 percent is 11 feet. He stated that most lots in the subject area in the R2 zoning district are between 50 and 66 feet and the minimum required lot width is 66 feet per the Zoning Code. He added that 10 percent of a 66-foot wide lot would be 6.6 feet and 5 percent would be 3.3 feet.

Mr. Dickerson stated that the petitioner is requesting a Special Use Permit to make improvements within 30 feet of a floodplain. He added that the improvements include a pool, a fire pit, a fence, a turnaround and steps around the lawn area. He stated that a variation is being requested to allow construction of a fire pit 13-1/2 inches from the property line, a spa 14 feet from the property line and a pool 3 feet from the property line. (Mr. Dickerson pointed out a misprint in the Staff Report that indicates that the pool is 22 feet 5 inches from the property line). Mr. Dickerson added that the petitioner is also requesting a variation to allow a retaining wall on the eastern section of the property to be 6 inches from the property line.

Mr. Dickerson also stated that a variation is being requested to allow a deck 8 feet from the property line in lieu of the minimum setback of 11 feet (5% of the lot width). He also stated that impervious surface variations are being requested to allow construction of a drive courtyard 3 feet from the property line, a turnaround 4 feet from the property line, paving around the fire pit 6 feet 6 inches from the property line and paving around the deck 5 feet from the property line, all in lieu of the minimum required setback of 11 feet (5% of the lot width). A variation is also being requested to allow a gravel driveway turnaround in lieu of a hard surface driveway as required.

Petitioner's Presentation

Michael Cushing, the homeowner, 696 Plum Tree Road, Glen Ellyn, Illinois and Larry Dziurdzik, landscape architect, spoke on behalf of the subject project. Mr. Dziurdzik stated that Mr. Cushing has been a resident of Glen Ellyn for approximately 27 years. He stated that Mr. Cushing purchased the 49,000 square foot subject property in 2002 because it is beautiful, secluded and private. Mr. Dziurdzik displayed a map of the site and described the property. He stated that one must traverse a 20-foot private easement owned by the Forest Preserve in order to access the subject property on Plum Tree Road and added that Mr. Cushing received a variation to allow the driveway to be located in the floodplain. Mr. Dziurdzik stated that the subject property is in the R2 zoning district and has a 30-foot front yard setback, a 40-foot rear yard setback and side yard setbacks of 22 and 23 feet. He added that an irregularly shaped lot such as the subject lot creates difficult building areas, and he displayed a map indicating the floodplain area that makes the building area even smaller.

Mr. Dziurdzik stated that the petitioner first purchased a portion of the subject property which was approximately 30,000 square feet. He stated that Mr. Cushing purchased the rear parcel that is approximately 18,000 square feet from a homeowner on Riford Road in 2011 in order to expand his view and beautify his property with wooded area. Mr. Dziurdzik also stated that Mr. Cushing also has a written agreement with a property

owner to the west on Riford Road to beautify that property by removing unwanted trees and bushes. Mr. Dziurdzik stated that Encap, an independent environmental consultant, has determined that there are no wetlands on the property but made recommendations regarding the wooded areas which the petitioner will implement.

Mr. Dziurdzik displayed a north elevation photograph of the subject site. He stated that the lot has a slight slope and that drainage runs to the north to the forest preserve. Mr. Dziurdzik also stated that the petitioner has two different types of zoning districts (R2 and CR) contiguous to his property. Mr. Dziurdzik displayed a photograph of the rear of the subject house that was taken off of the property and indicated the shallowness of the depth of the property. Mr. Dziurdzik also displayed a west elevation of the subject site and stated that when the house was originally built, Mr. Cushing had a tree preservation plan in place. Mr. Dziurdzik also displayed an east elevation of the subject site that included the garage. He added that existing vegetation buffers the residents from the east to Mr. Cushing's property.

Mr. Dziurdzik introduced Aaron Postma, Vice President, and Michelle Wilson, Senior Landscape Architect, of Premier Landscape Contractors, 16W179 Jeans Road, Lemont, Illinois.

Mr. Dziurdzik provided an overview of the present site and indicated the location of the floodplain and the floodplain setback. He showed the location of the floodplain surrounding the property on the north, west and south sides. Mr. Dziurdzik stated that the driveway onto the property hugs the eastern property line and goes directly to the garage. He added that the purpose of the front courtyard is to bring people to the front door which is preferred by the petitioner. He also indicated a stone terrace located at the rear of the home. Mr. Dziurdzik displayed and described the proposed design plans. He stated that a variation will be required for a proposed front crushed stone circular drive courtyard area that will be impervious. He stated that another variance will be required to allow the drive to be 3 feet from the north property line in lieu of the required 11 feet. Mr. Dziurdzik stated that an even slope is intended to be created across the court area without adding too many stairs to the front of the house. He added that the only grading within a floodplain setback is at the front courtyard and all proposed drainage improvements will drain as they do today. He also added that the proposed grading plan will not negatively impact any of the neighbors. He stated that a fire pit is proposed for the southwest corner that is surrounded by a small seat wall and a terrace. He added that a variation will be required for the terrace which will be too close to the rear yard property line. He added that a special use permit will also be required for the fireplace because it is within the 30-foot setback line. He stated that the floodplain setback line confines the property regarding the construction of some of the proposed elements. He stated that the proposed 20' x 42' pool will be parallel with the rear property line which is 3 feet from the pool. A very narrow terrace with plantings will be located around the north side of the pool. Mr. Dziurdzik also stated that a variance will be required for the circular deck proposed at 8 feet from the property line in lieu of 11 feet required. A variation is also being requested for one step of a circular lawn area that encroaches into the 30-foot floodplain setback. He also stated that a fence near the fireplace is proposed for approximately 1 foot off of

the floodplain setback line. Regarding the garage, a variation will be required for a retaining wall that will be 6 inches from the property line as it is a very tight 3-point turn to exit the driveway. Mr. Dziurdzik stated that no structures are proposed for the rear parcel and that that area will basically be enhanced with the removal of invasive species and the addition of seed and wildflowers. He added that the area is currently too shady to grow plantings so the canopy will be thinned out to allow sunlight and, hopefully, regenerate wildflowers and ground covers and he displayed an exhibit of this area. Mr. Dziurdzik stated that the petitioner has a written agreement with the owner of the parcel to the south that fronts on Riford Road to beautify that property in the same manner. Mr. Dziurdzik also displayed a summary of all of the requested variances and special use requests.

Questions from the Plan Commissioners

Plan Commissioner Strayer asked what the history of the area is regarding flooding, and engineer Marilyn Sucoe responded that she is not familiar with the area as she has never been contacted by residents of the subject area. She added that the residents know that they are near a river and that the surrounding area has been designated for open space. She also stated that she has never been in the subject area during a flood. Mr. Dickerson confirmed for Plan Commissioner Heming-Littwin that the upper left-hand corner of the subject property is almost at Perry's Pond. Mr. Dickerson verified for Chairman Fullerton that all of the petitioner's requested items would be on their property. Ms. Sucoe added that the special use and variance plan states there is no proposed work in the existing access easement. Plan Commissioner Lannen asked if there were concerns regarding flooding in the area for the neighbors. Ms. Sucoe responded that the petitioner will need to go through the building permit process which will include meeting the conditions of the DuPage County Stormwater Code that will include storage of stormwater runoff to try to reduce increased runoff. She added that most of that runoff goes directly into the Forest Preserve. She also stated that the petitioner's engineer will need to address any concerns such as the requirement of an inlet or adding a pipe to convey water. Ms. Stegall added that the Stormwater Ordinance does not permit a property owner to do anything that would have an adverse effect on neighboring properties. Ms. Stegall also responded to Plan Commissioner Heming-Littwin that the proposed improvements for the most part are in the rear of the home and she indicated the location of those improvements on a map. Mr. Dickerson indicated for Plan Commissioner Elliott the proposed improvements in relation to the floodplain. Mr. Dickerson also responded to Plan Commissioner Elliott that there is a downward slope from the home into the floodplain. Ms. Sucoe also responded to Plan Commissioner Elliott that the elevation of the top of the pool is 697.5, the pool is a vanishing edge and the bottom of the wall for the pool is at 695.3. She also responded to Plan Commissioner Elliott that the floodplain is at 692. She added that the bottom of the pool would be approximately 3-1/4 feet above the floodplain elevation (matching existing ground) and the pool would be 2 feet above. She further explained that the elevation of the fire pit at the top is at 697 and the bottom is at 695.3 which is approximately 3 feet above the 100 year high water for floodplain elevation. Ms. Stegall responded to Plan Commissioner Elliott that the purpose of the setback requirements based on a percentage of lot width is

to some extent aesthetics but is also to limit activity next to neighbors' property and not have impervious surface at the lot line. She added that the petitioner's lot is unusually long for the subject district. Ms. Stegall responded to Plan Commissioner Bromann that the lot widths for the homes on the east side of Plum Tree Road are approximately 70 feet.

Mr. Dziurdzik responded to Plan Commissioner Lannen that the outdoor fireplace will likely be wood burning with a gas starter. He displayed the location of the proposed fire pit and responded that woods are located near there. Plan Commissioner Strayer asked if the Forest Preserve property next to the fireplace area is heavily wooded and he stated that the Forest Preserve expressed some concerns regarding trees near the fireplace and the potential for fire if unattended. Mr. Dziurdzik responded that the fire pit is currently open and is approximately 15 feet from the floodplain which is almost at the woods. Mr. Cushing added that water is located in the Forest Preserve property where buckthorn will be removed. He added that his home would be more of a concern for the fire pit than the forest preserve. He also stated that the fire pit is currently planned to be open and surrounded by stone.

Plan Commissioner Heming-Littwin asked for information regarding the types of surfaces that will be used for the improvements and the percentage of coverage and increase of coverage for the proposed surfaces of the improvements. Mr. Dziurdzik responded that the pool deck will be limestone pavers. Mr. Postma responded that the driveway is reclaimed brick paver and that material will be reused on the north section of the paver with the material wrapped around the paver and brought to the property line. He stated that a new brick paver will be added on the courtyard. Mr. Postma responded to Plan Commissioner Heming-Littwin that stairs by the retaining wall will go down to the courtyard. He added that the deck will be a type of wood and will separate the pool from the hot tub area, and the grass patio will have a stone surround to get to the natural grade of the rear yard. Plan Commissioner Whiston asked why the turnaround will be gravel instead of asphalt or concrete as required by the Village, and Mr. Postma responded that the gravel is a design element and gravel is more permeable than regular pavers. Plan Commissioner Ford asked if any of the setbacks, floodplain definition or reasons that the petitioner is here tonight have changed since the property was originally purchased and the house was designed, and Mr. Dziurdzik replied no but agreed with Ms. Stegall who stated that an exception was the purchase of the property to the rear. Ms. Sucoe added that she is not aware of any changes in the subject floodplain elevation for the last 10 or 20 years. Mr. Postma responded to Plan Commissioner Girling that the purpose of the step in the circular lawn is to provide a level seating area on the lawn with a step down to grade. Plan Commissioner Heming-Littwin stated that she understood no work was to be performed in the floodplain, however, the plan states that a variance is being requested to allow earthwork in the front yard of the floodplain for improvements to the driveway. Mr. Postma responded that the pavers will be re-keyed and no grading work will be done. Mr. Dziurdzik responded to Plan Commissioner Heming-Littwin that the diameter of the turnaround is 50 feet. Plan Commissioner Whiston addressed Mr. Cushing regarding the Forest Preserve's letter indicating that the subject proposals may cause limits for the potential for certain management practices such as allowing standing

dead trees to follow a natural progression. Mr. Cushing responded that he has had quite a bit of experience regarding this practice and he hopes in the future to remove non-native species and replace with native species. Mr. Cushing added that several Forest Preserve trees have fallen onto his property and the Forest Preserve has stated it was Mr. Cushing's responsibility to remove the tree(s). Mr. Whiston stated that he wanted to show that the Forest Preserve's policy has caused significant inconvenience and expense to the petitioner. Chairman Fullerton read into the record a letter to the Chairman and Members of the Plan Commission from the Forest Preserve District of DuPage County dated August 20, 2012.

Persons in Favor of or in Opposition to the Request

No persons spoke in favor of or in opposition to the proposed requests.

Comments from the Plan Commission

Plan Commissioner Whiston stated he was basically comfortable with the proposals. He stated that he hears the Forest Preserve's concerns but did not feel that the turnaround endangers the Forest Preserve trees, particularly if the trees are buckthorn and other invasive species. Plan Commissioner Whiston stated that his biggest concern is the fire pit and felt he might be happier if the fire pit was gas rather than wood as related to outgoing sparks. He added that he assumed that the fire area can be constructed to keep sparks under control. He felt that most of the variances seem to be necessary because of the unusual shape and long width of the property, and he felt that the neighbors would not be concerned regarding the variances because there is sufficient distance from the subject property to their homes. He felt that the petitioner's neighbors are comfortable with the subject project because none of them were present to speak at this public hearing.

Plan Commissioner Strayer was supportive of the proposal and stated he was in favor of more native species in the area.

Plan Commissioner Elliott agreed with much of what was said by Plan Commissioners Whiston and Strayer. He added that the subject property is unique due to its configuration and size and because it is not on the street. He was in favor of the variations and special use request with the exception of the fire pit because of the Forest Preserve District's concern regarding fire. He expressed concern as he felt there was a public safety consideration regarding both a special use and a variation but was willing to agree to the fire pit if it was either gas or was covered in some manner and spark arresters were utilized.

Plan Commissioner Heming-Littwin agreed with the majority of the requests but had two concerns. She first asked if the setback for the turnaround and the side of the turnaround could be made smaller (the turnaround is currently 4 feet off the property line and the required setback is 11 feet). Ms. Sucoe stated the 50-foot radius is the minimum required for a passenger vehicle to complete the turnaround. Plan Commissioner Heming-Littwin also stated she was very concerned regarding a wood burning fire that is not inside a

fireplace because the area is so heavily wooded. She stated that her neighbor has a large fire pit and this summer approximately 10 fires were extinguished in her neighbors' yards because of sparks from that fire pit. Plan Commissioner Heming-Littwin stated she would like the fire pit to either be gas or to be a contained fireplace.

Plan Commissioner Ford stated that the subject property is unique but that the current conditions existed when the property was purchased and the house was built. He stated he is not in favor of building within the floodplain setback in this case. He also stated he did not hear reasons regarding hardships for this property.

Plan Commissioners Lannen and Girling were in favor of the requests with no restrictions.

Plan Commissioner Bromann expressed concern regarding the fire pit and the spread of fire. He stated that although the setbacks are aesthetic in nature, they are also designed to keep a fire on a certain property. He also stated he did not see a reason to use crushed stone in lieu of the required concrete or asphalt on the turnabout. He also felt that there was not a hardship.

Plan Commissioner Whalen stated that the subject property is very unique and he was supportive of the requests with no restrictions. He added that he believes the Village building code will require the fire pit to be covered with a screen.

Chairman Fullerton was supportive of the project because of the uniqueness of the property.

Motion

Plan Commissioner Elliott moved, seconded by Plan Commissioner Whalen, to recommend that the Village Board approve a special use permit and zoning variations as follows to accommodate the proposed site improvements for property at 696 Plum Tree Road:

- A. Approval of a Special Use Permit in accordance with Section 10-6-4(B)3 of the Zoning Code to allow residential structures to be constructed less than 30 feet from the 100-year flood plain. The proposed amenities would be as close as 3 feet from the flood plain and include a pool, fire pit (including seating and walkway), fence, steps at the lawn panel and a gravel turnaround.
- B. The following variations from the Glen Ellyn Zoning Code:
 1. Variations from Section 10-5-5(B)4(29,34,37) of the Zoning Code to allow construction of a fire pit 13 feet 1½ inches from the property line, a spa 14 feet from the property line and a pool 3 feet from the property line; all in lieu of the minimum required setback of 22 feet (10% of the lot width). Additionally, a retaining wall will be constructed 6 inches from the property line in lieu of the minimum required setback of 11 feet (5% of the lot width).

2. A variation from Section 10-5-4(A)4(c) of the Zoning Code to allow construction of a deck 8 feet from the property line in lieu of the minimum setback of 11 feet (5% of the lot width).
3. Variations from Section 10-5-5(C)1 and 2 of the Zoning Code to allow construction of a drive courtyard 3 feet from the property line, a turnaround 4 feet from the property line, paving around the fire pit 6 feet 6 inches from the property line and paving around the deck 5 feet from the property line; all in lieu of the minimum required setback of 11 feet (5% of the lot width).
4. A variation from Section 10-5-11(M) of the Zoning Code to allow a gravel driveway turnaround in lieu of a hard surface driveway as required.

The recommendation for approval was made subject to the conditions that the project is constructed in substantial conformance with the plans as submitted and the testimony presented at this public hearing and that the fire pit must be gas only or must be equipped with permanent spark arresters.

The motion carried with seven (7) yes votes and three (3) no votes as follows: Plan Commissioners Elliott, Whalen, Girling, Lannen, Strayer, Whiston and Chairman Fullerton voted yes; Plan Commissioners Bromann, Ford and Heming-Littwin voted no.

Trustee Report

Trustee Friedberg stated that there was much discussion at the last Village Board Workshop regarding economic development and hazardous trees on private property.

Chairman's Report

Chairman Fullerton asked if there should be something on the public record regarding Deer Glen II. Ms. Stegall responded that the County Board did not approve the Intergovernmental Agreement with the petitioner for the offsite detention so the developer is currently reconsidering their options and reevaluating their plans. If the petitioner moves forward, the Village will re-advertise the project.

A motion was made to adjourn the meeting at 9:07. The motion carried unanimously.

Prepared by:
Barbara Utterback, Recording Secretary

Reviewed by:
Michele Stegall, Village Planner

Village Of Glen Ellyn

Ordinance No. _____

**An Ordinance Granting Approval of
a Special Use Permit and Zoning Variations for
Site Improvements Located on Property Commonly Known as 696 Plumtree Road
Glen Ellyn, Illinois 60137**

**Adopted by the
President and the Board of Trustees
of the Village of Glen Ellyn
DuPage County, Illinois
This ____ Day of _____, 20 ____.**

Published in pamphlet form by the authority of the
President and Board of Trustees of the Village of
Glen Ellyn, DuPage County, Illinois, this ____
day of _____, 20 ____.

Ordinance No. _____

**An Ordinance Granting Approval of
a Special Use Permit and Zoning Variations for
Site Improvements Located on Property Commonly Known as 696 Plumtree Road
Glen Ellyn, Illinois 60137**

Whereas, Mr. Michael Cushing, owner of property located at 696 Plumtree Road, has petitioned the Village President and Board of Trustees for approval of the following:

- A. A special use permit in accordance with Section 10-6-4(B)3 of the Glen Ellyn Zoning Code to allow residential structures to be constructed less than 30 feet from the 100-year flood plain. The proposed amenities would be as close as 3 feet from the flood plain, and include a pool, fire pit (including seating and walkway), fence, steps and a gravel turnaround.
- B. The following variations from the Glen Ellyn Zoning Code:
 - 1. Variations from Section 10-5-5(B)4(29, 34, 37) of the Glen Ellyn Zoning Code to allow construction of a fire pit 13 feet 1½ inches from the property line, a spa 14 feet from the property line and a pool 3 feet from the property line; all in lieu of the minimum required setback of 22 feet (10% of the lot width). Additionally, a retaining wall would be constructed 6 inches from the property line in lieu of the minimum required setback of 11 feet (5% of the lot width).
 - 2. A variation from Section 10-5-4(A)4(c) of the Glen Ellyn Zoning Code to allow construction of a deck 8 feet from the property line in lieu of the minimum setback of 11 feet (5% of the lot width).
 - 3. Variations from Section 10-5-5(C)1 and 2 of the Glen Ellyn Zoning Code to allow construction of a driveway 3 feet from the property line, a turnaround 4 feet from the property line, paving around the fire pit 6 feet 6 inches from the property line and paving around the deck 5 feet from the property line; all in lieu of the minimum required setback of 11 feet (5% of the lot width).
 - 4. A variation from Section 10-5-11(M) of the Glen Ellyn Zoning Code to allow a gravel driveway turnaround in lieu of a hard surface driveway as required.

all to allow the construction of 4,734 square feet of site improvements on the petitioner's property at 696 Plumtree Road; and

Whereas, the subject property is located generally north of the Plumtree Road and Crescent Boulevard intersection; and

Whereas, the property is located in the R2 Residential District and is legally described as follows:

PARCEL 1

LOTS 9, 10 AND 11 IN BLOCK 4 AND THE SOUTH ½ OF VACATED APOLLO AVENUE LYING NORTH OF AND ADJOINING SAID LOTS 9, 10 AND 11 ALL IN APOLLO SPRINGS AMENDED SUBDIVISION, BEING A SUBDIVISION IN SECTIONS 11 AND 12W, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPLE MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 8, 1924 AS DOCUMENT NO. 181125, IN DUPAGE COUNTY, ILLINOIS.

TOGETHER WITH

PARCEL 2

EASEMENT FOR INGRESS AND EGRESS FOR PARCEL 1 OVER THE SOUTH 20 FEET OF THE NORTH ½ OF VACATED APOLLO AVENUE AS SAID WAS VACATED BY DOCUMENT NO. R63-36702 AS SAID EASEMENT WAS CREATED IN GRANT OF EASEMENT RECORDED AS DOCUMENT NO. R73-34501, ALL IN DUPAGE COUNTY, ILLINOIS.

TOGETHER WITH

PARCEL 3

THE NORTHERLY 163.00 FEET, AS MEASURED ON THE EASTERLY AND WESTERLY LINES, OF LOT 2 IN EVANS AND O'NEIL'S RESUBDIVISION, BEING A PART OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPLE MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 25, 1953 AS DOCUMENT 674905, IN DUPAGE COUNTY, ILLINOIS.

EXCEPTING THEREFROM ALL PARCELS ABOVE ANY PARTS TAKEN FOR ROADWAY.

P.I.N.s: 05-11-217-034; 05-11-217-010; and

Whereas, following due and proper publication of notice in the Daily Herald not less than fifteen (15) nor more than thirty (30) days prior thereto, and following written notice to all property owners within 250 feet, and the placement of a placard on the subject property not less than fifteen (15) days prior thereto, the Plan Commission of the Village of Glen Ellyn conducted a public hearing on August 23, 2012, at which hearing the Plan Commission considered the requested special use permit and zoning variations; and

Whereas, at the August 23, 2012 public hearing, the petitioner presented evidence and testimony in support of the requests and no members of the public commented on the project; and

Whereas, after having considered the evidence presented, including the exhibits and materials submitted, by a vote of seven (7) “yes” and three (3) “no”, the Plan Commission recommended approval of the requested special use permit and zoning variations as set forth in the minutes of the August 23, 2012 meeting, a draft of which is attached hereto as Exhibit “A”; and

Whereas, the Village President and Board of Trustees have reviewed the evidence, exhibits, and materials presented at the August 23, 2012 Plan Commission public hearing and have considered the recommendations of the Plan Commission and hereby make the following findings of fact for the requested special use permit and zoning variations:

A. In regard to the requested special use permit the Village Board hereby finds that:

1. The proposed use will be harmonious and in accordance with the general objectives or within a specific objective of the Comprehensive Plan because the proposed special uses (swimming pool, fencing, vehicular turnaround, fire pit and steps) are in association with a single-family residence.
2. The proposed use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and the proposed use will not change the essential character of the same area because the project will improve the natural surroundings by removing invasive plant species and replacing them with native specimens.
3. The proposed use will not be hazardous or disturbing to existing or future neighborhood uses because the improvements are primarily non-combustible surface materials and are a minimum of 58’ from the closest home.
4. The proposed use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewers and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services

because no additional public facilities or services will be required as a result of the improvements.

5. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the Village because additional public facilities and services will not be required as a result of the improvements thereby creating no detrimental effects to the economic welfare of the Village.
 6. The proposed use will not involve uses, activities, processes, materials, equipment, and/or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors because the proposed improvements will be located in a fairly secluded site.
 7. The proposed use will have vehicular approaches to the property, which shall be so designed as not to create an undue interference with traffic on surrounding public streets or roads because the site is accessible only through an existing access easement away from public streets and there will be minimal, if any, additional traffic.
 8. The proposed use will not increase the potential for flood damage to adjacent property or require additional public expense for flood protection, rescue or relief because grades will be minimally affected for construction of the proposed special use elements and no grades will be altered within flood plain limits.
 9. The proposed use will not result in the destruction, loss or damage to natural, scenic or historic features of major importance to the community because native habitat will be restored when invasive species are removed and replaced with native plantings thereby adding to the scenic nature of the area and benefiting the neighboring properties.
- B. In regard to requested zoning variations identified herein above, the Village Board makes the following findings of fact:
1. Due to the characteristics of the property in question, there are practical difficulties or particular hardships for the property owner in carrying out the strict letter of the Zoning Code because the property is surrounded on three sides by flood plain and the associated setbacks constrict the buildable area on the lot. The property is landlocked and driveway access is made possible through an agreement with the DuPage County Forest Preserve District. The Zoning Code requires that accessory structures, such as those being proposed (i.e. swimming pool, patio, deck, retaining wall, fire pit, driveway and turnaround), be located either 5% or 10% of the lot width away from the property line. Due to the unusually long lot width, 5% equals 11 feet and 10% equals 22 feet. In order to accommodate the required setbacks, the majority of proposed structures cannot be located in the rear yard in a manner that would allow the necessary circulation between uses and the existing house.

2. The plight of the property owner is due to unique circumstances relating to the property in question because of the long lot width and unusually shaped lot, the proximity of the flood plain and the necessity for an access easement due to its land locked position all limit opportunities for improvements to the property. Improvements are being proposed in the areas that will least impact the surrounding flood plain.
3. The requested variations, if granted, will not alter the essential character of the locality because the proposed improvements requiring variations are located in areas that have been previously cleared for passive recreation and, in the case of the rear yard, are separated from neighboring homes by land zoned CR Conservation Recreation. The intent of the proposed improvements will be to continue to use the property in the same manner but with additional recreational amenities and native plantings in keeping with the surrounding woodland character.
4. The physical shape of the property in question would bring particular hardship upon the property owner as distinguished from a mere inconvenience if the strict letter of the Zoning Code were to be carried out because the unusual length of the front of the property necessitates setback distances that are much greater than the average for the zoning district.
5. The conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning district because other properties in the same zoning district are not likely to be constrained on three sides by flood plain or have an access easement as their only means for ingress/egress.
6. The difficulty of site development causing encroachment into a flood plain buffer zone is an existing condition of the property configuration that has not been created or altered by the applicant or other interested parties.
7. If granted, the improvement variations are limited to the applicant's property and will not be detrimental to the public or the neighborhood because proposed grading and drainage improvements will be limited to and will affect only the applicant's property and the gravel turnaround should reduce potential stormwater run-off more than a paved surface.
8. Proposed improvements requiring variation approval will not impact light or air supplies to adjacent properties.
9. The proposed improvements requiring variation approval will not diminish or impair property values within the neighborhood.
10. The proposed improvements requiring variation approval will not unduly increase traffic congestion in the public streets and highway as the site is accessible only through an access easement away from public streets. The home is currently a single-family residence and will continue to be used as single-family residence; therefore, no increase in traffic is anticipated.

11. The proposed improvements requiring variation approval will not create a nuisance as they will be located on a fairly secluded site.
12. The proposed improvements requiring variation approval will not result in an increase in public expenditures as all improvements will be paid for and maintained by the property owner; and

Whereas, the President and Board of Trustees have determined that granting the requested special use permit and zoning variations as recommended by the Plan Commission is consistent with the goals of the Glen Ellyn Zoning Code.

Now, Therefore, be it Ordained by the President and Board of Trustees of the Village of Glen Ellyn, DuPage County, Illinois, in the exercise of its home rule powers, as follows:

Section One: The minutes from the August 23, 2012 Plan Commission public hearing, a draft of which is attached hereto as Exhibit "A", and the findings of fact set forth therein and in the preambles above are hereby adopted as the findings of fact of the Village President and Board of Trustees based upon their review of the evidence, exhibits, and materials presented at the August 23, 2012 public meeting of the Plan Commission.

Section Two: Based upon the findings of fact and recommendations of the Plan Commission, as adopted herein, and the findings of fact and conclusions set forth in the preambles above, the Village President and Board of Trustees hereby grant approval of the following:

- A. A special use permit in accordance with Section 10-6-4(B)3 of the Glen Ellyn Zoning Code to allow residential structures to be constructed less than 30 feet from the 100-year flood plain. The proposed amenities would be as close as 3 feet from the flood plain, and include a pool, fire pit (including seating and walkway), fence, steps and a gravel turnaround.
- B. The following variations from the Glen Ellyn Zoning Code:
 1. Variations from Section 10-5-5(B)4(29, 34, 37) of the Glen Ellyn Zoning Code to allow construction of a fire pit 13 feet 1½ inches from the property line, a spa 14 feet from the

property line and a pool 3 feet from the property line; all in lieu of the minimum required setback of 22 feet (10% of the lot width). Additionally, a retaining wall would be constructed 6 inches from the property line in lieu of the minimum required setback of 11 feet (5% of the lot width).

2. A variation from Section 10-5-4(A)4(c) of the Glen Ellyn Zoning Code to allow construction of a deck 8 feet from the property line in lieu of the minimum setback of 11 feet (5% of the lot width).
3. Variations from Section 10-5-5(C)1 and 2 of the Glen Ellyn Zoning Code to allow construction of a driveway 3 feet from the property line, a turnaround 4 feet from the property line, paving around the fire pit 6 feet 6 inches from the property line and paving around the deck 5 feet from the property line; all in lieu of the minimum required setback of 11 feet (5% of the lot width).
4. A variation from Section 10-5-11(M) of the Glen Ellyn Zoning Code to allow a gravel driveway turnaround in lieu of a hard surface driveway as required.

all to allow the construction of 4,734 square feet of site improvements on the petitioner's property at 696 Plumtree Road.

Section Three: This grant of approval is subject to the following conditions:

- A. The project shall be constructed in substantial conformance with the plans submitted and the testimony presented at the August 23, 2012 public meeting of the Plan Commission and with the petitioner's application packet dated August 17, 2012 including the following plans and documents referenced below, as though they were attached to this Ordinance:
 1. Application for Special Use Permit/Narrative Statement dated July 13, 2012
 2. Application for Zoning Variation dated August 1, 2012
 3. Quantitative Summary/List of Variations and Deviations dated July 30, 2012
 4. Special Use and Variance Plan received August 23, 2012
 5. Site Plan received August 17, 2012 (attached hereto as Exhibit "B")
 6. Grading Plan received August 17, 2012

and these plans and documents shall be filed with and made part of the permanent records of the Glen Ellyn Planning and Development Department.

- B. The proposed fire pit must be gas-only or must have a permanent spark arresting function approved by the Building and Zoning Official.

Section Four: The Building and Zoning Official is hereby authorized to issue all necessary building and occupancy permits pursuant to the special use permit and zoning variations approved herein, provided that all the conditions set forth hereinabove have been met and that the applicant complies with all other applicable laws and ordinances of the Village of

Glen Ellyn. This grant of approval of the aforementioned requests shall expire and become null and void within 24 months of the date of this Ordinance unless an occupancy permit is applied for within said time period, provided, however, that the Village Board, by motion, may extend the period during which an occupancy permit must be applied for. Further, the Village Board may, for good cause shown, waive or modify any conditions set forth in this Ordinance without requiring that the matter return for a public hearing.

Section Five: This Ordinance shall be in full force and effect from and after the passage, approval, and publication in pamphlet form.

Section Six: Failure of the owner or other party in interest or a subsequent owner or other party in interest to comply with the terms of this Ordinance, after execution of such Ordinance, shall subject the owners or party in interest to the penalties set forth in Section 10-10-18 (A) and (B) of the Village of Glen Ellyn Zoning Code.

Section Seven. The Village Clerk is hereby authorized to record this Ordinance with the DuPage County Recorder.

Passed by the President and Board of Trustees of the Village of Glen Ellyn, Illinois, this _____ day of _____, 20____.

Ayes:

Nays:

Absent:

Approved by the Village President of the Village of Glen Ellyn, Illinois, this _____ day of _____, 20____.

Village President of the
Village of Glen Ellyn, Illinois

Attest:

Village Clerk of the
Village of Glen Ellyn, Illinois

(Published in pamphlet form and posted on the ____ day of _____.)

X:\Plandev\PLANNING\DEVELOPMENT PROJECTS\Plumtree\Plumtree 696, Cushing, ZV\Ordinance.docx

APPLICATION FOR SPECIAL USE PERMIT

The undersigned petitions the President and Village Board of Trustees of the Village of Glen Ellyn, Illinois, to consider the Special Use described in this application.

Date Filed: *rev. August 23, 2012 (original June 1, 2012)* Application No: _____

Name of Applicant: *Aaron Postma/Premier Landscape Contractors*

Contact Information:

Address of Applicant: *16 W 179 Jeans Road, Lemont, IL 60439*

Business Phone: *(630) 321-9530*

Fax: *(630) 321-9540*

Cell Phone: *(312) 656-0942*

Email: *apostma@premierlandscape.com*

Property Interest of Applicant: *Landscape Contractor/Owner Representative*

Contact Information:

Name of Owner: *Mr. Michael Cushing*

Address of Owner: *696 Plumtree Road, Glen Ellyn, IL 60137*

Business Phone: *(949) 509-5000*

Fax: *(949) 509-5001*

Cell/Home Phone: *(630) 643-0066*

Email: *mcushing@alerell.com*

Address and Legal Description of Property: *696 Plumtree Road, Glen Ellyn, IL 60137*

Parcel 1:

Lots 9, 10 and 11 in block 4 and the south 1/2 of vacated Apollo Avenue lying north of and adjoining said lots 9, 10 and 11 all in Apollo Springs Amended Subdivision, being a subdivision in sections 11 and 12w, township 39 north, range 10 east of the third principal meridian, according to the plat thereof recorded august 8, 1924 as document no. 181125, in DuPage County, Illinois.

Parcel 2:

Easement for ingress and egress for parcel 1 over the south 20 feet of the north 1/2 of vacated Apollo Avenue as said was vacated by document no. R63-36702 as said easement was created in grant of easement recorded as document no. R73-34501, all in DuPage County, Illinois.

Permanent Index No. (PIN): *05-11-217-034*

Zoning: *R2*

Lot Dimensions: *Irregular (220 ft. x 145 ft.)*

Lot Area: *49,622 SF*

Present Use: *Single-family Residence*

Requested Use/Construction: *Landscape Construction*

Estimated Date to Begin New Use/Construction: *October 2012*

Name(s), Address(es) and Phone No(s). of Experts (architects, engineers, etc.):

A. *Premier Landscape Contractors (Landscape Architects and Contractors), 16 W 179 Jeans Road, Lemont, IL 60439*

B. *Jacob & Hefner (Engineers and Surveyors), 739 Roosevelt Rd., Suite 100, Glen Ellyn, IL 60137*

Narrative Statement evaluating the economic effects on adjoining property, the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property, a discussion of the general compatibility with the adjacent and other properties in the district, the effect of traffic, and the relationship of the proposed use to the Comprehensive Plan, and how it fulfills the requirements of paragraph (E) of Section 10-10-14 of the Zoning Code:

A. Existing use of structures and land

The Cushing residence is an existing owner occupied single family home with an attached three (3) car garage and a detached two (2) car garage located at 696 Plumtree Road in Glen Ellyn, Illinois, 60137 in DuPage County. Covered porches exist on the front and rear of the home. An existing brick paved driveway provides vehicular access to the house from Plumtree Road. A one hundred foot (100') long retaining wall is located approximately 2 to 3 feet setback from the eastern property line. The maximum height of the wall is three feet (3'). The southern portion of the lot is overgrown with invasive plant species such as buckthorn and honeysuckle.

B. Proposed use of structures and land

The property at 696 Plumtree Road will continue to be used as a single-family residence. Proposed site improvements for use by the residents consist of the following landscape elements;

- *In-ground swimming pool and spa with perimeter fencing. Disturbance from construction of the pool will be contained on the property.*
- *Pool equipment will be placed on a 4' x 7' concrete pad behind the garage and will be located 22'-0" away from the closest property line and will be screened visually with plantings.*
- *Patio/Pool Deck*
- *Reconstructed paver drive and courtyard (wood screen previously indicated on plans has been eliminated from the project)*
- *Gravel drive court turnaround*
- *Firepit with surrounding stone patio and seat wall*
- *Stone paved walks and steps*
- *Retaining walls (less than 3' in height)*
- *Tree, shrub, perennial and groundcover plantings, as well as sod lawn and native seeding. Work in the southern property piece will include removal of invasive plants. Native plant species will be installed at the existing grades to enhance the habitat. All woodland plantings proposed within the floodplain limits will be approved by ENCAP prior to installation.*

C. Economic Effects of the Special Use

The proposed special use of the swimming pool will not have any economic effect other than to the site owner's property value and any residual effects of increased property value to the nearby residences.

D. Impacts of the Special Use

Other than during the construction process, the proposed special use will not have an impact on glare, odor, fumes or vibration to adjoining property. Occasional, however minimal, noise increases may occur during use of the recreational facilities.

E. Compatibility with Existing and Proposed Uses

The proposed special use will be compatible with existing and proposed uses in the general vicinity as it is a single family residence surrounded by other single family residences or by undeveloped land that will remain undeveloped. Native habitat will be restored when invasive species are removed and replaced with native plantings. These improvements will also add to the scenic character of the area that can be enjoyed by neighboring properties.

Describe How the Special Use:

1. Will be harmonious with and in accordance with the general objectives, or within a specific objective of the Comprehensive Plan and/or this Zoning Code:

The proposed special uses (swimming pool, fencing, vehicular turn around, and fire pit) will be harmonious with and in accordance with the general objectives of the residential zoning district code in that the uses are in association with a single-family residence.

2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area:

The special uses will be designed, constructed, operated, and maintained in keeping with the existing residential character of the general vicinity and is not intended to change the essential character of the neighborhood.

3. Will not be hazardous or disturbing to existing or future neighborhood uses:

Proposed improvements will not be hazardous or disturbing to existing or future neighborhood uses. The improvements are primarily non-combustible surface materials and are a minimum of 58' from the closest abutter's house.

4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewers and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services:

No additional public facilities or services will be required as a result of these improvements.

5. Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the Village:

Because additional public facilities or services will be required as a result of these improvements there will also be no detrimental effects to the economic welfare of the Village.

6. Will not involve uses, activities, processes, materials, equipment and/or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors:

Proposed improvements requiring special use approval will not involve uses, activities, processes, materials, equipment and/or conditions of operation that will be detrimental to any persons, property or the general welfare as they will be located in a fairly secluded site, will not cause excessive traffic, noise, smoke, fumes, glare, or odor.

7. Will have vehicular approaches to the property, which shall be so designed as not to create an undue interference with traffic on surrounding public streets or roads:

Proposed improvements will maintain the existing vehicular approach to the property and will not create an undue interference with traffic on surrounding public streets or roads as the site is accessible only through the access easement away from public streets and there will be minimal, if any, additional traffic.

8. Will not increase the potential for flood damage to adjacent property or require additional public expense for flood protection, rescue or relief:

The potential for flood damage will not increase to adjacent property or require additional public expense for flood protection, rescue or relief as grades will be minimally affected for construction of the proposed special use elements and no grades will be altered within the floodplain limits.

9. Will not result in destruction, loss or damage of natural, scenic or historic features of major importance to the community:

The proposed special uses will not result in destruction, loss or damage of natural, scenic or historic features of major importance to the community. In fact, native habitat will be restored when invasive species are removed and replaced with native plantings. These improvements will also add to the scenic character of the area that will benefit the neighboring properties.

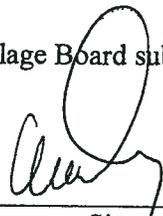
I (We) certify that all of the statements and documents submitted as part of this application are true to the best of my (our) knowledge and belief.

I (We) consent to the entry in or upon the premises described in this application by any authorized official of the Village of Glen Ellyn for the purpose of inspection.

I (We) consent to pay the Village of Glen Ellyn all costs incurred for transcribing the public hearing on this application.

I (We) understand that no final action shall be taken by the Village Board subsequent to the public hearing until and upon payment of transcribing fees.

7/13/12



Date

Signature of Applicant

VILLAGE OF GLEN ELLYN
535 Duane Street
Glen Ellyn, Illinois 60137
(630) 547-5250

APPLICATION FOR VARIATION

For the property at **696 Plumtree Road**, Glen Ellyn, IL 60137

Note to the Applicant: This application should be filed with, and any questions regarding it, should be directed to the Director of the Village Planning and Development Department.

The undersigned hereby petitions the Village of Glen Ellyn, Illinois, for one or more variations from the Glen Ellyn Zoning Code (Ordinance No. 3617-Z, as amended), as described in this application.

I. **APPLICANT INFORMATION:**

(Note: The applicant must comply with Section 10-10-10(B) of the Zoning Code).

Name: **Mr. Michael Cushing**

Address: **696 Plumtree Road, Glen Ellyn, IL 60137**

Phone No.: **(630) 643-0066**

Fax No.: **NA**

E-mail: **mcushing@alerell.com**

Ownership Interest in the Property in Question: **Property Owner**

II. INFORMATION REQUIRED BY SECTION 10-10-10(B) OF THE ZONING CODE, IF APPLICABLE:

NOTE: All parties, whether petitioner, agent, attorney, representative and or organization et al. must be fully disclosed by true name and address in compliance with Section 10-10-10(B) of the Zoning Code. Disclosure forms are attached for your convenience.

Name and address of the legal owner of the property (if other than the applicant):

Name and address of the person or entity for whom the applicant is acting (if the applicant is acting in a representative capacity):

Is the property in question subject to a contract or other arrangement for sale with the fee owner? (Circle "Yes" or "No")

YES

NO

If YES, the contract purchaser must provide a copy of the contract to the Village and must either be a co-petitioner to this application or submit the attached Affidavit of Authorization with the application packet.

Is the property in question the subject of a land trust agreement? (Circle "Yes" or "No")

YES

NO

If YES, (1) either the trustee must be a co-petitioner or submit the attached Affidavit of Authorization from the trustee to represent the holders of the beneficial interests in the trust and (2) the applicant must provide a trust disclosure in compliance with "An Act to Require Disclosure of All Beneficial Interests", Chapter 148, Section 71 et seq., Illinois Revised Statutes, signed by the trustee.

III. PROPERTY INFORMATION:

Common address: *696 Plumtree Road, Glen Ellyn, IL 60137.*

Permanent tax index number: *05-11-217-046*

Legal description:

Parcel 1:

Lots 9, 10 and 11 in block 4 and the south 1/2 of vacated Apollo Avenue lying north of and adjoining said lots 9, 10 and 11 all in Apollo Springs Amended Subdivision, being a subdivision in sections 11 and 12w, township 39 north, range 10 east of the third principal meridian, according to the plat thereof recorded august 8, 1924 as document no. 181125, in DuPage County, Illinois.

Parcel 2:

Easement for ingress and egress for parcel 1 over the south 20 feet of the north 1/2 of vacated Apollo Avenue as said was vacated by document no. R63-36702 as said easement was created in grant of easement recorded as document no. R73-34501, all in DuPage County, Illinois.

Zoning classification: *R2*

Lot size: *220 ft. x 145 ft. (Irregular) Area: 49,622 sq. ft.*

Present use: *Single-family Residence*

IV. INFORMATION REGARDING THE VARIATION(S) REQUESTED:

Description of the variation(s) requested (including identification of the Zoning Code provisions from which variation is sought) and proposed use(s):

- 1. Variation from Section 10-5-5 (B) 4 (34) to allow construction of a swimming pool in the rear yard to be located 3' from property line in lieu of the requirement of 10% or 22' ($220' \times 10\% = 22'$) of the lot width away from the property line.*
- 2. Variation from Section 10-5-5 (B) 4 (37) to allow construction of a retaining wall in the side yard less than 3 feet high on the east side of the property to be located 6 inches from the property line in lieu of the minimum setback of 11 feet required 5% or 11' ($220' \times 5\% = 11'$) of the lot width away from the property line.*
- 3. Variation from Section 10-5-5 (B) 4 (29) to allow construction of recreational equipment (firepit) in the rear yard to be located 13 feet, 1-1/2 inches from the property line in lieu of the minimum setback of 22 feet required 10% or 22' ($220' \times 10\% = 22'$) of the lot width away from the property line.*

4. Variation from Section 10-5-5 (B) 4 (29) to allow construction of recreational equipment (spa) in the rear yard to be located 14 feet from the property line in lieu of the minimum setback of 22 feet required 10% or 22' ($220' \times 10\% = 22'$) of the lot width away from the property line.
5. Variation from Section 10-5-4 (A) 4 (c) to allow construction of an accessory structure (deck) in the rear yard greater than 10 feet from the principal structure to be located 8 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' ($220' \times 5\% = 11'$) of the lot width away from the property line.
6. Variation from Section 10-5-5 (C) 1 and 2 to allow construction of impervious surface (drive courtyard) in the side yard to be located 3 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' ($220' \times 5\% = 11'$) of the lot width away from the property line due to the property width being greater than 100'.
7. Variation from Section 10-5-5 (C) 1 and 2 to allow construction of impervious surface (turnaround) in the front yard to be located 4 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' ($220' \times 5\% = 11'$) of the lot width away from the property line due to the property width being greater than 100'.
8. Variation from Section 10-5-11 (M) to allow a gravel driveway turnaround in the front yard instead of a hard surface driveway as required by the Zoning Code.
9. Variation from Section 10-6-4 (C) 1 to allow earthwork in the front yard within a floodplain for improvements to the driveway. (The variation will be an amendment to a prior variation approved under Ordinance 5136 on February 10, 2003.)
10. Variation from Section 10-5-5 (C) 1 to allow construction of impervious surface (paving around the firepit) in the rear yard to be located 6.5 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' ($220' \times 5\% = 11'$) of the lot width away from the property line due to the property width being greater than 100'.
11. Variation from Section 10-5-5 (C) 1 to allow construction of impervious surface (paving around the deck) in the rear yard to be located 5 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' ($220' \times 5\% = 11'$) of the lot width away from the property line due to the property width being greater than 100'.

Estimated date to begin construction: **October 2012**

Names and addresses of any experts (e.g., planner, architect, engineer, attorney, etc.):

- A. **Premier Landscape Contractors (Landscape Architects and Contractors), 16 W 179 Jeans Road, Lemont, IL 60439**
- B. **Jacob & Hefner (Engineers and Surveyors), 739 Roosevelt Rd., Suite 100 Glen Ellyn, IL 60137**

This property is bounded on three sides by floodplain and the associated setbacks. Access to the site is made possible through a use agreement with the Forest Preserve. The Zoning Code requires that accessory structures, such as those being proposed, (i.e. swimming pool, patio, deck, retaining wall, firepit) be located either 5%(11') or 10%(22') of the lot width away from the property line. In order to accommodate the required setbacks, the majority of proposed structures cannot be located in the rear yard in a manner that would allow the necessary circulation between uses and the existing house.

2. a. Provide evidence that the property in question cannot yield a reasonable return if permitted to be used under the conditions allowed by the Zoning Code (i.e., without one or more variations):

-Not used-

OR

- b. Provide evidence that the plight of the applicant/owner is due to unique circumstances relating to the property in question:

The property owner seeks to make the requested improvements in order to increase ease of circulation and recreational use adjacent to his home. Because of the proximity of the surrounding floodplain and the access easement the opportunities for improvements to the property are very limited. Improvements are being proposed in the areas that will least impact the surrounding floodplain.

3. Provide evidence that the requested variation(s), if granted, will not alter the essential character of the locality of the property in question:

The proposed improvements requiring variance requests are located in areas of the property that have been cleared are currently lawn and used for passive recreation by the property owners and their guests. The intent of the proposed improvements are still to be used in the same manner. Additional plantings will also be added to the site in keeping with the surrounding woodland character.

- B. For the purpose of supplementing the above standards, the ZBA or PC, in making its recommendation that there are practical difficulties or particular hardships, shall also take into consideration the extent to which the evidence establishes or fails to establish the following facts favorably to the applicant:

1. Provide evidence that the particular physical surroundings, shape or topographical condition of the property in question would bring particular hardship upon the applicant/owner as distinguished from a mere inconvenience if the strict letter of the Zoning Code were to be carried out:

This property is bounded on three sides by floodplain and the adjoining setbacks. Access to the site is made possible through a use agreement with the Forest Preserve. The Zoning Code requires that accessory structures, such as those being proposed, (i.e. swimming pool, patio, deck, retaining wall, firepit) be located either 5%(11') or 10%(22') of the lot width away from the property line. In order to accommodate the required setbacks, the majority of proposed structures cannot be

located in the rear yard in a manner that would allow the necessary circulation between uses and the existing house.

2. Provide evidence that the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning district:

Other properties in the same zoning district are not likely to be constrained on three sides by floodplain or have an access easement as their only means of ingress/egress.

3. Provide evidence that the purpose of the variation is not based exclusively upon a desire to make more money out of the property in question:

This variation is being requested in order to increase ease of circulation and recreational opportunities for the property owner and their guests. Although such improvements do add to the overall property value, the investment of construction costs will not likely be fully realized.

4. Provide evidence that the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property in question or by the applicant.

The difficulty of site development causing encroachment into the floodplain is an existing condition of the property configuration that has not been created or altered by the applicant or other interested parties.

5. Provide evidence that the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property in question is located

If granted, the improvement variations are limited to the applicant's property and will not be detrimental to the public or neighborhood. Proposed grading and drainage improvements will be limited to and will affect only the applicant's property. The gravel turnaround is being proposed as a functional element allowing greater permeability than hard surface paving as well as a more aesthetically pleasing choice.

10. Provide evidence that the proposed variation will not:

- a. Impair an adequate supply of light and air to adjacent property;

Proposed improvements requiring variation approval will not impact light or air supplies to adjacent properties. The improvements are primarily to surface materials and are a minimum of 58' from the closest abutter's house.

- b. Substantially increase the hazard from fire or other dangers to the property in question or adjacent property;

Proposed improvements requiring variation approval will not increase fire or other dangerous hazards to the applicant's or adjacent properties. The improvements are primarily non-combustible surface materials and are a minimum of 58' from the closest abutter's house.

- c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Village;

Proposed improvements requiring variation approval will not impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Village. The improvements are meant for exclusive use by the property owner and their guests as a means of recreation. Required health and safety measures will be taken as associated with the various proposed improvements.

- d. Diminish or impair property values within the neighborhood;

Proposed improvements requiring variation approval will not diminish or impair property values within the neighborhood, they will likely raise the property values since the value of the improved property will likely rise.

- e. Unduly increase traffic congestion in the public streets and highway;

Proposed improvements requiring variation approval will not unduly increase traffic congestion in the public streets and highway as the site is accessible only through the access easement away from public streets and there will be minimal, if any, additional traffic.

- f. Create a nuisance; or

Proposed improvements requiring variation approval will not create a nuisance as they will be located in a fairly secluded site, will not cause noise, odor or be visibly unattractive.

- g. Results in an increase in public expenditures.

Proposed improvements requiring variation approval will not result in an increase in public expenditures; all improvements will be paid for and maintained by the property owner.

7. Provide evidence that the variation is the minimum variation that will make possible the reasonable use of the land, building or structure.

In order for the property owner to have recreational opportunities on this property befitting the stature of the existing home and the nature of his business pursuits, the requested variations are minimized considering the lot configuration and proximity to the floodplain.

8. Please add any comments which may assist the Zoning Board of Appeals in reviewing this application.

The property owner wishes to make these improvements to the site in the most sensitive way possible and has engaged Engineers, Landscape Architects and Arborists to carefully design and draft plans. Given the location and configuration of the site, proximity to the floodplain and proximity to Forest Preserve land, the owner's consultants have tried to site the desired improvements in the best way possible to minimize site and neighborhood disturbance.

VI. EVIDENCE RELATING TO FLOOD HAZARD VARIATION REQUESTS

The following items must be completed only if the requested variation is from Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations.) If no such variation is being requested, the applicant should skip this section and complete Section VII below.

Requested variation;

5. *A variation from Section 10-6-4 (C) 1 to allow earthwork within a floodplain for improvements to the driveway. (The variation will be an amendment to a prior variation approved under Ordinance 5136 on February 10, 2003.)*

NOTE: Plans have been revised to eliminate any grade change within the area under agreement as per Ordinance 5136 on February 10, 2003.

- A. Items applicable only to variation requested from the requirements of Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations) that, if granted, would result in a structure not being protected to the elevation of the base flood.
1. Provide evidence that the structure is to be located on a lot contiguous to and surrounded by lots with existing structures constructed below the base flood level.
NA
 2. Provide evidence that the applicant has acknowledged that (a) such construction below the base flood level will increase the risk to life and property and that the applicant proceeds with knowledge of these risks; and (b) any variation is contingent upon the applicant obtaining approval from other agencies having jurisdiction when the variance violates the requirements of such agencies.
NA
- B. Items applicable only to variations requested from the requirements in Chapter 6 of the Zoning Code (relating to Flood Hazard Land Use Regulations) that, if granted, would significantly impede or increase the flow and passage of floodwaters.
1. Provide evidence that the use will not result in an increased flood height greater than 0.1 feet within the designated regulatory floodway.
NA

3. Provide evidence that the resulting increase in the base flood elevations will not affect any existing structures or utilities.

NA

4. Provide evidence that the owners of the properties affected by the increased base flood elevation are compensated for the resulting effect on property values, and they give their written agreement to granting the variation.

NA

5. Provide evidence that the resulting increased flood elevations will not affect any flood protection structures.

NA

VII. CERTIFICATIONS, CONSENT AND SIGNATURE(S)

I (We) certify that all of the statements and documents submitted as part of this application are true and complete to the best of my (our) knowledge and belief.

I (We) consent to the entry in or upon the premises described in the application by any authorized official of the Village of Glen Ellyn.

I (We) certify that I (we) have carefully reviewed the Glen Ellyn Zoning Variation Request Package and applicable provisions of the Glen Ellyn Zoning Code.

I (We) consent to accept and pay the cost to publish a notice of Public Hearing as submitted on an invoice from the publishing newspaper. I (we) understand that our request will not be scheduled for a Village Board agenda until and unless this invoice is paid.

Signature of Applicant(s)

Date filed

Quantitative Summary

1. **Lot size: 1.40 Acres (61,191 square feet- including 11,569 s.f. of access easement)**
1.14 Acres (49,622 square feet- excluding access easement per Chapter 2 – Definitions, Lot Measurements, #4)

2. **Compliance with 10-5-4(A)2(a), square footage of accessory structures;**
 - a. **Existing Accessory Structures Total Area: 5,184s.f.**

Garage(to remain)	417 s.f.
Driveway & Court	2,970 s.f.
Retaining Wall at East PL	101 s.f.
Front Walk	240 s.f.
Rear Walk & Patio	1,406 s.f.
Tree Well (to remain)	50 s.f.

 - b. **Proposed Accessory Structures Total Area: 9,918 s.f.**

Garage(existing)	417s.f.
Driveway & Court	3,137 s.f.
Gravel Turnaround	1,950 s.f.
Retaining Wall at East PL	60 s.f.
Retaining Walls at Turnaround	118 s.f.
Front Walk/Stair	177 s.f.
Steps at Lawn Panel	74 s.f.
Swimming Pool/Spa	1,285 s.f.
Pool Deck/Patio	1,840s.f.
Pool Equipment Pad	28 s.f.
Deck(circular at pool)	294 s.f.
Firepit	20 s.f.
Patio/Seat wall at firepit	268 s.f.
Walk to front porch	200 s.f.
Tree Well (existing)	50 s.f.

 - c. **Accessory Structures Total Area Increase: 4,734 s.f.**

3. **Square footage of proposed improvements:**
9,918 s.f. proposed hardscape improvements

4. **Area of impervious surfaces within the floodplain limits on the property;**
(no changes are proposed within the access easement)
 - a. **Existing 126 s.f.**
 - b. **Proposed 121 s.f.**
 - c. **Decrease 5 s.f. (or 4%)**

5. *Percentage of the required yards to be covered with impervious surfaces:*

- a. *Front Yard 33% (2,808 sf of 8,546 sf)*
- b. *Rear Yard 26% (3,920 sf of 15,372 sf)*
- c. *Side Yards 16% (1,542 sf of 9,655 sf)*

6. *Proposed and required setbacks of improvements:
(Assumed lot width = 220.17')*

<i>Improvement Proposed</i>	<i>Required Setback</i>	<i>Proposed Setback</i>
a. <i>Swimming Pool*</i>	<i>22' (10% lot width)</i>	<i>3'</i>
b. <i>Retaining Wall at East PL*</i>	<i>11'(5% lot width)</i>	<i>6"</i>
c. <i>Drive Court*</i>	<i>11'(5% lot width)</i>	<i>3'</i>
d. <i>Gravel Turnaround*</i>	<i>11'(5% lot width)</i>	<i>4'</i>
e. <i>Retaining Walls at Turnaround</i>	<i>11'(5% lot width)</i>	<i>11'</i>
f. <i>Front Walk/Stair</i>	<i>NA</i>	<i>45'</i>
g. <i>Steps at Lawn Panel</i>	<i>NA</i>	<i>22'</i>
h. <i>Spa</i>	<i>11'(5% lot width)</i>	<i>14'</i>
i. <i>Pool Deck/Patio</i>	<i>NA</i>	<i>18'</i>
j. <i>Pool Equipment Pad</i>	<i>22' (10% lot width)</i>	<i>22'</i>
k. <i>Deck(circular at pool)*</i>	<i>11'(5% lot width)</i>	<i>8'</i>
l. <i>Firepit</i>	<i>11'(5% lot width)</i>	<i>13'-1.5"</i>
m. <i>Patio/Seat wall at firepit*</i>	<i>11'(5% lot width)</i>	<i>6'</i>
n. <i>Walk to front porch</i>	<i>NA</i>	<i>32'</i>

**Items requiring a variation or Special Use setback permit*

7. *Proposed setbacks from the floodplain (30' Setback Required, typical):*

<i>Improvement Proposed</i>	<i>Proposed Setback</i>
a. <i>Swimming Pool*</i>	<i>22'-5"</i>
b. <i>Retaining Wall at East PL</i>	<i>30'-0"</i>
c. <i>Drive Court</i>	<i>32'-6"</i>
d. <i>Gravel Turnaround*</i>	<i>3'-0"</i>
e. <i>Retaining Walls at Turnaround*</i>	<i>13'-0"</i>
f. <i>Front Walk/Stair</i>	<i>54'-0"</i>
g. <i>Steps at Lawn Panel*</i>	<i>15'-8.5"</i>
h. <i>Spa</i>	<i>30'-0"</i>
i. <i>Pool Deck/Patio</i>	<i>44'-0"</i>
j. <i>Pool Equipment Pad</i>	<i>42'-0"</i>
k. <i>Deck(circular at pool)</i>	<i>30'-0"</i>
l. <i>Firepit*</i>	<i>14'-9"</i>
m. <i>Patio/Seat wall at firepit*</i>	<i>8'-0"</i>
n. <i>Walk to front porch*</i>	<i>24'-0"</i>

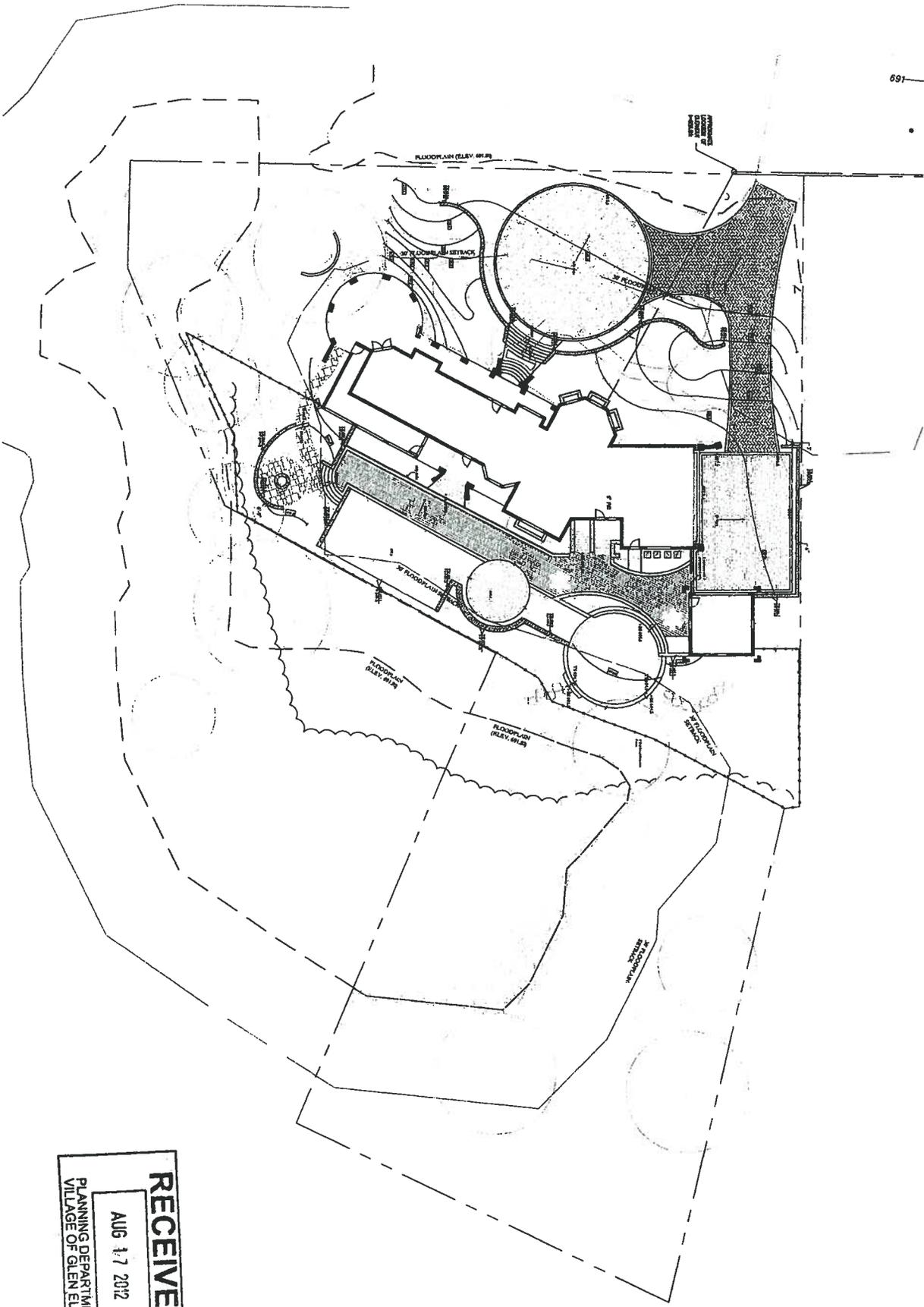
**Items requiring a variation or Special Use setback permit*

8. *Proposed improvements within 30 ft of the floodplain total 3,821 s.f.*

9. *List of Variations/Deviations*

1. *Variation from Section 10-5-5 (B) 4 (34) to allow construction of a swimming pool in the rear yard to be located 3' from property line in lieu of the requirement of 10% or 22' (220'x10%=22') of the lot width away from the property line.*
2. *Variation from Section 10-5-5 (B) 4 (37) to allow construction of a retaining wall in the side yard less than 3 feet high on the east side of the property to be located 6 inches from the property line in lieu of the minimum setback of 11 feet required 5% or 11' (220'x5%=11') of the lot width away from the property line.*
3. *Variation from Section 10-5-5 (B) 4 (29) to allow construction of recreational equipment (firepit) in the rear yard to be located 13 feet, 1-1/2 inches from the property line in lieu of the minimum setback of 22 feet required 10% or 22' (220'x 10%=22') of the lot width away from the property line.*
4. *Variation from Section 10-5-5 (B) 4 (29) to allow construction of recreational equipment (spa) in the rear yard to be located 14 feet from the property line in lieu of the minimum setback of 22 feet required 10% or 22' (220'x 10%=22') of the lot width away from the property line.*
5. *Variation from Section 10-5-4 (A) 4 (c) to allow construction of an accessory structure (deck) in the rear yard greater than 10 feet from the principal structure to be located 8 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' (220'x 5%=11') of the lot width away from the property line.*
6. *Variation from Section 10-5-5 (C) 1 and 2 to allow construction of impervious surface (drive courtyard) in the side yard to be located 3 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' (220'x 5%=11') of the lot width away from the property line due to the property width being greater than 100'.*
7. *Variation from Section 10-5-5 (C) 1 and 2 to allow construction of impervious surface (turnaround) in the front yard to be located 4 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' (220'x 5%=11') of the lot width away from the property line due to the property width being greater than 100'.*
8. *Variation from Section 10-5-11 (M) to allow a gravel driveway turnaround in the front yard instead of a hard surface driveway as required by the Zoning Code.*
9. *Variation from Section 10-6-4 (C) 1 to allow earthwork in the front yard within a floodplain for improvements to the driveway. (The variation will be an amendment to a prior variation approved under Ordinance 5136 on February 10, 2003.)*

- 10. Variation from Section 10-5-5 (C) 1 to allow construction of impervious surface (paving around the firepit) in the rear yard to be located 6.5 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' (220'x 5%=11') of the lot width away from the property line due to the property width being greater than 100'.*
- 11. Variation from Section 10-5-5 (C) 1 to allow construction of impervious surface (paving around the deck) in the rear yard to be located 5 feet from the property line in lieu of the minimum setback of 11 feet required 5% or 11' (220'x 5%=11') of the lot width away from the property line due to the property width being greater than 100'.*



RECEIVED
 AUG 17 2012
 PLANNING DEPARTMENT
 VILLAGE OF GLEN ELLYN

1" = 30'									
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Grading Plan

Cushing Residence
 696 Plumtree Road Glen Ellyn, Illinois

PREMIER
 Landscape Contractors
 Lombard, Illinois
 Phone: 630.321.2020
 email: info@premierlandscape.com

MEMORANDUM

A-8

TO: Mark Franz, Village Manager *MF*

FROM: Julius Hansen, Public Works Director
Bob Minix, Professional Engineer *J Hansen*

DATE: September 4, 2012

SUBJECT: Braeside Area Localized Drainage Improvements Project –
Recommendations for Award of a Construction Contract to
Apollo Trenchless, Inc. and Approval of a Services Agreement
with Civiltech Engineering for Construction Phase Engineering



INTRODUCTION / SUMMARY

In May 2011 the Village was awarded \$570,000 in Community Development Block Grant (CDBG) Disaster Recovery "IKE" – Public Infrastructure Program funds for a project to improve drainage in various rear-yard easement areas in the Braeside Subdivision, located north of Roosevelt Road and east of I-355. The **Braeside Area Localized Drainage Improvements Project** would install storm sewers, inlets and other types of connections, and perform grading in the rear-yard utility easements between Surrey Drive and Heather Lane, Heather Lane and Londonberry Lane, and Londonberry Lane and Brighton Place (see attached plan). Project design was performed by the consulting firm of Pavia-Marting & Co.

Bids have now been received for the project and construction is imminent. The purposes of this memorandum are to:

- Recommend award of a construction contract – Apollo Trenchless, Inc. of Lombard was the second low bidder of five contractors and is the low, responsible bidder. The reasons for this recommendation will be discussed in this memorandum.
- Select a consultant for construction oversight services – Civiltech Engineering has extensive recent experience with Braeside area projects and provided a superior proposal for the assignment.

AGENDA ITEM(S) DESCRIPTION

The Braeside Area Localized Drainage Improvements Project will install storm sewers, provide inlets and sump pump connections, and perform grading in the rear-yard utility easements between Surrey Drive and Heather Lane, Heather Lane and Londonberry Lane, and Londonberry Lane and Brighton Place. The proposed system will provide positive drainage outlets for stormwater runoff and sump pump discharges. Project construction should be completed by the end of November 2012. The Village is the recipient of a \$570,000 IKE – PE Disaster Relief Fund grant for project construction.

Bids were received on August 23 for the project, with Apollo Trenchless submitting the second low bid of \$601,000. The engineer's estimate for the project was \$691,000. The low bid of \$464,000 submitted by Kovilic Construction contained significant errors that rendered it non-responsible.

Civiltech Engineering is recommended to provide the necessary construction phase engineering services in the not-to-exceed amount of \$66,000. Civiltech was selected this assignment based on a review of three consultant proposals, having recent and extensive project oversight experience in Braeside and overall excellent credentials.

- A. Motion to reject the low bid submitted by Kovilic Construction as non-responsible and approve award of a construction contract to Apollo Trenchless, Inc. of Batavia for improvements associated with the Braeside Area Localized Drainage Improvements Project, in the amount of \$630,00 (including a 5% contingency), to be expensed to the FY13 Capital Projects Fund.
- B. Motion to approve an engineering services agreement with Civiltech Engineering, Inc. of Itasca for construction oversight services associated with the Braeside Area Localized Drainage Improvements Project in the amount of \$73,000 (including a 10% contingency), to be expensed to the FY13 Capital Projects Fund.

ISSUES AND ITEMS FOR DISCUSSION

1. Kovilic Construction of Franklin Park submitted the low bid of just over \$464,000 which was over \$225,000 below the engineer's estimate and \$135,000 under the next low bidder. After the bid opening, Kovilic reviewed their bid and found major errors in their bid. The Village Attorney reviewed the bid and follow-up materials and recommends that the Kovilic bid be rejected as non-responsible.
2. The IKE-PE grant in the amount of \$570,000 will cover the vast majority of anticipated contractor expenses and will be used solely to defray contractor costs.
3. Proposals for engineering services during construction were requested from three firms with recent Village experience: Civiltech, RHMG and Thomas. The Civiltech proposal was responsive, the firm has excellent credentials and the fee requested was the lowest of the three proposals.

CONSTRUCTION CONTRACT AWARD

Bids were received on August 23, 2012 for the project and opened and read by Acting Village Clerk Patti Underhill. The bidding process was typical: the project was advertised for bid on August 2 with the legal notice appearing in the Daily Herald that day; plans were sold through the design engineer's office with 12 contractors picking up plans; and the pre-bid conference was conducted on August 14 with 5 firms in attendance.

Five contractors submitted bids with Kovilic Construction submitting the low bid of just over \$464,000 based on the as-read amounts. The following table summarizes the bid results:

Braeside Area Localized Drainage Improvements Project Bid Results – August 23, 2012 Letting	
Contractor	Total Bid
Kovilic Construction	\$464,335
Apollo Trenchless	\$601,328
John Neri Construction	\$681,085
Berger Construction	\$721,100
Trine Construction	\$791,588
Engineer's Estimate (Pavia – Marting)	\$690,970

No errors were found during bid tabulation and the as-read dollar amounts stand as the correct bid amounts.

The Kovilic bid was 33% below the engineers estimate and substantially under the second low bid. Following the bid opening, Kovilic reviewed their bid in greater detail and uncovered substantial errors in the formulation of two of the project bid items, as detailed in their August 27, 2012 letter (copy enclosed). In the letter, the firm requested that their bid be withdrawn.

The Village Attorney's office was consulted in this matter. Please note the email authored by Stewart Diamond dated August 28, 2012 (copy enclosed). It is the opinion of the Village Attorney that, in this case, Kovilic should be deemed a non-responsible bidder, and their bid rejected in favor of the second low bidder, Apollo Trenchless. These actions will avoid delays in project implementation, with the acceptance of a bid that is still nearly 15% below the engineer's estimate.

Staff has investigated the credentials of Apollo Trenchless. The firm specializes in horizontal directional drilling, a major component in this Braeside project. Apollo is teaming with Suburban General Construction of LaGrange Park, with the sub-contractor performing more traditional underground work associated with the project. References contacted provided mixed reviews for Apollo Trenchless, with both very good and one quite poor experiences noted. My takeaway from these discussions is that the firm is experienced and technically competent in the area of directional drilling, but clear and continuous communications with the project superintendent are of paramount importance to stay on schedule and deal with any project difficulties.

Recommendation: A construction contract award to Apollo Trenchless, Inc. of Lombard, with project funding (including a 5% contingency) in the amount of \$630,000 is recommended. Funds should be taken from the FY13 Capital Projects fund, Account No. 40000-58100. The Project Number for the project is 12002.

ENGINEERING SERVICES DURING CONSTRUCTION

Engineering oversight for the project will be provided by a consultant. Responsibilities of the engineer will include conducting the preconstruction conference, general consultations / meetings, review of project schedule, shop drawing review, establishing survey control, full time construction observation, material testing (using a sub-consultant), pay estimate and change order processing, final inspection and project close-out, including record drawing preparation.

Staff sought proposals from three consultants for providing the required engineering services during construction: Civiltech Engineering, RHMG Engineers and Thomas Engineering Group. All three firms have provided construction project oversight for the Village within the past year: Civiltech on the 2012 Hawthorne project (and many others in the recent past); RHMG on the 2011 ELOG project; and Thomas on the 2012 Lambert Road Right-Turn project. All have performed satisfactorily.

I reviewed all three proposals and found each firm to be capable, with the key position of resident engineer to be filled by a very well qualified individual that played a key role in recent assignments. A summary of the recommended personnel hours and total cost for the project are shown in the following table.

Braeside Area Localized Drainage Improvements Project Summary of Proposals for Construction Oversight		
Consultant	Personnel Hours	Total Cost
Civiltech Engineering	722	\$66,000
RHMG Engineers	702	\$76,000
Thomas Engineering Group	794	\$89,000

The Civiltech proposal was very responsive, citing the firm's recent construction oversight experience in Braeside for the 2009 Surrey Drive reconstruction and last year's area-wide street lighting efforts, both of which were community development block grant projects. The IKE-PE program will be very similar to the CDBG-type projects in many respects. In addition, the same Civiltech project team used in past Braeside projects will be available for this assignment.

Recommendation: An engineering services agreement with Civiltech Engineering, Inc. of Itasca for construction oversight is recommended. Project funding (including a 10% contingency) should be in the amount of \$73,000 with funds taken from the FY13 Capital Projects fund, Account No. 40000-58100. Again, the Project Number for the project is 12002.

BUDGET STATUS

The FY13 approved budget allotted Capital Project funds in the amount of \$707,000 to cover contractor and construction engineering expenses for the Braeside Area Localized Drainage Improvements Project. Based on the results and recommendations above, the total anticipated construction expenses (contractor + engineer) should be \$703,000 or less.

ATTACHMENTS

1. Braeside Area Localized Drainage Improvements Project – Overall Plan
 2. Letter from Kovilic Construction Company, Inc. dated August 27, 2012
 3. Email from Village Attorney Stewart Diamond dated August 28, 2012
 4. Excerpts from Civiltech Proposal
- cc: Kristen Schrader, Assistant to the Village Manager – Administration
Jeff Perrigo, Civil Engineer
Stewart Diamond, Village Attorney
Mike Mikulka, Illinois Disaster Recovery Program

KOVILIC CONSTRUCTION COMPANY, INC.
P.O. BOX 939
FRANKLIN PARK, IL. 60131
TEL: (847) 671-4978 FAX: (847) 671-5329

August 27th, 2012

The Village of Glen Ellyn
Public Works Department
Attn: Mr. Robert J. Minix, Village Engineer
30 S. Lambert Road
Glen Ellyn, IL 60137

RE: K.C.C. Sealed Bid Proposal – Braeside Area Localized Drainage Improvements Project

Mr. Minix,

In reference to the subject project bid submitted to the Village of Glen Ellyn on August 23rd, 2012, we are humbly requesting herein that our proposal be removed from consideration of award. We cite the following reasons for this determination:

Firstly, there is the matter of our eligibility for award with regard to this project. The project specifications include clauses relating to Section 3 compliance in the provision of training, employment and business opportunities. During our preparation of the bid form and cost estimating phase, we were under the impression that good faith efforts regarding Section 3 compliance were to be made following an award of the subject project's contract. Per our brief, informal meeting following the bid opening, I was corrected by your staff and the project design engineer that these good faith efforts were to be implemented prior to the bid opening. Good faith efforts were never conducted due to our misinterpretation of the specifications concerning Section 3 compliance. Therefore, our observance of Section 3 compliance was not accurately addressed in our response to this bid.

The second reason for this request concerns our price tabulation. We discovered that we made a mathematical error in calculating the two items that deal with connecting a structure to the directionally-bored 8"-diameter storm sewer. Specifically, these items are Line Item 14: "Inlets, Type A with C.I. Frame & Grate," 25 ea. at \$2,500.00 per unit; and Line Item 21: "Sump Pump Service Connection," 25 ea. at \$1,000.00 per unit. This price represents the cost of the structures, castings, bedding materials and connections.

In calculating the unit price for these items, we failed to add in the special conditions required to construct these items in the back yards of area residents. We had a separate breakdown for these conditions which included gaining access, providing surface

protection, the removal of spoils with buggies and working in confined areas. The cost for the above with markup was an additional \$3,000.00 per unit, per location. These costs never made it in our unit prices for Items 14 and 21.

The correct unit costs for Items 14 and 21 are as follows:

Item 14:	\$5,500.00
Item 21:	\$4,000.00

In light of this error and in addition to our misinterpretations regarding Section 3 compliance for this project, we are respectfully requesting that our bid be withdrawn.

We apologize for any inconvenience that these errors may have caused you.

Should you have any questions or concerns, or should you require any additional information at this time, please do not hesitate to contact me at your convenience. I thank you for your time and attention to this matter.

Respectfully Submitted,



Danilo Kovilic
Management Representative

Bob Minix

From: Diamond, Stewart [SDiamond@ancelglink.com]
Sent: Tuesday, August 28, 2012 12:16 PM
To: Mark Franz
Cc: Bob Minix
Subject: Braeside Localized Drainage Improvements
Attachments: Kovilic-Cont. Bid Bond.PDF; Minix-8-17-12.PDF

Dear Mark:

The Village recently opened bid proposals for the Braeside Area Localized Drainage Improvements Project. That is a project, which will be almost entirely funded through Federal Grants under a program created after the Katrina disaster. Governments were allowed to seek funds for drainage improvements, and the Village took the opportunity to correct a flooding problem, which has existed in the Braeside area for many years. On August 23rd, the Village opened bids for the project. The Engineer's estimate was \$691,000. The Village received five bids. The low bid was submitted by Kovilic Construction Company, Inc., from Franklin Park, Illinois. That bid was \$464,000. The second low bid was \$600,000. The third low bid was somewhat above the \$600,000, but under the Engineer's estimate, the final two bids were above the Engineer's estimate. The low bidder was present at the bid opening.

Later that day, Bob Minix got a call from the owner of Kovilic saying that his estimator had made two errors in estimating the nature of the work to be done and that Kovilic could not perform the work at its incorrectly-bid price. Enclosed is a letter dated August 27, 2012, in which the company requested that its bid be withdrawn. That letter also indicates that the company did not do certain pre-bidding compliance work required under Federal law for projects of this kind.

I am also attaching to this memo, the Contractor's Bid Bond, which Kovilic was required to and did post with its bid. The insurance company, which issued the bond, would be obligated to pay 5% of the bid amount to the Village if Kovilic's bid is accepted and it does not execute a contract in accordance with the bid within 15 days after the written notice of the award of the contract. With a low bid of \$464,000, the insurance company would be required to pay \$23,000. In order for the Village to seek that payment, we would be obligated to award the contract to Kovilic and then see whether it reneged on signing the contract, or attempted to go forward and do the job. The problem with taking that position is that if, for some reason, Kovilic decided to go forward, it is very likely that we would get a very poor and delayed job. Although Kovilic's error in its bid is not the usual simple mathematical error which allows for the almost automatic successful withdrawal of a bid, moving forward in an effort to recover the bid bond, in this case, could very well delay the work and possibly result in a poor job.

Because the bid of the next lowest bidder is substantially below the Engineer's estimate, and because that bidder is highly qualified, it is our recommendation that we determine that the \$600,000 bid is the lowest responsible bid, and we reject Kovilic's bid as containing a number of disqualifying errors. I would not suggest that we allow Kovilic to withdraw its bid, but, rather, make the determination that, based upon these defects, its bid is not the lowest responsible one.

The process of calling a bid bond is important when a bidder, that has made a responsible but seemingly too low bid, decides that it would rather not go through with the project. In that case, awarding the contract to Kovilic might force it to go forward and do a terrible job or hesitate and delay a proper award

In summary, as a practical matter, we believe that the delay and possible confusion associated with awarding the contract to Kovilic, seeking funds under the bid bond and then awarding the contract to the second lowest bidder would not be the appropriate method to pursue in this instance. Instead, Kovilic's bid should simply be rejected and the contract awarded to the second lowest bidder whose bid is still dramatically lower than the Engineer's estimate in a project where the construction is almost fully funded by Grant dollars.

SHD

Stewart H. Diamond, Partner



140 South Dearborn Street, 6th Floor
Chicago, IL 60603
Direct Dial: 312.604.9109
Telephone: 312.550.7606
Cell: 312.782.7606
Fax: 312.782.0943
SDiamond@ancelglink.com
www.ancelglink.com

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August 31, 2012

Mr. Robert J. Minix, P.E.
Professional Engineer
Village of Glen Ellyn
30 South Lambert
Glen Ellyn, IL 60137

Re: Proposal to provide Phase III Construction Engineering Services for the Braeside Area Localized
Drainage Improvements
COST PROPOSAL

Dear Mr. Minix:

As discussed in the letter of our Statement of Qualifications for the Braeside Area Localized Drainage Improvements, we have separated our Cost Estimate of Consultant Services in this sealed package. Please find our anticipated schedule, estimated hours of construction engineering, proposed engineering fee, and backup documentation.

We have created an anticipated contractor schedule for this improvement which is the first attachment. The quantities from the plans were consolidated into major items that are shown throughout the project. The units from the controlling quantity for each major item were used. The production rates for these major items factor in the work on non-controlling items that could not be shown due to limited space. We have found that using an anticipated contractor's schedule is an extremely valuable tool for viewing the project as it should unfold and estimating the time required to provide the proper level of inspection and documentation. We are able to more effectively estimate the number of staff required to perform construction engineering using this type of schedule.

On the schedule, you will note that we anticipate the contractor will be working mostly 40 hours per week for a project of this size and complexity. The contractor's hours are of course dependant on the weather and the controlling work item. Our average hours per week vary accordingly with the contractor's. We anticipate providing full time inspection throughout the duration of the project. Project Manager hours are estimated to be two (2) hours every fourth week which will include attendance at progress meetings, assistance in plan interpretation and correspondence. Pre-construction and post-construction time has been included in our staffing estimate so that the amount of requirements and documentation needed for this Federally Funded project can be achieved.

As mentioned in our proposal, our highly qualified Glen Ellyn Team will be able to hit the ground running, since they already know all the particulars of Village improvements. This will result in savings for the Village with less hours devoted to familiarization. Our experienced Team will achieve our complete project scope, providing the excellent Construction Engineering Services the Village has come to expect from Civiltech. Our Resident Engineer and Project Manager will be responsible for decisions, such as when to call in our surveyor or when to perform the work themselves. It is with good staff planning that Civiltech stays within project budgets. Our knowledge of material testing requirements keeps the cost for material inspection to a minimum by only testing at the needed frequency. We enforce that the contractor's Quality Control provides the full amount of testing as required. We have shown Dave Bugaj as the Senior Resident Engineer in an effort to help the Village keep

engineering costs down. His reduced hours are shown on the schedule. However, please know that it is our full intention to have Dave present on the project whenever needed. Civiltech's main objective is to help the Village bring a dramatic improvement to their residents, and we will have Dave present on the project to do just that.

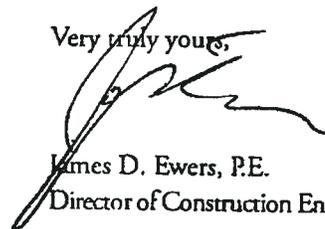
We propose to perform the work on the basis of a "not to exceed fee" of \$65,984.00. Our approved IDOT overhead rate for fiscal year ending December 31, 2010 is 154.35%. Using this approved IDOT overhead rate and the IDOT profit formula (14.5% x 2.5435 x direct labor) results in an overall billing factor of 2.9123. Civiltech is holding its overall billing factor to a flat 2.65 x direct labor for the Village of Glen Ellyn. This results in a savings to the Village of nearly \$6,000. Our commitment to help Glen Ellyn reduce costs in these difficult years holds true for this project as well. Civiltech will again offer to reduce each of our invoices for this improvement by 2%.

Compensation for our work will be based upon actual labor dollars expended times a factor of 2.65 to cover actual payroll, overhead and indirect costs, payroll burden and fringe benefit costs, and profit. Direct costs such as printing, photography, vehicle expenses (\$40.00/day), and sub-consultant costs will be billed at their actual cost. The details of our Cost Estimate of Consultant Services and supporting documents are second attachment.

Civiltech Engineering maintains General Liability insurance with an aggregate coverage amount of \$5,000,000 (\$3,000,000 each occurrence), Automobile Liability insurance with a single limit coverage amount of \$3,000,000 as well as Worker's Compensation Insurance. We also maintain Professional Liability Insurance with an aggregate amount of \$2,000,000.

We appreciate this opportunity to submit our qualifications with hours / cost estimate, and look forward to making the Braeside Area Localized Drainage Improvements a dramatic success for Glen Ellyn.

Very truly yours,

A handwritten signature in black ink, appearing to read "James D. Ewers".

James D. Ewers, P.E.
Director of Construction Engineering Services

CIVILTECH ENGINEERING, INC.



Braeside Area Localized Drainage Improvements

Schedule

ITEM	TOTAL	UNIT	DAILY RATE	DAYS REQ'D	2012																	
					SEPTEMBER			OCTOBER			NOVEMBER			DECEMBER								
					7	14	21	28	5	12	19	26	2	9	16	23	30	7	14	21	28	
TRAFFIC CONTROL AND PROTECTION	1	LS	~	ONGOING																		
PRECONSTRUCTION VIDEO TAPING	1	LS	1																			
TEMPORARY FENCE / PERIMETER EROSION BARRIER	370	LF	500																			
TREE ROOT PRUNING	50	LF	100																			
EXISTING FENCE REMOVAL & RE-INSTALLATION	1,000	LF	200	5																		
STORAGE SHED RELOCATION	2	EA	2	1																		
SPECIAL EXCAVATION / UNSUITABLE REMOVAL	150	CY	50	3																		
STORM SEWERS / INCLUDING TBF	307	LF	50	6																		
STORM SEWER DIRECTIONAL BORE	2,700	LF	400	7																		
DRAINAGE STRUCTURES	34	EA	4	8																		
SANITARY SEWERS	20	LF	30	1																		
PIPE CONNECTIONS	30	EA	4	8																		
GRADING & SHAPING SWALES	1,100	SY	300	4																		
COMBINATION CONCRETE CURB AND GUTTER	140	LF	100	1																		
HMA PAVEMENT RESTORATION	100	SY	100	1																		
DRIVEWAY PAVEMENT REMOVAL & REPLACEMENT	30	SY	50	1																		
PCC SIDEWALK REMOVAL & REPLACEMENT, 5"	200	SF	400	1																		
SODDING, SEEDING SPECIAL w/ TOPSOIL	1,600	SY	600	3																		
CLEANUP & PUNCHLIST	1	LS	0.33	3																		
Civiltech Staffing:																						
David M. Bugaj	Senior Res. Engr.		132																			
Brent E. Gleason	Res. Engr.		0																			
Jason M. May	Res. Engr.		560																			
Technician (Intern)	Tech		0																			
Darvas C. Rolando	Surveyor		24																			
Survey Technician	Survey Tech		0																			
James D. Ewers	Proj. Mgr.		6																			
	Total		722		40	56	56	48	56	50	48	58	48	56	50	48	48	44	16	0	0	0



Braeside Area Localized Drainage Improvements

Cost Estimate of Consultant Services

* Held to previous year's rate (Below firm's approved rates on file with IDOT's Bureau of Accounting and Auditing).
 **Firm's approved Over Head rate on file with IDOT is 154.35 %. Holding to 132.00% for Glen Ellyn.
 ***Labor x 0.145 x 2.3200 = Fixed Fee
 Complexity factor (R=0.00)

Prepared: 8/30/2012

ITEM	Employee Classification	Estimated Manhours by Task					Total Number of Manhours	Percent of Total	DOLLARS (\$)				TOTAL
		Meeting & Vetting	Inspection	Documentation	Management & Administration	Payroll Costs			Payroll Burden & Fringe Costs; Overhead & Expenses*	Fixed Fees**	TOTAL		
Construction Engineering:	Senior Res. Engr.	14	16	66	36	132	18.28%	5,814	7,808	1,952	15,672		
	Res. Engr.			0		0	0.00%	-	-	-	-		
	Res. Engr.	14	24	368	156	560	77.56%	15,756	20,772	5,188	41,701		
	Tech (Intern)			0		0	0.00%	-	-	-	-		
	Surveyor			20	4	24	3.32%	802	1,058	265	2,128		
Survey Technician					0	0.00%	-	-	-	-			
Proj. Mngr.		3			3	0.83%	378	499	125	1,002			
TOTALS		51	50	432	196	722	100.00%	22,830	30,136	7,535	60,501		

- Direct Expenses:
- 1.) Vehicle Expense
 - 2.) Material Testing
 - 3.) Printing Expense
 - 4.) Photography
- 1.) 80 Days @ \$40.00/Day
 2.) Material Testing (Midland Standard Engineering & Testing, Inc.)
 3.) Estimated printing expense for Record Drawings
 4.) Estimated photography expense