



# AGENDA PACKET

VILLAGE OF LAKE ZURICH

Village Board of Trustees Regular Meeting

Monday, August 03, 2020

VILLAGE OF LAKE ZURICH  
Village Board of Trustees Regular Meeting

Monday, August 03, 2020

1. CALL TO ORDER

2. ROLL CALL

Mayor Thomas Poynton, Trustee Jim Beaudoin, Trustee Mary Beth Euker, Trustee Janice Gannon, Trustee Marc Spacone, Trustee Jonathan Sprawka, Trustee Greg Weider

3. PLEDGE OF ALLEGIANCE

4. PUBLIC COMMENT

(This is an opportunity for residents to comment briefly on matters included on the agenda and otherwise of interest to the Board of Trustees.)

5. PRESIDENT'S REPORT / COMMUNITY UPDATE

(This is an opportunity for the Mayor to report on matters of interest to the Village.)

6. CONSENT AGENDA

(These titles will be read by the Village Clerk and approved by a single Roll Call Vote. Any item may be pulled from the Consent Agenda for discussion by any member of the Board).

A. Approval Of Minutes Of The Village Board Meeting, July 20, 2020

Attachment 1: [Unapproved Minutes](#)

B. Approval Of Semi-Monthly Warrant Register Dated August 3, 2020 Totaling \$911,367.67

Attachment 1: [Warrant](#)

- C. Ordinance Approving A Special Use Permit For Luxury Auto Hand Car Washing And Detailing, Inc. At 499 South Rand Road (Assign Ord. # 2020-08-374)

Summary: JAS Development has filed a zoning application for the property at 499 South Rand Road seeking a Special Use Permit for the establishment of a car wash and detailing center. The subject property is currently within the B-3 Regional Shopping Zoning District. The building and its tenant spaces are currently operated as an auto service center within the Village Square Shopping Center. The Planning & Zoning Commission held a public hearing on July 15, 2020 and voted 6-0 in favor of recommending approval of this Special Use Permit.

Attachment 1: [Car Wash](#)

- D. Ordinance Approving The Lease By The Village Of Lake Zurich For Property At 2 And 6 East Main Street To Craving Gyros, Inc. (Assign Ord. # 2020-08-375)

Summary: The current lease holders of this village-owned property have been operating Craving Gyros since mid-2015 and have initiated a lease transfer to the new owners, Juan Hernandez and Gerardo Montes. The Illinois Tax Increment Financing Act requires lease agreements located with TIF districts to be adopted by Ordinance. The new lease is effective September 1, 2020 to August 31, 2025 and includes incremental automatic increases every 12 months starting September 1, 2021.

Attachment 1: [Craving Gyros](#)

- E. Intergovernmental Agreement Between The Village Of Lake Zurich And Lake County For COVID-19 Relief Funds

Summary: An intergovernmental agreement between Lake County and the Village of Lake Zurich for CARES Act reimbursement funds intended for municipal expenses related to the coronavirus pandemic. Lake County has received CARES Act funds from the federal government and has appropriated \$9 million of this for reimbursements to Lake County municipalities. The Village is applying for approximately \$47,000 of unbudgeted expenditures in 2020 related to COVID-19, including public health expenses, telework capabilities for public employees working mobile, and payroll for employees called in to cover shifts for other employees who were quarantined.

Attachment 1: [County Funds](#)

- F. Waiver Of Competitive Bid Process And Agreement With Concentric Integration Authorizing Phase 1 SCADA Improvements In The Amount Not-To-Exceed \$275,400

Summary: The 2020 budget includes \$300,000 in the Water and Sewer Fund for this planned expense. The SCADA system is critical for proper operation of the village's water and wastewater facilities and most components are now 16 years old. In 2019, the Village contracted with Concentric Integration (formerly B&W Control Systems) to conduct a comprehensive assessment of existing SCADA systems. Concentric Integration has provided the Village engineering, design, maintenance and repair of the existing SCADA system due to its qualifications specializing in automation infrastructure and staff has been pleased with its service, value, response and reliability. Concentric Integration is the sole source vendor for the specific work needed on existing systems, necessitating the waiver of the competitive bid process for these improvements.

Attachment 1: [SCADA Upgrades](#)

- G. Full Release Of Letter Of Credit In The Amount Of \$27,739.15 To Somerset By The Lake At 40-60 West Main Street

Summary: Somerset By The Lake apartments at the corner of Main Street and Old Rand Road has requested full release of the remaining letter of credit that has been retained for a maintenance guarantee. Staff has reviewed the site and performed a final inspection, finding that there are no outstanding issues.

Attachment 1: [LOC Somerset](#)

7. OLD BUSINESS - NONE AT THIS TIME.

(This agenda item includes matters for action by the Board of Trustees.)

8. NEW BUSINESS

(This agenda item includes matters coming to the Board of Trustees for discussion and possible action.)

- A. Ordinance Approving A Redevelopment Agreement By And Between The Village Of Lake Zurich, Lake County, Illinois And Blue Ridge BBQ, Inc. (Assign Ord. # 2020-08-376) (Trustee Beaudoin)

Summary: Earlier this year, staff negotiated with the owners of Blue Ridge Korean BBQ of Park Ridge, Illinois, a redevelopment agreement for the purchase and redevelopment of the Village-owned property located at 133 West Main Street. Mr. and Mrs. Choe propose to acquire the building, upgrade the interior and exterior, and operate a Korean BBQ restaurant in Unit B of the building.

Mr. and Mrs. Choe will continue to rent Unit A to the current tenant while they establish a customer base for their restaurant in Unit B. They intend to build out the remaining portion of the building once this has been accomplished and either expand the restaurant or recruit another hospitality/retail business.

The Choes have offered to purchase the property for \$165,000. The village's engineers have also identified another \$64,000 in site and infrastructure improvements that will be needed to accommodate the proposed use. The Choes have requested financial assistance with the infrastructure improvements that they complete.



Through this agreement, the developers will pay the village \$100,000 at closing. The village will hold a promissory note and mortgage for the remaining \$65,000. This mortgage will be paid off through property taxes, which will generate sufficient TIF revenue to pay down the mortgage (\$4,333.33 annually) over the next 15 years.

The developers will be reimbursed for the actual costs of the infrastructure they complete, not to exceed the village engineers' opinion of cost of \$64,000. The developer will be reimbursed annually from the property's annual TIF increment in excess of the annual mortgage payment. This annual reimbursement from the property's TIF revenue will continue until the developer is reimbursed for their actual infrastructure costs.

As the new owners make their annual property tax payments, the mortgage and developer's infrastructure improvement costs would be paid off with the increased TIF revenue generated by the revitalized site over the next 15 years. The lien would be released once the Village has collected and paid out the \$65,000 in mortgage payments and actual developer infrastructure costs. If approved, the Choes intend to open their restaurant yet this year.

Recommended Action: A motion to approve Ordinance #2020-08-376 Approving a Redevelopment Agreement by and Between the Village of Lake Zurich, Lake County, Illinois and Blue Ridge BBQ, Inc.

Attachment 1: [Korean BBQ Redevelopment Agreement](#)

- B. Resolution Authorizing The Execution Of Agreement Between Prairieland Disposal Inc. Of Lake Barrington And Village Of Lake Zurich And Village Of Wauconda For Solid Waste Hauling Collection Services Effective September 1, 2020 – August 31, 2025 (Assign Reso. # 2020-08-047) (Trustee Spacone)

Summary: Lake Zurich's existing franchise agreement for solid waste hauling services with Waste Management expires on August 31, 2020 after an extension on the original contract from 2008. A multi-jurisdictional request for proposals was issued in early 2020, with Prairieland Disposal presenting the most competitive overall proposal.

As directed by the Village Board at the July 6, 2020 meeting, Prairieland has been finalizing the purchase of several new trucks for its expanding fleet, finalizing and mailing informational packets to every customer in Lake Zurich (and Wauconda), ordering extra-refuse stickers to be sold at Village Hall, and finalizing new collection routes.

After much review and discussion, the villages of Lake Zurich and Wauconda are recommending a joint-municipal contract with Prairieland Disposal. Lake Zurich and Wauconda anticipate future strategic advantages that come from a joint-contract between both towns, which together comprise over 11,000 housing units and a combined population of over 33,000 residents.

Prairieland Disposal is a family-owned company based out of Lake Barrington that services Lake, McHenry, Cook, and Boone counties. Prairieland is an active partner with the Solid Waste Agency of Lake County, which Lake Zurich and Wauconda are active members of.

The RFP process and proposed contract with Prairieland has allowed Lake Zurich to avoid a large increase in waste hauling costs that were anticipated absent the competitive RFP process. We have also been able to secure a few additional service enhancements for the Lake Zurich community, such as a new 10% senior discount, a backdoor service collection option, as well as access to more electronic waste recycling with a curbside e-waste collection event every July and year-round access to Prairieland's electronic waste recycling center on Pepper Road in Lake Barrington. The details of the service provisions and prices are outlined in the staff memo and contract.

Recommended Action: A motion to approve Resolution #2020-08-047 Authorizing the Execution of Agreement between Prairieland Disposal Inc. of Lake Barrington and Village of Lake Zurich and Village of Wauconda for Solid Waste Hauling Collection Services Effective September 1, 2020 – August 31, 2025.

Attachment 1: [Prairieland Disposal Contract](#)

C. Presentation Of Results And Highlights From Phase 3 Community Engagement Efforts On Future Lake Zurich Investment In The Paulus Park Barn And Fire Station #1 (Mayor Poynton)

Summary: The Village has been working with the community for months to gather as much feedback as possible on the future of the Paulus Park Barn and Fire Station #1 on Buesching Road, both of which require big decisions about future use and investment. These are two of our oldest facilities, as the Barn was built in 1958 and Fire Station #1 was built in 1981 for a volunteer fire department. Even prior to the structure fire at the Barn in November 2019, both facilities have outgrown their existing physical space for a community the size of Lake Zurich. Several rounds of surveys and virtual meetings on the future of these facilities have occurred over four months from April to July 2020.

During July 2020, consultants at EO Sullivan conducted a statistically-valid phone survey of the Lake Zurich community on various options for future investment. This survey was statistically valid, meaning the sample size proportionally represents Lake Zurich demographics in age and genders in order to provide the most accurate information possible. 503 residents completed this statistically-valid phone survey between July 21 and July 27, 2020. EO Sullivan will present the results of Phase 3 engagement efforts and provide a summary of key highlights and next steps for the Village Board to consider.

Recommended Action: This is a non-voting item. Staff and consultants seek to engage the Board on feedback results and receive input on future direction regarding the Barn and the Fire Station.

9. TRUSTEE REPORTS

(This is an opportunity for Trustees to report on matters of interest to the Board of Trustees.)

10. VILLAGE MANAGER'S REPORT

(This is an opportunity for the Village Manager to report on matters of interest to the Board of Trustees.)

**11. DEPARTMENT HEAD REPORTS**

(This is an opportunity for department heads to report on matters of interest to the Board of Trustees.)

**12. ADJOURNMENT**

The Village of Lake Zurich is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations so that they can observe and participate in this meeting, or who have questions regarding the accessibility of the meeting or the Village's facilities, should contact the Village's ADA Coordinator at 847.438.5141 (TDD 847.438.2349) promptly to allow the Village to make reasonable accommodations for those individuals.

UNAPPROVED MINUTES  
VILLAGE OF LAKE ZURICH  
Board of Trustees  
70 East Main Street



AGENDA ITEM

6A

Monday, July 20, 2020 7:00 p.m.

1. **CALL TO ORDER** by Mayor Thomas M. Poynton at 7.00pm
2. **ROLL CALL:** Mayor Thomas Poynton, Trustee Jim Beaudoin, Trustee Mary Beth Euker, Trustee Janice Gannon, Trustee Marc Spacone, Trustee Greg Weider. Trustee Jonathan Sprawka was absent and excused. Also in attendance: Village Manager Ray Keller, Village Atty. Scott Uhler, Finance Dir. Bane Thomey, Dir. of Innovation Michael Duebner, Dir. Of Community Services Sarosh Saher. Electronically attended: Asst. Village Manager Roy Witherow, Fire Chief John Malcolm, Public Works Dir. Mike Brown.
3. **PLEDGE OF ALLEGIANCE**
4. **PUBLIC COMMENT**  
There were none.
5. **PRESIDENT'S REPORT / COMMUNITY UPDATE**  
Mayor Poynton announced that the 2020 Rock The Block event has been cancelled.
6. **CONSENT AGENDA**
  - A. **Approval of Minutes of the Village Board Meeting, July 6, 2020**
  - B. **Approval of Semi-Monthly Warrant Register Dated July 20, 2020 Totaling \$420,552.15**  
**Recommended Action:** A motion was made by Mayor Poynton, seconded by Trustee Beaudoin, to approve the Consent Agenda as presented.  
**AYES:** 5 Trustees Beaudoin, Euker, Gannon, Spacone, Weider.  
**NAYS:** 0  
**ABSENT:** 1 Trustee Sprawka.  
**MOTION CARRIED.**
7. **OLD BUSINESS**  
None at this time.
8. **NEW BUSINESS**
  - A. **Presentation of Comprehensive Annual Financial Report for Fiscal Year 2019**  
**Summary:** State law requires the Village to publish a complete set of financial statements presented in conformity with generally accepted auditing standards by a firm of licensed certified public accountants. The Village has completed the annual audit with Baker Tilly, who has issued a clean opinion on Village finances for the fiscal year ended December 31, 2019. The Government Finance Officers



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Associated has awarded a Certificate of Achievement for Excellence in Financial Reporting to the Village for this transparent and prudent municipal finance management report.

Overall, Village finances fared well during Fiscal Year 2019. The General Fund balance increased by \$641,000 to a total fund balance of \$11.4 million, or 33% of the General Fund Target Fund Balance of 40%. Long-term bonded debt decreased \$2.2 million to a total of \$25.4 million outstanding as of December 31, 2019. The Village maintains a AAA bond rating status from Standard & Poor's, which it has held since 2013.

Efforts to improve cash flow and better manage public assets are resulting in the Village making progress towards its #1 Strategic Goal of being financially sustainable to support municipal services and planned infrastructure investment. Finance Dir. Bane Thomey introduced the representative from Baker Tilly, who appeared electronically. He explained the process and the clean report that is given to the village. Dir. Thomey thanked Diane Gleich who was instrumental in working with the auditors.

**Recommended Action:** A motion was made by Trustee Spacone, seconded by Trustee Weider, to approve and accept the Comprehensive Annual Financial Report for the fiscal year ended December 31, 2019.

AYES: 5 Trustees Beaudoin, Euker, Gannon, Spacone, Weider.

NAYS: 0

ABSENT: 1 Trustee Sprawka.

MOTION CARRIED.

**B. Ordinance Proposing the Establishment of a Special Service Area #17 in the Village of Lake Zurich and Providing for a Public Hearing and Other Procedures in Connection Therewith for Canterbury Estates at 80 Genesee Street, Block G ORD. # 2020-07-373**

**Summary:** Special Service Area #17 is being setup as a backup SSA for the proposed Canterbury Estates development containing 40 townhouses along the north side of Route 22, just west of Old Rand Road. This proposed SSA is for the maintenance, repair, reconstruction and replacement of the stormwater and detention management improvements and the private roadways located within the development site. This backup SSA was required as a condition within the Development Agreement between the Village of Lake Zurich Jade Development for the redevelopment of the property.

This SSA will allow the Village to assess a tax, in the future and only if necessary, on the property owners of the townhouses within that subdivision to pay for maintenance and repairs to the storm water management facilities and the private roadways, and only in the event the subdivision's Homeowners Association (HOA) is delinquent in fulfilling these obligations. No levy of taxes is proposed at this time.

Ryan Homes, represented by Mr. Scott Shelton and Jade Development, owned by Mr. Gregory Schwermer, plan to undertake a joint venture for the development of the Subject Property, wherein the land will be developed by Jade Development and include the private roadway, access to IL Route 22, installation of utilities and construction-ready building pads; and Ryan will complete the Development through the construction of the townhouse buildings on the pads.

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State Statute requires a comment period of 60 days following the adjournment of the proposed public hearing. Within that period, the proposal for the SSA may be vetoed by a petition of 51 percent of electors and owners of record of the property. If vetoed, the proposal for the SSA may not be re-proposed by the municipality for two years. If no such petition is filed, the Village Board will be required to adopt an "Establishing Ordinance" for the special service area.

Dir. Of Community Services Sarosh Saher explained the process of creating an SSA and the reasons behind it and answered the Board's questions including the difference between an SSA and HOA. Mayor Poynton stated that an HOA must follow State regulations and the homeowner knows about the SSA when closing on the property.

**Recommended Action:** A motion was made by Trustee Beaudoin, seconded by Trustee Spacone, to approve Ordinance #2020-07-373 Proposing the Establishment of a Special Service Area Number 17 in the Village of Lake Zurich and Providing for a Public Hearing and Other Procedures in Connection Therewith for Canterbury Estates at 80 Genesee Street, Block G.

AYES: 5 Trustees Beaudoin, Euker, Gannon, Spacone, Weider.

NAYS: 0

ABSENT: 1 Trustee Sprawka.

MOTION CARRIED.

**C. Public Hearing in Regards to Lake Zurich Special Service Area #17 located within the Canterbury Estates Subdivision at the Southwest Corner of Route 22 and South Old Rand Road**

**Summary:** This is a public hearing in regards to Lake Zurich Special Service Area #17 for the maintenance, repair, reconstruction and replacement of the stormwater infrastructure, detention management improvements, and private roadways located within the Canterbury Estates Subdivision at the southwest corner of Route 22 and South Old Rand Road.

This public hearing is being held pursuant to Ordinance #2020-07-373 being passed by the President and Board of Trustees on July 20, 2020. Pursuant to Section 3 of the aforementioned Ordinance, notice of this public hearing in the form set forth in Section 4 of the aforementioned Ordinance, was given as follows:

a) Publication of said Notice in the Daily Herald Newspaper on July 3, 2020.

b) Mailing said Notice, to the real estate tax assess for each parcel of property located within the proposed Special Service Area, on July 6, 2020.

**Recommended Action #1:** Call to Order by Mayor Poynton at 7.37pm for Public Hearing in Regards to Lake Zurich Special Service Area #17 located within the Canterbury Estates Subdivision at the Southwest Corner of Route 22 and South Old Rand Road

**Recommended Action #2:** Public hearing is now open to allow Staff to provide an explanation of the project and method of financing of the project and to receive questions and public comments from the community.

Dir. Saher gave a brief description of the backup SSA.

There were no Public comments.

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**Recommended Action #3:** Mayor Poynton declared the Public Hearing closed at 7.40pm

**9. TRUSTEE REPORTS AND COMMENTS**

There were none.

**10. VILLAGE MANAGER'S REPORT**

**A. Fiscal Year 2020 Budget Update:** Village Manager Ray Keller gave a PowerPoint presentation on the FY 20 budget. Because of the departure of Peapod and the COVID-19 pandemic the revenue has been significantly down and the staff has been adjusting expenditures. Mayor Poynton thanked the Mr. Keller and staff for the update.

**B. Monthly Data Metric Reports**

**C. Phase 3 of the E.O. Sullivan:** this will be starting with phone community surveys and an update is at the Aug 3<sup>rd</sup> meeting.

**11. DEPARTMENT HEAD REPORTS**

**Finance Department - Treasurer's Report:** Finance Dir. Thomey presented the report.

**12. ADJOURNMENT**

Motion to adjourn was made by Trustee Euker, seconded by Trustee Spacone.

AYES: 5 Trustees Beaudoin, Euker, Gannon, Spacone, Weider.

NAYS: 0

ABSENT: 1 Trustee Sprawka.

MOTION CARRIED.

Meeting adjourned at 7.57pm

Respectfully Submitted by:

Kathleen Johnson, Village Clerk.

Approved by:

\_\_\_\_\_  
Thomas M. Poynton, Village Mayor

\_\_\_\_\_  
Date.

**VILLAGE OF LAKE ZURICH**  
 WARRANT REPORT - 8/03/2020  
**\$911,367.67**

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<i>GL Number</i>	<i>GL Desc</i>	<i>Vendor</i>	<i>Invoice Description</i>	<i>Amount</i>
<b>Fund 101 GENERAL</b>				
Dept 00000				
101-00000-15001	PREPAID EXPENDITURES	LEXIPOL, LLC	ANNUAL SUBSCRIPTION - 2020/2021	5,140.35
101-00000-21101	ACCOUNTS PAYABLE	KOCANDA, SCOTT	ESC REF - 565 RED BRIDGE RD	291.20
101-00000-21203	RECREATION CREDIT PAYABLE	CEREGHINO, OLGA	PRG CXL - SHELTER CXL COVID19	90.00
101-00000-21203	RECREATION CREDIT PAYABLE	PARA, GERARD	PRG CXL - BEACH OPEN TO RESIDENTS ONLY (COVIL	65.00
101-00000-21203	RECREATION CREDIT PAYABLE	VAN OSTRAND, JOHN	PRG CXL - FANTASTIC FIREFLIES	6.00
101-00000-22501	ER - UNDISTRIBUTED LIFE INS	I P B C	HEALTH INS - JULY	746.67
		Total For Dept 00000		<u>6,339.22</u>
Dept 11006 LEGISLATIVE MAYOR & BOARD				
101-11006-54302	PUBLIC RELATIONS	A STARS & STRIPES FLAG CORPORATION	VILLAGE FLAGS	639.50
		Total For Dept 11006 LEGISLATIVE MAYOR & BOARD		<u>639.50</u>
Dept 12001 VILLAGE ADMIN ADMINISTRATION				
101-12001-51652	TRAINING AND MEETINGS	TST* KOFFEE KUP RESTAU LAKE ZURI	COFFE W/MAYOR	16.00
101-12001-51654	MEMBERSHIPS & SUBSCRIP	IL CMA	MEMBERSHIP - KORDELL	200.00
101-12001-53208	OFFICE SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT CO.	NEW INTERN SUPPLIES	22.00
		Total For Dept 12001 VILLAGE ADMIN ADMINISTRATION		<u>238.00</u>
Dept 12120 VILLAGE ADMIN HUMAN RESOURCES				
101-12120-52203	LABOR ATTORNEY	CLARK BAIRD SMITH LLP	CBS LEGAL SERVICES - APRIL 2020	765.00
101-12120-54305	EMPLOYEE EXAMS	ADVOCATE OCCUPATIONAL HEALTH	EMPLOYEE SCREENING EXAMS	127.00
		Total For Dept 12120 VILLAGE ADMIN HUMAN RESOURCES		<u>892.00</u>
Dept 13001 FINANCE ADMINISTRATION				
101-13001-53207	PRINTING-STATIONERY/FORM	STAPLES CONTRACT & COMMERCIAL, INC	ENVELOPES	222.34
		Total For Dept 13001 FINANCE ADMINISTRATION		<u>222.34</u>
Dept 17001 TECHNOLOGY ADMINISTRATION				
101-17001-51654	MEMBERSHIPS & SUBSCRIP	B2B PRIME*M79RL3VW0 AMZN.COM/B	BUISNESS PRIME - ALL DEPTS	79.00
101-17001-52111	OTHER PROFESSIONAL SVCS	DNH*GODADDY.COM 480-50588	LZNWSCLOUD.US DOMAIN RENEWAL	19.99
101-17001-52111	OTHER PROFESSIONAL SVCS	LEADINGIT SOLUTIONS, INC	SUPPORT AGMT 2020 - AUG	3,100.00
101-17001-52111	OTHER PROFESSIONAL SVCS	AWS CLOUD SVC	JUN 2020	1.32
101-17001-52111	OTHER PROFESSIONAL SVCS	GOOGLE SVC	JUN 2020	24.00
101-17001-52118	SOFTWARE MAINTENANCE	CDW GOVERNMENT LLC	UNITRENDS	1,215.74



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<i>GL Number</i>	<i>GL Desc</i>	<i>Vendor</i>	<i>Invoice Description</i>	<i>Amount</i>
101-17001-52118	SOFTWARE MAINTENANCE	TELCOM INNOVATIONS GROUP, LLC	SWA 2020	2,317.80
101-17001-53203	TELEPHONE & DATA SVCS	CALL ONE, INC	ANALOG LINES - JULY 2020	1,411.82
101-17001-53203	TELEPHONE & DATA SVCS	COMCAST CABLE COMMUNICATIONS MGMT	INTERNET - 133 N OLD RAND	136.98
101-17001-53203	TELEPHONE & DATA SVCS	COMCAST CABLE COMMUNICATIONS MGMT	COMBINED INTERNET - AUG	4,639.11
101-17001-56601	CAPITAL LEASE	TOSHIBA FINANCIAL SERVICES	FIRE & CS - COPIER LEASE	119.50
101-17001-56601	CAPITAL LEASE	TOSHIBA FINANCIAL SERVICES	FINANCE COPIER LEASE	192.31
Total For Dept 17001 TECHNOLOGY ADMINISTRATION				13,257.57
Dept 24001 POLICE ADMINISTRATION				
101-24001-51651	LICENSING/CERTIFICATIONS	VICTOR INSURANCE MANAGERS INC	NOTARY - BIONDO	50.00
101-24001-51652	TRAINING AND MEETINGS	PRI MANGEMENT GROUP	NIBRS TRAINING - RECORDS	399.00
101-24001-51654	MEMBERSHIPS & SUBSCRIP	PIONEER PRESS	LAKE ZURICH COURIER - THROUGH 2-11-2021	39.00
101-24001-52111	OTHER PROFESSIONAL SVCS	KOZIOL REPORTING SERVICE	GOODYEAR INTERNAL TRANSCRIPT	300.00
101-24001-52701	MAINT-BLDGS & GROUNDS	HOME DEPOT CREDIT SERVICES	SPRAY ADHESIVE - RANGE TILES	99.70
101-24001-53203	TELEPHONE & DATA SVCS	COMCAST CABLE COMMUNICATIONS MGMT	CABLE - PD	24.59
101-24001-53203	TELEPHONE & DATA SVCS	COMCAST CABLE COMMUNICATIONS MGMT	CABLE - PD	24.59
101-24001-53206	POSTAGE & SHIPPING	U S POSTMASTER	SHIPPING - SGT. EXAMS	15.05
101-24001-53208	OFFICE SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT CO.	STORAGE BOXES	109.98
101-24001-53208	OFFICE SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT CO.	PAPER	247.92
101-24001-53208	OFFICE SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT CO.	SHARPIES	9.99
101-24001-53209	UNIFORMS	GALL'S, LLC	JOHNSON - BOOTS	148.00
101-24001-53401	CUSTODIAL SUPPLIES	VALDES, LLC	PAPER TOWELS	64.00
101-24001-54311	ASSET FORFEITURE EXPEND.	ESSCOE LLC	SYSTEM MAINT. AGRMT	1,056.00
Total For Dept 24001 POLICE ADMINISTRATION				2,587.82
Dept 24210 POLICE OPERATIONS				
101-24210-51652	TRAINING AND MEETINGS	IL STATE COUNCIL EMERGENCY NURSES	CAR SEAT TECH CERTIFICATION - SIEMERS	75.00
101-24210-51652	TRAINING AND MEETINGS	PIECZYNSKI, LINDA S	ROLL CALL NEWS SUBSCRIPTION	140.00
101-24210-52204	OTHER LEGAL	ALBARRAN, LUIS	LEGAL SERVICES - JUL 2020	6,666.67
101-24210-53209	UNIFORMS	GALL'S, LLC	KNIGHT - BELT KEEPER, BELT, RAPTOR BOX	154.39
101-24210-53209	UNIFORMS	GALL'S, LLC	GAFFNEY - TOURNIQUET, BATON, BELT	125.90
101-24210-53209	UNIFORMS	GALL'S, LLC	KNIGHT - BELT	68.79
101-24210-53209	UNIFORMS	GALL'S, LLC	GAFFNEY - CAP	20.12
101-24210-53211	OTHER SUPPLIES	COSTCO WHOLESALE #378	WATER/ICE - PEACE RALLY	8.41
101-24210-53211	OTHER SUPPLIES	WEST MARINE #76 FOX LAKE	MARINE LIFE VEST	161.99
101-24210-53211	OTHER SUPPLIES	MGN LOCK-KEY & SAFES INC.	POLICE BOAT KEYS	4.50

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101-24210-54305	EMPLOYEE EXAMS	LOPEZ, MATTEO	COVID-19 TEST REIMB	119.00
		Total For Dept 24210 POLICE OPERATIONS		7,544.77
Dept 24230 POLICE CRIME PREVENTION				
101-24230-52111	OTHER PROFESSIONAL SVCS	LC HEALTH DEPT-ANIMAL CARE & CONTRL	HOUSING - ONE CAT	35.00
101-24230-52111	OTHER PROFESSIONAL SVCS	WEST PUBLISHING GROUP	INVESTIGATIVE SEARCH ENGINE - JUNE	188.62
		Total For Dept 24230 POLICE CRIME PREVENTION		223.62
Dept 24240 POLICE INTERGOVERNMENTAL				
101-24240-51654	MEMBERSHIPS & SUBSCRIP	IL LAW ENFORCEMENT ALARM SYSTEM	ILEAS ANNUAL DUES	120.00
		Total For Dept 24240 POLICE INTERGOVERNMENTAL		120.00
Dept 25001 FIRE ADMINISTRATION				
101-25001-52118	SOFTWARE MAINTENANCE	LEXIPOL, LLC	ANNUAL SUBSCRIPTION - 2020/2021	3,671.65
101-25001-52203	LABOR ATTORNEY	CLARK BAIRD SMITH LLP	CBS LEGAL SERVICES - APRIL 2020	7,072.50
101-25001-52701	MAINT-BLDGS & GROUNDS	FSS TECHNOLOGIES, INC	SERVICE CHARGE, SMOKE DETECTORS	172.52
101-25001-52701	MAINT-BLDGS & GROUNDS	HASTINGS AIR-ENERGY CONTROL, INC	PLYMOVEMENT MAINTENANCE	92.26
101-25001-53203	TELEPHONE & DATA SVCS	CALL ONE, INC	ANALOG LINES - JULY 2020	181.18
101-25001-53203	TELEPHONE & DATA SVCS	COMCAST CABLE COMMUNICATIONS MGMT	COMBINED INTERNET - AUG	3,711.27
101-25001-53209	UNIFORMS	ON TIME EMBROIDERY, INC	BOOTS, SHIRTS - J. JOHNSON	119.00
101-25001-53209	UNIFORMS	ON TIME EMBROIDERY, INC	POLO, TROUSERS - CORRAL	115.00
101-25001-53209	UNIFORMS	ON TIME EMBROIDERY, INC	SHIRTS - STAPLETON	20.00
101-25001-53211	OTHER SUPPLIES	AMAZON.COM, INC	FILTERS	235.20
101-25001-53211	OTHER SUPPLIES	COSTCO WHOLESALE #378	CLOROX WIPES	179.88
101-25001-53211	OTHER SUPPLIES	RUNCO OFFICE SUPPLY & EQUIPMENT CO.	WATER BOTTLES - TOWELS	30.94
101-25001-56601	CAPITAL LEASE	TOSHIBA FINANCIAL SERVICES	FIRE & CS - COPIER LEASE	119.50
		Total For Dept 25001 FIRE ADMINISTRATION		15,720.90
Dept 25310 FIRE EMERGENCY MANAGEMENT				
101-25310-53203	TELEPHONE & DATA SVCS	NI GOVERNMENT SERVICES, INC	SATELLITE CHARGES	27.22
101-25310-53211	OTHER SUPPLIES	HENRY SCHEIN EMS	FACE MASKS	356.40
101-25310-53211	OTHER SUPPLIES	HENRY SCHEIN EMS	ISOLATION GOWNS - BLUE	424.36
101-25310-53211	OTHER SUPPLIES	HENRY SCHEIN EMS	SURGICAL MASKS - N95 WHITE	777.81
101-25310-53211	OTHER SUPPLIES	ZEP SALES & SERVICE INC.	ZEP VENTURE II	278.44
		Total For Dept 25310 FIRE EMERGENCY MANAGEMENT		1,864.23

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Dept 25320 FIRE FIRE SUPPRESSION				
101-25320-53209	UNIFORMS	AIR ONE EQUIPMENT INC	1 REPLACEMENT HELMET	266.50
101-25320-53211	OTHER SUPPLIES	WAL-MART #1404 LAKE ZURI	REHAB SUPPLIES	22.48
101-25320-53211	OTHER SUPPLIES	MUNICIPAL EMERGENCY SERVICES, INC	CHEMGUARD FOAM - TRAINING	3,500.00
Total For Dept 25320 FIRE FIRE SUPPRESSION				3,788.98
Dept 25330 FIRE EMS				
101-25330-51651	LICENSING/CERTIFICATIONS	HEDQUIST, CHRISTOPHER	PARAMEDIC LICENSE REIMB - 2020	40.00
101-25330-53211	OTHER SUPPLIES	HENRY SCHEIN EMS	CREDIT MEMO - WHITE SURGICAL MASKS	(777.81)
101-25330-53211	OTHER SUPPLIES	HENRY SCHEIN EMS	ADVANCED PATIENT MOVER	324.72
Total For Dept 25330 FIRE EMS				(413.09)
Dept 25340 FIRE SPECIAL RESCUE				
101-25340-51654	MEMBERSHIPS & SUBSCRIP	INTL ASSN OF ARSON INVES	MEMBERSHIP - KLEINHEINZ	130.00
101-25340-53209	UNIFORMS	WISCOMM COM RADIOS 262-643-6	RADIO EQUIP - WILDLAND TEAM	208.00
101-25340-53211	OTHER SUPPLIES	AFC INTERNATIONAL, INC	GAS METER SUPPLIES - CARBON MONOXIDE CALIBF	420.10
Total For Dept 25340 FIRE SPECIAL RESCUE				758.10
Dept 28001 COMMUNITY DEVELOPMENT ADMINISTRATION				
101-28001-52113	ENGR/ARCHITECTURAL	CHRISTOPHER B. BURKE ENG., LTD	LIFETIME FITNESS ENGINEERING SVC - JUNE	465.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	TRUE NORTH - 449 S RAND	744.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	653 S RAND - MCDONALDS	4,609.75
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	468 PHEASANT RIDGE DR	250.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	AVERY RIDGE SUB	3,727.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	SETH PAINE ELEMENTARY	550.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	SARAH ADAMS GEOTHERMAL	2,085.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	928 WINNETKA TER	150.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	190 VISTA RD	300.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	307 N PLEASANT RD	992.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	789 EDELWEISS DR	250.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	345 PEBBLECREEK DR	150.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	ENGINEERING SERVICES	744.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	1353 S OLD RAND	350.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	1181 CENTONI DR	372.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	614 COUNTRY RIDGE CT	500.00
101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	40 LINDEN RD	250.00

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101-28001-52113	ENGR/ARCHITECTURAL	MANHARD CONSULTING LTD	615 RED BRIDGE CT	150.00
101-28001-54303	LEGAL NOTICE/PUBLISHING	PADDOCK PUBLICATIONS INC.	LEGAL ADS - JULY PZC	308.20
Total For Dept 28001 COMMUNITY DEVELOPMENT ADMINISTRATION				16,946.95
Dept 36001 PUBLIC WORKS ADMINISTRATION				
101-36001-52111	OTHER PROFESSIONAL SVCS	CINTAS CORPORATION #2	UNIFORMS/MATS 7-16	33.10
101-36001-52602	WASTE REMOVAL	SAFETY-KLEEN CORPORATION	WASTE OIL REMOVAL	217.00
101-36001-52603	LAKE/WATER QUALITY MGMT	MC GINTY BROS., INC.	WETLAND MAINT SETH PAINE	500.00
101-36001-52603	LAKE/WATER QUALITY MGMT	MC GINTY BROS., INC.	WETLAND MAINT MANOR	200.00
101-36001-52603	LAKE/WATER QUALITY MGMT	MC GINTY BROS., INC.	WETLAND MAINT SCHORVITZ	220.00
101-36001-52603	LAKE/WATER QUALITY MGMT	MC GINTY BROS., INC.	WETLAND MAINT JOHN CT	350.00
101-36001-52603	LAKE/WATER QUALITY MGMT	MC GINTY BROS., INC.	WETLAND MAINT ALPINE LAKE	600.00
101-36001-52603	LAKE/WATER QUALITY MGMT	MC GINTY BROS., INC.	WETLAND MAINT WHISPERING CREEK	1,500.00
101-36001-52603	LAKE/WATER QUALITY MGMT	MC GINTY BROS., INC.	WETLAND MAINT MEADOWBROOK/LOT 58	2,300.00
101-36001-52701	MAINT-BLDGS & GROUNDS	CINTAS CORPORATION #2	UNIFORMS/MATS 7-16	58.49
101-36001-52701	MAINT-BLDGS & GROUNDS	CRYSTAL MAINTENANCE PLUS CORP	CLEANING SERVICES	3,030.00
101-36001-53202	NATURAL GAS	NICOR GAS COMPANY	133A MAIN	42.94
101-36001-53210	SMALL TOOLS & EQUIP	ARLINGTON POWER EQUIPMENT	TRIMMING SAW	139.99
101-36001-53211	OTHER SUPPLIES	HOME DEPOT CREDIT SERVICES	MAILBOX REPAIR	97.36
101-36001-53401	CUSTODIAL SUPPLIES	VALDES, LLC	CUSTODIAL - CREDIT OVPMT	(4.50)
101-36001-53403	LANDSCAPING SUPPLIES	CONSERV FS, INC	SEED	180.00
101-36001-53405	BLDG & GROUNDS SUPPLIES	AMAZON.COM, INC	FOUNTAIN FILTERS	325.88
101-36001-53405	BLDG & GROUNDS SUPPLIES	BATTERIES PLUS HOLDING CORP	EMERGENCY LIGHT BATTERY	87.80
101-36001-53405	BLDG & GROUNDS SUPPLIES	CITY ELECTRIC SUPPLY	PD DISPATCH RELAY	86.20
101-36001-53405	BLDG & GROUNDS SUPPLIES	HOME DEPOT CREDIT SERVICES	PD CEILING TILES	88.56
101-36001-54305	EMPLOYEE EXAMS	NORTHWEST COMMUNITY HOSPITAL EMS	DOT TESTING	75.00
Total For Dept 36001 PUBLIC WORKS ADMINISTRATION				10,127.82
Dept 36420 PUBLIC WORKS PARK MAINTENANCE				
101-36420-52701	MAINT-BLDGS & GROUNDS	CRYSTAL MAINTENANCE PLUS CORP	CLEANING SERVICES	1,120.00
101-36420-52701	MAINT-BLDGS & GROUNDS	CRYSTAL MAINTENANCE PLUS CORP	CLEANING SERVICES	370.00
101-36420-52701	MAINT-BLDGS & GROUNDS	PRECISION LOCK & SAFE, INC	BARN SAFE ENTRY	545.00
101-36420-53401	CUSTODIAL SUPPLIES	VALDES, LLC	CUSTODIAL - CREDIT OVPMT	(4.50)
101-36420-53405	BLDG & GROUND MAINT SUPP	AMAZON.COM, INC	DECK LIGHTING	184.05
101-36420-53405	BLDG & GROUND MAINT SUPP	BATTERIES PLUS HOLDING CORP	LIGHTNING DETECTION BATT	148.95
101-36420-53405	BLDG & GROUND MAINT SUPP	FERGUSON ENTERPRISES LLC	SPRAYGROUND GATE VALVE	59.34

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101-36420-53405	BLDG & GROUND MAINT SUPP	HOME DEPOT CREDIT SERVICES	UMBRELLA MOUNTING	153.14
101-36420-53405	BLDG & GROUND MAINT SUPP	HOME DEPOT CREDIT SERVICES	SPRAYGROUND SUMP PUMP	317.66
101-36420-53405	BLDG & GROUND MAINT SUPP	HOME DEPOT CREDIT SERVICES	SPRAYGROUND SUMP PUMP FLOAT	36.98
101-36420-53405	BLDG & GROUND MAINT SUPP	HOME DEPOT CREDIT SERVICES	UMBRELLA WIRE	21.97
101-36420-53405	BLDG & GROUND MAINT SUPP	HOME DEPOT CREDIT SERVICES	DUMPSTER ENCLOSURE CASTER	42.84
101-36420-53405	BLDG & GROUND MAINT SUPP	HOME DEPOT CREDIT SERVICES	CONCRETE SEALANT	40.41
101-36420-53405	BLDG & GROUND MAINT SUPP	MENARDS - LONG GROVE	LINE POST	11.99
101-36420-53407	EQUIP MAINT PART&SUPPLIE	BSN SPORTS LLC	VOLLYBALL NETS	244.95
		Total For Dept 36420 PUBLIC WORKS PARK MAINTENANCE		<u>3,292.78</u>
Dept 36471 PUBLIC WORKS FLEET SERVICES				
101-36471-51652	TRAINING AND MEETINGS	TAIT UST TRAINING 146970922	UST RE-TRAINING - NEYFELDT	10.00
101-36471-52701	MAINT-BLDGS & GROUNDS	AMAZON.COM, INC	HOSE REEL REPAIR KIT	240.08
101-36471-53211	OTHER SUPPLIES	AMAZON.COM, INC	PHONE CASE	15.92
101-36471-52111	OTHER PROFESSIONAL SVCS	CINTAS CORPORATION #2	UNIFORMS/MATS 7-16	47.49
101-36471-52111	OTHER PROFESSIONAL SVCS	IL DEPARTMENT OF NATURAL RESOURCES	TITLE FR BOAT	28.00
101-36471-53209	UNIFORMS	CUTLER WORKWEAR	BOOTS-NEYFELDT	161.96
101-36471-53406	AUTO PARTS & SUPPLIES	FACTORY MOTOR PARTS	BRAKE PADS	153.90
101-36471-53406	AUTO PARTS & SUPPLIES	FOSTER COACH SALES INC.	PRESSURE SWITCH	34.21
101-36471-53406	AUTO PARTS & SUPPLIES	FOSTER COACH SALES INC.	THERMOSTAT	265.03
101-36471-53406	AUTO PARTS & SUPPLIES	FOSTER COACH SALES INC.	TIMER BOARD	1,207.34
101-36471-53406	AUTO PARTS & SUPPLIES	LAKE ZURICH RADIATOR & A/C SERVICE	A/C BLOCK FITTING	10.00
101-36471-53406	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	BRAKE ROTORS	364.72
101-36471-53406	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	WASHER NOZZLE	15.12
101-36471-53406	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	FUSES	36.29
101-36471-53406	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	SEAL KIT	37.46
101-36471-53406	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	FILTERS	115.77
101-36471-53406	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	BULB	1.16
101-36471-53406	AUTO PARTS & SUPPLIES	NAPA AUTO PARTS	BATTERY	192.69
101-36471-53406	AUTO PARTS & SUPPLIES	POMP'S TIRE SERVICE	PICKUP TIRES	1,190.28
101-36471-53406	AUTO PARTS & SUPPLIES	RUSH TRUCK CENTER - SPRINGFIELD	A/C DRYER	204.66
101-36471-53406	AUTO PARTS & SUPPLIES	UNITY MANUFACTURING CO 312-943-5	SPOT LIGHTHEAD	56.96
101-36471-53407	EQUIP MAINT PART&SUPPLIE	AMAZON.COM, INC	PRESSUE WASH HOSE	130.04
101-36471-53407	EQUIP MAINT PART&SUPPLIE	CET COMMERCIAL DEVELOPMENT	KEYS	14.00
101-36471-53407	EQUIP MAINT PART&SUPPLIE	INMAR MARINE GROUP	REPLACEMENT BOAT	3,920.95
101-36471-53415	FUELS	BELL FUELS INC.	FUEL 7-09	5,674.59

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101-36471-53418	LUBRICANTS & FLUIDS	KELLER-HEARTT OIL., INC	15W40 BULK OIL	1,799.20
		Total For Dept 36471 PUBLIC WORKS FLEET SERVICES		15,927.82
Dept 67001 RECREATION ADMINISTRATION				
101-67001-51654	MEMBERSHIPS & SUBSCRIP	SIGNUPGENIUS WWW.SIGNUP	P& REC SIGNUP GENIUS - JUL 2020	9.99
101-67001-53207	PRINTING-STATIONERY/FORM	JMK DESIGN, LTD	BROCHURE DESIGN	3,202.00
101-67001-53207	PRINTING-STATIONERY/FORM	STAPLES CONTRACT & COMMERCIAL, INC	ENVELOPES	62.96
101-67001-53212	PROGRAM SUPPLIES	THE PRESTWICK GROUP, INC	BENCH	1,095.00
101-67001-53212	PROGRAM SUPPLIES	THE PRESTWICK GROUP, INC	BENCH	1,095.00
101-67001-54301	BANK & CREDIT CARD FEES	PLUG N PAY INC 800-945-2	BANK & CREDIT CARD FEES	30.00
		Total For Dept 67001 RECREATION ADMINISTRATION		5,494.95
Dept 67920 RECREATION SPECIAL RECREATION				
101-67920-52116	SRA PROGRAMS	HOMER INDUSTRIES INC.	PLAYGROUND SURFACING	1,360.00
101-67920-52116	SRA PROGRAMS	THE KENNETH COMPANY	BREEZEWALD PARK PROJECT	24,742.75
		Total For Dept 67920 RECREATION SPECIAL RECREATION		26,102.75
Dept 67935 RECREATION DANCE				
101-67935-52115	RECREATION PROGRAM SERVICE	ZOOM.US 888-799-9	DANCE CLASS SUBSCRIPTION	14.99
101-67935-53211	OTHER SUPPLIES	WEISSMAN DESIGNS FOR D 314-773-9	RECITAL COSTUMES	161.77
101-67935-53211	OTHER SUPPLIES	WEISSMAN DESIGNS FOR D 314-773-9	RECITAL COSTUMES	60.63
		Total For Dept 67935 RECREATION DANCE		237.39
Dept 67960 RECREATION CAMPS				
101-67960-52115	RECREATION PROGRAM SERVICE	840 - BRUNSWICK ZONE - 847-438-5	FIELD TRIP REFUND - BOWLING	(85.32)
101-67960-52115	RECREATION PROGRAM SERVICE	ELK GROVE PARK DISTRIC ELK GROVE	FIELD TRIP REFUND	(360.00)
101-67960-52115	RECREATION PROGRAM SERVICE	INDEPENDENCE GROVE LIBERTYVI	FIELD TRIP REFUND	(282.50)
101-67960-52115	RECREATION PROGRAM SERVICE	VHPD SULLIVAN VERNON HI	FIELD TRIP REFUND	(100.00)
101-67960-53212	PROGRAM SUPPLIES	4MD MEDICAL 732-905-5	THERMOMETERS	343.96
		Total For Dept 67960 RECREATION CAMPS		(483.86)
Dept 67970 RECREATION AQUATICS				
101-67970-51651	LICENSING/CERTIFICATIONS	LAKE COUNTY HEALTH DEPARTMENT	BEACH LICENSES	446.00
101-67970-53209	UNIFORMS	ORIGINAL WATERMEN, INC	AQUATIC SWIMWEAR	1,400.00
101-67970-53211	OTHER SUPPLIES	AMAZON.COM, INC	SOCIAL DISTANCE SQUARES	19.99
101-67970-53211	OTHER SUPPLIES	DOLLAR TREE ECOMM 877-530-8	SOCIAL DISTANCE SQUARES	70.00

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101-67970-53211	OTHER SUPPLIES	DOLLAR TREE ECOMM 877-530-8	SOCIAL DISTANCE SQUARES	671.00
		Total For Dept 67970 RECREATION AQUATICS		2,606.99
Dept 67985 RECREATION FITNESS				
101-67985-52115	RECREATION PROGRAM SERVICE	KONDIC, JENNIFER	ADULT ATHLETICS	400.00
		Total For Dept 67985 RECREATION FITNESS		400.00
<b>Total For Fund 101 GENERAL</b>				<b>134,437.55</b>
<b>Fund 202 MOTOR FUEL TAX</b>				
Dept 36001 PUBLIC WORKS ADMINISTRATION				
202-36001-55253	INFRASTRUCTURE IMPROVEMT	TRAFFIC CONTROL & PROTECTION INC	SIGN MOUNTING RIVITS	315.50
		Total For Dept 36001 PUBLIC WORKS ADMINISTRATION		315.50
<b>Total For Fund 202 MOTOR FUEL TAX</b>				<b>315.50</b>
<b>Fund 207 SPECIAL EVENTS FUND</b>				
Dept 00000				
207-00000-22501	ER - UNDISTRIBUTED LIFE INS	I P B C	HEALTH INS - JULY	4.29
		Total For Dept 00000		4.29
Dept 67600 RECREATION SPECIAL EVENTS ADMIN				
207-67600-53212	PROGRAM SUPPLIES	LEARNING EXPRESS TOYS LAKE ZURI	FIVE GIFT CARDS	100.00
		Total For Dept 67600 RECREATION SPECIAL EVENTS ADMIN		100.00
Dept 67603 RECREATION FARMERS MARKET				
207-67603-53212	PROGRAM SUPPLIES	AMAZON.COM, INC	HAND TALLY COUNTER (2)	23.78
207-67603-54302	PUBLIC RELATIONS	OFFICE DEPOT	FARMERS MARKET SIGNS	191.90
		Total For Dept 67603 RECREATION FARMERS MARKET		215.68
<b>Total For Fund 207 SPECIAL EVENTS FUND</b>				<b>319.97</b>
<b>Fund 214 TIF #2 DOWNTOWN</b>				
Dept 10490 GENERAL GOVERNMENT TIF				
214-10490-55252	BLDG & BLDG IMPROVEMENTS	DYNAMIC ENVIRONMENTAL SERVICES, LLC	ENVIRONMENTAL SERVICES	45,643.00
		Total For Dept 10490 GENERAL GOVERNMENT TIF		45,643.00



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<b>Total For Fund 214 TIF #2 DOWNTOWN</b>				<b>45,643.00</b>
<b>Fund 227 DISPATCH CENTER</b>				
Dept 00000				
227-00000-15001	PREPAID EXPENDITURES	RADICOM INC.	911 CENTER RADIO MAINTENANCE CONTRACTS	4,572.40
227-00000-22501	ER - UNDISTRIBUTED LIFE INS	I P B C	HEALTH INS - JULY	76.49
Total For Dept 00000				4,648.89
Dept 24220 POLICE DISPATCH				
227-24220-52704	MAINT-EQUIPMENT	RADICOM INC.	911 CENTER RADIO MAINTENANCE CONTRACTS	2,171.45
227-24220-52704	MAINT-EQUIPMENT	RADICOM INC.	911 CENTER RADIO MAINTENANCE CONTRACTS	406.25
227-24220-52704	MAINT-EQUIPMENT	RADICOM INC.	911 CENTER RADIO MAINTENANCE CONTRACTS	4,572.41
227-24220-53209	UNIFORMS	GALL'S, LLC	MJOEN - JACKET	92.39
227-24220-53209	UNIFORMS	TAYLOR, OLGA	BELT	43.05
Total For Dept 24220 POLICE DISPATCH				7,285.55
<b>Total For Fund 227 DISPATCH CENTER</b>				<b>11,934.44</b>
<b>Fund 401 VILLAGE CAPITAL PROJECTS</b>				
Dept 36001 PUBLIC WORKS ADMINISTRATION				
401-36001-55251	LAND IMPROVEMENTS	THE KENNETH COMPANY	BREEZEWALD PARK PROJECT	74,228.25
401-36001-55252	BLDG & BLDG IMPROVEMENTS	NATIONAL BAND & TAG	KUECHMANN ARBORETUM TAGS	65.00
Total For Dept 36001 PUBLIC WORKS ADMINISTRATION				74,293.25
Dept 36470 PUBLIC WORKS STORM WATER CONTROL				
401-36470-55253	INFRASTRUCTURE IMPROVEMT	JOSEPH D FOREMAN COMPANY	COUNTRY CLUB RD PIPE	994.00
401-36001-55253	INFRASTRUCTURE IMPROVEMT	FEDERAL EXPRESS CORPORATION	EASEMENT AGMT V.CUMMINGS	11.00
401-36001-55253	INFRASTRUCTURE IMPROVEMT	FEDERAL EXPRESS CORPORATION	EASEMENT AGMT V. CUMMINGS	11.00
Total For Dept 36470 PUBLIC WORKS STORM WATER CONTROL				1,016.00
<b>Total For Fund 401 VILLAGE CAPITAL PROJECTS</b>				<b>75,309.25</b>
<b>Fund 501 WATER &amp; SEWER</b>				
Dept 00000				
501-00000-22501	ER - UNDISTRIBUTED LIFE INS	I P B C	HEALTH INS - JULY	82.70



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		Total For Dept 00000		82.70
Dept 36001 PUBLIC WORKS ADMINISTRATION				
501-36001-53203	TELEPHONE & DATA SVCS	CALL ONE, INC	ANALOG LINES - JULY 2020	117.65
501-36001-53203	TELEPHONE & DATA SVCS	AT & T	CONCORD LIFT ALARM	281.23
501-36001-53209	UNIFORMS	CINTAS CORPORATION #2	UNIFORMS/MATS 7-16	30.62
501-36001-54303	LEGAL NOTICE/PUBLISHING	PADDOCK PUBLICATIONS INC.	BID NOTICE-PAULUS PK WTR MAIN - #4547282	140.30
501-36001-54303	LEGAL NOTICE/PUBLISHING	PADDOCK PUBLICATIONS INC.	BID NOTICE-35 W. MAIN IMPROVEMENTS	133.40
501-36001-54305	EMPLOYEE EXAMS	NORTHWEST COMMUNITY HOSPITAL EMS	DOT TESTING	120.00
		Total For Dept 36001 PUBLIC WORKS ADMINISTRATION		<u>823.20</u>
Dept 36550 PUBLIC WORKS WATER SERVICE				
501-36550-53211	OTHER SUPPLIES	BATTERIES PLUS HOLDING CORP	12 V & C BATTERIES	156.18
501-36550-53211	OTHER SUPPLIES	HACH COMPANY	DPD CHLORINE REAGENT	320.58
501-36550-53414	CHEMICALS	MIDWEST SALT LLC	WTR CONDITIONING SALT	2,132.00
501-36550-53414	CHEMICALS	MIDWEST SALT LLC	WTR CONDITIONING SALT - WELL #8	2,312.96
501-36550-55253	INFRASTRUCTURE IMPROVEMT	COPENHAVER CONSTRUCTION, INC	WATER MAIN IMPROVEMENTS - #1	309,780.00
		Total For Dept 36550 PUBLIC WORKS WATER SERVICE		<u>314,701.72</u>
Dept 36560 PUBLIC WORKS SEWER SERVICE				
501-36560-52111	OTHER PROFESSIONAL SVCS	METROPOLITAN INDUSTRIES INC.	METROCLOUD MONITORING - JUL	315.00
		Total For Dept 36560 PUBLIC WORKS SEWER SERVICE		<u>315.00</u>
		<b>Total For Fund 501 WATER &amp; SEWER</b>		<b><u>315,922.62</u></b>
<b>Fund 601 MEDICAL INSURANCE</b>				
Dept 10001 GENERAL GOVERNMENT ADMINISTRATION				
601-10001-52340	MEDICAL ADMIN FEE	I P B C	HEALTH INS - JULY	129.85
601-10001-52340	MEDICAL ADMIN FEE	BASIC	FSA PLAN - JUL 2020	93.00
601-10001-52340	MEDICAL ADMIN FEE	BASIC	COBRA PLAN - JUL 2020	102.00
601-10001-52341	HEALTH INS. FIXED COSTS	I P B C	HEALTH INS - JULY	195,393.59
601-10001-52342	LOCAL 150 HEALTH INS PRE	MIDWEST OPERATING ENG L/150	LOCAL 150 INSURANCE COVERAGE - SEPTEMBER 20	37,070.00
		Total For Dept 10001 GENERAL GOVERNMENT ADMINISTRATION		<u>232,788.44</u>
		<b>Total For Fund 601 MEDICAL INSURANCE</b>		<b><u>232,788.44</u></b>

VILLAGE OF LAKE ZURICH  
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\$911,367.67

<i>GL Number</i>	<i>GL Desc</i>	<i>Vendor</i>	<i>Invoice Description</i>	<i>Amount</i>
<b>Fund 603 RISK MANAGEMENT</b>				
Dept 00000				
603-00000-22501	ER - UNDISTRIBUTED LIFE INS	I P B C	HEALTH INS - JULY	2.65
		Total For Dept 00000		2.65
Dept 12125 RISK EVENT MANAGEMENT				
603-12125-53212	PROGRAM SUPPLIES	ORIGINAL WATERMEN, INC	AQUATIC SWIMWEAR	470.39
603-12125-54306	EQUIPMENT RENTAL	ST PETER'S CHURCH	STORAGE FEE	100.00
		Total For Dept 12125 RISK EVENT MANAGEMENT		570.39
<b>Total For Fund 603 RISK MANAGEMENT</b>				<b>573.04</b>
<b>Fund 615 EQUIPMENT REPLACEMENT</b>				
Dept 36001 PUBLIC WORKS ADMINISTRATION				
615-36001-55262	VEHICLES - FIRE	FLEET SAFETY SUPPLY	SPOT LIGHT	749.05
615-36001-55263	VEHICLES - PUBLIC WORKS	SECRETARY OF STATE VEHICLE SVC DEPT	TITLE/PLATES	158.00
		Total For Dept 36001 PUBLIC WORKS ADMINISTRATION		907.05
<b>Total For Fund 615 EQUIPMENT REPLACEMENT</b>				<b>907.05</b>
<b>Fund 710 PERFORMANCE ESCROW</b>				
Dept 00000				
710-00000-21455	BUILDING DEPOSIT PAYABLES	ARS OF ILLINOIS	BD PAYMENT REF - PERMIT #PB20-0495	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	B&K EQUIPMENT COMPANY	BD PAYMENT REF - PERMIT #PB20-0583	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	BRAZEAU, MICHAEL & ANITA	BD PAYMENT REF - PERMIT #PB20-0156	38.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	BRAZEAU, MICHAEL & ANITA	BD PAYMENT REF - PERMIT #PB20-0156	67.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	CHICAGOLAND BUILDERS. INC	BD PAYMENT REF - REPL CK #119039 PERMIT #PB19	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	FOSS, ROBERT B & CHRISTINA	BD PAYMENT REF - PERMIT #PB20-0541	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	GO PERMITS LLC	BD PAYMENT REF - PERMIT #PB20-0553	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	IDENTITY SERVICES LLC	BLD REF - PERMIT #18060054 REPL #115819	100.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	JB3 GROUP LTD	BD PAYMENT REF - PERMIT #PB20-0184	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	JBM CONSTRUCTION INC	BD PAYMENT REF - PERMIT #PB20-0631	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	KOEPKE, JUSTIN M	BD PAYMENT REF - PERMIT #PB20-0485	1,125.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	LAHTI, CHERYL	BD PAYMENT REF - PERMIT #PB20-0390	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	OLSZEWSKI, RAFAL & KRYSZYNA	BD PAYMENT REF - PERMIT #PB20-0242	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	ON DECK	BD PAYMENT REF - PERMIT #PB20-0492	105.00

VILLAGE OF LAKE ZURICH  
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<i>GL Number</i>	<i>GL Desc</i>	<i>Vendor</i>	<i>Invoice Description</i>	<i>Amount</i>
710-00000-21455	BUILDING DEPOSIT PAYABLES	RAHN, SHERI M	BD PAYMENT REF - PERMIT #PB20-0696	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	RENEWAL BY ANDERSEN LLC	BD PAYMENT REF - PERMIT #PB20-0559	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	STYLE EXTERIORS INC.	BD PAYMENT REF - PERMIT #PB20-0607	105.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	SUNRUN INSTALLATION INC	BD PAYMENT REF - PERMIT #PB19-1157	100.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	TESLA COMPANY	BLD REF - PERMIT #19-0806 - REPL LOST CK	100.00
710-00000-21455	BUILDING DEPOSIT PAYABLES	TURANO, BRIANNE & ANTHONY	BD PAYMENT REF - PERMIT #PB19-1039	100.00
710-00000-25501	RECORDS MGMT CONSORT	CDW GOVERNMENT LLC	UNITRENDS	1,334.26
710-00000-25502	PEG CABLE FEES	COMCAST CABLE COMMUNICATIONS MGMT	COMBINED INTERNET - AUG	927.83
710-00000-25502	PEG CABLE FEES	MATTISON, JUSTIN N	MEDIA CREW - JULY 2020	82.50
		Total For Dept 00000		5,339.59
<b>Total For Fund 710 PERFORMANCE ESCROW</b>				<b>5,339.59</b>
<b>Fund 720 PAYROLL CLEARING</b>				
Dept 00000				
720-00000-22253	IMRF W/H	I M R F	PR DEDUCTIONS - JUNE 2020	67,463.26
720-00000-22301	DENTAL / VISION BENEFITS	VISION SERVICE PLAN OF ILLINOIS NFP	VISION INS - JUL 2020	1,695.83
720-00000-22301	DENTAL / VISION BENEFITS	STANDARD LIFE INSURANCE COMPANY	DENTAL INS - JULY	9,388.84
720-00000-22403	AFLAC PLANS PAYABLE	AFLAC INC.	AFLAC INSURANCE - JUN	6,538.28
720-00000-22404	SUPPLEMENTAL LIFE INS PAYABLE I P B C		HEALTH INS - JULY	1,491.68
720-00000-22404	SUPPLEMENTAL LIFE INS PAYABLE NCPERS-IL IMRF - 0157		GROUP LIFE INS - AUG	156.00
720-00000-22502	PAYROLL PAYABLE	SCHWICHTENBERG, K	PR11272019	27.70
720-00000-22502	PAYROLL PAYABLE	KAUFFMAN, K	PR11272019	480.67
720-00000-22502	PAYROLL PAYABLE	ANDERSON, R	PR07202020	34.96
		Total For Dept 00000		87,277.22
<b>Total For Fund 720 PAYROLL CLEARING</b>				<b>87,277.22</b>
<b>Fund 734 SSA #11 LZ PINES SUBDV</b>				
Dept 10099 GENERAL GOVERNMENT SSA ACTIVITY				
734-10099-52603	LAKE/WATER QUALITY MGMT	MC GINTY BROS., INC.	WETLAND MAINT SSA #11	600.00
	Total For Dept 10099 GENERAL GOVERNMENT SSA ACTIVITY			600.00
<b>Total For Fund 734 SSA #11 LZ PINES SUBDV</b>				<b>600.00</b>

VILLAGE OF LAKE ZURICH  
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<i>GL Number</i>	<i>GL Desc</i>	<i>Vendor</i>	<i>Invoice Description</i>	<i>Amount</i>
<b>Fund Totals:</b>				
			Fund 101 GENERAL	134,437.55
			Fund 202 MOTOR FUEL TAX	315.50
			Fund 207 SPECIAL EVENTS FUND	319.97
			Fund 214 TIF #2 DOWNTOWN	45,643.00
			Fund 227 DISPATCH CENTER	11,934.44
			Fund 401 VILLAGE CAPITAL PROJECTS	75,309.25
			Fund 501 WATER & SEWER	315,922.62
			Fund 601 MEDICAL INSURANCE	232,788.44
			Fund 603 RISK MANAGEMENT	573.04
			Fund 615 EQUIPMENT REPLACEMENT	907.05
			Fund 710 PERFORMANCE ESCROW	5,339.59
			Fund 720 PAYROLL CLEARING	87,277.22
			Fund 734 SSA #11 LZ PINES SUBDV	600.00
<b>Total for All Funds</b>				<b><u>\$ 911,367.67</u></b>



At the Heart of Community

COMMUNITY DEVELOPMENT DEPARTMENT

505 Telsler Road  
Lake Zurich, Illinois 60047

Phone (847) 540-1696  
Fax (847) 726-2182  
LakeZurich.org

AGENDA ITEM

66

MEMORANDUM

Date: August 3, 2020

To: Ray Keller, Village Manager *PK*

From: Sarosh Saher, Community Development Director

CC: Tim Verbeke, Planner  
Mary Meyer, Building Services Supervisor

Re: **Zoning Application for a Special Use Permit – 499 South Rand Road  
Luxury Auto Hand Car Washing and Detailing, Inc.**

**Issue:** JAS Development II LLC, (the “Applicant”), has filed a zoning application for the property at 499 South Rand Road (the “Subject Property”). Specifically, the applicant is seeking:

- Special Use Permit approval for the establishment and operation of a Car Wash (7542) providing hand car washes and auto detailing on the Subject Property within the B-3 Regional Shopping District

**Village Strategic Plan:** This item is consistent with the following objectives under Goal #2

- Expand the Village’s role as a major regional economic hub in Lake County
- Continue Route 12 Corridor Development
- Become more business friendly and customer oriented

**Analysis:** The Subject Property is located within the Village’s B-3 Regional Shopping District. The building and its tenant spaces is operated as an auto service center within the Village Square Shopping Center and currently houses businesses such as “Lube Right Oil Change,” “Remington Automotive,” “Avis,” “Napa AutoCare Center,” “Sparks Care Center,” and “MasterCare Car Services by Firestone.” The proposed car wash will occupy the corner/middle tenant space formerly occupied by “MMI Service,” an auto repair and service center.

The hand car wash and detailing center is proposed to operate within an approximately 2,200 square-foot retail tenant space within the 23,175 square-foot building constructed as an auto centric development at Village Square Shopping Center. The unit is located at the westerly section of the building. The clinic is proposed to accommodate one office/waiting room and a drive-in



Special Use Permit – 499 South Rand Road – Luxury Auto Hand Car Washing and Detailing, Inc.  
August 3, 2020

washing and detailing center. The facility is already outfitted with a triple basin; therefore allowing the proposed use of car washing to be conducted within the tenant space.

The Planning and Zoning Commission (PZC) held public hearing on July 15, 2020, to consider the application and did not receive any comment or objection to the application. Following the close of the hearing, the PZC voted 6-0 in favor of recommending approval of the Special Use Permit to allow for the proposed hand car wash and auto detailing center. No additional conditions were added by the PZC other than those initially recommended by staff. The video stream from the PZC meetings can be accessed via the following links:

<https://view.earthchannel.com/PlayerController.aspx?&PGD=lakezurichil&eID=455>

A detailed evaluation and summary of the project can be found in the Staff Report that was provided to the Planning and Zoning Commission, which is made a part of the attached Ordinance.

**Recommendation:** At their meeting on July 15, 2020, the Planning and Zoning Commission recommended approval of the Special Use Permit incorporating the conditions for approval provided by staff in its report.

Staff therefore recommends approval of the attached ordinance, with its specific attachments based on the following conditions for approval that are contained within said ordinance:

1. Substantial conformance with the following documentation prepared by JAS Development II LLC and submitted as part of the application subject to revisions required by Village Staff and applicable governmental agencies:
  - a. Zoning Application and Cover Letter dated June 30, 2020
  - b. Exhibit A: Legal Description of the Subject Property
  - c. Floor Plan, dated June 30, 2020
  - d. Elevations, dated June 30, 2020
  - e. Site Plan, dated June 30, 2020
  - f. Plat of Survey, dated June 30, 2020
  - g. Proof of Ownership, dated June 30, 2020
2. The Applicant shall submit any proposals for onsite signage or branding to the village prior to permit and occupancy approval. The final proposed signage plan shall be approved by village staff.
3. All activities related to the hand car wash and detailing business shall be conducted wholly within the commercial tenant space addressed at 499 South Rand Road within Village Square Shopping Center.
4. The special use constituting the car wash known as “Luxury Auto Hand Car Washing and Detailing, Inc.” shall be located within and associated with the commercial tenant space addressed at 499 South Rand Road within Village Square Shopping Center and shall be allowed to continue under successive ownership, or be allowed to relocate to any of the

Special Use Permit – 499 South Rand Road – Luxury Auto Hand Car Washing and Detailing, Inc.  
August 3, 2020

remaining tenant spaces within the 6-tenant building located in the shopping center, so long as the general location within such building, design and operation is in substantial conformance with the approvals granted by this ordinance. Such Special Use shall expire if this car wash use ceases operating at the property for a period of more than 365 days.

5. The development shall be in compliance with all other applicable codes and ordinances of the Village of Lake Zurich.
  - Approval Ordinance including the following exhibits
    - Exhibit A – Legal description of the subject property
    - Exhibit B – July 15, 2020 staff reports and planning and zoning commission recommendation/conditions and accompanying documentation

VILLAGE OF LAKE ZURICH



ORDINANCE NO. 2020-\_\_\_\_-\_\_\_\_

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT**

*Luxury Auto Hand Car Washing and Detailing, Inc., 499 South Rand Road*

WHEREAS, JAS Development II LLC, is the applicant ("Applicant") for a special use permit, and the owner ("Owner") of the property at 499 South Rand Road ("Subject Property"), for that rental space approximately 2,200 square feet within the existing multi-tenant building on the Subject Property, legally described in **Exhibit A** hereto; and

WHEREAS, Guadalupe Cruz, as owner and operator of Luxury Auto Hand Car Washing and Detailing, Inc., wishes to lease a tenant space from Applicant to establish a hand car wash and detailing center at the Subject Property as described in the preceding paragraph, such uses being classified as special uses in the B-3 Regional Shopping District; and

WHEREAS, Applicant seeks a special use permit to establish such hand car wash and detailing center on the Subject Property; and

WHEREAS, the Applicant has filed zoning application PZC 2020-06, dated June 30, 2020 (the "Application") seeking the approval of the following:

- Special Use Permit approval for the establishment and operation of a Car Wash (7542) providing hand car washes and auto detailing on the Subject Property within the B-3 Regional Shopping District;

and

WHEREAS, in compliance with the law, and the requirements of the Village of Lake Zurich Zoning Code, notice was published on July 1, 2020, in The Daily Herald, and the Village posted a public hearing sign on the Subject Property on July 1, 2020, both the newspaper and sign notices informing the public of a public hearing to be held before the Lake Zurich Planning and Zoning Commission (PZC) on July 15, 2020, to consider the Application for this requested zoning authority and approval; and

WHEREAS, the PZC received and considered the STAFF REPORT dated July 15, 2020, which was provided to the PZC for the meeting, addressing the request for approval of said Special Use Permit to allow for the establishment and operation of this hand car wash and detailing center on the Subject Property in the B-3 Regional Shopping District; and

WHEREAS, the PZC considered all information presented by the Applicant, and the petition for a special use permit in the B-3 Regional Shopping District zoning applicable to the

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Subject Property, said special use authorized under subsection E.,12 of Section 9-4-3 of Chapter 4 of the Lake Zurich Zoning Code, and the applicable factors required under Section 9-19-3 of Chapter 19 of the Lake Zurich Zoning Code for the grant of a special use permit; and, after the conclusion of the public hearing, the PZC recommended that the Board of Trustees of the Village of Lake Zurich approve the zoning approval requested in this Application, subject to those conditions of approval recommended by Village staff; and

WHEREAS, the President and Board of Trustees of the Village of Lake Zurich met on August 3, 2020, and considered the findings and recommendations of the PZC, including the STAFF REPORT dated July 15, 2020, all consisting of 9 pages, said required zoning standards, findings and recommendations attached hereto as **Exhibit B** and having considered all of the facts and circumstances affecting the Application and these recommended approvals, the President and Board of Trustees have determined that the applicable standards related to this special use approval has been met.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Lake Zurich, Lake County, Illinois, as follows:

**SECTION 1: ADOPTION AND INCORPORATION OF RECITALS.** The foregoing recitals, findings, recommendations, exhibits and plans are incorporated herein as findings and requirements of the President and Board of Trustees, and Exhibits referenced herein are made a part of and incorporated into this Ordinance and related approval, except as otherwise provided below.

**SECTION 2: GRANT OF SPECIAL USE PERMIT.** The Mayor and Board of Trustees, pursuant to the authority vested in them under the laws of the State of Illinois and Chapter 4 (Section 9-4-3) and Chapter 19 of the Lake Zurich Zoning Code, hereby grant the following approval, as shown and provided in the STAFF REPORT dated July 15, 2020, and final findings and recommendations of the PZC dated, all consisting of 9 pages, attached hereto as **Exhibit B**, and submitted as part of the zoning application:

- Special Use Permit approval, said special use authorized at Subsection 9-4-3, E, 12 of Section 4 of the Lake Zurich Zoning Code for the establishment and operation of a Car Wash (7542) providing hand car washes and auto detailing on the Subject Property within the B-3 Regional Shopping District.

And subject to the following conditions for approval:

1. Substantial conformance with the following documentation prepared by JAS Development II LLC and submitted as part of the application subject to revisions required by Village Staff and applicable governmental agencies:
  - a. Zoning Application and Cover Letter dated June 30, 2020
  - b. Exhibit A: Legal Description of the Subject Property
  - c. Floor Plan, dated June 30, 2020
  - d. Elevations, dated June 30, 2020
  - e. Site Plan, dated June 30, 2020
  - f. Plat of Survey, dated June 30, 2020
  - g. Proof of Ownership, dated June 30, 2020

2. The Applicant shall submit any proposals for onsite signage or branding to the Village prior to permit and occupancy approval. The final proposed signage plan shall be approved by village staff.
3. All activities related to the hand car wash and detailing business shall be conducted wholly within the commercial tenant space addressed at 499 South Rand Road within Village Square Shopping Center.
4. The special use constituting the car wash known as "Luxury Auto Hand Car Washing and Detailing, Inc." shall be located within and associated with the commercial tenant space addressed at 499 South Rand Road within Village Square Shopping Center and shall be allowed to continue under successive ownership, or be allowed to relocate to any of the remaining tenant spaces within the 6-tenant building located in the shopping center, so long as the general location within such building, design and operation is in substantial conformance with the approvals granted by this ordinance. Such Special Use shall expire if this car wash use ceases operating at the Subject Property for a period of more than 365 days.
5. The development shall be in compliance with all other applicable codes and ordinances of the Village of Lake Zurich.

**SECTION 3: FINDINGS IN SUPPORT OF APPROVAL OF GRANT OF SPECIAL USE PERMITS.** The findings, conditions and recommendations as set forth in the STAFF REPORT dated July 15, 2020, and the PZC recommendations, all consisting of 9 pages, along with the filings provided to the PZC under Chapter 4 (Subsection 9-4-3) and Section 9-19-3 of Chapter 19 of the Lake Zurich Zoning Code, are hereby accepted as the Board's own, are incorporated herein by this reference and shall be made a part of the official record for the Application.

**SECTION 4: SEVERABILITY.** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

**SECTION 5: CONFLICTS.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 6: EFFECTIVE DATE.** This Ordinance shall be in full force and effect upon its passage and approval, as provided by law.

PASSED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Ayes:

Nays:

Absent:

Abstain:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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\_\_\_\_\_  
Mayor Tom Poynton

ATTEST:

\_\_\_\_\_  
Village Clerk  
Kathleen Johnson

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**EXHIBIT A**

Legal description of the Subject Property

LOTS 1, 2, 3 & 4  
VILLAGE SQUARE SHOPPING CENTER  
A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 43  
NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY  
ILLINOIS

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**EXHIBIT B**

Exhibit B – July 15, 2020 staff reports and planning and zoning commission  
recommendation/conditions and accompanying documentation

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*At the Heart of Community*

**COMMUNITY SERVICES DEPARTMENT**  
**Building and Zoning Division**

505 Telser Road  
Lake Zurich, Illinois 60047

(847) 540-1696  
Fax (847) 726-2182  
LakeZurich.org

**APPLICATION PZC 2020-06**  
**PZC Hearing Date: July 15, 2020**

**AGENDA ITEM 4.A**

**STAFF REPORT**

To: Chairperson Stratman and Members of the Planning & Zoning Commission  
From: Sarosh Saher, Community Development Director  
CC: Mary Meyer, Building Services Supervisor  
Tim Verbeke, Planner  
Date: July 15, 2020  
Re: 2020-06 – Special Use Permit  
499 South Rand – Luxury Auto Hand Car Washing and Detailing, Inc.

**SUBJECT**

JAS Development II LLC, (the “Applicant”) proposes to establish a car wash and detailing business with no automatic car washing at the property commonly known as 499 South Rand Road. The applicant requests a Special Use permit for the establishment of a car wash and its component uses within the B-3 Regional Shopping Business district.

**GENERAL INFORMATION**

Requested Action: Special Use Permit  
Current Zoning: B-3 Regional Shopping District  
Current Use: Vacant Tenant Space  
Property Location: 499 South Rand Road  
Applicant: JAS Development II LLC on behalf of Guadalupe Cruz d/b/a  
Luxury Auto Hand Car Washing and Detailing, Inc.  
Owner: JAS Development II LLC  
Staff Coordinator: Tim Verbeke, Planner

**Staff Report**  
**APPLICATION PZC 2020-06**

**Community Development Department**  
**PZC Hearing Date: July 15, 2020**

### **LIST OF EXHIBITS**

- A. Legal Description
- B. Public Hearing Sign
- C. Site Photos
- D. Aerial Map
- E. Zoning Map
- F. Parcel Map
- G. Development Application and Attachments
- H. Development Review Comments

### **BACKGROUND**

JAS Development II LLC d/b/a The Fidelity Group on behalf of Guadalupe Cruz d/b/a Luxury Auto Hand Car Washing and Detailing, Inc. (the "Applicant"), is the Applicant for the car wash that is proposed to be located at 499 South Rand Road. The tenant space is located within an existing commercial building within the Village Square Shopping Center, and legally described in Exhibit A attached hereto (the "Subject Property"). The Applicant filed an application with the Village of Lake Zurich received on June 30, 2020 (the "Application") seeking:

- Special Use Permit approval for the establishment and operation of a Car Wash (7542) providing car washes and auto detailing on the Subject Property within the B-3 Regional Shopping District

The Subject Property is located within the Village's B-3 Regional Shopping District. The building and its tenant spaces is operated as an auto service center within the Village Square Shopping Center currently houses tenant spaces occupied by "Lube Right Oil Change," "Remington Automotive," "Avis," "Napa AutoCare Center," "Sparks Care Center," and "MasterCare Car Services by Firestone." The proposed car wash will occupy the corner/middle tenant space formerly occupied by "MMI Service," an auto repair and service center.

#### *Existing Conditions*

The Subject Property is zoned within the B-3 Regional Shopping Business District, located along the Route 12 corridor. This parcel currently contains approximately 4-acres of developed land, an auto care facility, a gas station, a Dunkin Donuts, and associated parking lots. The parking lot is used for shared parking for the entire Village Square Shopping Center. There are approximately 37 parking spaces immediately adjacent to the auto service development that will continue to remain as currently configured. The much larger parking field that supports the Village Square Shopping Center will also continue supporting any additional parking capacity that the auto center or Subject Property needs.

The subject property is surrounded by commercial uses on two sides. The remaining areas on the south and west side of the development consist of stormwater detention ponds that serve the Village Square Shopping Center and wetland open spaces.

**Staff Report**  
**APPLICATION PZC 2020-06**

**Community Development Department**  
**PZC Hearing Date: July 15, 2020**

Access to the subject property is from the various common right-in, right-out access points to the shopping center from Rand Road and by means of internal circulation within the parking lots. Additional access is also provided by a shared driveway that connects the development to the rest of Village Square Shopping Center and Rt 22 to the west, and Target shopping center and Ela Road to the east.

The subdivision was developed with adequate stormwater management facilities to accommodate the development of the subject property.

*Proposal*

The car wash and detailing center is proposed to operate within an approximately 2,200 square-foot retail tenant space within the 23,175 square-foot building constructed as an auto centric development at Village Square Shopping Center. The unit is located at the westerly section of the building. The clinic is proposed to accommodate one office/waiting room and a drive-in detailing center. The facility is already outfitted with a triple basin; therefore allowing the proposed use of car washing to be conducted within the tenant space.

The facility is intended to operate between 9:00 a.m. and 8:00 p.m., 5 days a week, 8:00 a.m. to 5:00 p.m. on Saturdays and 8:00 a.m. to 4:00 p.m. on Sundays, employing 4 employees. This car wash and detailing service will be conducted completely within the unit, with the discharge water directed to the sanitary system through a previously installed triple basin.

Car Washes and Car Detailing are classified as “Car Washes (7542)” within the zoning code. This land use is allowed as Special Uses within the B-3 district.

Pursuant to public notice published on July 1, 2020, in the Daily Herald, a public hearing has been scheduled with the Lake Zurich Planning & Zoning Commission for July 15, 2020, to consider the Application. On July 1, 2020, the Village posted a public hearing sign on the Subject Property (Exhibit B).

Staff offers the following additional information:

- A. Courtesy Review.** Due to the low impact of this project, its location within an established auto center and its smaller operational footprint with no overnight or outdoor activity, courtesy review was not recommended.
- B. Zoning History.** The subject property is a tenant space within the Village Square Shopping Center which was built in 1989, and has been owned by the same owner for the life of the development. The property is zoned within the B-3 Regional Shopping district. Village Square Shopping Center has seen a number of retail and service land uses since its construction and continues to serve the larger demographic of the region that travels along the Route 12 corridor.

This will be the business’s first location in Lake Zurich. The business is looking to occupy the space with minimal interior alterations for the use of one drive-in hand car wash and detailing bay and an office/waiting room.



Staff Report  
APPLICATION PZC 2020-06

Community Development Department  
PZC Hearing Date: July 15, 2020

- C. Surrounding Land Use and Zoning.** The subject property is located on Route 12, which is a major commercial arterial road. The land immediately to the northwest of the Subject Property is zoned B-3 Regional Shopping district and improved with the remaining portion of Village Square and supports a variety of commercial uses. The land farther to the southeast is developed with the more recently completed Village Square Retail Center Phase II containing a Target Store. The properties to the south are zoned within B-3 Regional Shopping district and improved with several large storm water detention ponds that service the Village Square Retail Centers.
- D. Trend of Development.** The subject property is located along the thriving Route 12 commercial corridor that traverses the southern side of the Village. The accessibility and high visibility from a major north-south arterial such as Route 12 makes the Subject Property a desirable location for many retail- and service-oriented businesses.
- E. Zoning District.** Three (3) zoning districts are provided for business and commercial uses. When taken together, these districts are intended to permit development of property for the full range of business and commercial uses needed to serve the citizens of Lake Zurich and the surrounding suburban area. The B-3 regional shopping district is intended to provide locations for major retail centers. The regulations are designed to encourage a broad range of attractive retail and compatible service uses in those centers.

#### GENERAL FINDINGS

As it relates to the proposed Special Use Permit, Chapter 19 of the Zoning Code entitled "Special Use Permits" provides for special uses that have some special impact or uniqueness that requires a careful review of their location, design, configuration, and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect. The standards for special uses examine the location, design and operational characteristics of a use. Staff offers the following findings on specific sections of the Code.

#### Standards for Special Use Permits

- A. General Standards. No special use permit shall be recommended or granted pursuant to this Chapter unless the applicant shall establish that:
1. Code and Plan Purposes. The proposed use and development will be in harmony with the general and specific purposes for which this Code was enacted and for which the regulations of the district in question were established and with the general purpose and intent of the official Comprehensive Plan.

**Staff Response: Standard met. The development will continue to remain in substantial conformance with the purpose and intent of the B-3 Regional**

Staff Report  
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Community Development Department  
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**Shopping District, and the land use designation of the adopted Comprehensive Plan.**

2. No Undue Adverse Impact. The proposed use and development will not have a substantial or undue adverse effect upon adjacent property, the character of the area, or the public health, safety, and general welfare.

**Staff Response: Standard met. The business is consistent with commercial-oriented development along the Route 12 corridor. The business is proposed to operate entirely within the tenant space and will not have any substantial or undue adverse effect upon any adjacent properties and will not adversely impact the public health, safety, and general welfare of the Village.**

3. No Interference with Surrounding Development. The proposed use and development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the use and development of neighboring property in accordance with the applicable district regulations.

**Staff Response: Standard Met. The property on which the car wash and detailing shop is proposed is largely surrounded by similarly auto oriented uses. The proposed land use will therefore not have any detrimental impact on immediately surrounding commercial property. Additionally, the proposed use will not have any negative impact on residential buildings to the southwest which lie approximately 650 feet away.**

4. Adequate Public Facilities. The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools, or the applicant will provide adequately for such services.

**Staff Response: The property is currently served with adequate public utilities and services provided by the village. This unit is already serviced by a building-wide triple basin to assist in the treatment of any runoff caused by the existing and proposed auto oriented uses.**

5. No Traffic Congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through the surrounding streets.

**Staff Response: Standard met. The proposed use intends to utilize the existing access points, driveways and parking constructed as part of the subdivision. The parking lot is subject to a shared access, parking and maintenance agreement and was set up to accommodate the parking demand for a 6-tenant auto service building at full capacity plus the entire Village Square development.**

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Community Development Department  
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6. No Destruction of Significant Features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

**Staff Response: Not applicable. The property on which the land use is proposed has been previously developed. There are therefore no features of natural, scenic, or historic importance that will be affected.**

7. Compliance with Standards. The proposed use and development complies with all additional standards imposed on it by the particular provision of this Code authorizing such use.

**Staff Response: Standard met. There are no additional standards imposed on the proposed land use by the code. The proposed location will not include any outdoor car washing.**

8. Positive Effect. The proposed special use creating a positive effect for the zoning district, its purpose, and adjacent properties shall be placed before the benefits of the petitioner.

**Staff Response: Standard met. The Applicants have presented that there is a desire and need for car washing and detailing services in the Village of Lake Zurich. The addition of a hand car wash and detailing center bring additional traffic to the Village. The land use will also fill a previously vacant tenant space.**

- B. Special Standards for Specified Special Uses. When the district regulations authorizing any special use in a particular district impose special standards to be met by such use in such district, a permit for such use in such district shall not be recommended or granted unless the applicant shall establish compliance with such special standards.

**Staff Response: Standard met. Staff has not identified any additional special standards required for the proposed Special Use Permit.**

- C. Considerations. In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Plan Commission and the Board of Trustees shall consider:

1. Benefit. Whether and to what extent the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.

**Staff Response: Standard met. Improving a vacant tenant space with a thriving business will benefit the Village of Lake Zurich and its residents.**

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2. Alternative Locations. Whether the purposes of the zoning code can be met by the location of the proposed use and development in some other area or zoning district that may be more appropriate than the proposed site.

**Staff Response: The proposed tenant space is well suited for the Applicant's needs and is compatible with adjacent auto oriented uses. The property is currently under contract by the Applicants.**

**The land use pertaining to auto uses specifically car washes is classified as a special use in the B-3 zoning district. In as much as a car wash may be located in other areas, the subject property offers the ability of the owner to establish a use that is appropriate for the property and in the area of the community in which it is proposed.**

3. Mitigation of Adverse Impacts. Whether all steps possible have been taken to minimize any substantial or undue adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.

**Staff Response: Standard met. The retail center has been developed to prevent any undue adverse effect on itself or on surrounding property in relation to its location, design and operation.**

**The luxury car wash and detail shop is intended to be operated entirely within the tenant space of the building. No overnight or outdoor activity is proposed at this location. The land use will therefore minimal impact on the subject property or surrounding properties.**

**Staff Report**  
**APPLICATION PZC 2020-06**

**Community Development Department**  
**PZC Hearing Date: July 15, 2020**

**RECOMMENDATION**

The recommendation of the Planning and Zoning Commission should be based on the standards included in the following Sections of the Lake Zurich Municipal Code:

- Section 9-19-3: Standards for Special Use Permits

Based on the review of staff, the standards for approval have been met and therefore staff recommends that the Planning and Zoning Commission make these standards a part of the official record of the Application.

Staff of the Community Development Department therefore recommends the approval of Application PZC 2020-06, subject to the following conditions:

1. Substantial conformance with the following documentation prepared by JAS Development II LLC and submitted as part of the application subject to revisions required by Village Staff and applicable governmental agencies:
  - a. Zoning Application and Cover Letter dated June 30, 2020
  - b. Exhibit A: Legal Description
  - c. Floor Plan, dated June 30, 2020
  - d. Elevations, dated June 30, 2020
  - e. Site Plan, dated June 30, 2020
  - f. Plat of Survey, dated June 30, 2020
  - g. Proof of Ownership, dated June 30, 2020
2. The Applicant shall submit any proposals for onsite signage or branding to the village prior to permit and occupancy approval. The final proposed signage plan shall be approved by village staff.
3. All activities related to the car wash and detailing business shall be conducted wholly within the commercial tenant space addressed at 499 South Rand Road within Village Square Shopping Center.
4. The special use constituting the car wash known as “Luxury Auto Hand Car Washing and Detailing, Inc.” shall be located within and associated with the commercial tenant space addressed at 499 South Rand Road within Village Square Shopping Center and shall be allowed to continue under successive ownership, or be allowed to relocate to any of the remaining tenant spaces within the 6-tenant building located in the shopping center, so long as the general location within such building, design and operation is in substantial conformance with the approvals granted by this ordinance. Such Special Use shall expire if this car wash use ceases operating at the property for a period of more than 365 days.
5. The development shall be in compliance with all other applicable codes and ordinances of the Village of Lake Zurich.

Respectfully Submitted,

Tim Verbeke  
Planner



Staff Report  
APPLICATION PZC 2020-06

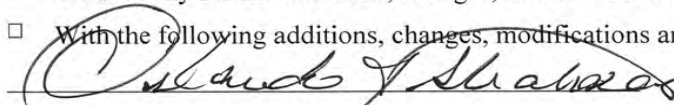
Community Development Department  
PZC Hearing Date: July 15, 2020

**LAKE ZURICH PLANNING & ZONING COMMISSION  
FINAL FINDINGS & RECOMMENDATIONS**

**FOR 499 S RAND RD – CAR WASH AND DETAILING  
JULY 15, 2020**

The Planning & Zoning Commission recommends approval of Application PZC 2020-06, and the Planning & Zoning Commission adopts the findings as contained within the Staff Report dated **July 15, 2020** for this Application and subject to any changes or approval conditions as listed below:

1. Substantial conformance with the following documentation prepared by JAS Development II LLC and submitted as part of the application subject to revisions required by Village Staff and applicable governmental agencies:
  - a. Zoning Application and Cover Letter dated June 30, 2020
  - b. Exhibit A: Legal Description
  - c. Floor Plan, dated June 30, 2020
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  - e. Site Plan, dated June 30, 2020
  - f. Plat of Survey, dated June 30, 2020
  - g. Proof of Ownership, dated June 30, 2020
2. The Applicant shall submit any proposals for onsite signage or branding to the village prior to permit and occupancy approval. The final proposed signage plan shall be approved by village staff.
3. All activities related to the car wash and detailing business shall be conducted wholly within the commercial tenant space addressed at 499 South Rand Road within Village Square Shopping Center.
4. The special use constituting the car wash known as “Luxury Auto Hand Car Washing and Detailing, Inc.” shall be located within and associated with the commercial tenant space addressed at 499 South Rand Road within Village Square Shopping Center and shall be allowed to continue under successive ownership, or be allowed to relocate to any of the remaining tenant spaces within the 6-tenant building located in the shopping center, so long as the general location within such building, design and operation is in substantial conformance with the approvals granted by this ordinance. Such Special Use shall expire if this car wash use ceases operating at the property for a period of more than 365 days.
5. The development shall be in compliance with all other applicable codes and ordinances of the Village of Lake Zurich.
  - Without any further additions, changes, modifications and/or approval conditions.
  - With the following additions, changes, modifications and/or approval conditions:

  
Paul J. Shalton  
Planning & Zoning Commission Chairman

**Staff Report**  
**APPLICATION PZC 2020-06**

**Community Development Department**  
**PZC Hearing Date: July 15, 2020**

**EXHIBIT A**  
**LEGAL DESCRIPTION OF SUBJECT PROPERTY**

LOTS 1, 2, 3 & 4  
VILLAGE SQUARE SHOPPING CENTER  
A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP  
43 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY  
ILLINOIS

P.I.N. - 14-19-402-080



Staff Report  
APPLICATION PZC 2020-06

Community Development Department  
PZC Hearing Date: July 15, 2020

**EXHIBIT B**  
PUBLIC HEARING SIGN AT SUBJECT PROPERTY



Village of Lake Zurich  
Utilities Division of  
Public Works

# Memo

To: Tim Verbeke, Planner  
From: Betty Harrison, EQC Supervisor  
Date: July 8, 2020  
Re: July Commission Meeting

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1. 499 S Rand Rd

- A triple basin will be required.
- Additional backflow devices may be required.

# 499 S Rand



Sources: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Lake County, Illinois GIS Division



Lake County, Illinois



Map Printed on 7/9/2020



 Tax Parcel Lines

Tax Parcel  
Information

 Subject Property

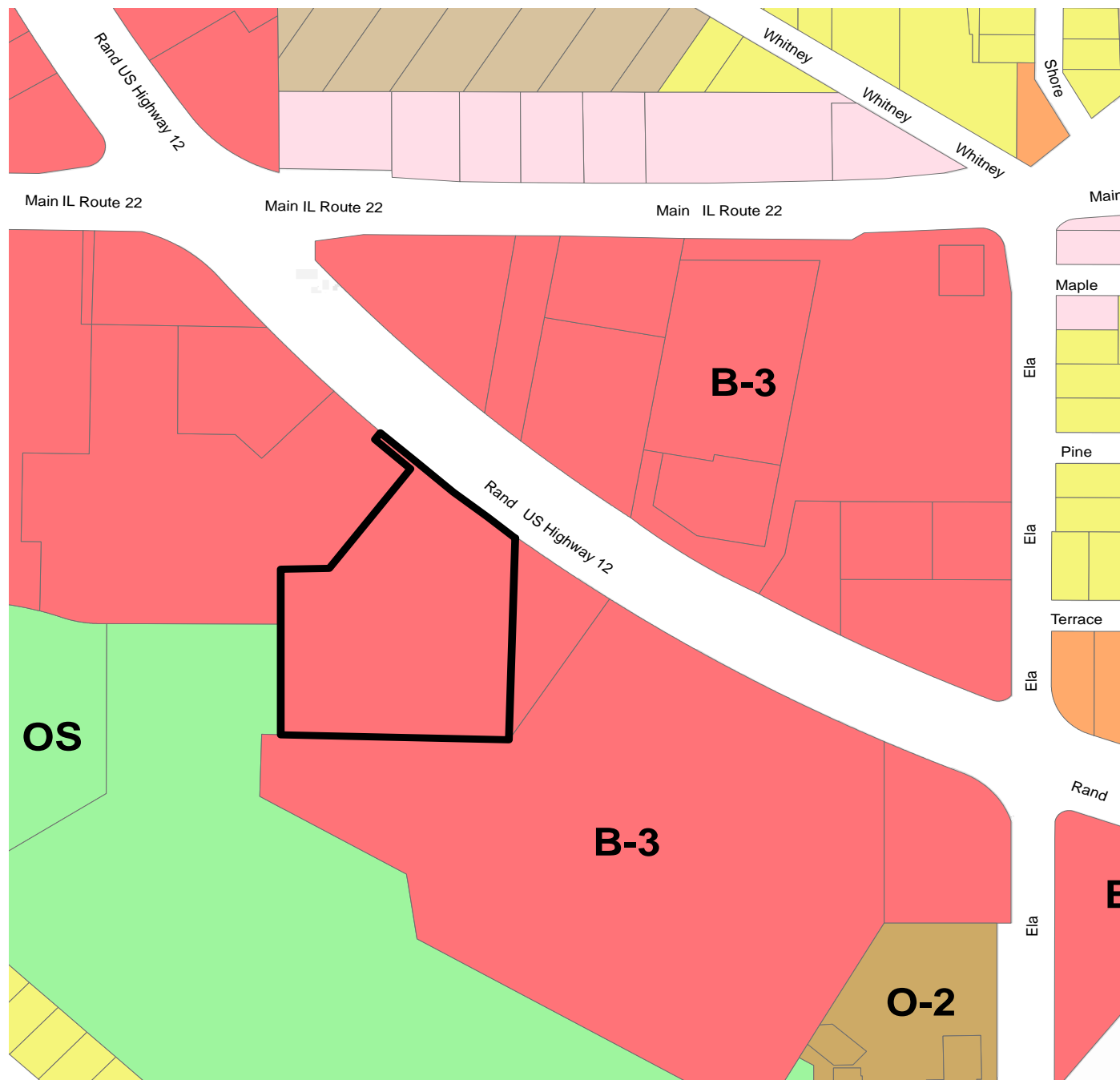
**Disclaimer:**

The selected feature may not occur anywhere in the current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.



# 499 S Rand

## Special Use Permit: Car Wash



COMMUNITY SERVICES DEPARTMENT  
Building and Zoning Division  
505 Telser Road, Lake Zurich, Illinois 60047

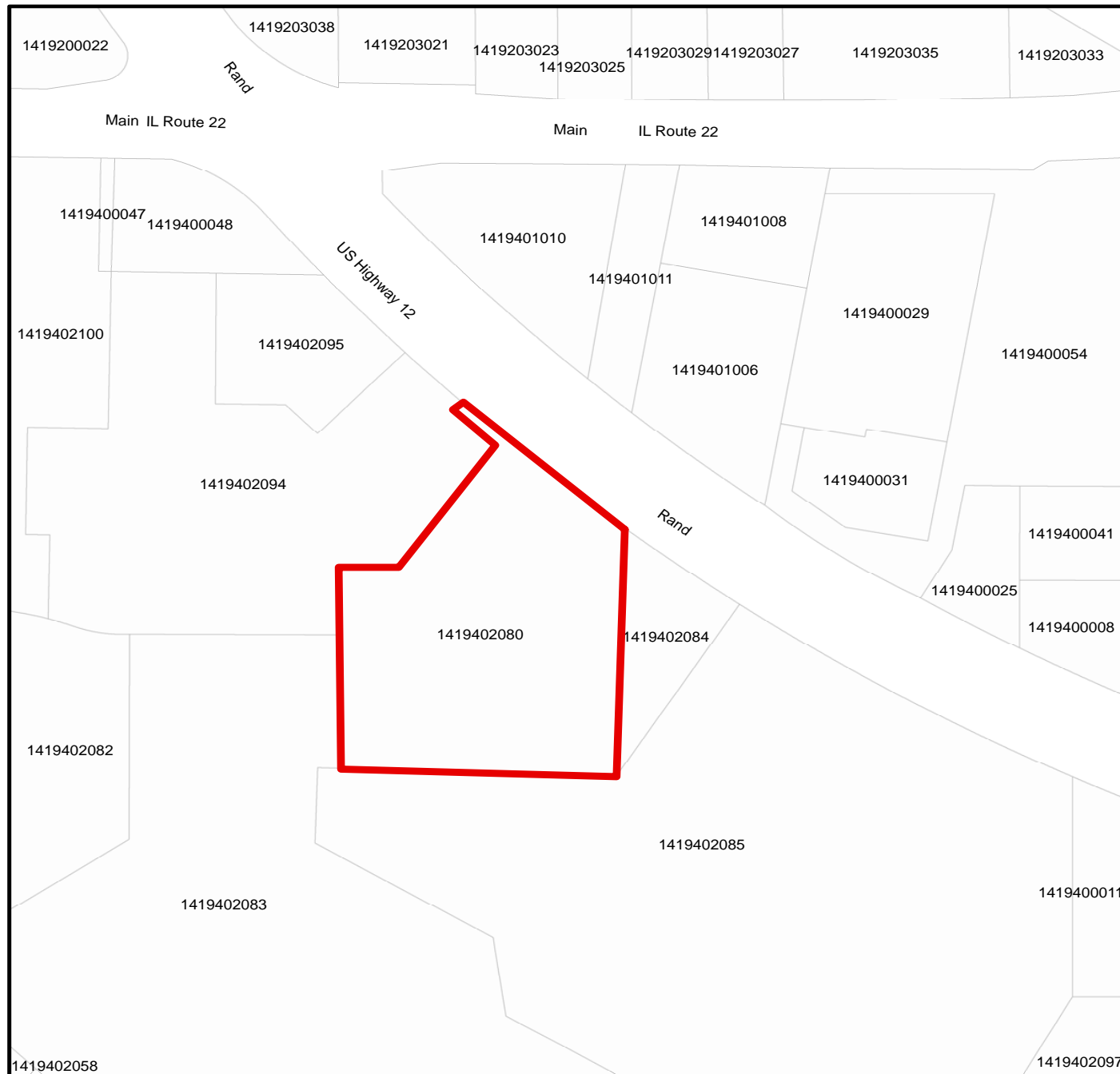
(847) 540-1696  
Fax: (847) 726-2182  
Lake Zurich.org





# 499 S Rand

## Special Use Permit: Car Wash



COMMUNITY SERVICES DEPARTMENT  
Building and Zoning Division  
505 Telser Road, Lake Zurich, Illinois 60047

(847) 540-1696  
Fax: (847) 726-2182  
LakeZurich.org



### ZONING APPLICATION

Community Development Department  
505 Telser Rd.  
Lake Zurich, IL 60047  
Phone: (847) 540-1696  
Fax: (847) 540-1769

(Please Type or Print)

1. Address of Subject Property: 499 South Rand Road
2. Please attach complete legal description
3. Property Identification number(s): 14-19-402-080
4. Owner of record is: Village Square Retail Center, LLC Phone: 847-438-5000  
E-Mail jason.sfire@fidelitygrouppltd.com Address: 745 Ela Road Lake Zurich, Il. 60047
5. Applicant is (if different from owner): LUXURY AUTO HAND CAR WASHING AND DETAILING / GUADALUPE CRUZ Phone: \_\_\_\_\_  
E-Mail cruzguadalupe46@gmail.com Address: \_\_\_\_\_
6. Applicant's interest in the property (owner, agent, realtor, etc.): OWNER
7. All existing uses and improvements on the property are: B-3 RETAIL
8. The proposed uses on the property are: B-3 ZONING APPROVED SPECIAL USE TO HAND CAR WASH /DETAILING
9. List any covenants, conditions, or restrictions concerning the use, type of improvements, setbacks, area, or height requirements placed on the Subject Property and now of record and the date of expiration of said restrictions:  
NONE
10. Describe any contract or agreement of any nature relevant to the sale or disposal of the Subject Property:  
NONE
11. For applications requiring a public hearing, please attach a list which contains the PIN, owner, and owner's mailing address of all properties located within 250 feet (excluding all Public Right-of-Ways) of the Subject Property.

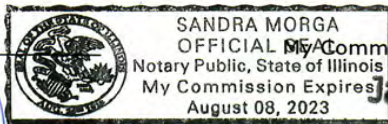
THE APPLICANT'S SIGNATURE BELOW INDICATES THE INFORMATION CONTAINED IN THIS APPLICATION AND ON ANY ACCOMPANYING DOCUMENTS IS TRUE AND CORRECT. THE APPLICANT ALSO ACKNOWLEDGES IF THE CONSULTANT EXPENSES EXCEED THE INITIAL ESCROW DEPOSIT, THE APPLICANT WILL REIMBURSE THE ACCOUNT IMMEDIATELY.

Guadalupe Cruz  
(Name of applicant)

Guadalupe Cruz  
(Signature of applicant)

Subscribed and sworn to before me this 30<sup>TH</sup> day of JUNE, 2020.

Sandra Morga  
(Notary Public)



My Commission Expires August 8, 2023

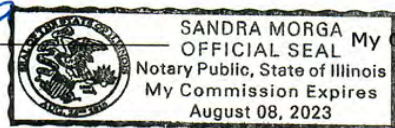
Jason Alan Sfire  
Manager

\_\_\_\_\_  
(Name of Owner, if different)

\_\_\_\_\_  
(Signature of Owner, if different)

Subscribed and sworn to before me this 30<sup>TH</sup> day of JUNE, 2020.

Sandra Morga  
(Notary Public)



My Commission Expires August 8, 2023



Please indicate what form of zoning relief your application requires. For assistance, please contact Staff:

- Zoning Code **Map** Amendment to change zoning of Subject Property from \_\_\_\_ to \_\_\_\_
- Zoning Code **Text** Amendment to amend the following section(s) of the Zoning Code \_\_\_\_\_

(See Section 18-103 of the Lake Zurich Zoning Code for specific standards. If a specific parcel is the subject of this amendment, then provide the additional information listed in Section 18-103C.)

- Special Use Permit/Amendment for 499 South Rand Road  
(See Section 19-103 of the Lake Zurich Zoning Code for specific standards.)

- Planned Unit Development/Major Adjustment/Amendment

(Planned Unit Developments are a distinct category of special use and are intended to create a more desirable environment than through strict application of the zoning and subdivision regulations. See Section 22-105 of the Lake Zurich Zoning Code for specific standards. Please list all the 'modifications' requested in the cover letter.)

- Variation for \_\_\_\_\_

(See Section 17-104 of the Lake Zurich Zoning Code for specific standards. Please indicate what your specific hardships are in the cover letter.)

- Modification to the Land Development Code (includes retaining walls more than 2 feet in height)  
(See Section 10-6-18 of the Land Development Code for specific standards.)

- Preliminary Plat of Subdivision

- Final Plat of Subdivision or Amendment to Plat of Subdivision  
(See Sections 10-5-2 and 10-5-9 of the Land Development Code for specific standards.)

- Site Plan Approval/Major Adjustment/Amendment  
(See Section 20-103 of the Lake Zurich Zoning Code for specific standards.)

- Exterior Appearance Approval or Amendment  
(See Section 21-103 of the Lake Zurich Zoning Code for specific standards.)

**APPLICATION TO ANNEX CERTAIN TERRITORY**

All land annexed to the Village is classified automatically after such annexation in the R-1\2 Single Family Residential District. The owner must file an application for a Zoning Map amendment if he or she desires a different zoning classification for the Subject Property.

- Petition to Annex Certain Territory (Please complete attached petition)
- Application to Annex Certain Territory

**COMPREHENSIVE PLAN APPLICATION**

- Comprehensive Plan **Map** Amendment for \_\_\_\_\_  
\_\_\_\_\_
- Comprehensive Plan **Text** Amendment for \_\_\_\_\_  
\_\_\_\_\_

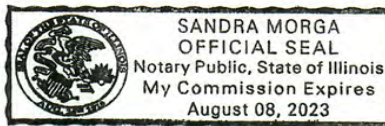
**\*Note: This is to be notarized and returned to Staff after notifications are mailed out.**

**VILLAGE OF LAKE ZURICH  
NOTIFICATION AFFIDAVIT**

I, JASON ALAN SFIRE hereby certify as follows:

- I. That on the 1<sup>ST</sup> day of, JULY 2020, affiant caused to be mailed in the Post Office of LAKE ZURICH, Illinois, copies of the attached Notice of Public Hearing to all listed taxpayers of real estate within 250 feet, excluding all Public Right of Way, of the subject property and to the owners or representatives of property listed as exempt.
2. That the parties to whom said notice was mailed are set forth on Page 15, Item #13 of this application.

[Handwritten Signature]  
Signature



Subscribed and sworn to before me this 1<sup>st</sup> day of July, 2020,  
Sandra Morga  
(Notary Public) My Commission Expires August 08, 2023





**Village Square Retail Center, LLC.**

745 Ela Road  
Lake Zurich, Illinois 60047  
Phone: 847-438-5000  
www.fidelitygrouppltd.com

June 30, 2020

Mr. Orlando Stratman  
Chairperson of the Planning & Zoning Commission  
Village of Lake Zurich  
505 Telser Road  
Lake Zurich, IL 60047

RE: Special Use Permit- Hand Car Wash and Detailing  
499 South Rand Road

Dear Mr. Stratman,

We are requesting approval of Luxury Auto Hand Car Washing and Detailing, Inc. (Owner, Guadalupe Cruz) for a Special Use Permit to provide hand car washing and detailing at 499 South Old Rand Road in the Village Square Retail Center. This is permitted Special Use within B-3 zoning.

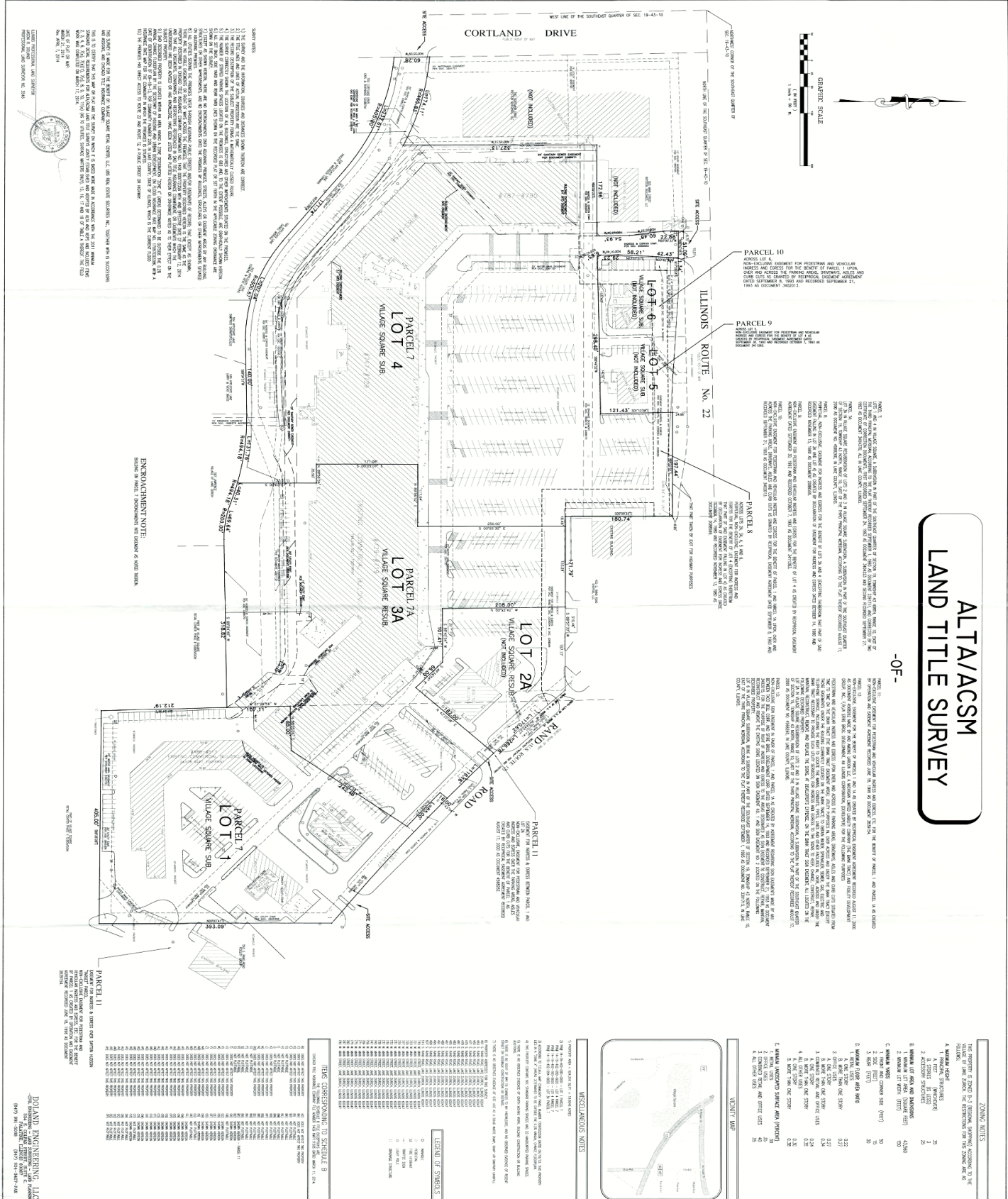
We feel that this will be a good fit to our Village Square property. For the reason, there is a well-rounded tenant mix for village and residents.

Sincerely,

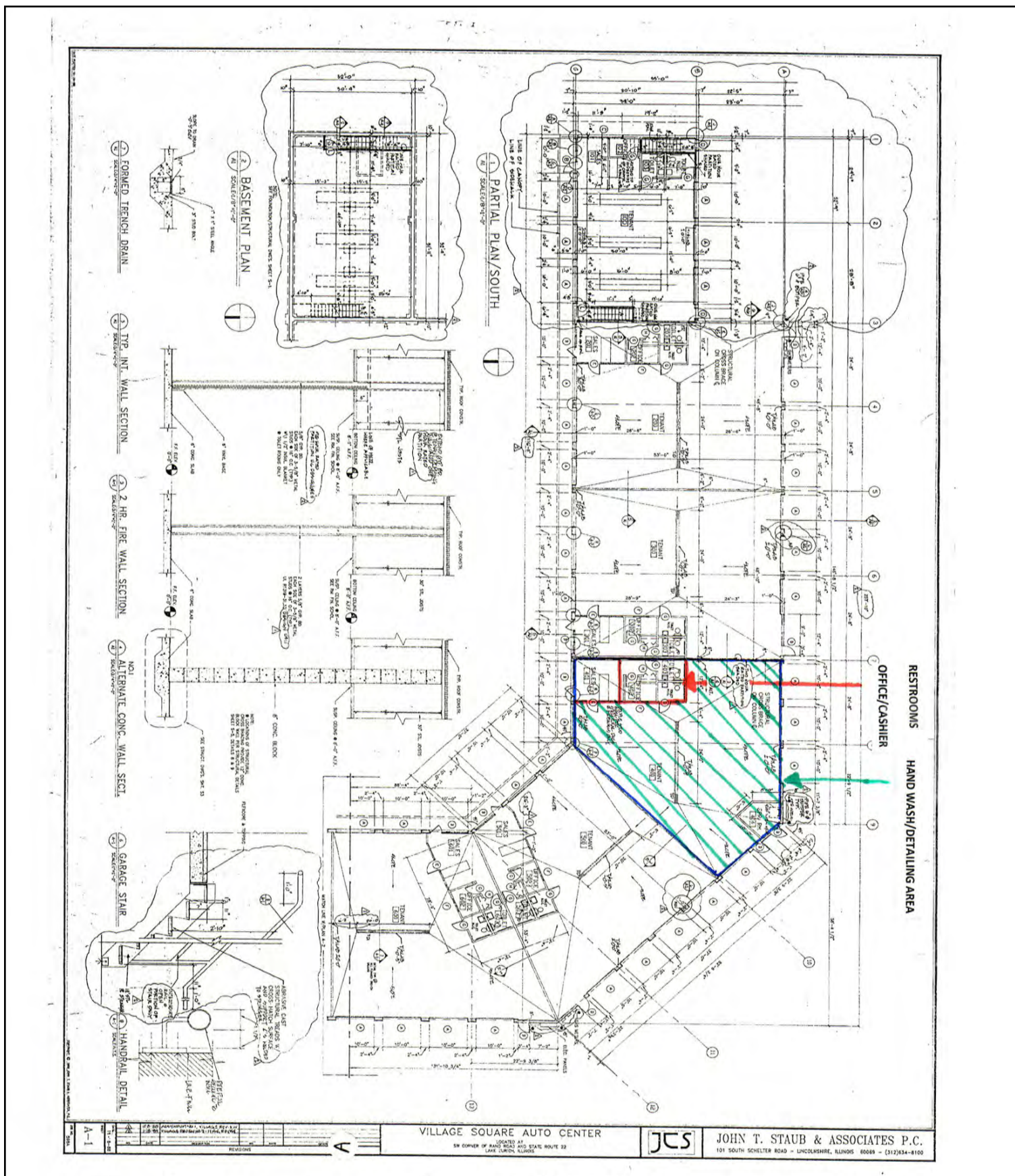
Village Square Retail Center, LLC.

Jason Alan Sfire  
President/Owner

Enclosures







**From:** [Sandra Morga](#)  
**To:** [Tim Verbeke](#); [Sarosh Saher](#)  
**Cc:** [Jason Sfire](#); [Cathy Babiez](#)  
**Subject:** RE: Special Use Permit Application for 499 S. Rand Road  
**Date:** Tuesday, June 30, 2020 6:10:52 PM

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Hi Tim,

Here are 3 out of the 4 responses to your questions. I will work on site plan/interior building plan and finding out what activities will be occurring where.

1. Hours of Operation –
2. Monday thru Friday 9 AM – 8 PM  
Saturday 8 AM – 5 PM  
Sunday 8 AM – 4 PM
3. Four (4) total employees
4. Car wash and Car detailing

Thank you!

**Sandra Morga**  
Executive Assistant to Jason Sfire  
The Fidelity Group, Ltd.  
745 Ela Road  
Lake Zurich, Il. 60047  
Direct Number: 847-719-7781  
Cell Phone: 224-795-1573  
Email: [sandra.morga@fidelitygrouppltd.com](mailto:sandra.morga@fidelitygrouppltd.com)

---

**From:** Sandra Morga  
**Sent:** Tuesday, June 30, 2020 4:13 PM  
**To:** Tim Verbeke <[Tim.Verbeke@lakezurich.org](mailto:Tim.Verbeke@lakezurich.org)>; Sarosh Saher <[Sarosh.Saher@lakezurich.org](mailto:Sarosh.Saher@lakezurich.org)>  
**Cc:** Jason Sfire <[jason.sfire@fidelitygrouppltd.com](mailto:jason.sfire@fidelitygrouppltd.com)>; Cathy Babiez <[cathy.babiez@fidelitygrouppltd.com](mailto:cathy.babiez@fidelitygrouppltd.com)>  
**Subject:** RE: Special Use Permit Application for 499 S. Rand Road

Thank you Tim!

We will follow up with the Tenant to get responses to your questions.

Thank you!

**LEGAL DESCRIPTION OF SHOPPING CENTER**

LOTS 1, 2, 3 & 4

**VILLAGE SQUARE SHOPPING CENTER**

**A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF  
SECTION 19, TOWNSHIP 43 NORTH, RANGE 10 EAST OF THE  
THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY ILLINOIS**

---

**DERPETH COURT RETAIL CENTER LLC,**  
a Delaware limited liability company and  
**VILLAGE SQUARE RETAIL CENTER LLC,**  
a Delaware limited liability company, as mortgagor  
(collectively, Borrower)

to

**UBS REAL ESTATE SECURITIES INC.,** as mortgagee  
(Lender)

---

**MORTGAGE AND SECURITY AGREEMENT**

---

Dated: As of April 9, 2014

Location: Lake Zurich, Illinois

County: Lake

PREPARED BY AND UPON  
RECORDATION RETURN TO:

Katten Muchin Rosenman LLP  
550 South Tryon Street, Suite 2900  
Charlotte, North Carolina 28202  
Attention: Daniel S. Huffenus, Esq.

---

100235989v4

**MORTGAGE AND SECURITY AGREEMENT**

**THIS MORTGAGE AND SECURITY AGREEMENT** (this "Security Instrument") is made as of this 9th day of April, 2014, by **DEERPATH COURT RETAIL CENTER LLC**, a Delaware limited liability company ("Deerpath Borrower"), and **VILLAGE SQUARE RETAIL CENTER LLC**, a Delaware limited liability company ("Village Square Borrower"; together with Deerpath Borrower and their respective permitted successors and assigns, collectively, "Borrower") having its principal place of business at 745 Ela Road, Lake Zurich, Illinois 60047, as mortgagor for the benefit of **UBS REAL ESTATE SECURITIES INC.**, a Delaware corporation, having an address at 1285 Avenue of the Americas, New York, New York 10019, as mortgagee ("Lender").

**WITNESSETH:**

**WHEREAS**, this Security Instrument is given to secure a loan (the "Loan") in the principal sum of **THIRTY ONE MILLION AND NO/100 DOLLARS** (\$31,000,000.00) pursuant to that certain Loan Agreement dated as of the date hereof between Borrower and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement") and evidenced by that certain Promissory Note dated the date hereof made by Borrower to Lender (such Note, together with all extensions, renewals, replacements, restatements or modifications thereof being hereinafter referred to as the "Note");

**WHEREAS**, Borrower desires to secure the payment of the Debt and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents; and

**WHEREAS**, this Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument.

**NOW THEREFORE**, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Security Instrument:

**ARTICLE 1 - GRANTS OF SECURITY**

**Section 1.1 Property Mortgaged.** To secure Borrower's obligations, Borrower does hereby irrevocably **MORTGAGE, GIVE, GRANT, BARGAIN, SELL, ALIEN, PLEDGE, ASSIGN, WARRANT, TRANSFER, CONFIRM HYPOTHECATE** and **CONVEY** a security interest into Lender and its successors and assigns the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the "Property"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "Land");

100235989v4



(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land or for any other use and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument regardless of ownership thereof (the "**Additional Land**");

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land or the Additional Land (collectively, the "**Improvements**");

(d) Easements and Other Beneficial Interests. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land, the Additional Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land or the Additional Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "**equipment**," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Borrower, which is used at or in connection with the Improvements or the Land or the Additional Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Borrower and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, Equipment shall not include any property belonging to tenants under leases except to the extent that Borrower shall have any right or interest therein;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Borrower which is so related to the Land or the Additional Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements on the Land or the Additional Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary

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sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Borrower's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessories, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "Fixtures"). Notwithstanding the foregoing, "Fixtures" shall not include any property which tenants are entitled to remove pursuant to leases except to the extent that Borrower shall have any right or interest therein;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code as hereinafter defined), other than Fixtures, which are now or hereafter owned by Borrower and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "Personal Property"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "Uniform Commercial Code"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above;

(h) Leases and Rents. All leases and other agreements affecting the use, enjoyment or occupancy of the Land and the Improvements heretofore or hereafter entered into, whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "Bankruptcy Code") (collectively, the "Leases") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, any lease guarantees, letters of credit, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (collectively, the "Rents") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(i) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(j) Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

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(k) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(l) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(m) Agreements. All agreements, contracts, certificates, instruments, letters of credit, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

(n) Trademarks. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(o) Proceeds. All proceeds of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether cash, liquidation or other claims or otherwise; and

(p) Other Rights. Any and all other rights of Borrower in and to the items set forth in Subsections (a) through (o) above.

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Borrower expressly grants to Lender, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "Real Property") appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and mortgaged hereby.

**Section 1.2** Assignment of Rents. Borrower hereby absolutely and unconditionally assigns to Lender all of Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Assignment of Leases, and Section 7.1(h) of this Security Instrument, Lender grants to Borrower a revocable license to collect, receive, use and enjoy the Rents. Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

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**Section 1.3 Security Agreement.** This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property and other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "**Collateral**"). If an Event of Default shall occur and be continuing, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Borrower shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Borrower shall pay to Lender on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Borrower in accordance with the provisions hereof at least ten (10) business days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Borrower. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper. The principal place of business of Borrower (Debtor) is as set forth on page one hereof and the address of Lender (Secured Party) is as set forth on page one hereof.

**Section 1.4 Fixture Filing.** Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Security Instrument, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

**Section 1.5 Pledges of Monies Held.** Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender or on behalf of Lender in connection with the Loan, including, without limitation, any Reserve Funds, any sums deposited in the Clearing Account or the Cash Management Account and Net Proceeds, as additional security for the Obligations until expended or applied as provided in this Security Instrument.

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**CONDITIONS TO GRANT**

**TO HAVE AND TO HOLD** the above granted and described Property unto and to the use and benefit of Lender and its successors and assigns, forever;

**PROVIDED, HOWEVER,** these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, shall well and truly perform the Other Obligations as set forth in this Security Instrument and shall abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that Borrower's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof shall survive any such payment or release.

**ARTICLE 2 - DEBT AND OBLIGATIONS SECURED**

**Section 2.1 Debt.** This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt.

**Section 2.2 Other Obligations.** This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the "**Other Obligations**");

- (a) the performance of all other obligations of Borrower contained herein;
- (b) the performance of each obligation of Borrower contained in the Loan Agreement and any other Loan Document; and
- (c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

**Section 2.3 Debt and Other Obligations.** Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "**Obligations**."

**ARTICLE 3 - BORROWER COVENANTS**

Borrower covenants and agrees that:

**Section 3.1 Payment of Debt.** Borrower will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

**Section 3.2 Incorporation by Reference.** All the covenants, conditions and agreements contained in (a) the Loan Agreement , (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.



**Section 3.3 Insurance.** Borrower shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Borrower and the Property as required pursuant to the Loan Agreement.

**Section 3.4 Maintenance of Property.** Borrower shall cause the Property to be maintained in a good and safe condition and repair. The Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Fixtures, the Equipment or the Personal Property, tenant finish and refurbishment of the Improvements) without the consent of Lender. Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty or become damaged, worn or dilapidated or which may be affected by any Condemnation, and shall complete and pay for any structure at any time in the process of construction or repair on the Land.

**Section 3.5 Waste.** Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or allow the cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security of this Security Instrument. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

**Section 3.6 Payment for Labor and Materials.**

(a) Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials ("Labor and Material Costs") incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances.

(b) After prior written notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Labor and Material Costs, provided that (i) no Event of Default has occurred and is continuing under the Loan Agreement, the Note, this Security Instrument or any of the other Loan Documents, (ii) Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property, (iii) such proceeding shall suspend the collection of the Labor and Material Costs from Borrower and from the Property or Borrower shall have paid all of the Labor and Material Costs under protest, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder, (v) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, and (vi) Borrower shall have furnished the security as may be required in the proceeding, or as may be

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reasonably requested by Lender to insure the payment of any contested Labor and Material Costs, together with all interest and penalties thereon.

**Section 3.7** Performance of Other Agreements. Borrower shall observe and perform each and every term, covenant and provision to be observed or performed by Borrower pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

**Section 3.8** Change of Name, Identity or Structure. Borrower shall not change Borrower's name, identity (including its trade name or names) or, if not an individual, Borrower's corporate, partnership or other structure without first (a) notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change, (b) taking all action required by Lender for the purpose of perfecting or protecting the lien and security interest of Lender and (c) in the case of a change in Borrower's structure, without first obtaining the prior written consent of Lender. Borrower shall promptly notify Lender in writing of any change in its organizational identification number. If Borrower does not now have an organizational identification number and later obtains one, Borrower shall promptly notify Lender in writing of such organizational identification number. Borrower shall execute and deliver to Lender, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

**ARTICLE 4 - OBLIGATIONS AND RELIANCES**

**Section 4.1** Relationship of Borrower and Lender. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

**Section 4.2** No Reliance on Lender. The general partners, officers, shareholders, members, principals and/or other beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

**Section 4.3** No Lender Obligations.

(a) Notwithstanding the provisions of Subsections 1.1(h) and (m) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

**Section 4.4 Reliance.** Borrower recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article III of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Article III of the Loan Agreement.

**ARTICLE 5 - FURTHER ASSURANCES**

**Section 5.1 Recording of Security Instrument, Etc.** Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

**Section 5.2 Further Acts, Etc.** Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or

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recording this Security Instrument, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Borrower or without the signature of Borrower to the extent Lender may lawfully do so, one or more financing statements (including, without limitation, initial financing statements and amendments thereto and continuation statements) with or without the signature of Borrower as authorized by applicable law, to evidence more effectively the security interest of Lender in the Property. Borrower also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto and continuation statements, if filed prior to the date of this Security Instrument. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation such rights and remedies available to Lender pursuant to this Section 5.2. To the extent not prohibited by applicable law, Borrower hereby ratifies all acts Lender has lawfully done in the past or shall lawfully do or cause to be done in the future by virtue of such power of attorney.

**Section 5.3 Changes in Tax, Debt, Credit and Documentary Stamp Laws.**

(a) If any law is enacted or adopted or amended after the purpose of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any.

**Section 5.4 Splitting of Mortgage.** This Security Instrument and the Note shall, at any time until the same shall be fully paid and satisfied, at the sole election of Lender, be split or divided into two or more notes and two or more security instruments, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Borrower, upon written request of Lender, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Lender and/or its designee or designees substitute notes and security instruments in such principal amounts, aggregating not

more than the then unpaid principal amount of the Note, and containing terms, provisions and clauses similar to those contained herein and in the Note, and such other documents and instruments as may be required by Lender.

**Section 5.5 Replacement Documents.** Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower will issue, in lieu thereof, a replacement Note or other Loan Document, dated the date of such loss, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

**ARTICLE 6 - DUE ON SALE/ENCUMBRANCE**

**Section 6.1 Lender Reliance.** Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its general partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

**Section 6.2 No Transfer.** Borrower shall not permit or suffer any Transfer to occur, unless specifically permitted by Article 8 of the Loan Agreement or unless Lender shall consent thereto in writing.

**Section 6.3 Transfer Defined.** As used in this Article 6 "Transfer" shall mean any voluntary or involuntary sale, conveyance, mortgage, grant, bargain, encumbrance, pledge, assignment, or transfer of: (a) all or any part of the Property or any estate or interest therein including, but not be limited to, (i) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments, (ii) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder and its affiliates or (iii) a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any Leases or any Rents; or (b) any ownership interest in (i) Borrower or (ii) any indemnitor or guarantor of any Obligations or (iii) any corporation, partnership, limited liability company, trust or other entity owning, directly or indirectly, any interest in Borrower or any indemnitor or guarantor of any Obligations.

**Section 6.4 Lender's Rights.** Without obligating Lender to grant any consent under Section 6.2 hereof which Lender may grant or withhold in its sole discretion, Lender reserves the right to condition the consent required hereunder upon (a) a modification of the terms hereof and of the Loan Agreement, the Note or the other Loan Documents; (b) an assumption of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents as so modified by the proposed transferee, subject to the provisions of Section 11.22 of the Loan Agreement; (c)

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payment of all of Lender's expenses incurred in connection with such transfer; (d) the confirmation in writing by the applicable Rating Agencies that the proposed transfer will not, in and of itself, result in a downgrade, qualification or withdrawal of the initial, or, if higher, then current ratings assigned in connection with any Securitization; (e) the delivery of a nonconsolidation opinion reflecting the proposed transfer satisfactory in form and substance to Lender; (f) the proposed transferee's continued compliance with the representations and covenants set forth in Section 3.1.24 and 4.2.11 of the Loan Agreement; (g) the delivery of evidence satisfactory to Lender that the single purpose nature and bankruptcy remoteness of Borrower, its shareholders, partners or members, as the case may be, following such transfers are in accordance with the standards of the Rating Agencies; (h) the proposed transferee's ability to satisfy Lender's then-current underwriting standards; or (i) such other conditions as Lender shall determine in its reasonable discretion to be in the interest of Lender, including, without limitation, the creditworthiness, reputation and qualifications of the transferee with respect to the Loan and the Property. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Transfer without Lender's consent. This provision shall apply to every Transfer, other than any Transfer permitted pursuant to the Loan Agreement, regardless of whether voluntary or not, or whether or not Lender has consented to any previous Transfer.

**ARTICLE 7 - RIGHTS AND REMEDIES UPON DEFAULT**

**Section 7.1 Remedies.** Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

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(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;

(f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any guarantor, indemnitor with respect to the Loan or of any Person liable for the payment of the Debt;

(h) the license granted to Borrower under Section 1.2 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (1) the right to take possession of the Fixtures, the Equipment and the Personal Property, or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Borrower at its expense to assemble the Fixtures, the Equipment and the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Fixtures, the Equipment and/or the Personal Property sent to Borrower in accordance with the provisions



hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document to the payment of the following items in any order in its uncontrolled discretion:

(i) Taxes and Other Charges;

(ii) Insurance Premiums;

(iii) Interest on the unpaid principal balance of the Note;

(iv) Amortization of the unpaid principal balance of the Note;

(v) All other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(k) pursue such other remedies as Lender may have under applicable law; or

(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

**Section 7.2 Application of Proceeds.** The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

**Section 7.3 Right to Cure Defaults.** Upon the occurrence and during the continuance of any Event of Default or if Borrower fails to make any payment or to do any act as herein provided, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the

Default Rate, for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

**Section 7.4 Actions and Proceedings.** Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

**Section 7.5 Recovery of Sums Required to be Paid.** Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

**Section 7.6 Examination of Books and Records.** At reasonable times and upon reasonable notice, Lender, its agents, accountants and attorneys shall have the right to examine the records, books, management and other papers of Borrower which reflect upon its financial condition, at the Property or at any office regularly maintained by Borrower where the books and records are located. Lender and its agents shall have the right to make copies and extracts from the foregoing records and other papers. In addition, at reasonable times and upon reasonable notice, Lender, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Borrower pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Borrower where the books and records are located. This Section 7.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing.

**Section 7.7 Other Rights, Etc.**

(a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Borrower or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief.

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if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

**Section 7.8 Right to Release Any Portion of the Property.** Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

**Section 7.9 Violation of Laws.** If the Property is not in material compliance with Legal Requirements, Lender may impose additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

**Section 7.10 Recourse and Choice of Remedies.** Notwithstanding any other provision of this Security Instrument or the Loan Agreement, including, without limitation, Section 11.22 of the Loan Agreement, Lender and other Indemnified Parties (as hereinafter defined) are entitled to enforce the obligations of Borrower, any guarantor and indemnitor contained in Sections 9.2 and 9.3 herein and Section 9.2 of the Loan Agreement without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure or acceptance of a deed in lieu of foreclosure or otherwise, and in the event Lender commences a foreclosure action against the Property, Lender is entitled to pursue a deficiency judgment with respect to such obligations against Borrower and any guarantor or indemnitor with respect to the Loan. The provisions of Sections 9.2 and 9.3 herein and Section 9.2 of the Loan Agreement are exceptions to any non-recourse or exculpation provisions in the Loan Agreement, the Note, this Security Instrument or the other Loan Documents, and Borrower and any guarantor or indemnitor with respect to the Loan are fully and personally liable for the obligations pursuant to Sections 9.2 and 9.3 herein and Section 9.2 of the Loan Agreement. The liability of Borrower and any guarantor or indemnitor with respect to the Loan pursuant to Sections 9.2 and 9.3 herein and Section 9.2 of the Loan Agreement is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Lender from foreclosing or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A

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separate action or actions may be brought and prosecuted against Borrower pursuant to Sections 9.2 and 9.3 herein and Section 9.2 of the Loan Agreement, whether or not action is brought against any other Person or whether or not any other Person is joined in the action or actions. In addition, Lender shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in the Environmental Indemnity.

**Section 7.11 Right of Entry.** Upon reasonable notice to Borrower, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times.

**ARTICLE 8 - INTENTIONALLY OMITTED**  
**ARTICLE 9 - INDEMNIFICATION**

**Section 9.1 General Indemnification.** Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable and unforeseeable consequential damages, of whatever kind or nature (including but not limited to reasonable attorneys' fees and other costs of defense) (collectively, the "Losses") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Security Instrument, the Property or any interest therein or receipt of any Rents; (b) any amendment to, or restructuring of, the Debt, and the Note, the Loan Agreement, this Security Instrument, or any other Loan Documents; (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of this Security Instrument or the Loan Agreement or the Note or any of the other Loan Documents, whether or not suit is filed in connection with same, or in connection with Borrower, any guarantor or indemnitor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) any failure on the part of Borrower to perform or be in compliance with any of the terms of this Security Instrument; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Security Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Security Instrument is made; (i) any failure of the Property to be in compliance with any Legal Requirements; (j) the enforcement by any Indemnified Party of the provisions of this Article 9; (k) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (l) the payment of any

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commission, charge or brokerage fee to anyone claiming through Borrower which may be payable in connection with the funding of the Loan; or (m) any misrepresentation made by Borrower in this Security Instrument or any other Loan Document. Any amounts payable to Lender by reason of the application of this Section 9.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid. For purposes of this Article 9, the term "**Indemnified Parties**" means Lender and any Person who is or will have been involved in the origination of the Loan, any Person who is or will have been involved in the servicing of the Loan secured hereby, any Person in whose name the encumbrance created by this Security Instrument is or will have been recorded, persons and entities who may hold or acquire or will have held a full or partial interest in the Loan secured hereby (including, but not limited to, investors or prospective investors in the Securities, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Loan secured hereby for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including but not limited to any other Person who holds or acquires or will have held a participating or other full or partial interest in the Loan, whether during the term of the Loan or as a part of or following a foreclosure of the Loan and including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of Lender's assets and business). Notwithstanding the foregoing, Borrower shall not be required to indemnify any of the Indemnified Parties for their willful misconduct or gross negligence.

**Section 9.2 Mortgage and/or Intangible Tax.** Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

**Section 9.3 ERISA Indemnification.** Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's sole discretion) that Lender may incur, directly or indirectly, as a result of a default under Sections 3.1.8 or 4.2.11 of the Loan Agreement.

**Section 9.4 Intentionally Omitted**

**Section 9.5 Duty to Defend; Attorneys' Fees and Other Fees and Expenses.** Upon written request by any Indemnified Party, Borrower shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Borrower and any Indemnified Party and Borrower and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or additional

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to those available to Borrower, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without Borrower's consent, which consent shall not be unreasonably withheld. Upon demand, Borrower shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

**ARTICLE 10 - WAIVERS**

**Section 10.1 Waiver of Counterclaim.** To the extent permitted by applicable law, Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

**Section 10.2 Marshalling and Other Matters.** To the extent permitted by applicable law, Borrower hereby waives the benefit of all appraisalment, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

**Section 10.3 Waiver of Notice.** To the extent permitted by applicable law, Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument specifically and expressly provides for the giving of notice by Lender to Borrower and except with respect to matters for which Lender is required by applicable law to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

**Section 10.4 Waiver of Statute of Limitations.** To the extent permitted by applicable law, Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

**Section 10.5 Survival.** The indemnifications made pursuant to Section 9.3 herein and the representations and warranties, covenants, and other obligations arising under the Environmental Indemnity, shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by: any satisfaction or other termination of this Security Instrument, any assignment or other transfer of all or any portion of this Security Instrument or Lender's interest in the Property (but, in such case, shall benefit both Indemnified Parties and any assignee or transferee), any exercise of Lender's rights and remedies pursuant hereto including but not limited to foreclosure or acceptance of a deed in lieu of foreclosure, any



exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Borrower or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, and any act or omission that might otherwise be construed as a release or discharge of Borrower from the obligations pursuant hereto.

**ARTICLE 11 - EXCULPATION**

The provisions of Section 11.22 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

**ARTICLE 12 - NOTICES**

All notices or other written communications hereunder shall be delivered in accordance with Section 11.6 of the Loan Agreement.

**ARTICLE 13 - APPLICABLE LAW**

**Section 13.1 GOVERNING LAW.**

(a) THIS SECURITY INSTRUMENT WAS NEGOTIATED IN THE STATE OF NEW YORK, AND MADE BY BORROWER AND ACCEPTED BY LENDER IN THE STATE OF NEW YORK, AND THE PROCEEDS OF THE NOTE SECURED HEREBY WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS SECURITY INSTRUMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER LOAN DOCUMENTS WITH RESPECT TO THE PROPERTY SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS, AND THIS SECURITY

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INSTRUMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS SECURITY INSTRUMENT MAY AT LENDER'S OPTION BE INSTUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW, AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. BORROWER DOES HEREBY DESIGNATE AND APPOINT

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80 State Street  
Albany, New York 12207

AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK, AND AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO BORROWER IN THE MANNER PROVIDED HEREIN SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON BORROWER IN ANY SUCH SUIT, ACTION OR PROCEEDING IN THE STATE OF NEW YORK. BORROWER (D) SHALL GIVE PROMPT NOTICE TO LENDER OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER, (ID) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT WITH AN OFFICE IN NEW YORK, NEW YORK (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS), AND (IID) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT CEASES TO HAVE AN OFFICE IN NEW YORK, NEW YORK OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR.

**Section 13.2 Usury Laws.** Notwithstanding anything to the contrary, (a) all agreements and communications between Borrower and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Lender shall never exceed the maximum lawful rate or amount, (b) in calculating whether any interest exceeds the lawful maximum, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Borrower to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Borrower to Lender, or if there is no such indebtedness, shall immediately be returned to Borrower.

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**Section 13.3 Provisions Subject to Applicable Law.** All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

**ARTICLE 14 - DEFINITIONS**

All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word “**Borrower**” shall mean “each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein,” the word “**Lender**” shall mean “Lender and any subsequent holder of the Note,” the word “**Note**” shall mean “the Note and any other evidence of indebtedness secured by this Security Instrument,” the word “**Property**” shall include any portion of the Property and any interest therein, and the phrases “attorneys’ fees”, “legal fees” and “counsel fees” shall include any and all attorneys’, paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

**ARTICLE 15 - MISCELLANEOUS PROVISIONS**

**Section 15.1 No Oral Change.** This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

**Section 15.2 Successors and Assigns.** This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

**Section 15.3 Inapplicable Provisions.** If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

**Section 15.4 Headings, Etc.** The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

**Section 15.5 Number and Gender.** Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

**Section 15.6 Subrogation.** If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Borrower's obligations hereunder, under the Loan Agreement, the Note and the other Loan Documents and the performance and discharge of the Other Obligations.

**Section 15.7 Entire Agreement.** The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement between Borrower and Lender with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto. Borrower hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Security Instrument and the other Loan Documents.

**Section 15.8 Limitation on Lender's Responsibility.** No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession."

**ARTICLE 16 - STATE-SPECIFIC PROVISIONS**

**Section 16.1 Principles of Construction.** In the event of any inconsistencies between the terms and conditions of this Article 16 and the other terms and conditions of this Security Instrument, the terms and conditions of this Article 16 shall control and be binding.

[PROVISIONS TO BE INSERTED FOR STATE IN WHICH PROPERTY IS LOCATED]  
[NO FURTHER TEXT ON THIS PAGE]

**IN WITNESS WHEREOF, THIS MORTGAGE** has been executed by Borrower as of  
the day and year first above written.

**BORROWER:**

**DEERPATH COURT RETAIL CENTER LLC,**  
a Delaware limited liability company

By: The Fidelity Group, LP, an Illinois limited  
partnership, its Sole Member

By: SBD Corp., an Illinois corporation,  
its General Partner

By:   
John Alan Sfire  
President

**VILLAGE SQUARE RETAIL CENTER LLC,** a  
Delaware limited liability company

By: Fidelity Development Group, Inc., an  
Illinois corporation, its Sole Member

By:   
John Alan Sfire  
President

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STATE OF ILLINOIS )  
COUNTY OF LAKE ) ss.

This instrument was acknowledged before me on April 9, 2014, by John Alan Sfire, as President of SBD Corp., an Illinois corporation, the General Partner of The Fidelity Group, LP, an Illinois limited partnership, the Sole Member of Deerpath Court Retail Center LLC, a Delaware limited liability company, on behalf of said limited liability company.

[Signature]  
Notary Public  
David P. Buckley Jr  
Printed Name of Notary  
My commission expires:



STATE OF ILLINOIS )  
COUNTY OF LAKE ) ss.

This instrument was acknowledged before me on April 9, 2014, by John Alan Sfire, as President of Fidelity Development Group, Inc., an Illinois corporation, the Sole Member of Village Square Retail Center LLC, a Delaware limited liability company, on behalf of said limited liability company.

[Signature]  
Notary Public  
David P. Buckley  
Printed Name of Notary  
My commission expires:



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**EXHIBIT A**  
**LEGAL DESCRIPTION**

**EXHIBIT A**  
**Legal Description**

NOTE: PARCELS 1 TO 6 - DEERPETH COURT RETAIL CENTER LLC

PARCEL 1:

LOTS 4 AND 5 IN DEERPETH COURT RETAIL CENTER, BEING A SUBDIVISION AND RESUBDIVISION OF PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE SECOND AMENDED AND RESTATED PLAT THEREOF RECORDED OCTOBER 10, 1990 AS DOCUMENT 2952457, IN LAKE COUNTY, ILLINOIS.

PARCEL 2:

LOTS 1 AND 3 IN DEERPETH COURT RETAIL CENTER THIRD RESUBDIVISION, BEING A RESUBDIVISION OF LOT 1 IN DEERPETH COURT RETAIL CENTER OF PART OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 43 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 15, 2001 AS DOCUMENT 4781048, IN LAKE COUNTY, ILLINOIS.

PARCEL 3:

NON-EXCLUSIVE, PERPETUAL EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCELS 1 AND 2, OVER THAT PART OF LOT 16 IN TOWER HILL SUBDIVISION, RECORDED AS DOCUMENT 761804, DESCRIBED ON EXHIBIT "C" ATTACHED TO GRANT OF EASEMENT FROM COLE TAYLOR BANK, AS SUCCESSOR BY MERGER TO WHEELING TRUST AND SAVINGS BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED DECEMBER 27, 1973 AND KNOWN AS TRUST NUMBER 73-417, DATED MAY 24, 1989 AND RECORDED JUNE 1, 1989 AS DOCUMENT 2797351 AND AMENDED BY INSTRUMENT DATED JULY 26, 1990 AND RECORDED JULY 30, 1990 AS DOCUMENT 2929424, IN LAKE COUNTY, ILLINOIS.

PARCEL 4:

NON-EXCLUSIVE ACCESS, UTILITIES, DRAINAGE AND PARKING EASEMENTS FOR THE BENEFIT OF PARCELS 1 AND 2 AS CONTAINED IN AMENDED AND RESTATED JOINT DECLARATION OF RESTRICTIONS AND EASEMENTS CONCERNING OUTPARCELS MADE BY AND BETWEEN WAL-MART PROPERTIES, INC., A DELAWARE CORPORATION, AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 14, 1988 AND KNOWN AS TRUST NUMBER 106953-02 AND DEERPETH LIMITED PARTNERSHIP, AND STATE BANK OF LAKE ZURICH, DATED JULY 26, 1990 AND RECORDED JULY 30, 1990 AS DOCUMENT 2929427, IN LAKE COUNTY, ILLINOIS.

Deerpeth/Village Square  
337103-00273

PARCEL 5:

NON-EXCLUSIVE ACCESS, UTILITIES, DRAINAGE AND PARKING EASEMENTS FOR THE BENEFIT OF PARCELS 1 AND 2 AS CONTAINED IN AMENDED AND RESTATED JOINT DECLARATION OF RESTRICTIONS AND EASEMENTS CONCERNING LAND RECORDED JULY 30, 1990 AS DOCUMENT 2929426, IN LAKE COUNTY, ILLINOIS.

PARCEL 6:

NON-EXCLUSIVE STORMWATER DETENTION AND ACCESS EASEMENTS OVER LOTS 2, 3, 6 AND 7 OF DEERPATH COURT RETAIL CENTER RECORDED AS DOCUMENT 2952457 AND OVER LOT 2 OF DEERPATH COURT RETAIL CENTER THIRD RESUBDIVISION RECORDED AS DOCUMENT 4781048 FOR THE BENEFIT OF PARCELS 1 AND 2, IN LAKE COUNTY, ILLINOIS.

NOTE: PARCELS 7 TO 13 - VILLAGE SQUARE RETAIL CENTER LLC

PARCEL 7:

LOTS 1 AND 4 IN VILLAGE SQUARE, A SUBDIVISION IN PART OF THE SOUTHEAST 1/4 OF SECTION 19, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 1, 1993 AS DOCUMENT 3391751,

AND CORRECTED BY TWO CERTIFICATE OF CORRECTION DOCUMENTS, FIRST RECORDED SEPTEMBER 24, 1993 AS DOCUMENT 3404223 AND SECOND RECORDED SEPTEMBER 27, 1993 AS DOCUMENT 3404370, ALL IN LAKE COUNTY, ILLINOIS.

PARCEL 7A:

LOT 3A IN VILLAGE SQUARE RESUBDIVISION OF LOTS 2 AND 3 IN VILLAGE SQUARE SUBDIVISION, A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 17, 2000 AS DOCUMENT NO. 4568260, IN LAKE COUNTY, ILLINOIS

PARCEL 8:

PERPETUAL, NON-EXCLUSIVE, EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF LOTS 3A AND 4 (EXCEPTING THEREFROM THAT PART OF SAID EASEMENT FALLING IN LOT 3A AND LOT 4) AS CREATED BY DECLARATION OF EASEMENT FOR INGRESS AND EGRESS DATED OCTOBER 14, 1980 AND RECORDED NOVEMBER 13, 1980 AS DOCUMENT 2088569.

PARCEL 9:

NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS FOR THE BENEFIT OF LOT 4 AS CREATED BY RECIPROCAL EASEMENT

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337103-00273

AGREEMENT DATED SEPTEMBER 30, 1993 AND RECORDED OCTOBER 7, 1993 AS DOCUMENT 3411283.

PARCEL 10:

NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 AND PARCEL 1A UPON, OVER AND ACROSS THE PARKING AREAS, DRIVEWAYS, AISLES AND CURB CUTS AS GRANTED BY RECIPROCAL EASEMENT AGREEMENT DATED SEPTEMBER 8, 1993 AND RECORDED SEPTEMBER 21, 1993 AS DOCUMENT 3402013.

PARCEL 11:

NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS, ETC. FOR THE BENEFIT OF PARCEL 1 AND PARCEL 1A AS CREATED BY OPERATION AND EASEMENT AGREEMENT RECORDED JUNE 18, 1996 AS DOCUMENT 3839154.

PARCEL 12:

NON-EXCLUSIVE, EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 1A AS CREATED BY RECIPROCAL EASEMENT AGREEMENT RECORDED AUGUST 17, 2000 AS DOCUMENT 4568262 MADE BY AND AMONG LARCON LLC, A MICHIGAN LIMITED LIABILITY COMPANY (THE BANK TRACT) AND FIDELITY DEVELOPMENT GROUP, INC., F/K/A SFIRE BROS.DEVELOPMENT, AN ILLINOIS CORPORATION, (DEVELOPER) FOR THE FOLLOWING PURPOSES:

PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS UPON OVER, AND ACROSS THE PARKING AREAS, DRIVEWAYS, AISLES AND CURB CUTS SITUATED FROM TIME TO TIME ON THE BANK TRACT (THE BANK TRACT EASEMENT AREA); UTILITY PURPOSES IN, OVER ACROSS AND UNDER THE BANK TRACT (EXCEPT THOSE EASEMENTS UNDER THE BUILDING CURRENTLY LOCATED ON THE BANK TRACT) TO OBTAIN WATER, SPRINKLER, SEWER, GAS, ELECTRIC AND TELEPHONE SERVICE, INCLUDING THE RIGHT TO LOCATE THE MAINS, CONDUITS, PIPES, LINES AND OTHER FACILITIES IN, OVER, ACROSS AND UNDER THE BANK TRACT NECESSARY TO PROVIDE SUCH UTILITY SERVICES; FOR INGRESS AND EGRESS TO THE SIGNS TO KEEP, CHANGE, CONSTRUCT, REPAIR, MAINTAIN, RECONSTRUCT, REMOVE AND REPLACE THE SIGNS, AT DEVELOPER'S EXPENSE, ON THE BANK TRACT SIGN EASEMENT, ALL LOCATED ON THE FOLLOWING DESCRIBED PROPERTY:

LOT 2A IN VILLAGE SQUARE RESUBDIVISION OF LOTS 2 AND 3 IN VILLAGE SQUARE SUBDIVISION, A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 17, 2000 AS DOCUMENT NO. 4568260, IN LAKE COUNTY, ILLINOIS

PARCEL 13:

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NON EXCLUSIVE SIGN EASEMENT IN FAVOR OF PARCEL 1 AND PARCEL 1A AS CREATED BY AGREEMENT REGARDING SIGN EASEMENTS MADE BY AND BETWEEN TACO BELL CORP. AND SFIRE BROS. DEVELOPMENT CORP. DATED SEPTEMBER 14, 1993 AND RECORDED SEPTEMBER 21, 1993 AS DOCUMENT 3402015, FOR THE PURPOSE OF RIGHT OF INGRESS AND EGRESS TO THE AREAS DESIGNATED AS SIGN EASEMENT TO CONSTRUCT, REPAIR, MAINTAIN, RECONSTRUCT AND REMOVE THE EXISTING SIGNS LOCATED ON SIGN EASEMENT NO. 1 AND SIGN EASEMENT NO.2

LOCATED ON THE FOLLOWING DESCRIBED PROPERTY.

LOT 6 IN VILLAGE SQUARE SUBDIVISION, BEING A SUBDIVISION IN PART OF THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 1, 1993 AS DOCUMENT NO. 3391751, IN LAKE COUNTY, ILLINOIS.

Deerpath/Village Square  
337103-00273



*At the Heart of Community*

VILLAGE MANAGER'S OFFICE

70 E Main Street  
Lake Zurich, Illinois 60047

(847) 438-5141  
LakeZurich.org

AGENDA ITEM

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**MEMORANDUM**

Date: July 28, 2020

To: Ray Keller, Village Manager *PK*

From: Kyle Kordell, Assistant to the Village Manager

Subject: **Craving Gyros – Village Lease**

**Issue:** The current owners of Craving Gyros have been operating the restaurant at the village-owned property at 2 East Main Street since mid-2015. The owners have initiated a sale of their business to associates of theirs effective September 1, 2020. The proposed Ordinance updates the lease with the new owners of Craving Gyros.

**Analysis:** The revised lease as presented is nearly identical to the existing lease that has been in place for years. Staff agreed to assist the new owners by freezing rent at its existing rate of \$1,000 per month for their first year of operation, with incremental automatic increases every 12 months starting September 1, 2021. This is a five year lease that includes a security deposit of \$1,500 to be retained by the Village.

The new owners will retain the name Craving Gyros. The hours of operation are expected to remain unchanged, 11:00 am – 8 pm . The new owners anticipate retaining four or five employees. There is a possibility of the new owners requesting a liquor license in the future for the sale and service of alcoholic beverages at this location.

**Recommendation:** Approval of the attached Ordinance and lease.

w/Attachments: Ordinance  
Lease

VILLAGE OF LAKE ZURICH  
ORDINANCE NO. 2020-08-\_\_\_



**AN ORDINANCE APPROVING THE LEASE BY THE VILLAGE OF LAKE ZURICH OF  
PROPERTY AT 2 AND 6 EAST MAIN STREET TO CRAVING GYROS, INC.**

**WHEREAS**, pursuant to Section 4 of the Illinois TIF Act, 65 ILCS 5/11-74.4-4, and other applicable authority, the Village of Lake Zurich is authorized to lease the property it owns within the Village commonly known as 2 and 6 East Main Street (the “Subject Property”); and

**WHEREAS**, the President and Board of Trustees of the Village have determined that it is in the best interests of the Village and its residents to lease the Subject Property to Craving Gyros, Inc. (the “Tenet”) and the Tenet desires to lease the Subject Property, on the terms of the lease attached to and by this reference incorporated into this Ordinance as Exhibit A (the “Lease”).

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Lake Zurich, Lake County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals are hereby incorporated into this Ordinance by this reference as findings of the President and Board of Trustees.

Section 2. Approval of Lease. The President and Board of Trustees hereby approve the Lease and authorize and direct the Village Manager to execute the Lease on behalf of the Village.

Section 3. Effective Date. This Ordinance will be in full force and effect from and after its passage and approval and publication in pamphlet form in the manner provided by law.

**PASSED** this \_\_\_\_ day of August, 2020, pursuant to a roll call vote as follows:

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

APPROVED this \_\_\_\_ day of August, 2020.

By: \_\_\_\_\_  
Thomas Poynton, Village President

\_\_\_\_\_  
Kathleen Johnson, Village Clerk

## **COMMERCIAL LEASE**

**1. BASIC TERMS.** This **Section 1** contains the Basic Terms of this Lease between Landlord and Tenant, named below. Other Sections of the Lease referred to in this **Section 1** explain and define the Basic Terms and are to be read in conjunction with the Basic Terms.

- A. **Date of Lease:** September 1, 2020
- B. **Landlord:** Village of Lake Zurich
- C. **Tenant:** Juan Antonio Acuna Hernandez & Gerardo Montes de Oca
- D. **Premises:** 2 East Main Street, Lake Zurich, Illinois (the "**Building**").
- E. **Permitted Uses:** The Premises will be used to operate a Greek styled restaurant named Craving Gyros, Inc.
- F. **Pets:** No pets shall be brought on the Premises without the prior written consent of Landlord.
- G. **Lease Term:** One (1) year ("**Term**"), commencing September 1, 2020 ("Commencement Date") and ending one year after Commencement Date ("Expiration Date"), with four (4) separate one-year extensions at option of tenant with no advance written notice required from Tenant to continue with lease extensions. If Tenant desires to terminate Lease, then thirty (30) days advance written notice shall be served upon Landlord. If Landlord desires to terminate Lease, then thirty (30) days advance written notice shall be served upon Tenant.
- H. **Base Rent Payable by Tenant:** Base rent shall start to accrue on September 1, 2020 in advance and due on the 1<sup>st</sup> of every successive month and is deemed late if not received by the 5<sup>th</sup> of said month.
  - \$1,000 per month for Year 1
  - \$1,050 per month for Year 2
  - \$1,100 per month for Year 3
  - \$1,125 per month for Year 4
  - \$1,150 per month for Year 5

After these five (5) years have commenced, an additional five (5) year lease agreement with similar annual increases in rent shall be offered to the Tenant at the Landlord's discretion.

- I. **Security Deposit:** Security Deposit of \$1,500 shall be retained by Landlord for this Term. Tenant and Landlord agree that (a) the Security Deposit or any portion thereof may be applied to the curing of any default that may exist, without prejudice to any other remedy or remedies which the Tenant may have on account thereof, and upon such application Tenant shall pay Landlord on demand the amount so applied which shall be added to the Security Deposit so the same will be restored to its original amount; (b) should the Premises be conveyed by Landlord, the Security Deposit or any balance thereof may be turned over to the Landlord's grantee, and if the same be turned over, Tenant agrees to look solely to such grantee for such application or return; (c) Landlord may commingle the Security Deposit with other funds and not be obligated to pay Tenant any interest; and (d) the Security Deposit shall not be considered as advance payment of Rent or a measure of damages for any default by Tenant, not shall it be a bar or defense to any actions by Tenant against Landlord.

### **2. LEASE OF PREMISES; RENT.**

- A. **Lease of Premises for Lease Term.** Landlord hereby leases the Premises to Tenant, and Tenant hereby rents the Premises from Landlord, for the Term and subject to the conditions of this Lease.
- B. **Types of Rental Payments.** Tenant shall pay rents of (a) net base rent payable in monthly installments as set forth in **Section I., H.** hereof, in advance, on the first (1<sup>ST</sup>) day of each and every calendar month during the Term of this Lease (the "**Base Rent**"); (b) interest on late payments of Rent at the rates set forth hereinbelow and (c) in the event any monthly installment of Base Rent or Additional Rent, or both, is not paid within ten (10) days of the date when due, a late charge in an amount equal to 5% of the then delinquent installment of Base Rent (the "**Late Charge**"; the Late Charge, Base Rent, and interest thereon shall collectively be referred to as "**Rent**"), to the Landlord or pursuant to such other directions as Landlord shall designate in this Lease or otherwise in writing. In addition to the rental

payments, Tenant shall be responsible for payment of its own phone and internet use, services and utilities to the Premises which are separately metered and scavenger service.

- C. **Covenants Concerning Rental Payments.** Tenant shall pay the Rent promptly when due, without notice or demand, and without any abatement, deduction or setoff, except as may otherwise be expressly and specifically provided in this Lease. No payment by Tenant, or receipt or acceptance by Landlord, of a lesser amount than the correct Rent shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or letter accompanying any payment be deemed an accord or satisfaction, and Landlord may accept such payment without prejudice to its right to recover the balance due or to pursue any other remedy available to Landlord. If the Commencement Date occurs on a day other than the first (1<sup>st</sup>) day of a calendar month, the Rent due for the first calendar month of the Term shall be prorated on a per diem basis and paid to Landlord on the Commencement Date, and the Term will be extended to terminate on the last day of the calendar month in which the Expiration Date stated in Section 1., G. occurs. Except as may otherwise be expressly and specifically provided in this Lease, Tenant's obligation to pay Rent is independent of each and every covenant contained in this Lease.

- D. **Assignment and Subletting.** Tenet shall not assign this Lease or sublet any portion of the Premises without prior written consent of Landlord.

**3. USE OF PREMISES AND COMMON AREAS.**

- A. **Use of Premises and Property.** The Premises shall be used by the Tenant only for the business purpose(s) set forth in Section 1.E. above. Tenant shall not, at any time, use or occupy, or suffer or permit anyone to use or occupy, the Premises, or do or permit anything to be done in the Premises or the Property, in any manner that may (a) violate any Certificate of Occupancy or Business License for the Premises or the Property; (b) cause, or be liable to cause, injury to, or in any way impair the proper utilization of, all or any portion of the Property (including, but not limited to, the structural elements of the Property) or any equipment, facilities or systems therein; (c) constitute a violation of the laws and requirements of any public authority or the requirements of insurance bodies or the rules and regulations of the Property, including any covenant, condition or restriction affecting the Property; (d) exceed the load bearing capacity of the floor of the Premises; (e) impair or tend to impair the character, reputation or appearance of the Premises or Property; or (e) unreasonably annoy, inconvenience or disrupt the operations or tenancies of other tenants or users of the Property.

- B. **Signage.** Tenant shall not affix any sign of any size or character to any portion of the Property, without prior written approval of Landlord, which approval shall not be unreasonably withheld or delayed. Tenant shall remove all signs of Tenant upon the expiration or earlier termination of this Lease and immediately repair any damage to either or both of the Property and the Premises caused by, or resulting from, such removal.

- C. **Parking.** During the term of this Lease, Tenant has the non-exclusive right to use the non-reserved common automobile parking areas and driveways, and the pedestrian access areas. Parking is to be used for business related purposes only. No overnight long-term storage of vehicles or other personal property shall be permitted.

**4. CONDITION AND DELIVERY OF PREMISES.**

Tenant agrees that Tenant is familiar with the condition of both the Premises and the Property, and Tenant hereby accepts the foregoing on an "AS-IS," "WHERE-IS" basis, provided however the Landlord agrees the Premises shall be suitable for use as a restaurant building, with all mechanicals, plumbing and HVAC system (including all ductwork diffusers, return air vents and thermostats) to be in good working order. Tenant acknowledges that neither Landlord nor any representative of Landlord, has made any representation as to the condition of the foregoing or the suitability of the foregoing for Tenant's intended use.

**5. COMPLIANCE WITH LAWS.**

- A. **Compliance with Laws.** Tenant shall, at its sole expense (regardless of the cost thereof), comply with all local, state and federal laws, rules, regulations and requirements now or hereafter in force and all judicial and administrative decisions pertaining thereto (collectively, "Laws"), pertaining to either or both of the Premises and Tenant's use and occupancy thereof. With the exception of any Occupancy Inspection Fee, which is hereby waived by the Village of Lake Zurich/Landlord, if any other license or permit is required



for the conduct of Tenant's business in the Premises, Tenant, at its expense, shall procure such license prior to the Commencement Date, and shall maintain such license or permit in good standing throughout the Term. Tenant shall give prompt notice to Landlord of any written notice it receives of the alleged violation of any law or requirement of any governmental or administrative authority with respect to either or both of the Premises and the use or occupation thereof. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord is a party thereto or not, that any such Law pertaining to the Premises has been violated, shall be conclusive of that fact as between Landlord and Tenant.

6. INSURANCE.

- A. Insurance to be Maintained by Landlord. Landlord shall maintain (a) "all-risk" property insurance covering the Property (at its full replacement cost), but excluding Tenant's Property.
- B. Insurance to be Maintained by Tenant. Tenant shall purchase at its own expense and keep in force during this Lease, a policy or policies of commercial general liability insurance, including personal injury and property damage, and business auto liability, in the following amounts:

**Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, and property damage, and \$1,000,000 per occurrence for personal injury. The Minimum General Aggregate shall be no less than \$2,000,000.**

**Business Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.**

Insurance shall cover Tenant against any losses arising out of liability for personal injuries or deaths of persons and property damage occurring in or about the Premises and Property (including as a result of any) and include "all-risk" property insurance covering Tenant's Property (and damage to other property resulting from any acts or operations of Tenant) and Alterations, as defined in Section 9.A. Said policies shall (a) name Landlord and any party holding an interest to which this Lease may be subordinated as additional insureds, (b) be issued by an insurance company with a Best rating of A-X or better and otherwise reasonably acceptable to Landlord and licensed to do business in the state in which the Property is located, (c) provide that said insurance shall not be canceled or materially modified unless thirty (30) days' prior written notice shall have been given to Landlord, (d) provide coverage on an occurrence basis; (e) provide coverage for the indemnity obligations of Tenant under this Lease; (f) contain a severability of insured parties provision and a cross liability endorsement; (g) be primary, not contributing with, and not in excess of, coverage that Landlord may carry; (h) include a hostile fire endorsement; and (i) otherwise be in such form and include such coverages as Landlord may reasonably require. Said policy or policies or, at Landlord's option, Certificate of Insurance, in a form reasonably acceptable to Landlord, evidencing said policies, shall be delivered to Landlord by Tenant upon commencement of the Lease and renewals thereof shall be delivered at least thirty (30) days prior to the expiration of said insurance.

- C. Waiver of Subrogation. To the extent permitted by law, and without affecting the coverage provided by insurance required to be maintained hereunder, Landlord and Tenant each waive any right to recover against the other for (a) damages to property, (b) damages to all or any portion of either or both of the Premises and the Property, or (c) claims arising by reason of the foregoing, to the extent such damages and claims are insured against or required to be insured against by Landlord or Tenant under this Lease, and Tenant waives any loss due to business interruption. This provision is intended to waive, fully and for the benefit of each party, any rights and/or claims which might give rise to a right of subrogation by any insurance carrier. The coverage obtained by each party pursuant to this Lease shall include, without limitation, a waiver of subrogation by the carrier which conforms to the provisions of this section.

7. ALTERATIONS.

- A. **Procedural Requirements.** Tenant may, from time to time, at its expense, make alterations or improvements in and to the Premises (hereinafter collectively referred to as "Alterations"), provided that Tenant first obtains the written consent of Landlord in each instance. Landlord's consent to Alterations shall not be unreasonably withheld, provided that: (a) the Alterations are non-structural and the structural integrity of the Property shall not be affected; (b) the Alterations are to the interior of the Premises; (c) the proper functioning of the mechanical, electrical, heating, ventilating, air-conditioning ("HVAC"), sanitary and other service systems of the Property shall not be affected and the usage of such systems by Tenant shall not be increased; (d) the Alterations have no adverse effect on other leased premises in the Property; (e) Tenant shall have appropriate insurance coverage, reasonably satisfactory to Landlord, regarding the performance and installation of the Alterations; (f) the Alterations shall conform with all other requirements of this Lease; and (g) Tenant shall have provided Landlord with reasonably detailed plans (the "Plans") for such Alterations in advance of requesting Landlord's consent. Additionally, before proceeding with any Alterations, Tenant shall (i) at Tenant's expense, obtain all necessary governmental permits and certificates for the commencement and prosecution of Alterations; (ii) submit for Landlord's written approval, working drawings, plans and specifications and all permits for the work to be done and Tenant shall not proceed with such Alterations until it has received said approval; and (iii) cause those contractors, materialmen and suppliers engaged to perform the Alterations to deliver to Landlord certificates of insurance (in a form reasonably acceptable to Landlord) evidencing policies of commercial general liability insurance. After obtaining Landlord's approval to the Alterations, Tenant shall give Landlord at least five days' prior written notice of the commencement of any Alterations at the Premises, and Landlord may elect to record and post notices of non-responsibility at the Premises.
- B. **Performance of Alterations.** Tenant shall cause the Alterations to be performed in compliance with all applicable permits, laws and requirements of public authorities, and with Landlord's reasonable rules and regulations or any other restrictions that Landlord or Agent may impose on the Alterations. Tenant shall cause the Alterations to be diligently performed in a good and workmanlike manner, using new materials and equipment at least equal in quality and class to the standards for the Property established by Landlord. Tenant shall obtain all necessary permits and certificates for final governmental approval of the Alterations and shall provide Landlord with "as built" plans, copies of all construction contracts, governmental permits and certificates and proof of payment for all labor and materials, including, without limitation, copies of paid invoices and final lien waivers.
- C. **Lien Prohibition.** Tenant shall pay when due all claims for labor and material furnished to the Premises in connection with the Alterations. Tenant shall not permit any mechanics or materialmen's liens to attach to the Premises or the Property. Tenant, at its expense, shall procure the satisfaction or discharge of record of all such liens and encumbrances within thirty (30) days after the filing thereof; or, if acceptable to Landlord, in its reasonable determination, Tenant may procure (for Landlord's benefit) a bond or other protection against any such lien or encumbrance. In the event Tenant has not so performed, Landlord may, at its option, pay and discharge such liens and Tenant shall be responsible to reimburse Landlord, on demand and as Additional Rent under this Lease, for all costs and expenses incurred in connection therewith, together with interest thereon at the rate of five (5%) percent per annum, which expenses shall include reasonable fees of attorneys of Landlord's choosing, and any costs in posting bond to effect discharge or release of the lien as an encumbrance against the Premises or the Property.

8. **LANDLORD'S AND TENANT'S PROPERTY**

- A. **Landlord's Property.** Subject to Section 8.B, all fixtures, machinery, equipment, Alterations, improvements and appurtenances attached to, or built into, the Premises at the commencement of, or during the Term, whether or not placed there by or at the expense of Tenant, shall become and remain a part of the Premises; shall be deemed the property of Landlord (the "Landlord's Property"), without compensation or credit to Tenant; and shall not be removed by Tenant at the Expiration Date unless Landlord requests their removal. Further, any personal property in the Premises on the Commencement Date,

movable or otherwise, unless installed and paid for by Tenant, shall be and shall remain the property of Landlord and shall not be removed by Tenant. In no event shall Tenant remove any of the following materials or equipment without Landlord's prior written consent: any power wiring or power panels, lighting or lighting fixtures, wall or window coverings, carpets or other floor coverings, heaters, air conditioners or any other HVAC equipment, fencing or security gates, or other similar building operating equipment and decorations.

- B. **Tenant's Property.** All movable non-structural partitions, business and trade fixtures, machinery and equipment, communications equipment and office equipment that are installed in the Premises by, or for the account of, Tenant and without expense to Landlord and that can be removed without structural damage to the Property, and all furniture, furnishings and other articles of movable personal property owned by Tenant and located in the Premises (collectively, the "Tenant's Property") shall be and shall remain the property of Tenant and may be removed by Tenant at any time during the Term, provided Tenant repairs or pays the cost of repairing any damage to the Premises or to the Property resulting from the installation and/or removal thereof. At or before the Expiration Date, or the date of any earlier termination, Tenant, at its expense, shall remove from the Premises all of Tenant's Property and any Alterations (except such items thereof as constitute Landlord's Property and which Landlord does not request be removed; or as Landlord shall have expressly permitted, in writing, to remain, which property shall become the property of Landlord), and Tenant shall repair any damage to the Premises or the Property resulting from any installation and/or removal of Tenant's Property. Any other items of Tenant's Property that shall remain in the Premises after the Expiration Date, or following an earlier termination date, may, at the option of Landlord, be deemed to have been abandoned, and in such case, such items may be retained by Landlord as its property or be disposed of by Landlord, in Landlord's sole and absolute discretion and without accountability, at Tenant's expense. Notwithstanding the foregoing, if Tenant is in default under the terms of this Lease, it may remove Tenant's Property from the Premises only upon the express written direction of Landlord.

9. **REPAIRS AND MAINTENANCE.**

- A. **Tenant Repairs and Maintenance.** Tenant shall, at its expense, throughout the Term, (i) maintain and preserve, in proper reasonable condition (subject to normal and customary wear and tear), the Premises and the fixtures and appurtenances therein (excluding, however, those components of the Premises for which Landlord is expressly responsible under Section 9.B.). Tenant shall also be responsible for all cost and expenses incurred to perform any and all repairs and replacements (whether structural or non-structural; interior or exterior; and ordinary or extraordinary), in and to the Premises and the Property and the facilities and systems thereof, if and to the extent that the need for such repairs or replacements arises directly or indirectly from (a) the performance or existence of any Alterations, (b) the installation, use or operation of Tenant's Property in the Premises, (c) the moving of Tenant's Property in or out of the Property, or (d) any act, omission, misuse, or neglect of Tenant, any of its subtenants, or others entering into the Premises by act or omission of Tenant or any subtenant. Any repairs or replacements required to be made by Tenant to any or all of the structural components of the Property and the mechanical, electrical, sanitary, HVAC, or other systems of the Property or Premises shall be performed by appropriately licensed contractors approved by Landlord, which approval shall not be unreasonably withheld. All such repairs or replacements shall be subject to the supervision and control of Landlord, and all repairs and replacements shall be made with materials of equal or better quality than the items being repaired or replaced.
- B. **Landlord Repairs.** Notwithstanding anything contrary herein, Landlord shall repair, replace and restore the foundation, exterior and interior load-bearing walls, roof structure and roof covering and tuck-pointing, plumbing and HVAC systems, all doors, overhead or otherwise, glass and levelers located on the Premises and Property; provided, however, that (i) all costs and expenses so incurred by Landlord to repair, replace and restore the above items shall constitute Operating Expenses; and (ii) notwithstanding (i) above, in the event that any such repair, replacement or restoration is necessitated by any or all of the matters



set forth in **Sections 9.B** within a reasonable period of time after receiving from Tenant written notice of the need for such repairs.

**10. UTILITIES AND LANDSCAPING.** Tenant shall be responsible for all utility payments, including electricity, heat, natural gas, water, refuse and recycling collection, phone and internet service. Landlord shall be solely responsible for the repair and maintenance of any meters necessary in connection with such services. Tenant's use of electrical energy in the Premises shall not, at any time, exceed the capacity of either or both of (i) any of the electrical conductors and equipment in or otherwise servicing the Premises; and (ii) the HVAC systems of either or both of the Premises and the Property.

**11. INVOLUNTARY CESSATION OF SERVICES.** Landlord reserves the right, without any liability to Tenant and without affecting Tenant's covenants and obligations hereunder, to stop service of the HVAC, electric, sanitary, or other systems serving the Premises, or to stop any other services required by Landlord under this Lease, whenever and for so long as may be necessary by reason of (i) accidents, emergencies, strikes, or the making of repairs or changes which Landlord or Agent in good faith deems necessary or (ii) any other cause beyond Landlord's reasonable control. Further, it is also understood and agreed that Landlord or Agent shall have no liability or responsibility for a cessation of services to the Premises or to the Property that occurs as a result of causes beyond Landlord's reasonable control. No such interruption of service shall be deemed an eviction or disturbance of Tenant's use and possession of the Premises or any part thereof, or render Landlord or Agent liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this Lease, including, but not limited to, the obligation to pay Rent, or impose any liability upon Landlord or Agent by reason of inconvenience to Tenant, or interruption of Tenant's business or otherwise.

**12. LANDLORD'S RIGHTS.** Landlord and its respective agents, employees and representatives shall have the right to enter and/or pass through the Premises at any time or times upon reasonable prior notice (at least 24 hours) except in the event of emergency: (a) to examine and inspect the Premises and to show them to actual and prospective lenders, prospective purchasers or mortgagees of the Property or providers of capital to Landlord and its affiliates; and (b) to make such repairs, alterations, additions and improvements in or to all or any portion of either or both of the Premises and the Property, or the Property's facilities and equipment as Landlord is required or desires to make. Landlord shall be allowed to take all materials into and upon the Premises that may be required in connection with any repairs, alterations, additions or improvements, without any liability to Tenant and without any reduction or modification of Tenant's covenants and obligations hereunder; provided, however, that Landlord shall use reasonable efforts to avoid interference with Tenant's business operations and Tenant's occupancy and use of the Premises. During the period of twelve months prior to the Expiration Date (or at any time, if Tenant has vacated or abandoned the Premises or is otherwise in default under this Lease), Landlord and its agents may exhibit the Premises to prospective tenants. Additionally, Landlord shall have the following rights with respect to the Premises, exercisable without notice to Tenant, without liability to Tenant, and without being deemed an eviction or disturbance of Tenant's use or possession of the Premises or giving rise to any claim for setoff or abatement of Rent: (i) to designate and approve, prior to installation, all types of signs; (ii) to have pass keys, access cards, or both, to the Premises; (iii) to decorate, remodel, repair, alter or otherwise prepare the Premises for reoccupancy at any time after Tenant vacates or abandons the Premises for more than thirty (30) consecutive days or with no intention of reoccupying the Premises, and (iv) to change the name or address of the Property.

**13. DAMAGE OR DESTRUCTION.**

**A. Notification and Repair.** Tenant shall give prompt notice to Landlord and Agent of (a) any fire or other casualty to the Premises or the Property, and (b) any damage to or defect in any part or appurtenance of the Property's sanitary, electrical, HVAC, elevator or other systems located in or passing through the Premises or any part thereof. Subject to the provisions of **Section 13.C.** below, if either or both of the Property and the Premises is damaged by fire or other insured casualty, Landlord shall repair (or cause Agent to repair) the damage and restore and rebuild the Property and/or the Premises (except for Tenant's Property and Alterations) with reasonable dispatch after (x) notice to it of the damage or destruction and (y) the adjustment of the insurance proceeds attributable to such damage. Subject to the provisions of **Section 13.C.** below, Tenant shall not be entitled to terminate this Lease and no damages, compensation or claim shall be payable by Landlord for purported inconvenience, loss of business or annoyance arising from any repair or restoration of any portion of the Premises or of the Property pursuant to this Section. Landlord shall use its diligent, good faith efforts to make such repair or restoration promptly and in such manner as not to unreasonably interfere with Tenant's use and

occupancy of the Premises, but Landlord shall not be required to do such repair or restoration work except during normal business hours of business days.

- B. Rental Abatement.** If (a) the Property is damaged by fire or other casualty thereby causing the Premises to be inaccessible or (b) the Premises are partially damaged by fire or other casualty, the Rent shall be proportionally abated to the extent of any actual loss of use of the Premises by Tenant.
- C. Total Destruction.** If the Property or the Premises shall be totally destroyed by fire or other casualty, or if the Property shall be so damaged by fire or other casualty that (in the reasonable opinion of a reputable contractor or architect designated by Landlord): (i) its repair or restoration requires more than 180 days or (ii) such repair or restoration requires the expenditure of more than 50% of the full insurable value of the Property immediately prior to the casualty or (iii) the damage (x) is less than the amount stated in (ii) above, but more than 10% of the full insurable value of the Property; and (y) occurs during the last two years of Lease Term, Landlord and Tenant shall each have the option to terminate this Lease (by so advising the other, in writing) within 10 days after said contractor or architect delivers written notice of its opinion to Landlord and Tenant, but in all events prior to the commencement of any restoration of the Premises or the Property by Landlord. In such event, the termination shall be effective as of the date upon which either Landlord or Tenant, as the case may be, receives timely written notice from the other terminating this Lease pursuant to the preceding sentence. If neither Landlord nor Tenant timely delivers a termination notice, this Lease shall remain in full force and effect. If (A) any other party entitled to the insurance proceeds fails to make such proceeds available to Landlord in an amount sufficient for restoration of the Premises or the Property, or (B) the issuer of any casualty insurance policies on the Property fails to make available to Landlord sufficient proceeds for restoration of the Premises or the Property, then Landlord may, at Landlord's sole option, terminate this Lease by giving Tenant written notice to such effect within 30 days after Landlord receives notice from the insurance company that such proceeds shall not be made available, in which event the termination of this Lease shall be effective as of the date Tenant receives written notice from Landlord of Landlord's election to terminate this Lease. For purposes of this Section 13.C. only, "full insurable value" shall mean replacement cost, less the cost of footings, foundations and other structures below grade.

**14. SURRENDER AND HOLDOVER.** On the last day of the Term, or upon any earlier termination of this Lease, or upon any re-entry by Landlord upon the Premises, (a) Tenant shall quit and surrender the Premises to Landlord "broom-clean" and in good order, condition and repair, except for ordinary wear and tear and such damage or destruction as Landlord is required to repair or restore under this Lease, and (b) Tenant shall remove all of Tenant's Property therefrom, except as otherwise expressly provided in this Lease. The obligations imposed under the preceding sentence shall survive the termination or expiration of this Lease. If any repairs are required to be performed in, to or at the Premises (pursuant to the preceding sentence or any other applicable provision of this Lease) upon the expiration or termination of the Term, Tenant shall cause such repairs to be performed, to Landlord's reasonable satisfaction, within ten (10) business days after the date on which this Lease is terminated or expired. If Tenant fails to timely comply with the preceding sentence, then Landlord shall have the right to cause the repairs to be performed, at Tenant's expense, and all such expenses so incurred by Landlord shall bear interest (at the rate five percent (5%) per annum) from the date the expense is incurred until the date paid, in full, by Tenant (inclusive of interest). If Tenant remains in possession after the Expiration Date hereof or after any earlier termination date of this Lease or of Tenant's right to possession: (i) Tenant shall be deemed a tenant-at-will; (ii) Tenant shall pay 200% of the aggregate of the Base Rent last prevailing hereunder, and also shall pay all actual damages sustained by Landlord, directly by reason of Tenant's remaining in possession after the expiration or termination of this Lease; (iii) there shall be no renewal or extension of this Lease by operation of law; and (iv) the tenancy-at-will may be terminated upon thirty (30) days' written notice from Landlord. The provisions of this Section 16 shall not constitute a waiver by Landlord of any re-entry rights of Landlord provided hereunder or by law.

**15. EVENTS OF DEFAULT.** Each of the following shall constitute a default by Tenant under this Lease: (a) if Tenant fails to pay Rent or any other payment when due hereunder within five days after written notice from Landlord of such failure to pay on the due date; provided, however, that if in any consecutive twelve (12) month period, Tenant shall, on three separate occasions, fail to pay any installment of Rent on the date such installment of Rent is due, then, on the third such occasion and on each occasion thereafter on which Tenant shall fail to pay an installment of Rent on the date such installment of Rent is due, Landlord shall be relieved from any obligation to



by Landlord's negligence) occurring in, at or upon either or both of the Property and the Premises and caused by any or all of Tenant and Tenant's Parties; (d) any breach by Tenant of any of its warranties and representations under this Lease; (e) any actions necessary to protect Landlord's interest under this Lease in a bankruptcy proceeding or other proceeding under the Bankruptcy Code; (f) any violation or alleged violation by any or all of Tenant and Tenant's Parties of any Law including, without limitation, any Environmental Law; (g) any breach of the provisions of Section 7 by any or all of Tenant and Tenant's Parties; (h) claims for work or labor performed or materials supplies furnished to or at the request of any or all of Tenant and Tenant's Parties; (i) claims arising from any breach or default on the part of Tenant in the performance of any covenant contained in this Lease; (j) any Hazardous Materials used, exposed, emitted, released, discharged, generated, manufactured, sold, transported, handled, stored, treated, reused, presented, disposed of or recycled in, at, near or under all or any portion of the Premises as a result of the acts or omissions of any or all of Tenant and Tenant's Parties; or (k) the violation of any Environmental Law or any permit, application or consent required in connection with any Environmental Law by any or all of Tenant and Tenant's Parties with respect to the Premises during the Term, excluding, however, any violation of any Environmental Law resulting from the acts or omissions of Landlord and Landlord's employees, agents and contractors (collectively, "Tenant's Indemnified Matters"). In case any action or proceeding is brought against any or all of Landlord and the Landlord Indemnified Parties by reason of any of Tenant's Indemnified Matters, Tenant, upon notice from Landlord, shall resist and defend such action or proceeding by counsel reasonably satisfactory to, or selected by, Landlord. The term "Losses" shall mean all claims, demands, expenses, actions, judgments, damages (whether direct or indirect, known or unknown, foreseen or unforeseen), penalties, fines, liabilities, losses of every kind and nature (including, without limitation, property damage, diminution in value of Landlord's interest in the Premises or the Property, damages for the loss or restriction on use of any space or amenity within the Premises or the Property, damages arising from any adverse impact on marketing space in the Property, sums paid in settlement of claims and any costs and expenses associated with injury, illness or death to or of any person), suits, administrative proceedings, costs and fees, including, without limitation, attorneys' and consultants' fees and expenses, and the costs of cleanup, remediation, removal and restoration, that are in any way related to any matter covered by the foregoing indemnity. The provisions of this subsection shall survive the expiration or termination of this Lease.

- B. **Landlord Indemnification.** Landlord hereby indemnifies, defends and holds Tenant harmless from and against any and all claims, losses, costs, damages (actual, but not consequential or speculative), judgments, causes of action, administrative proceedings and third party expenses (including, but not limited to, court costs and attorneys' reasonable fees) actually suffered or incurred by Tenant as the sole and direct result of any negligent, willful or intentional acts or omissions of any or all of Landlord and any parties within the direct and sole control of Landlord. In the event that any action or proceeding is brought against Tenant, and the foregoing indemnity is applicable to such action or proceeding, then Landlord, upon notice from Tenant, shall resist and defend such action or proceeding by counsel reasonably satisfactory to Tenant. Notwithstanding anything to the contrary set forth in this Lease, however, in all events and under all circumstances, the liability of Landlord to Tenant shall be limited to the interest of Landlord in the Property, and Tenant agrees to look solely to Landlord's interest in the Property for the recovery of any judgment or award against Landlord, it being intended that Landlord shall not be personally liable for any judgment or deficiency. The provisions of this subsection shall survive the expiration or termination of this Lease.

**18. MISCELLANEOUS.**

- A. **Entire Agreement.** No agreement shall be effective to modify this Lease, in whole or in part, unless such agreement is in writing, and is signed by the party against whom enforcement of said change or modification is sought.
- B. **Notices.** Unless otherwise provided in this Agreement, any notice or other communication herein required or permitted to be given shall be in writing and shall be given by electronic communication, hand delivery, registered or certified mail, with proper postage prepaid,

return receipt requested, or courier service regularly providing proof of delivery, addressed to the parties as set forth below.

Village of Lake Zurich  
c/o Village Manager  
70 E. Main Street  
Lake Zurich, IL 60047

Craving Gyros, Inc  
c/o \_\_\_\_\_  
2 East Main Street  
Lake Zurich, IL 60047

- C. **Non-Waiver.** The failure of either party to insist, in any one or more instances, upon the strict performance of any one or more of the obligations of this Lease, or to exercise any election herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such one or more obligations of this Lease or of the right to exercise such election, but the Lease shall continue and remain in full force and effect with respect to any subsequent breach, act or omission. The receipt and acceptance by Landlord of Base Rent with knowledge of breach by Tenant of any obligation of this Lease shall not be deemed a waiver of such breach.
- D. **Lead Paint Disclosure.** "Every purchaser or lessee of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller or lessor of any interest in residential real estate is required to provide the buyer or lessee with any information on lead-based paint hazards from risk assessments or inspection in the seller or lessor's possession and notify the buyer or lessee of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase."
- E. **Radon Gas Disclosure.** As required by law, Landlord makes the following disclosure: "Radon Gas" is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings. Additional information regarding radon and radon testing may be obtained from your county public health unit.

**19. Parties Bound.** Except as otherwise expressly provided for in this Lease, this Lease shall be binding upon, and inure to the benefit of, the successors and assignees of the parties hereto. Tenant hereby releases Landlord named herein from any obligations of Landlord for any period subsequent to the conveyance and transfer of Landlord's ownership interest in the Property. No assignment can be made without Landlord's written consent. In the event of such conveyance and transfer, Landlord's obligations shall thereafter be binding upon each transferee (whether Successor Landlord or otherwise). No obligation of Landlord shall arise under this Lease until the instrument is signed by, and delivered to, both Landlord and Tenant.

**20. Recordation of Lease.** Tenant shall not record or file this Lease (or any memorandum hereof) in the public records of any county or state.

**21. Survival of Obligations.** Upon the expiration or other termination of this Lease, neither party shall have any further obligation nor liability to the other except as otherwise expressly provided in this Lease and except for such obligations as, by their nature or under the circumstances, can only be, or by the provisions of this Lease, may be performed after such expiration or other termination.

**22. Governing Law; Construction.** This Lease shall be governed by and construed in accordance with the laws of Illinois. Any proceeding initiated over any dispute arising out of or relating to this Lease shall be initiated in any federal or state court located within the County of Lake in the State of Illinois, and the parties further agree that venue for all such matters shall lie exclusively in those courts. If any provision of this Lease shall be invalid or unenforceable, the remainder of this Lease shall not be affected but shall be enforced to the extent permitted by law. The captions, headings and titles in this Lease are solely for convenience of reference and shall not affect its interpretation. Each covenant, agreement, obligation, or other provision of this Lease to be performed by Tenant, shall be construed as a separate and independent covenant of Tenant, not dependent on any other provision of this Lease.

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This Lease may be executed in counterpart and, when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

**23. Authority of Tenant.** If Tenant is a corporation, partnership, limited liability company, association or any other entity, it shall deliver to Landlord, concurrently with the delivery to Landlord of an executed Lease, certified resolutions of Tenant's directors or other governing person or body (i) authorizing execution and delivery of this Lease and the performance by Tenant of its obligations hereunder and (ii) certifying the authority of the party executing the Lease as having been duly authorized to do so.

**24. Waiver Of Trial By Jury.** THE LANDLORD AND THE TENANT, TO THE FULLEST EXTENT THAT THEY MAY LAWFULLY DO SO, HEREBY WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY ANY PARTY TO THIS LEASE WITH RESPECT TO THIS LEASE, THE PREMISES, OR ANY OTHER MATTER RELATED TO THIS LEASE OR THE PREMISES INCLUDING WITHOUT LIMITATION, AN ACTION FOR REVERSION OF THIS LEASE. If Landlord commences any summary proceeding against Tenant to obtain possession of the Premises, Tenant will not interpose any counterclaim of any nature or description in any such proceeding (unless failure to impose such counterclaim would preclude Tenant from asserting in a separate action the claim which is the subject of such counterclaim), and will not seek to consolidate such proceeding with any other action which may have been or will be brought in any other court by Tenant, but the foregoing shall not preclude Tenant from asserting any defenses in such summary proceeding including a claim that no default exists.

WHEREFORE, the Village of Lake Zurich and \_\_\_\_\_ have caused this Lease to be executed and attested on this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**VILLAGE OF LAKE ZURICH (Landlord)**

Printed Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

**ATTEST:**

Printed Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

**TENET**

Printed Name: Gerardo Monts de Oca  
Signature: *Gerardo Monts de Oca*  
Title: Business owner

**ATTEST:**

Printed Name: JUAN A AGUIA  
Signature: *Juan A Aguiar*  
Title: Business owner

**FOR INFORMATION ONLY**

Tenant Cell Phone Number(s): 6M (773) 905-4302

Tenet E-Mail Address: gjseats@gmail



*At the Heart of Community*

VILLAGE MANAGER'S OFFICE

70 East Main Street  
Lake Zurich, Illinois 60047

Phone (847) 438-5141  
LakeZurich.org

AGENDAITEM

6E

**MEMORANDUM**

Date: July 28, 2020

To: Ray Keller, Village Manager

*RK*

From: Kyle Kordell, Assistant to the Village Manager

Re: **Agreement with Lake County for COVID-19 Relief Fund**

**Issue:** This item is an intergovernmental agreement (IGA) between Lake County and the Village of Lake Zurich for CARES Act reimbursement funds intended for municipal expenses related to the coronavirus pandemic.

This IGA must be completed and submitted with the expense reimbursement request by July 31, 2020, however the County will accept the IGA if Village Staff submits it the morning of August 4, 2020, as long as the expenses reimbursement request is submitted before then, which it will be. The County will not process the reimbursement payment until after it is in receipt of the executed IGA, which is the primary action item being presented on the August 3, 2020 agenda.

**Analysis:** The CARES Act (Coronavirus Aid, Relief, and Economic Security), was passed by US Congress on March 27, 2020 provides COVID-19 relief payments to municipalities for expenditures that were necessary to protect public health and first responders. Lake County has received CARES Act funds from the federal government and has appropriated \$9 million of this for reimbursements to Lake County municipalities.

The Village of Lake Zurich has experiences the following expenditures in 2020 related to COVID-19 that are being submitted for CARES Act reimbursement.

- Telework capabilities of public employees. \$4,487.48  
(web cams, beach cameras, two laptops, etc.)
- Public health expenses \$16,942.71

(PPE for first responders, sanitizing products, etc.)

- Payroll for employees \$25,521.59  
(Expenses for public safety  
employees called in to cover shifts for other  
employees who were quarantined).

**TOTAL FOR COUNTY CARES ACT APPLICATION: \$47,366.74**

**Note:** A separate and still-pending grant application with the FEMA Public Assistance program was applied for by Staff a couple months ago, which should recover several thousands of dollars more in expenses related to payroll.

**Recommendation:** Approval of the attached IGA with Lake County.

Respectfully Submitted,

Kyle Kordell  
Assistant to the Village Manager

Attachments:

1. IGA with Lake County for COVID 19 Relief Fund



## INTERGOVERNMENTAL AGREEMENT

### COVID19 RELIEF FUND

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the **County of Lake** (hereinafter referred to as "**COUNTY**") and \_\_\_\_\_ (hereinafter referred to as "**MUNICIPALITY**," regardless of legal organization which may include a Home Rule unit of government). The COUNTY and the MUNICIPALITY shall hereinafter be referred to jointly as the Parties.

#### RECITALS

WHEREAS, the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/ *et. seq*) authorize units of local government, including counties and municipalities, to contract or otherwise associate among themselves in any manner not prohibited by law and to jointly exercise any power, privilege or authority conferred upon them by law; and

WHEREAS, Article 7, Section 10 of the Illinois Constitution of 1971 and the Illinois Intergovernmental Cooperation Act 5 ILCS 220/1 *et seq.* allow units of public entities to enter into intergovernmental agreements in the furtherance of their governmental purposes; and

WHEREAS, pursuant to the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") the COUNTY received approximately one hundred twenty-two million dollars from the United States Government ("CARES Act Funds"); and

WHEREAS, the CARES Act provides for payments to local governments navigating the impact of the COVID-19 outbreak via the Coronavirus Relief Fund; and

WHEREAS, the CARES Act provides that payments from the Coronavirus Relief Fund may only be used to cover expenses which: (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19); (2) were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the local government; and (3) were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020; and

WHEREAS, the COUNTY was eligible to receive payments under the CARES Act, as it is a unit of local government in excess of 500,000 residents; and

WHEREAS, the United States Department of Treasury ("Treasury") has issued guidelines with regards to the authorized use of funds allocated to local governments under the CARES Act; and

WHEREAS, this Agreement is intended to promote the most efficient distribution of financial resources which have been made available to the COUNTY to benefit the citizens of the COUNTY; and

WHEREAS, under the CARES Act, should the Office of the Inspector General determine that the funds were used in a manner contrary to the intent of the Act or contrary to the United States' Department of Treasury guidelines, the CARES Act provides that the federal government may recoup the improperly spent funds from the COUNTY; and

WHEREAS, the COUNTY and the MUNICIPALITY within Lake County, and its residents, have suffered secondary effects of the coronavirus emergency; and

WHEREAS, the COUNTY, as the jurisdiction responsible for disbursement of funds under the CARES Act, finds that it is appropriate to use these funds to defray certain costs incurred by the MUNICIPALITY related to the coronavirus emergency; and

WHEREAS, pursuant to guidance and interpretations of Treasury, the COUNTY as recipient of CARES Act funds may distribute a portion of those funds to other responsible entities within the COUNTY to assist in distributing CARES Act funds to those most in need of such funds

to be administered in compliance with the CARES Act, current and amended Treasury guidance and interpretations, and this Agreement; and

WHEREAS, the COUNTY may provide direct reimbursement to a MUNICIPALITY that has eligible reimbursements per the Treasury guidance, both current and as amended; and

NOW, THEREFORE, the COUNTY and the MUNICIPALITY hereby agree as follows:

**1.0 Recitals, Definitions, and Purpose.**

**1.1 Recitals Incorporated.** The recitals set forth above are incorporated in this Agreement by reference and made a part of this Intergovernmental Agreement ("IGA").

**1.2 Definitions.**

**1.2.1 "CARES ACT funds"** shall refer to funds which have been allocated to the COUNTY under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") of which the COUNTY is responsible for the disposition.

**1.2.2 "Forms"** shall refer to forms or application documents used to seek reimbursement of coronavirus related expenses under this agreement.

**1.2.3** All other words used in this agreement which are not specifically defined shall have their normal and ordinary meaning.

**1.3 Purpose.** The purpose of this Agreement is to establish a contractual relationship between the COUNTY and MUNICIPALITY with regards to the proposed reimbursement of municipal expenses associated with the coronavirus emergency from federal CARES ACT funds which the United States Federal Government has disbursed to the COUNTY. The COUNTY has, by resolution, created the Lake COUNTY Local Government COVID-19 Reimbursement program. This agreement shall remain in effect between the parties to govern the form of applications for reimbursement, the review of applications, the criteria for reimbursable expenses, the retention of documents, and other material terms governing the processing of reimbursement applications as outlined in the guidelines provided by the COUNTY to the MUNICIPALITY.

**2.0 Obligations of the COUNTY**

**2.1 Generally.** The COUNTY, by and through its Finance Department, shall process requests for reimbursement received from MUNICIPALITY subject to the requirements set forth herein.

**2.2 Submittal does not guarantee approval.** The COUNTY, by receiving and processing the reimbursement requests of MUNICIPALITY, does not guarantee approval of the reimbursement requests by the COUNTY, the United States Department of Treasury, or the Office of the Inspector General.

**2.3 No further obligations.** The COUNTY shall have no further obligations under this IGA other than those expressly set forth.

**3.0 Obligations of the MUNICIPALITY**

**3.1 Generally.** In order to submit requests for reimbursement of coronavirus emergency related expenditures, MUNICIPALITY agrees to submit the forms, certifications and documentation as may be required by the COUNTY for any expense for which MUNICIPALITY seeks reimbursement under this Agreement. MUNICIPALITY agrees that the sole and exclusive decision as to whether or not MUNICIPALITY's

request is granted lies within the discretion of the COUNTY, and that submission of expenses for reimbursement does not obligate the COUNTY to agree to reimburse those expenses. MUNICIPALITY agrees that the COUNTY, through its Finance Department, may deny reimbursement for expenses which, in the discretion of the Chief Financial Officer, are not permitted uses for CARES ACT funds. The parties also agree that expenses that may be otherwise eligible for reimbursement may be rejected by the COUNTY in its sole discretion, that the COUNTY is under no obligation to approve any particular reimbursement request, and that reimbursement is also subject to the availability of funds.

**4.0 Form of Expense Submittals, Certification, failure to use form or comply with criteria**

**4.1 Generally.** The Parties agree that expenses for which MUNICIPALITY seeks reimbursement shall be submitted upon the forms and in the manner as may be required by the COUNTY. MUNICIPALITY agrees to utilize these forms exclusively in seeking reimbursement of expenses related to the coronavirus emergency.

**4.2 Certification.** By entering into this IGA the Mayor, President, CFO or City Manager or other authorized official certifies that the expenses for which MUNICIPALITY seeks reimbursement: (i) are necessary expenditures incurred due to the public health emergency with response to the Coronavirus Disease 2019, (ii) were not accounted for in the most recently approved budget of the MUNICIPALITY, as of March 27, 2020, (iii) were incurred during the period between March 1, 2020 and December 30, 2020, and (iv) meet the criteria set forth in the United States Department of Treasury guidelines and interpretations, both current and as they may be amended and supplemented in the future.

**4.3 Failure to use form or attach certification.** The failure by MUNICIPALITY to use the required forms or to accompany each and every reimbursement request with a completed certification, shall lead to the summary rejection of that submittal by the COUNTY.

**4.4 Failure to comply with Department of Treasury Guidelines and Interpretations.** The COUNTY reserves the right to reject any reimbursement which it determines, in its sole and exclusive discretion, does not meet the criteria of the CARES ACT or United States Department of Treasury guidelines and interpretations, both current and as may be amended and supplemented in the future, associated with disbursement of funds under the CARES ACT.

**4.5** MUNICIPALITY shall not submit for reimbursement to the COUNTY any expense which the MUNICIPALITY has submitted or will submit to any other entity, whether public or private, for reimbursement. Should MUNICIPALITY at any time receive reimbursement for any expense for which the COUNTY has already reimbursed the MUNICIPALITY under this IGA, the MUNICIPALITY shall within 14 days or at the next scheduled municipal meeting occurring thereafter authorize and refund that reimbursement to the COUNTY.

**5.0 Reimbursement guidelines; prohibition on duplicate reimbursement.**

**5.1** Reimbursement guidelines will be provided to MUNICIPALITY that will include details specific to maximum reimbursement funding and allocation method, allowable expenses, required documentation and format of submittal, submission deadlines,

reporting requirements, compliance audit information, and records retention, among other guidance.

5.1.1 The reimbursement guidelines may be updated based on additional information received by COUNTY, or if additional funding is allocated.

5.2 MUNICIPALITY shall not be entitled to reimbursement of expenses on application to the County for which it has sought and received reimbursement from any other entity, whether public or private, as described in 4.2, above.

#### **6.0 Cooperation**

6.1 The COUNTY shall assist MUNICIPALITY in complying with the requirements of the CARES Act and the United States Department of Treasury guidelines by preparing sample forms and providing feedback and guidance with regards to the type and quality of information required to complete such forms.

6.2 MUNICIPALITY agrees to abide by the terms of the CARES Act and all United States Department of Treasury guidelines and interpretations, both current and as may be amended and supplemented in the future.

6.3 MUNICIPALITY shall, at the COUNTY's request, supply COUNTY with all relevant information for the COUNTY to evaluate whether a request for reimbursement meets the criteria under the CARES Act and United States Department of Treasury guidelines, both current and as may be amended and supplemented in the future.

#### **7.0 Records**

7.1 MUNICIPALITY shall maintain all records relating to the expenses which MUNICIPALITY seeks to have reimbursed by COUNTY from CARES Act funds for a period of at least ten (10) years or the period of time required by other state or federal law, whichever is longer.

7.2 At any time, the COUNTY may request that the MUNICIPALITY provide records relating to the expenses which MUNICIPALITY seeks to have reimbursed. MUNICIPALITY agrees to provide records within 14 days in response to such requests.

7.3 Failure to provide records may result in the denial of the reimbursement request. In circumstances where the reimbursement request has been granted and the records are needed to justify the reimbursement to the Office of the Inspector General or any other office, official, or department which may later become responsible for auditing disbursements of CARES Act funds, failure by MUNICIPALITY to provide these records, for any reason including the prior destruction of these records, shall constitute a breach of this Agreement. The sole and exclusive remedy for such a breach is that MUNICIPALITY shall be responsible for repayment of any disbursement which the Office of Inspector General, or its successor, finds improper, unsupported, or unable to be verified within the time limit set by the Office of Inspector General. The MUNICIPALITY shall make said repayment on or before the COUNTY is required to reimburse the federal government for such improper, unsupported, or unverified expense. Additionally, MUNICIPALITY agrees to indemnify the COUNTY or make the COUNTY whole for any penalty assessed against the COUNTY based upon MUNICIPALITY's failure to retain or provide records.

#### **8.0 Timeliness.**

8.1 The Parties agree that time is of the essence in the processing of applications for reimbursement. The COUNTY shall use all reasonable speed and diligence in the processing of applications for reimbursement.

8.2 The Parties agree that time is of the essence in communications seeking supporting documents or requesting records under this agreement. The Parties agree that they shall use all reasonable speed and diligence in responding to requests for records or supporting documents.

**9.0 Indemnity.**

9.1 The Parties agree that where the COUNTY may rely upon the certification of the MUNICIPALITY that such expenses which MUNICIPALITY sought to have reimbursed from CARES Act funds met the minimum requirements of the CARES Act, and where the Office of the Inspector General, or any other person, official, or department which is charged with the auditing and review of expenditures of CARES Act funds determines that such reimbursement was not permitted under the CARES Act, MUNICIPALITY agrees to indemnify, reimburse and make whole the COUNTY for any funds which the United States Government or its agencies seeks to recoup or collect, either by litigation, or by withholding other federal funds owed to the COUNTY. MUNICIPALITY further agrees to indemnify, reimburse, or make whole the COUNTY for any penalties associated with the federal government seeking to recoup the expended CARES Act funds which the COUNTY disbursed to MUNICIPALITY including interest, attorneys fees or any penalty provided by law. Additionally, MUNICIPALITY agrees to indemnify the COUNTY or make the COUNTY whole for any penalty assessed against the COUNTY based upon MUNICIPALITY's duplication of reimbursements as provided in Article 5.2 above. MUNICIPALITY also agrees to indemnify the COUNTY for any other loss or damage due to MUNICIPALITY's violation of this IGA.

9.2 MUNICIPALITY agrees to hold COUNTY harmless for any evaluation or advice which the COUNTY provided to MUNICIPALITY as to whether the requested reimbursement is a permissible use of the CARES Act funds.

**10.0 Term and termination**

10.1 **Term.** This Agreement shall remain in effect until December 30, 2020 unless earlier terminated by either party provides written notice of termination to the other. Such notice shall be effective 14 days after receipt of the termination.

10.2 **Survival of Terms.** Those terms relating to the party's obligation to maintain records and provide records, and the MUNICIPALITY's indemnification of the COUNTY shall survive the termination of this Agreement.

**11.0 General Terms and Conditions**

11.1 **Amendment.** Any revision to this Agreement shall be made by written amendment to this Agreement. This Agreement, including exhibits attached hereto and incorporated herein by reference, represents the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior communications, agreements, and understandings relating thereto.

11.2 **Assignment.** The performance covered by this Agreement shall not be assigned or delegated without the prior written consent of the COUNTY.



**11.3 Conflict of Interest.** No officer, employee, elected or appointed officials of the COUNTY or the MUNICIPALITY (and no one with whom they have family or business ties) shall obtain any personal or financial benefit of the funds to be administered herein

**11.4 Notices.** Any notice under this IGA shall be sent by email to the following individuals at the indicated email addresses:

To the COUNTY:

Patrice Sutton, Chief Financial Officer, County of Lake at [psutton@lakecountyil.gov](mailto:psutton@lakecountyil.gov)

To the MUNICIPALITY:

(name/title/email address)

IN WITNESS WHEREOF, the COUNTY and the MUNICIPALITY have executed this Agreement as of the date first above written.

**COUNTY OF LAKE**

**(MUNICIPALITY)**

\_\_\_\_\_  
County Administrator, Lake County

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

ATTEST:

ATTEST:

\_\_\_\_\_  
Lake County Clerk

\_\_\_\_\_  
Municipal Clerk



*At the Heart of Community*

PUBLIC WORKS DEPARTMENT

505 Telsler Road  
Lake Zurich, Illinois 60047

(847) 540-1696  
Fax (847) 726-2182  
LakeZurich.org

AGENDA ITEM

6 F

MEMORANDUM

**Date:** July 15, 2020  
**To:** Ray Keller, Village Manager *RK*  
**From:** Steve Schmitt, Utilities Superintendent  
**Copy:** Michael J. Brown, Public Works Director  
**Subject:** **SCADA System Improvements**

**Issue:** The SCADA (Supervisory Control And Data Acquisition) system is critical for controlling and monitoring the Village's water and wastewater facilities. With the exception of a shared server (replaced in 2013) the SCADA system components are 16 years old (installed in 2004), are past expected useful life and need to be replaced.

**Village Strategic Plan:** This agenda item is consistent with the following Goals and Objectives of the Strategic Plan.

- Goal #3 – Infrastructure: Ensure a sustainable, healthy and economical water source for current and future Lake Zurich residents.
- Goal #4 – Service Sustainability: Establish a service sustainability plan.

**Background:** In 2004, the SCADA system was installed to replace an outdated telemetry control system. The SCADA system was custom designed and built specifically to control our wells, water towers and the Quentin and Northwest sanitary pump stations with technological standards that were current at that time.

In 2010, the SCADA system software was expanded to include control and monitoring of the Ion Exchange water treatment process. At that time, due to the high cost of using a non-local integrator (the original SCADA vendor awarded contract in 2004) for routine software maintenance and system repairs, B&W Control Systems of Crystal Lake, IL, was awarded the expansion project and became the Village's designated SCADA integrator.

In 2016/2017, as part of the Energy Performance Contracting project, Siemens Industry, Inc. evaluated the existing SCADA system and recommended a replacement/expansion project. Staff considered the proposed SCADA project cost to be too high and was confident that a more cost effective solution could be realized by evaluating and planning outdated component replacement and adding control/data improvements to our existing system.

In 2019, the Village contracted with our designated integrator, Concentric Integration (formerly B&W Control Systems) to conduct a comprehensive assessment of the existing SCADA system and related components and provide an evaluation report with recommendations and optional expansion (phases) to future improved efficiencies for Public Works management.

**Analysis:** The 2016/2017 proposed SCADA replacement project by Siemens Industry, Inc estimated project cost at \$684,209.04. The 2020 project proposal (a phase 1 scope revision from the 2019 assessment) fee for SCADA system improvements by Concentric Integration is \$275,400. Concentric Integration has provided the Village engineering, design, maintenance and repair of the existing SCADA system due to their qualifications specializing in automation infrastructure and staff has been pleased with their service, value, response and reliability. The FY 2020 budget includes \$300,000 for this project.

**Recommendation:** Accept the proposal from Concentric Integration authorizing Phase 1 SCADA improvements in the amount not to exceed \$275,400.

**W/Attachments:**

- Phase 1 Project Proposal from Concentric Integration dated July 6, 2020. (7 pages)



## Project Proposal

July 6, 2020

Mr. Steve Schmitt  
 Utilities Superintendent  
 Village of Lake Zurich  
 505 Telser Road  
 Lake Zurich, IL 60047

Subject: Phase 1 SCADA Improvements

Concentric Project Number: 200970.50

Dear Mr. Schmitt:

Concentric Integration recently completed a Supervisory Control and Data Acquisition SCADA System Assessment that consisted of evaluating the Village's existing SCADA system and making recommendations for improvement. Based on the assessment report and discussions with the Village, this proposal will provide the first phase of the SCADA system improvements. This project will primarily include replacing the obsolete PLC equipment, providing redundancy for the master polling PLC, as well as minor programming improvements to provide additional information in SCADA.

The project also includes two additional options, one option for integrating the chemical feed scales with the SCADA system, and the second option for adding SCADA reporting.

### Base Scope of Services

#### Equipment

Concentric will provide the following equipment:

1. PLC equipment as designated in the table below.

Description	WELL 7 Filter	WELL 7 Well	WELL 8 Filter	WELL 8 Well	WELL 9 Filter	WELL 9 Well	WELL 10 Filter	WELL 10 Well	WELL 12 Filter	WELL 12 Well	Wynstone	Master PLC IO Rack	Master PLC Processor Racks	Quentin	Northwest	TOTAL
CompactLogix L30 PLC														1	1	2





Description	WELL 7 Filter	WELL 7 Well	WELL 8 Filter	WELL 8 Well	WELL 9 Filter	WELL 9 Well	WELL 10 Filter	WELL 10 Well	WELL 12 Filter	WELL 12 Well	Wynstone	Master PLC IO Rack	Master PLC Processor Racks	Quentin	Northwest	TOTAL
CompactLogix L36 PLC		1		1		1		1		1						5
DeviceNet Scanner			1				1									2
CompactLogix Power Supply	2	1	2	1	1	1	1	1	1	1				1	1	14
8-Ch AI Current/Voltage	4	1	3	1	3	1	1	1	3	1				1	1	21
4-Ch AO Current Isolated	2		1		1				1					1	1	7
8-pt DO, VAC/VDC Indiv. Isolated Relay		1	5	1		1	1	1		1				1	1	13
16 point relay output module	3				3				3							9
16 Point 120 VAC Input Module	1		2													3
16 Point 24 VDC Sinking/Sourcing Input Module		2	1	2	2	2	1	2	2	2				2	2	20
Ethernet/IP Adaptor	1		1		1		1		1							5
ControlLogix 4-slot Chassis													2			2
ControlLogix 7-slot Chassis												1				1
ControlLogix Power Supply												1	2			3
ControlLogix L72 PLC													2			2
ControlLogix Ethernet Module												1	2			3
ControlLogix Redundancy Module													2			2
ControlLogixFiber Cable													1			1
ControlLogix 16-pt DI, DC, (8-pt/group)												1				1
ControlLogix 8-pt DI, Relay, Isolated												1				1
CompactLogix L16 PLC											1					1
L16 Series 4-ch Analog Input											1					1
PanelView Plus 7, 10"	1		1													





2. Polling master PLC panel with redundant PLC equipment (as designated in table above) installed in a steel NEMA 12 enclosure. Additional panel components include main circuit breaker, uninterruptible power supply, Ethernet switch, DC power supply, and other components as required for a complete installation.

*Labor*

Project Management

1. Plan, schedule, and coordinate the activities that must be performed to complete the Project.
2. Concentric will coordinate an in-person project kick-off meeting to discuss project scope and schedule prior to starting work.
3. The Project Manager will provide every other week project status updates via email and discuss status with the Customer's Project Manager.

Design

1. Provide modified control panel drawings for control panels being modified as part of this project. At a minimum, the PLC network wiring and input/output (I/O) wiring schematics will be updated.

Programming

1. For each control panel where a PLC is being replaced, the existing PLC program will be migrated from the old PLC to the new PLC using a combination of new tags and Add-On Instructions (AOIs). The PLC migration is intended to maintain existing PLC functions, no new program functions will be added as part of the migration.
2. For the Well 7 and 8 filter PLC panels, the existing Standard PanelView programs will be migrated to the new PanelView Plus.
3. For the Well 10 filter PLC panel, the existing Standard PanelView program will be migrated to the existing PanelView Plus that is installed in the well PLC panel.
4. For the existing PanelView Plus applications, the existing PanelView tag database will be updated to allow communications to the new PLCs.
5. Modify existing SCADA tag database tags to allow communication to the new master polling PLC.
6. Provide PLC and SCADA programming to calculate and display daily flow total information at SCADA for the Raw Flow, Finished Flow, Bypass Flow and Brine Flow (as available based on meter tied into the PLC) at each well site.



### Installation and Testing

1. At each remote site, remove the existing PLC and associated I/O modules. Install new CompactLogix PLC controller and associated I/O modules. Re-terminate control wiring.
2. At Wells 7 and 8, remove the existing Standard PanelView mounted on the filter control panel and replace with the new PanelView Plus 7. Provide adapter plate as required.
3. At Well 10, remove the existing Standard PanelView mounted on the filter control panel and cover opening with painted steel plate.
4. At Public Works, perform the following:
  - a. Replace the existing PLC with input/output rack and re-terminate control wiring.
  - b. Mount new redundant PLC panel in network room, and connect to 120VAC power source and SCADA network.
5. Provide testing after each new PLC is installed to confirm operation.

### Final Documentation

1. Provide electronic copies of the updated PLC and OIT programs, control panel drawing changes, and updated network diagram Sub Bullet.

## **Option 1 Scope of Services - Chemical Scale Integration**

Concentric will provide the following services for Option 1:

1. Provide programming to integrate the chlorine and phosphate scales at each well site (Wells 7, 8, 9, 10 and 12) into the SCADA system. Programming will consist adding logic in the PLCs to calculate the daily usage for each chemical, as well as displaying the scale weight and daily total at SCADA.
2. Provide programming at each local PanelView to allow operations staff to indicate when refilling the tanks. This will allow for the calculated daily total to take into account when the tanks are being filled. Operations staff will be required to press the fill button each time before filling a tank.

## **Option 2 Scope of Services - Reporting**

Concentric will provide the following for Option 2:





1. Provide one year of Waterly reporting software service. The Waterly reporting software implementation, training, and support will be solely performed by Waterly. Waterly is a "software as a service" product that will require renewal after the first year to continue usage. Future renewals will be coordinated directly with Waterly.

### **Concentric Assumptions / Customer Responsibilities**

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1. Customer will assign an initial project manager at the project kickoff meeting.
2. Customer will provide site access for installation, programming, and startup during Customer's normal business hours. Work outside of Customer's normal business hours can be agreed upon as needed, provided Concentric can secure the site(s) upon departure.
3. Customer understands that all existing equipment to remain is assumed to be in good, working order. In the event that any other equipment does not perform as-expected, Concentric will work with the Customer to repair, as-needed, under a separate contract.
4. Customer will dispose of/recycle any removed equipment.
5. Customer will provide any chemical scales, conduit, wiring, or any other physical installation work required for the chemical feed scale integration work associated with the Option 1 Scope of Services. Concentric services only consist of programming and testing.

### **Project Schedule**

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Our estimated project schedule will be agreed upon at the project kickoff meeting.

### **Warranty**

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The warranty listed in the Standard Terms and Conditions (Paragraph 12.2):

- DOES apply
- DOES NOT apply

### **Fee**

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Our fee for the above Base Scope of Services is a lump sum of \$264,900

Our additional fee for the above Option 1 Scope of Services is a lump sum of \$6,300



Our additional fee for the above Option 2 Scope of Services is a lump sum of \$4,200.

This proposal is valid for 90 days from the date issued.

### **Standard Terms and Conditions References**

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**Effective Date:** The Effective Date of this Proposal and the associated Standard Terms and Conditions shall be the date this Proposal is accepted as shown by Customer's dated signature below.

**Third Party Materials** (See Standard Terms and Conditions Paragraphs 3.2 & 8.3):

- DOES apply
- DOES NOT apply

**Notices:** Notices required to be provided to Customer in accordance with Paragraph 16.3 of the Standard Terms and Conditions shall be delivered to the individual and address given above, unless Customer provides updated notification information to Concentric in writing

### **Standard Terms and Conditions**

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Concentric Integration, LLC's Standard Terms and Conditions, Version 10 (V10), located at <http://goconcentric.com/standard-terms/> are hereby incorporated into this Project Proposal as though fully attached hereto. By signing below, each of the undersigned represents and warrants that Concentric Integration, LLC's Standard Terms & Conditions are legal, valid and binding obligations upon the parties for which they are the authorized representative.



## Acceptance

If this proposal is acceptable, please sign one copy and return to us. Feel free to contact me if you have any questions.

Sincerely,

CONCENTRIC INTEGRATION, LLC

Michael D. Klein, PE  
President  
MDK

CUSTOMER:  
VILLAGE OF LAKE ZURICH

ACCEPTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

Signature above is for acceptance  
of the Base Scope of Services.

Check Box and initial to indicate  
any accepted Options, or none.

Option 1:  \_\_\_\_\_

Option 2:  \_\_\_\_\_

No Options:  \_\_\_\_\_

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*At the Heart of Community*

PUBLIC WORKS DEPARTMENT  
505 Telser Road  
Lake Zurich, Illinois 60047

(847) 540-1696  
Fax (847) 726-2182  
LakeZurich.org

AGENDATEM

66

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MEMORANDUM

Date: July 27, 2020  
To: Ray Keller, Village Manager *PK*  
From: Michael J. Brown, Public Works Director  
Subject: **Release of Letter of Credit – Somerset By The Lake – 40-60 West Main St**

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**Issue:** Village staff received a request on July 22, 2020 from Somerset By The Lake to release the Performance Bond in the amount of \$ 27,739.15 that was provided as the maintenance guarantee for the development of Somerset By The Lake located at 40 & 60 West Main Street.

**Background:** Final occupancy for Somerset By The Lake was granted on August 5, 2019. The bond was provided as a maintenance guarantee for one year from the date of Board Approval. The bond reduction to maintenance was approved July 15, 2020.

**Analysis:** Staff has reviewed the site and has performed a final inspection and have found that there are no outstanding issues at this time and that the bond can be recommended for the final release.

**Recommendation:** Approval of the request from Somerset By The Lake for the release of the performance bond in the amount of \$ 27,739.15

**W/Attachments:** Developer's release request dated July 22, 2020.



12 Salt Creek Lane, Suite 400 Hinsdale, IL 60521 • 630.887.1705

July 22, 2020

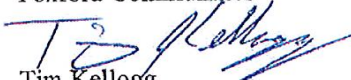
Mr. Michael Brown  
Director of Public Works  
Village of Lake Zurich  
505 Telser Road  
Lake Zurich, IL 60047

**RE: Somerset By The Lake  
Onsite Improvement Surety**

Dear Mike,

Foxford Communities requests final release of the Performance and Payment Bond for Somerset By The Lake's onsite improvements, as the required 1-year maintenance period was fulfilled as of July 15<sup>th</sup>.

Thank you,  
Foxford Communities

  
Tim Kellogg



*At the Heart of Community*

OFFICE OF THE VILLAGE MANAGER

70 East Main Street  
Lake Zurich, Illinois 60047

(847) 438-5141  
LakeZurich.org

AGENDA ITEM

8A

**MEMORANDUM**

Date: August 3, 2020  
To: Ray Keller, Village Manager *PK*  
From: Roy Witherow, Assistant Village Manager  
Sarosh Saher, Community Development Director  
Re: **Redevelopment Agreement with the Village of Lake Zurich and Blue Ridge BBQ, Inc. - 133 West Main Street**

**Issue:** Song and Haesoon Choe (the “Developer”), owners of Blue Ridge Korean BBQ in Park Ridge, Illinois, wish to enter into a redevelopment agreement (RDA) with the Village of Lake Zurich for the purchase and redevelopment of the Village-owned building located at 133 West Main Street.

**Village Strategic Plan:** This agenda item is consistent with the following objectives under Goal #2 – Development:

- Revitalization of Downtown
- Expand the Village’s Role as a major regional economic hub in Lake County

**Background:** Mr. and Ms. Choe propose to acquire the property located at 133 West Main Street in order to operate a Korean BBQ restaurant in the Village’s Main Street area. The Village acquired this 0.13-acre (5,663 square feet) property containing the 1,750 square foot building in November of 2002 and has leased the space to various insurance agents for the past 18 years.

Mr. Choe initially approached the Board of Trustees last year in a courtesy review to seek input on the feasibility of opening a restaurant at the current site of Joe’s Barber Shop at 265 North Rand Road. The Board supported opening a restaurant with this unique cuisine, but encouraged Mr. Choe to look for other location opportunities in the Village. The video stream of the courtesy review from October 7, 2019 can be viewed at the following link:

<https://view.earthchannel.com/PlayerController.aspx?&PGD=lakezurichil&eID=431>

Shortly thereafter, staff worked with the Choes to explore various locations within the Village, particularly highlighting the Main Street Area. The Choes expressed particular interest regarding the potential of the 133 West Main Street location. Over the next several months, discussions and negotiations ensued culminating in the proposed Redevelopment Agreement. The RDA was

initially placed on the March 2, 2020 Village Board agenda for consideration, but, due to the COVID-19 pandemic, the meeting was cancelled. Staff has remained in touch with the Choes over the past several months, and were informed recently that they wish to proceed with the project with modifications to the original proposal and are requesting approval of the attached redevelopment agreement.

The Choe's now wish to acquire and operate their restaurant at the property as follows:

1. Acquire the property from the village on execution of the RDA. The building contains two units – Unit A is currently occupied by the offices of American Family Insurance Company and Unit B is vacant.
2. Reconstruct Unit B for the use of the Korean BBQ restaurant, commencing operations in a limited manner due to restrictions on dining imposed by the COVID-19 crisis, operating no less than 5 days per week beginning no later than December 31, 2021.
3. Continue to allow Unit A to operate as offices of the insurance company until January 1, 2022, after which the developer will expand the operation of the restaurant into Unit A or use that space for a retail use approved by the village. Such expansion or approved retail use will commence operation no later than December 31, 2022.
4. Use the parking lot on the property to its full extent as currently constructed. The parking lot currently encroaches into the Mionske Drive right-of-way. The village has set up a license agreement with the developer for the use of that portion of the property within the right-of-way.

**Analysis:** As a result of negotiations with the Village, Mr. and Ms. Choe have tendered an offer to purchase the property at a cost of \$165,000.

Through its engineers, Manhard Consulting, the Village had identified an additional \$64,000 of infrastructure improvements which include earthwork and pavement removal, underground water service improvements, and roadway and sidewalk improvements. Mr. Choe has proposed to complete the infrastructure work himself and be reimbursed by the village in an amount not to exceed the estimated \$64,000.

The redevelopment agreement contains the structure, terms and conditions of a Public/Private Partnership to incentivize the private purchase and reuse of the property, while protecting the Village's investments in the property:

1. The developer will pay \$100,000 up front to the Village for the purchase of 133 W. Main Street. Because the property was originally purchased with TIF bonds, the proceeds will go back into TIF #2 in which the subject property is located. Specifically for the project, the village will set up a subaccount to deposit and track increment obtained from the subject property.
2. Upon transferring the property's title to the Choes, the Village will record a promissory note containing a mortgage against the property for the \$65,000 balance owed on the sale price.
3. Over the next fifteen (15) years, as the Choes pay their property taxes, the TIF increment (i.e. the portion of property taxes on the increased assessed value resulting from their use of and improvements to the property), will pay down 1/15 (\$4,333.33) of the \$65,000 mortgage each year. After the total \$65,000 mortgage has been paid down, the Village will release the mortgage and the Choes will own the property free and clear.



4. The Village will reimburse the developers for the infrastructure improvements that they complete, with a total value not to exceed the lesser of the actual costs or \$64,000 (the engineers' opinion of probable cost). This reimbursement will come from TIF increment generated by the property, in excess of the \$4,333.33 annual mortgage payment owed each year. This practice of using the excess TIF revenue (i.e. after the mortgage payment) will continue annually until the developers are reimbursed for the eligible infrastructure work.
5. In the event that the annual TIF increment from the property is insufficient to cover the annual mortgage payment, the Choes will pay the difference for that year's payment. In that instance, there will be no reimbursement for their infrastructure work in that year.

In effect, it is anticipated that the increment realized from property taxes paid by the Choes will pay off the balance \$65,000 mortgage owed to the TIF fund, while also reimbursing the Choes over time for the infrastructure that they complete. In consultation with Ela Township Assessor John Barrington, the property is projected to generate approximately \$6,700 in TIF increment starting in 2022, which would then change over time with market values, property tax rates, etc. This TIF revenue projection is expected to adequately cover both the mortgage payments to the village and the infrastructure reimbursements to the developer.

**Recommendation:** In order to continue redevelopment of the Main Street Area, staff recommends that the Lake Zurich Board of Trustees approve the attached Redevelopment Agreement and associated documents between the Village of Lake Zurich and Blue Ridge Korean BBQ, Inc. for the purchase and redevelopment of the Village-owned parcel located at 133 West Main Street.

Attachments:

1. An ordinance approving a redevelopment agreement by and between the Village of Lake Zurich, Lake County, Illinois and Blue Ridge BBQ, Inc.
2. Redevelopment Agreement between the Village of Lake Zurich, Lake County, Illinois and Blue Ridge BBQ, Inc.
3. License Agreement for use of the parking lot within the village right-of-way
4. Public Notice for sale of the property
5. Picture exhibits



VILLAGE OF LAKE ZURICH



ORDINANCE NO. 2020-\_\_\_\_-\_\_\_\_

**AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT BY AND BETWEEN  
THE VILLAGE OF LAKE ZURICH, LAKE COUNTY, ILLINOIS  
AND BLUE RIDGE BBQ, INC.**

**WHEREAS**, the Village of Lake Zurich, Lake County, Illinois (the “*Village*”) is a duly organized and validly existing non-home rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

**WHEREAS**, the Village has the authority pursuant to the laws of the State of Illinois, to promote the health, safety, and welfare of its inhabitants, to prevent the spread of blight, to encourage private development in order to enhance the local tax base, to increase job opportunities, and to enter into contractual agreements with third parties for the purpose of achieving these purposes; and,

**WHEREAS**, pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1, *et seq.*, as from time to time amended (the “*TIF Act*”), the President and Board of Trustees of the Village (collectively, the Corporate Authorities”) are empowered to undertake the redevelopment of a designated area within its municipal limits in which existing conditions permit such area to be classified as a “blighted area” or a “conservation area” as such terms are defined in the TIF Act; and,

**WHEREAS**, to stimulate and induce redevelopment pursuant to the TIF Act, the Village, after giving all required notices, conducting a public hearing and making all findings required by law, on the 19<sup>th</sup> day of January, 2015, pursuant to Ordinance Nos. 2015-2-030, 2015-2-031 and 2015-2-032 approved a Redevelopment Plan and Project (the “*Redevelopment Plan*”) for an area designated as the Downtown TIF District #2 (the “*Project Area*”) which Project Area included the Subject Property, and adopted tax increment financing for the payment and financing of “redevelopment project costs” incurred within the Project Area as authorized by the TIF Act; and,

**WHEREAS**, Blue Ridge BBQ, Inc. an Illinois corporation (the “*Developer*”) has submitted a proposal to acquire certain property owned by the Village located within the “Main Street Area” of the Village improved with a building with approximately 1,750 square feet to develop a restaurant; and,

**WHEREAS**, after a review of all of the goals and objectives of the Redevelopment Plan, the Village has determined that the redevelopment Project as proposed by the Developer shall

eliminate blight factors found within the Project Area; increase the tax base of the Village and taxing districts, provide job opportunities for its citizens; and, improve the general welfare of the community and is therefore willing to provide the Developer with the financial assistance and convey the Village Parcels pursuant to the terms and conditions as set forth in the Redevelopment Agreement attached hereto.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Lake Zurich, Lake County, Illinois, as follows:

*Section 1.* The above recitals are incorporated and made a part of this Ordinance.

*Section 2.* The Redevelopment Agreement by and between the Village of Lake Zurich, Lake County, Illinois, and Blue Ridge BBQ, Inc., an Illinois corporation, in the form as attached hereto and made a part hereof, is hereby approved; and, the Village President and Village Clerk are hereby authorized to execute.

*Section 3.* All ordinances, resolutions, motions or orders in conflict herewith are repealed to the extent of such conflict, and this Ordinance shall be in full force and effect immediately upon its passage, approve and publication, as provided by law.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED:**

\_\_\_\_\_  
President

*Attest:*

\_\_\_\_\_  
Village Clerk

**REDEVELOPMENT AGREEMENT BY AND BETWEEN THE  
VILLAGE OF LAKE ZURICH, LAKE COUNTY, ILLINOIS AND BLUE RIDGE BBQ, INC.**

**THIS REDEVELOPMENT AGREEMENT** (the “*Agreement*”) is entered into as of the day of \_\_\_\_\_, 2020 (“*Effective Date*”) by and between the Village of Lake Zurich, Lake County, Illinois, an Illinois municipal corporation (“*Village*”), and Blue Ridge BBQ, Inc., an Illinois corporation d/b/a Blue Ridge Korean BBQ (“*Developer*”).

In consideration of the mutual covenants and agreements set forth in this Agreement, the Village and the Developer hereby agree as follows:

**ARTICLE 1: RECITALS**

1.1 The Village is engaged in the revitalization of its commercial properties known as the “Main Street Area” of the Village which includes a certain parcel commonly known as 133 West Main Street, legally described on *Exhibit A* to this Agreement and identified by parcel number 14-20-100-017 (“*Subject Property*”), which the Village owns and rents as office space.

1.2 The Village has the authority pursuant to the laws of the State of Illinois, to promote the health, safety, and welfare of its inhabitants, to prevent the spread of blight, to encourage private development in order to enhance the local tax base, to increase job opportunities, and to enter into contractual agreements with third parties for the purpose of achieving these purposes.

1.3 Pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1, *et seq.*, as from time to time amended (the “*TIF Act*”), the President and Board of Trustees of the Village (collectively, the Corporate Authorities”) are empowered to undertake the redevelopment of a designated area within its municipal limits in which existing conditions permit such area to be classified as a “blighted area” or a “conservation area” as such terms are defined in the TIF Act.

1.4 To stimulate and induce redevelopment pursuant to the TIF Act, the Village, after giving all required notices, conducting a public hearing and making all findings required by law, on the 19<sup>th</sup> day of January, 2015, pursuant to Ordinance Nos. 2015-2-030, 2015-2-031 and 2015-2-032 approved a Redevelopment Plan and Project (the “*Redevelopment Plan*”) for an area designated as the Downtown TIF District #2 (the “*Project Area*”) which Project Area included the Subject Property, and adopted tax increment financing for the payment and financing of “redevelopment project costs” incurred within the Project Area as authorized by the TIF Act.

1.5 The Developer has submitted a proposal to the Village to acquire the Subject Property and to redevelop and repurpose the office building currently on the Subject Property into a restaurant specializing in Korean food (the “*Project*”) thereby providing a new dining selection in the Village’s downtown area.

1.6 The Developer has advised the Village that in order to proceed with the Project and complete all of the redevelopment required to accomplish its proposal, financial assistance from the Village is necessary.

1.7 After a review of all of the goals and objectives of the Redevelopment Plan and concluding that the Project, as presented by the Developer, is in furtherance of the Redevelopment Plan and the Village's future plan for its downtown commercial district, the Village is prepared to provide the financial assistance and convey the Subject Property to the Developer in accordance with the terms and conditions as hereinafter provided.

1.8 The Village believes that the redevelopment of the Subject Property and proposed Project, shall eliminate blight factors found within the Project Area; increase the tax base of the Village and taxing districts authorized to levy taxes upon the Subject Property, provide job opportunities for its citizens; and, improve the general welfare of the community and is therefore willing to provide the Developer with the financial assistance and convey the Subject Property to the Developer as hereinafter set forth.

**ARTICLE 2: CONDITIONS PRECEDENT TO THE CONVEYANCE OF THE  
SUBJECT PROPERTY**

2.1 Within sixty (60) days of the execution of this Agreement, the Developer shall submit to the Village an estimated budget of all costs to be incurred (other than the cost of acquisition) to redevelop and repurpose the Subject Property for use as a restaurant, including all legal fees; architectural and design fees; building renovations, exterior and interior; equipment, utilities; site work; landscaping; signage and any other cost as may be required to commence operation (the "Project Budget").

2.2 Within thirty (30) days after the submission of the Project Budget, the Developer shall submit to the Village proof of financing in an amount equal to the Project Budget plus the Village's required down payment for the acquisition of the Subject Property as hereinafter set forth.

**ARTICLE 3: OBLIGATIONS OF THE VILLAGE**

3.1 Upon receipt of the documentation from the Developer as required by Article 2 above, the Village agrees to convey the Subject Property to the Developer for a purchase price of \$165,000 in accordance with the terms hereinafter set forth, and to reimburse the Developer for the infrastructure improvements to the Subject Property as itemized on *Exhibit B* attached hereto (the "Infrastructure Improvements").

3.2 Conveyance of the Subject Property shall be by a recordable warranty deed subject to covenants and conditions of record and shall occur upon receipt of the following by the Village:

- (a) Payment of \$100,000 toward a total purchase price of \$165,000, plus all costs incurred in connection with the conveyance of the Subject Property and recordation of all documentation.
- (b) Receipt of an executed promissory note secured by a mortgage to be recorded against the Subject Property (the "Note"), in the form attached hereto as *Exhibit C*, in the amount of the balance due of the purchase price of \$65,000 with 0% interest, due and payable commencing December 1, 2022, as hereinafter provided in Article 5.

- (c) Receipt of a recordable executed Mortgage, in the form attached hereto as *Exhibit D*.

3.3 The Village shall deliver to the Developer at closing a title insurance policy in the amount of the purchase price of \$165,000 insuring title to the Developer paid by the Developer and subject to covenants and conditions of record.

3.4 The Village acknowledges that it has received certification from the County Clerk of the County of Lake, Illinois, that the equalized assessed valuation of the Subject Property as of February 23, 2015, the date of the recordation of Ordinance No. 2015-20-32 adopting tax increment financing, was \$3,000.00.

#### ARTICLE 4. DEVELOPER'S OBLIGATIONS

4.1 The Subject Property is improved with a 1,750 gross square foot, one story on slab, masonry constructed two-user office building divided into two units with approximately 724 square feet ("Unit A") and 964 square feet ("Unit B"). Within thirty (30) days of conveyance of the Subject Property by the Village to the Developer, the Developer shall submit to the Village applications for all required permits to:

- (a) undertake the construction of the Infrastructure Improvements; and,
- (b) to reconstruct Unit B for use as a restaurant.

4.2 The Developer covenants to commence construction within thirty (30) days of receipt of all required permits and to complete the reconstruction of Unit B in accordance with all permits and all applicable Village Codes; obtain a certificate of occupancy and necessary licenses for the Subject Property; and, commence operation of the full-service restaurant serving Korean cuisine to be open for business no less than five (5) days per week (the "*Business*") on or before December 31, 2021.

4.3 On or before January 1, 2022, the Developer shall submit applications for all required permits to repurpose Unit A for either the expansion of the operation of the Business or a retail business as approved by the Village. The Developer agrees to obtain a certificate of occupancy for Unit A on or before December 31, 2022, for the operation of a permitted use.

4.4 The Developer further warrants, covenants and agrees during the term of this Agreement:

- (a) To continuously operate the Business located on the Subject Property without interruption during the term of this Agreement subject to Force Majeure as defined in Section 8.4 hereof.
- (b) Not to sell, transfer, gift or convey the Subject Property or the Business operating thereon for the term of this Agreement without the consent of the Village.



**ARTICLE 5: PAYMENTS DUE ON THE NOTE**

5.1 The Village has established a special tax allocation fund solely for the Project Area (the "STAF") into which the Village shall deposit all Incremental Taxes, as defined below, generated from the Project Area.

5.2 On the later of December 1, commencing 2022, or ten (10) days following the date upon which the Village receives Incremental Taxes from the final installment of real estate taxes for 2021 and each year during the term of this Agreement, the Incremental Taxes with respect to the Subject Property shall be transferred and deposited into the Blue Ridge BBQ Subaccount of the STAF (which Subaccount shall be automatically created by the ordinance approving this Agreement) and used first to make the annual payments on the Note in the amount equal to the Incremental Taxes generated by the Subject Property and thereafter reimburse the Developer for the costs of the Infrastructure Improvements in an amount equal to the lesser of (i) the actual costs incurred by the Developer as evidenced by paid receipts and paid invoices; (ii) \$64,000 until the first to occur: (i) payment in full of the outstanding principal on the Note; or, (iii) December 31, 2037.

5.3 To the extent the Incremental Taxes deposited into the Blue Ridge BBQ's subaccount of the STAF in any year during the term of this Agreement is insufficient to cover the annual payment due on the Note, the Developer shall promptly pay the shortfall within fifteen (15) business days of notice from the Village of the amount due and owing.

5.4 As used in this Agreement, "Incremental Taxes" shall mean the amount in the STAF equal to the amount of ad valorem taxes, if any, paid in respect of the Project Area and its improvements which is attributable to the increase in the equalized assessed value of all the parcels of property located herein over the initial equalized assessed value of said parcels.

**ARTICLE 6. REPRESENTATIONS, WARRANTIES, AND COVENANTS**

6.1 To induce the Village to enter into this Agreement and to adopt the ordinances and resolutions and grant the rights herein provided to the Developer, the Developer represents, covenants, warrants, and agrees, as the basis for the undertakings on the Developer's part herein contained, that:

- (a) All representations and agreements made by the Developer in the Agreement are true, complete, and accurate in all respects.
- (b) The Developer is an Illinois corporation duly formed and existing under the laws of the State of Illinois authorized to do business in Illinois, and the Developer has the power to enter into, and by proper action has been duly authorized to execute, deliver, and perform, this Agreement. The Developer will do, or cause to be done, all things necessary to preserve and keep in full force and effect its existence and standing as an Illinois Corporation authorized to do business in the State of Illinois for so long as the Developer is developing and constructing the Development Plans.
- (c) The execution, delivery, and performance of this Agreement by the Developer, the consummation of the transactions contemplated hereby, and the fulfillment of or

compliance with the terms and conditions of this Agreement shall not conflict with or result in a violation or breach of any of the terms, conditions, or provisions of any offering or disclosure statement made, or to be made, on behalf of the Developer, or any restriction, organizational document, agreement, or instrument to which the Developer, or any of its partners or venturers, is now a party or by which the Developer, or any of its partners or venturers, is bound, or constitute a default under any of the foregoing.

6.2 The Developer further warrants there are no actions at law or similar proceedings either pending or, to the best of the Developer's knowledge, threatened against the Developer that would materially or adversely affect:

- (i) The ability of the Developer to proceed with the acquisition construction and development of the Subject Property;
- (ii) The Developer's financial condition;
- (iii) The level or condition of the Developer's assets as of the date of this Agreement; or,
- (iv) The Developer's reputation.

6.3 To induce the Developer to enter into this Agreement and to undertake the performance of its obligations under this Agreement, the Village represents, covenants, warrants and agrees as follows:

- (a) All representations and agreements made by the Village in this Agreement are true, complete, and accurate in all respects.
- (b) The Village has the power to enter into and perform its obligations under this Agreement and by proper action has duly authorized the Village President and Village Clerk to execute and deliver this Agreement.
- (c) The execution, delivery, and performance of this Agreement by the Village, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of this Agreement shall not conflict with or result in a violation or breach of the terms of any order, agreement, or other instrument to which the Village is a party or by which the Village is now bound.
- (d) There are no actions at law or similar proceedings either pending or to the best of the Village's knowledge being threatened against the Village that would materially or adversely affect:
  - (i) The ability of Developer to proceed with the construction of the Development.
  - (ii) The ability of the Village to perform its obligations under this Agreement.

#### ARTICLE 7: ENFORCEMENT AND REMEDIES

7.1 Subject to the restriction on remedies contained in this Article, the parties may enforce or compel the performance of this Agreement, in law or in equity, by suit, action, mandamus, or any other proceeding, including specific performance. Notwithstanding the foregoing, the Developer agrees that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages in any amount greater than the amount of reimbursement obligated by the Village hereunder against the Village or any elected or appointed officials, officers, employees, agents, representatives, engineers, consultants, or attorneys thereof, on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement.

7.2 In the event of a breach of this Agreement, the parties agree that the party alleged to be in breach shall have, unless specifically provided otherwise by any other provision of this Article 7, thirty (30) days after notice of any breach delivered in accordance with Section 10 to correct the same prior to the non-breaching party's pursuit of any remedy provided for in Section 7.4 and 7.7; provided, however, that the 30-day period shall be extended, but only (i) if the alleged breach is not reasonably susceptible to being cured within the 30-day period, and (ii) if the defaulting party has promptly initiated the cure of the breach, and (iii) if the defaulting party diligently and continuously pursues the cure of the breach until its completion. If any party shall fail to perform any of its obligations under this Agreement, and if the party affected by the default shall have given written notice of the default to the defaulting party, and if the defaulting party shall have failed to cure the default as provided in this Article 7.2, then, except as specifically provided otherwise in the following sections of this Article 7, and in addition to any and all other remedies that may be available either in law or equity, the party affected by the default shall have the right (but not the obligation) to take any action as in its discretion and judgment shall be necessary to cure the default. In any event, the defaulting party hereby agrees to pay and reimburse the party affected by the default for all costs and expenses reasonably incurred by it in connection with action taken to cure the default, including attorney's fees and court costs.

7.3 Any of the following events or circumstances shall be an event of default by Developer with respect to this Agreement:

- (a) Failure to pay the annual payment on the Note within fifteen (15) business days of the date of the notice from the Village of the amount due and owing.
- (b) If any material representation made by the Developer in this Agreement, or in any certificate; notice, demand to the Village; or request made by the Village in connection with any of documents, shall prove to be untrue or incorrect in any material respect as of the date made.

- (c) Default by the Developer in the performance or breach of any material covenant contained in this Agreement concerning the existence, structure, or financial condition of the Developer.
- (d) The Developer's default in the performance or breach of any material covenant, warranty, or obligation contained in this Agreement.
- (e) The Developer's breach of the covenants and warranties as set forth in Section 4.2
- (f) The entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the Developer in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency, or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official of the Developer for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order un-stayed and in effect for a period of 60 consecutive days. There shall be no cure period for this event of default.
- (g) The commencement by the Developer of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency, or other similar law, or the consent by the Developer to the appointment of or taking possession, by a receiver, liquidator, assignee, trustee, custodian, sequestrator, or similar official of the Developer or of any substantial part of the Developer's property, or the making by any such entity of any assignment for the benefit of creditors or the failure of the Developer generally to pay such entity's debts as such debts become due or the taking of action by the Developer in furtherance of any of the foregoing. There shall be no cure period for this event of default.
- (h) The Developer's failure to pay all fees, taxes (including real estate taxes), fines and licenses when due during the term of this Agreement.

7.4 The Village shall have the following remedies in the event of default by the Developer:

- (a) Subject to the provisions of this Agreement, in the case of an event of default by the Developer, the Note shall become immediately due and payable and the Village may institute such foreclosure proceedings as may be necessary in the event payment of the outstanding principal in full is not made within thirty (30) days of the declaration of an event of default on the part of the Developer.
- (b) In case the Village shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Village, then, and in every such case, the Developer and the Village shall be restored respectively to their several positions and

rights hereunder, and all rights, remedies and powers of the Developer and the Village shall continue as though no such proceedings had been taken.

7.5 The Developer agrees to indemnify the Village, and all of its elected and appointed officials, officers, employees, agents, representatives, engineers, consultants, and attorneys, against any and all claims that may be asserted at any time against any of such parties in connection with or as a result of (i) the Developer's development, construction, maintenance, or use of any property; or, (ii) the Developer's default under the provisions of this Agreement.

#### ARTICLE 8: GENERAL PROVISIONS

8.1 The Developer acknowledges and agrees that (i) the Village is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the Village's review and approval of any plans or improvements or as a result of the issuance of any approvals, permits, certificates, or acceptances for the development or use of any portion of the Subject Property or the improvements and (ii) the Village's review and approval of any plans and the issuance of any approvals, permits, certificates, or acceptances does not, and shall not, in any way be deemed to insure the Developer, or any of its successors, assigns, tenants, or licensees, or any third party, against violations or damage or injury of any kind at any time.

8.2 The Developer shall hold harmless the Village, and all of its elected and appointed officials, employees, agents, representatives, engineers, consultants, and attorneys from any and all claims that may be asserted at any time against any of such parties in connection with (i) the Village's review and approval of any plans or improvements or (ii) the Village's issuance of any approval, permit or certificate. The foregoing provision, however, shall not apply to claims made against the Village as a result of a Village event of default under this Agreement, claims that are made against the Village that relate to one or more of the Village's representations, warranties, or covenants under Section 6.3 and claims that the Village, either pursuant to the terms of this Agreement or otherwise explicitly has agreed to assume.

8.3 The Village shall be under no obligation to exercise rights granted to it in this Agreement except as it shall determine to be in its best interest from time to time. Except to the extent embodied in a duly authorized and written waiver of the Village, no failure to exercise at any time any right granted herein to the Village shall be construed as a waiver of that or any other right.

8.4 Time is of the essence of this Agreement, provided, however, a party shall not be deemed in material breach of this Agreement with respect to any of its obligations under this Agreement on such party's part to be performed if such party fails to timely perform the same and such failure is due in whole or in part to any strike, lock-out, labor trouble (whether legal or illegal), civil disorder, weather conditions, failure or interruptions of power, restrictive governmental laws and regulations, condemnations, riots, insurrections, acts of terrorism, war, fuel shortages, accidents, casualties, floods, earthquakes, fires, acts of Gods, epidemics, quarantine restrictions, freight embargoes, acts caused directly or indirectly by the other party (or the other party's agents, employees or invitees) or similar causes beyond the reasonable control of such party ("*Force Majeure*"). If one of the foregoing events shall occur or either party shall claim that such an event shall have occurred, the party to whom such claim is made shall investigate same and consult with the party making such claim regarding the same and the party to whom such claim is made shall



grant any extension for the performance of the unsatisfied obligation equal to the period of the delay, which period shall commence to run from the time of the commencement of the Force Majeure; provided that the failure of performance was reasonably caused by such Force Majeure.

8.5 This Agreement may not be assigned by the Developer without the prior written consent of the Village, which consent shall not be unreasonably withheld.

**ARTICLE 9. TERM**

9.1 This Agreement shall be in full force and effect upon its execution by the parties and terminate upon the first to occur: (i) payment in full of the Note; or, (ii) December 31, 2036.

**ARTICLE 10. NOTICES**

10.1 All notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof (a) when delivered in person on a business day at the address set forth below, or (b) on the third business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage prepaid, certified or registered mail, return receipt requested, at the address set forth below, or (c) by facsimile or email transmission, when transmitted to either the facsimile telephone number or email address set forth below, when actually received.

Notices and communications to Developer shall be addressed to, and delivered at, the following addresses:

with a copy to:

Blue Ridge BBQ, Inc.

\_\_\_\_\_

\_\_\_\_\_

Notices and communications to the Village shall be addressed to and delivered at these addresses:

with a copy to:

Village of Lake Zurich  
70 East Main Street  
Lake Zurich, Illinois 60047

Kathleen Field Orr  
2024 Hickory Road, Suite 205  
Homewood, Illinois 60430

By notice complying with the requirements of this Article, each party shall have the right to change the address or addressee, or both, for all future notices and communications to such party, but no notice of a change of address or addressee shall be effective until actually received.

**ARTICLE 11. IN GENERAL**

11.1 No modification, addition, deletion, revision, alteration, or other change to this Agreement shall be effective unless and until the change is reduced to writing and executed and delivered by the Village and the Developer. No term or condition of this Agreement shall be deemed waived by any party unless the term or condition to be waived, the circumstances giving rise to the waiver and, where applicable, the conditions and limitations on the waiver are set forth specifically in a duly authorized and written waiver of such party. No waiver by any party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition of this Agreement, nor shall waiver of any breach be deemed to constitute a waiver of any subsequent breach whether of the same or different provisions of this Agreement.

11.2 No claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made, or be valid, against the Village or the Developer.

11.3 This Agreement shall constitute the entire agreement of the Parties; all prior agreements between the Parties, whether written or oral, are merged into this Agreement and shall be of no force and effect.

11.4 This Agreement is to be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute the same instrument.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the dates set forth below their respective signatures, to be effective as of the Effective Date.

VILLAGE OF LAKE ZURICH

Attest:

By: \_\_\_\_\_  
Village President

By: \_\_\_\_\_  
Village Clerk

Date: \_\_\_\_\_, 2020

Blue Ridge BBQ, Inc., an Illinois corporation

Attest:

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

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

Date: \_\_\_\_\_, 2020

*Exhibit A*

*Legal Description*

Part of the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 20, Township 43 North, Range 10 East of the Third Principal Meridian, commencing at the intersection of the Southeasterly line of Robertson Avenue (Main Street) with the Northerly line of Mionske Drive in Mionske's 2nd Subdivision, moving Northeasterly along the Southeasterly line of Robertson Avenue 110', then Southeasterly 106.9' to a point in the Northerly line of Mionske Drive 153.6' East of said intersection in Lake County, Illinois.

*Exhibit B*

*Infrastructure Improvements*



PRELIMINARY ENGINEER'S OPINION OF PROBABLE COST  
 RIGHT OF WAY & UTILITY IMPROVEMENTS  
 133 W MAIN STREET, LAKE ZURICH, ILLINOIS  
 12/11/2019

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION
<b>SCHEDULE I - EARTHWORK AND PAVEMENT REMOVAL</b>					
1.	Mobilization	1	L Sum	\$5,000.00	\$5,000.00
2.	Traffic Control and Protection	1	L Sum	\$7,500.00	\$7,500.00
3.	Pavement Sawcut & Remove (12")	20	Sq Yd	\$20.00	\$400.00
4.	Water Excavation & Haul Off	50	Cu Yd	\$60.00	\$3,000.00
5.	Trench Backfill	50	Cu Yd	\$40.00	\$2,000.00
<b>TOTAL SCHEDULE I - EXCAVATION AND GRADING IMPROVEMENTS</b>					<b>\$17,900.00</b>
<b>SCHEDULE II - UNDERGROUND IMPROVEMENTS</b>					
1.	2" Water Service Installation - Copper	100	Foot	\$35.00	\$3,500.00
2.	Service Abandonment (Water)	1	Each	\$2,000.00	\$2,000.00
<b>TOTAL SCHEDULE II - UNDERGROUND IMPROVEMENTS</b>					<b>\$5,500.00</b>
<b>SCHEDULE III - ROADWAY &amp; SIDEWALK IMPROVEMENTS</b>					
1.	Concrete Curb Type B-6.12, Remove & Replace	150	Foot	\$40.00	\$6,000.00
2.	Misc. Removals (sidewalk, brick pavers, signage)	1	L Sum	\$2,500.00	\$2,500.00
3.	Concrete Sidewalk, 5"	500	Sq Ft	\$7.50	\$3,750.00
4.	Streetscaping Pavers and Tree Grates	2	Each	\$5,000.00	\$10,000.00
5.	Pavement Patch, Class D, 12" w/ 8" agg Subgrade	20	Sq Yd	\$100.00	\$2,000.00
<b>TOTAL SCHEDULE III - ROADWAY IMPROVEMENTS</b>					<b>\$24,250.00</b>
<b>SUBTOTAL SCHEDULES I-IV</b>					<b>\$47,650.00</b>
<b>ENGINEERING (% of CONSTRUCTION COSTS)</b>		<b>20%</b>			<b>\$9,530.00</b>
<b>CONTINGENCY (% of CONSTRUCTION COSTS)</b>		<b>15%</b>			<b>\$7,147.50</b>
<b>TOTAL</b>			<b>(ROUNDED TO NEAREST \$10K)</b>		<b>\$64,000.00</b>

Prepared By: Manhard Consulting, Ltd.  
 One Overlook Pointe, Suite 290  
 Lincolnshire, Illinois 60069

NOTE: This Engineer's Opinion of Probable Cost is made on the basis of Engineer's experience and qualifications using plan quantities and represents Engineer's best judgment as an experienced and qualified professional engineer generally familiar with the construction industry. However, since the Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, or over quantities of work actually performed, Engineer cannot and does not guarantee that proposals, bids or actual Construction Cost will not vary from Opinions of Probable Cost prepared by Engineer. This Opinion of Probable Construction Cost is limited to those items stated herein and does not include permit fees, recapture costs, consultant fees, landscaping, dewatering, maintenance, bonds or the like.



*Exhibit C*

**PROMISSORY NOTE**

\$ \_\_\_\_\_, 2020  
Lake Zurich, Illinois

FOR VALUE RECEIVED, Blue Ridge BBQ, Inc., an Illinois corporation (the "Maker"), hereby promises to pay to the order of Village of Lake Zurich (Lender), the sum of \$ \_\_\_\_\_ at the place and in the manner hereinafter provided, together with interest from the date hereof on the balance of principal remaining from time to time unpaid at an annual rate (Loan Rate) equal to 0%.

Payment of principal due under this Promissory Note ("*Note*") shall be made as follows:

- (a) During any period where Maker is not in default under the terms of the Redevelopment Agreement dated \_\_\_\_\_, 2020 attached to and incorporated into this Note as Exhibit I ("*Redevelopment Agreement*") payments shall be due and payable annually on December 15 commencing December 15, 2022 in an amount equal to 1/15 of the principal less the amount received by the Lender pursuant to Article 5 of the Redevelopment Agreement.
- (b) The entire principal balance of this Note shall be due and payable in full if Maker is in Default as defined in Article 8 of the Redevelopment Agreement, and Maker has failed to cure said Default within the time allotted in Section 7.2 of the Redevelopment Agreement.
- (c) If Maker of the Redevelopment Agreement on December 31, 2029, the Lender shall mark this note "Paid in Full" and shall provide the Maker with a Release of Mortgage for recording.

If an "Event of Default" (as hereinafter defined) exists under this Note, Maker shall pay interest on the balance of principal remaining unpaid during any such period at an annual rate equal to 5% ("*Default Rate*"). The interest accruing under this paragraph shall be immediately due and payable by Maker to the Lender and shall be additional indebtedness evidenced by this Note.

Notwithstanding any provisions of this Note or any instrument securing payment of the indebtedness evidenced by this Note to the contrary, it is the intent of Maker and Lender that Lender shall never be entitled to receive, collect, or apply, as interest on principal of the indebtedness, other than the application of the Default Rate, if required.

All payments and prepayments on account of the indebtedness evidenced by this Note shall be first applied to accrued and unpaid interest on the unpaid principal balance of this Note and the remainder, if any, to said principal balance.

Provided no uncured default exists under this Note, the principal balance of this Note may be prepaid in whole or in part, without premium or penalty.

All payments hereunder shall be paid in coin or currency that, at the time or times of payment, is the legal tender for public and private debts in the United States of America, and shall be made at such place as Lender or the legal holder or holders of this Note may from time to time appoint, and in the absence of such appointment, then at the offices of Village of Lake Zurich, 70 East Main Street, Lake Zurich, Illinois 60047. Payment submitted in funds not available until collected shall continue to bear interest until collected. If payment hereunder becomes due and payable on a Saturday, Sunday, or legal holiday under the laws of the State of Illinois, the due date thereof shall be extended to the next succeeding business day, and interest shall be payable thereon at the Loan Rate during such extension.

This Note and any and all other liabilities and obligations of Maker to Lender, howsoever created, arising, or evidenced, whether now or hereafter existing, are secured, inter alia, by the Mortgage ("*Mortgage*") of even date made by Maker to Lender creating a mortgage lien on certain real property (Subject Property) located in Cook County, Illinois, and commonly known as 133 West Main Street., Lake Zurich, Illinois 60047, and such other documents executed in connection with this Note, including the attached Redevelopment Agreement (said security documents are hereinafter collectively referred to as the "*Loan Documents*"). Reference is hereby made to the Loan Documents (which are incorporated herein by reference as fully and with the same effect as if set forth herein at length) for a legal description of the Subject Property, a statement of the covenants and agreements contained therein, a statement of the rights, remedies, and security afforded thereby, and all other matters therein contained.

The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Note:

- (a) The failure by Maker to make payment of principal on the date when any such payment is due in accordance with the terms hereof; or
- (b) The failure by the Maker to perform its obligations under paragraphs 3 through 7 of the Mortgage; or
- (c) The occurrence of any one or more defaults as defined in Article 4 of the Redevelopment Agreement; or
- (d) The sale or other disposition of the Subject Property or all or any portion of Maker's interest in the Subject Property without Lender's consent; or
- (e) The bankruptcy, dissolution, or liquidation of the Maker.

In the case of the occurrence of any Event of Default, the holder or holders hereof shall have the right to elect, without additional notice, to (a) declare the principal balance remaining unpaid under this Note, and all unpaid interest at the Default Rate accrued thereon, immediately due and

payable in full; (b) foreclose the Mortgage securing the payment of the Note; and/or (c) exercise any and all other rights and remedies available at law or in equity or under the Mortgage or the other Loan Documents. Failure to exercise these options shall not constitute a waiver of the right to exercise the same in the event of any subsequent Event of Default.

If any Event of Default under this Note or any Loan Document shall occur or if suit is filed herein or if proceedings are held in bankruptcy, receivership, reorganization, or other legal or judicial proceedings of the collection hereof, the non-prevailing party promises to pay all costs of collection of every kind, including but not limited to all appraisal costs, attorneys' fees, court costs, and expenses of every kind, incurred by the prevailing party in connection with such collection or the protection or enforcement of any or all of the security for this Note, whether or not any lawsuit is filed with respect thereto.

Maker hereby waives and renounces any and all homestead and exemption rights and any and all redemption rights and the benefit of all valuation and appraisal privileges as against the indebtedness evidenced hereby, or any renewal or extension thereof, waive presentment for payment, protest, and demand, notice of protest, of demand, and of dishonor and nonpayment of this Note, and expressly agree that this Note, or any payment hereunder, may be extended from time to time before, at, or after maturity without in any way affecting the liability of Maker or the Guarantor hereof.

This Note is to be governed and construed in accordance with the laws of the State of Illinois. This Note may not be changed or amended orally but only by an instrument in writing signed by the party against whom enforcement of the change or amendment is sought.

If any provision of this Note or any payments pursuant to the terms hereof shall be invalid or unenforceable to any extent, the remainder of this Note and any other payments hereunder shall not be affected thereby and shall be enforceable to the greatest extent permitted by law.

Lender shall in no event be construed for any purpose to be a partner, joint venturer, agent, or associate of Maker or any beneficiary of Maker or of any lessee, operator, concessionaire, or licensee of Maker or any beneficiary of Maker in the conduct of their respective businesses.

All notices permitted or required pursuant to this Note shall be in writing and shall be deemed to have been properly given (a) upon delivery, if served in person or sent by facsimile with receipt acknowledged; (b) on the third (3rd) business day following the day such notice is deposited in any post office station or letter box if mailed by certified mail, return receipt requested, postage prepaid; or (c) on the first (1st) business day following the day such notice is delivered to the carrier if sent via a nationally recognized overnight delivery service (*e.g.*, Federal Express) and addressed to the party to whom such notice is intended as set forth below:

To Lender:

Village of Lake Zurich  
70 East Main Street  
Lake Zurich, Illinois 60047

with a copy to:

Kathleen Field Orr  
2024 Hickory Road, Suite 205  
Homewood, Illinois 60430

To Maker:

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

Either party may designate a different address for notice purposes by giving notice thereof in accordance with this paragraph; provided, however, that such notice shall not be deemed given until actually received by the addressee.

Time is hereby declared to be of the essence of this Note and of every part hereof.

MAKER HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS NOTE OR ANY OTHER LOAN DOCUMENTS OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF EITHER PARTY. MAKER HEREBY EXPRESSLY ACKNOWLEDGES THIS WAIVER IS A MATERIAL INDUCEMENT FOR HOLDER TO ACCEPT THIS NOTE AND TO MAKE THE LOAN EVIDENCED HEREBY AND BY THE OTHER LOAN DOCUMENTS.

ALL ACTIONS ARISING DIRECTLY AS A RESULT OR IN CONSEQUENCE OF THIS NOTE OR THE LOAN DOCUMENTS SHALL BE INSTITUTED AND LITIGATED ONLY IN COURT HAVING SITUS IN COOK COUNTY, ILLINOIS, AND MAKER AND ALL PARTIES CLAIMING TO OR THROUGH MAKER HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT LOCATED AND HAVING ITS SITUS IN SAID COUNTY, AND WAIVE ANY OBJECTION BASED ON FORUM NON CONVENIENS, AND MAKER, OR ANY ONE OF THEM, HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS, AND CONSENTS THAT ALL SUCH SERVICES OF PROCESS MAY BE MADE BY CERTIFIED MAIL RETURN RECEIPT REQUESTED, DIRECTED TO THE MAKER AT THE ADDRESS INDICATED ABOVE, AND SERVICE SO MADE SHALL BE COMPLETE FIVE DAYS AFTER THE SAME HAS BEEN DEPOSITED IN THE U.S. MAIL AS AFORESAID.

This Note has been made and delivered at Lake Zurich, Illinois, and all funds disbursed to or for the benefit of Maker have been disbursed in Lake Zurich, Illinois.

**IN WITNESS WHEREOF**, the Maker, Blue Ridge BBQ, Inc., has executed this Mortgage/Note as of the dates set forth below to be effective as of the Effective Date.

Blue Ridge BBQ, Inc., an Illinois corporation

*Attest:*

By: \_\_\_\_\_ By: \_\_\_\_\_  
President Secretary

Date: \_\_\_\_\_, 2020



*Exhibit D*

*Prepared by and return to:*

Village of Lake Zurich  
70 East Main Street  
Lake Zurich, Illinois 60047  
Attn: Village Manager

**MORTGAGE**

**THIS MORTGAGE IS TO WITNESS** that Blue Ridge BBQ, Inc., an Illinois corporation, (the "*Mortgagor*"), **Mortgages and Warrants** to the Village of Lake Zurich, an Illinois municipal corporation (the "*Mortgagee*") the following described real estate in Lake County, Illinois (hereinafter referred to as "*Real Estate*"):

Part of the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 20, Township 43 North, Range 10 East of the Third Principal Meridian, commencing at the intersection of the Southeasterly line of Robertson Avenue (Main Street) with the Northerly line of Mionske Drive in Mionske's 2<sup>nd</sup> Subdivision, moving Northeasterly along the Southeasterly line of Robertson Avenue 110', then Southeasterly 106.9' to a point in the Northerly line of Mionske 153.6' East of said intersection in Lake County, Illinois.

Common address: 133 West Main Street, Lake Zurich, Illinois

Permanent Index Number: 14-20-100-017

together with the improvements on such real estate, all easements, rights and appurtenances to such real estate, and the rents, issues and profits therefrom (all of which is hereinafter referred to as the "*Mortgaged Property*").

**THE MORTGAGOR HEREBY COVENANTS AND AGREES:**

1. This Mortgage is given to secure the performance and observance of the covenants and agreements herein contained and the payment of the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_ .00) according to the terms of a

certain Promissory Note (the "Note") of even date herewith executed and delivered by the Mortgagor, payable to the order of the Mortgagee according to the terms of such Note, which are incorporated and made part of this Mortgage by reference;

2. To pay the principal and interest, if any, under the provisions of the Note and to pay all sums hereby secured including all costs of collection, without relief from valuation and appraisal laws and with reasonable attorney's fees;

3. To pay when due all taxes, assessments and charges of every nature and to whomever assessed that may now or hereafter be levied or assessed upon the Mortgaged Property or any part thereof, upon the rents, issues, income or profits thereof, whether any or all of said taxes, assessments or charges be levied directly or indirectly or as excise taxes or as income taxes;

4. To keep the buildings and improvements now standing or hereafter erected upon the Mortgaged Property and any apparatus, fixtures and appurtenances now or hereafter in or attached to said buildings or improvements, insured against loss or damage by fire, windstorm, cyclone, tornado and such other hazards as the Mortgagee may from time to time require;

5. To keep the Mortgaged Property and the improvements thereon in good repair; to neither commit nor suffer waste on the Mortgaged Property; to obtain the written consent of the Mortgagee before demolishing, removing or materially altering any building, structure or improvement now or hereafter upon the Mortgaged Property or before allowing any such building, structure or improvement to be demolished, removed or materially altered; not to commit nor permit any act by which the value of the Mortgaged Property may be impaired; and not to violate nor permit the violation of any law, rule or regulation affecting the Mortgaged Property;

6. To pay all sums, the failure to pay which may result in the acquisition of a lien before the lien of this Mortgage before such a prior lien may attach;

7. To comply with all material terms, provisions, and conditions of the Redevelopment Agreement dated \_\_\_\_\_, 2020 between the Mortgagor, Blue Ridge BBQ, Inc. and the Village of Lake Zurich, Lake County, Illinois.

8. That, upon any default in the payment of the Note when and as due, or in the performance or observance of any other of the terms, covenants or agreements of this Mortgage or of any other instrument now or hereafter evidencing or securing the Note, then in any such event, the whole indebtedness hereby secured shall, at the option of the Mortgagee, or of the legal holder of the Note, become immediately due, with attorneys' fees and without relief from valuation or appraisal laws. And thereupon, or at any time during the existence of any such default, the Mortgagee may foreclose this Mortgage and may enter into possession of the property herein mortgaged and collect the rents, issues and profits thereof, accrued and to accrue, and apply the same on the indebtedness hereby secured or shall be entitled, as of right and without notice, in any

court of competent jurisdiction to the appointment of a receiver to collect such rents, issues and profits under direction of the court. The omission of the Mortgagee to exercise such option shall not preclude the Mortgagee from so doing upon any subsequent default and notice of the exercise thereof is hereby waived.

The property herein mortgaged being in the State of Illinois, this Mortgage and the rights and indebtedness hereby secured shall, without regard to the place of contract or payment, be construed and enforced according to the laws of the State of Illinois.

EXECUTED at Lake Zurich, Illinois, on 2 2020.

**Blue Ridge BBQ, Inc.**

\_\_\_\_\_

By:  
President

Attest:

Secretary

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF LAKE )

On \_\_\_\_\_ 2020, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_ and \_\_\_\_\_ officers of Blue Ridge BBQ, Inc., an Illinois corporation and known to me to be designated agents of the limited liability company that executed the mortgage and acknowledged the mortgage to be the free and voluntary act and deed of the corporation, by authority of statute, its articles of organization, or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute this mortgage and in fact executed the Mortgage on behalf of the limited liability company.

Notary Public

My Commission Expires:

## LICENSE AGREEMENT

This Non-Exclusive License Agreement (the "*Agreement*") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the Village of Lake Zurich, Lake County, Illinois, a non-home rule municipal corporation of the State of Illinois (the "*Village*") and Blue Ridge BBQ, Inc., an Illinois corporation d/b/a/ Blue Ridge Korean BBQ, (hereinafter referred to as "*Owner*").

### WITNESSETH

**WHEREAS**, the Owner is the titleholder of property legally described on Exhibit A attached hereto which is located at the southeast corner of Mionske Drive and West Main Street and within the triangle as outlined on Exhibit A attached hereto (the "*Owner's Parcel*"); and,

**WHEREAS**, the Owner has requested that the Village grant to it a non-exclusive license over the property owned by the Village lying outside of the Owner's Parcel along Mionske Drive and West Main Street (the "*Village Property*"); and,

**WHEREAS**, the Village is prepared to grant the Owner's request to grant a license to use the Village Property subject to the terms and conditions hereinafter set forth.

**NOW, THEREFORE, IN CONSIDERATION** of the foregoing and the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Village and the Owner agree as follows:

1. That the statements and representations set forth in the preambles above are incorporated into and made a part of this Agreement as though fully set forth.
2. The Village hereby grants to the Owner a non-exclusive license to use the Village Property but only so long as the Owner is operating Blue Ridge Korean BBQ at the Owner's Parcel.
3. The Owner hereby agrees to maintain the Village Property at all times so long as this Agreement is in full force and effect, repairing and resurfacing all blacktop surfaces, as needed, keeping the Village Property free of litter and debris, and maintaining all striping as needed in the parking area.

4. The Owner agrees that it will save and shall hold the Village and its officers, agents and employees harmless from all damages, costs, or liabilities or injury to or death of any person or persons or damage to the Village Property, for any cause arising out of the Owner's use of the Village Property unless directly caused by negligence of the Village or its authorized officers, employees or agents.
5. The Village reserves the right to use the Village Property for any lawful purposes which will not interfere, obstruct, or be inconsistent with the Owner's use of the Village Property.
6. The Village reserves the right to cancel this License Agreement in the event the Owner defaults in any of its obligations under this License Agreement; the Owner makes any conveyance of the Owner's Parcel; discontinues the operation of Blue Ridge Korean BBQ at the Owner's Parcel; or, permits any liens or encumbrances to be placed against the Village Property.
7. All rights and obligations of the Owner and the Village respectively, hereunder, shall inure to the benefit of and be binding upon their respective successors and assigns and all terms and conditions herein shall run with the land.

**IN WITNESS WHEREOF**, the Owner and Village have caused this License Agreement to be executed by their duly authorized officers effective the date and year hereinabove stated.

Village of Lake Zurich, an Illinois municipal corporation

By: \_\_\_\_\_  
Village President

*Attest:*

\_\_\_\_\_  
Village Clerk

Blue Ridge BBQ, Inc., an Illinois corporation

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

*Attest:*

\_\_\_\_\_



STATE OF ILLINOIS        )  
  ) SS  
County of Lake            )

I, \_\_\_\_\_, a Notary Public in and for said County and State, do hereby certify that \_\_\_\_\_ personally known to me to be the same persons whose name is subscribed to the foregoing instrument as \_\_\_\_\_ the Owner, appeared before me this day in person and, being duly sworn, acknowledged that \_\_\_\_\_ signed, sealed and delivered the said instrument as \_\_\_\_\_ free and voluntary act, for the uses and purposes therein set forth, and that \_\_\_\_\_ was duly authorized to execute the said instrument.

Given under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

VILLAGE OF LAKE ZURICH

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Village Clerk

STATE OF ILLINOIS        )  
  ) SS  
County of Lake            )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that: \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of the Village of Lake Zurich and \_\_\_\_\_, personally known to me to be the Village Clerk of said Village, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Village President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Village Board of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

*This document prepared by:*

Kathleen Field Orr  
Village Attorney  
Kathleen Field Orr & Associates  
2024 Hickory Road  
Suite 205  
Homewood, Illinois 60430

*Exhibit A*

*Legal Description*

Part of the Northeast  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 20, Township 43 North, Range 10 East of the Third Principal Meridian, commencing at the intersection of the Southeasterly line of Robertson Avenue (Main Street) with the Northerly line of Mionske Drive in Mionske's 2nd Subdivision, moving Northeasterly along the Southeasterly line of Robertson Avenue 110', then Southeasterly 106.9' to a point in the Northerly line of Mionske Drive 153.6' East of said intersection in Lake County, Illinois.

**PUBLIC NOTICE**  
**PURSUANT TO 65 ILCS 5/11-74.4-4(c)**

POSTED: June 30, 2020

The Corporate Authorities of the Village of Lake Zurich (the "Village"), propose to sell the following property which is currently owned by the Village, said property approximately 0.13 acres in size:

**PROPERTY LOCATION, COMMON STREET ADDRESSES AND PINS:**

1. 133 West Main Street 1420100017 0.13 acres

ALL IN LAKE COUNTY, ILLINOIS.

in furtherance of the redevelopment objectives of the Downtown TIF District in the Village of Lake Zurich, Illinois. The basic terms of the proposed transaction will include the sale of the property by the Village to a buyer to redevelop the site with a Korean-style BBQ restaurant in the B-2 Business District of the Village of Lake Zurich. This redevelopment project shall be completed within 12 months of purchasing the property.

Any party interested in submitting a purchase proposal, relative to this property, or with questions regarding such a proposal, should contact Roy Witherow, Assistant Village Manager, at 847-540-1758.

Any successful proposal will then require the negotiation of the final terms of a purchase and sale agreement for the real estate that is satisfactory to the Village.

Any proposals should be submitted to the Village no later than April 11, 2020 at 4:30 p.m.

Village of Lake Zurich

Roy Witherow  
Assistant Village Manager



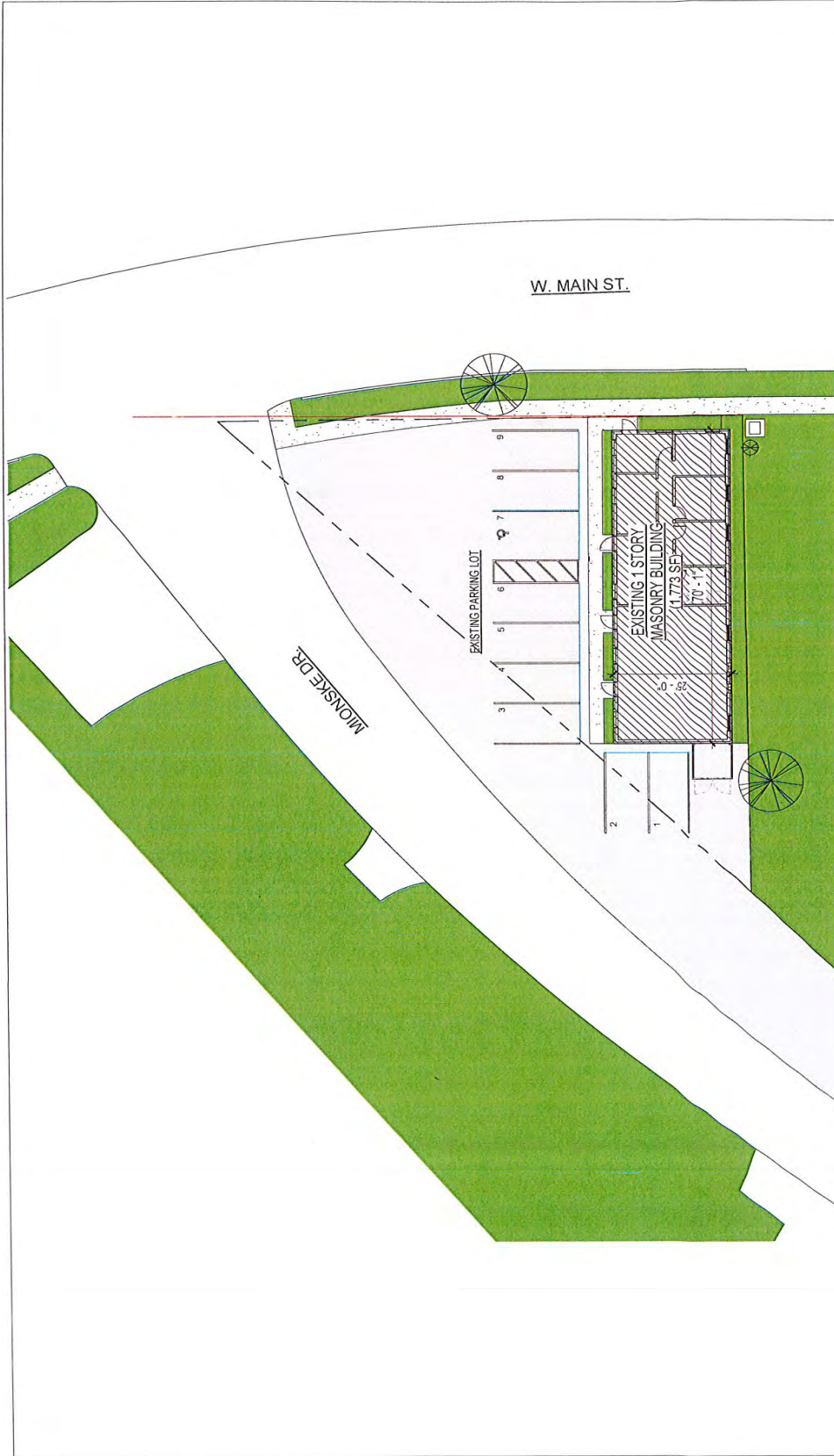




133 W. Main St.





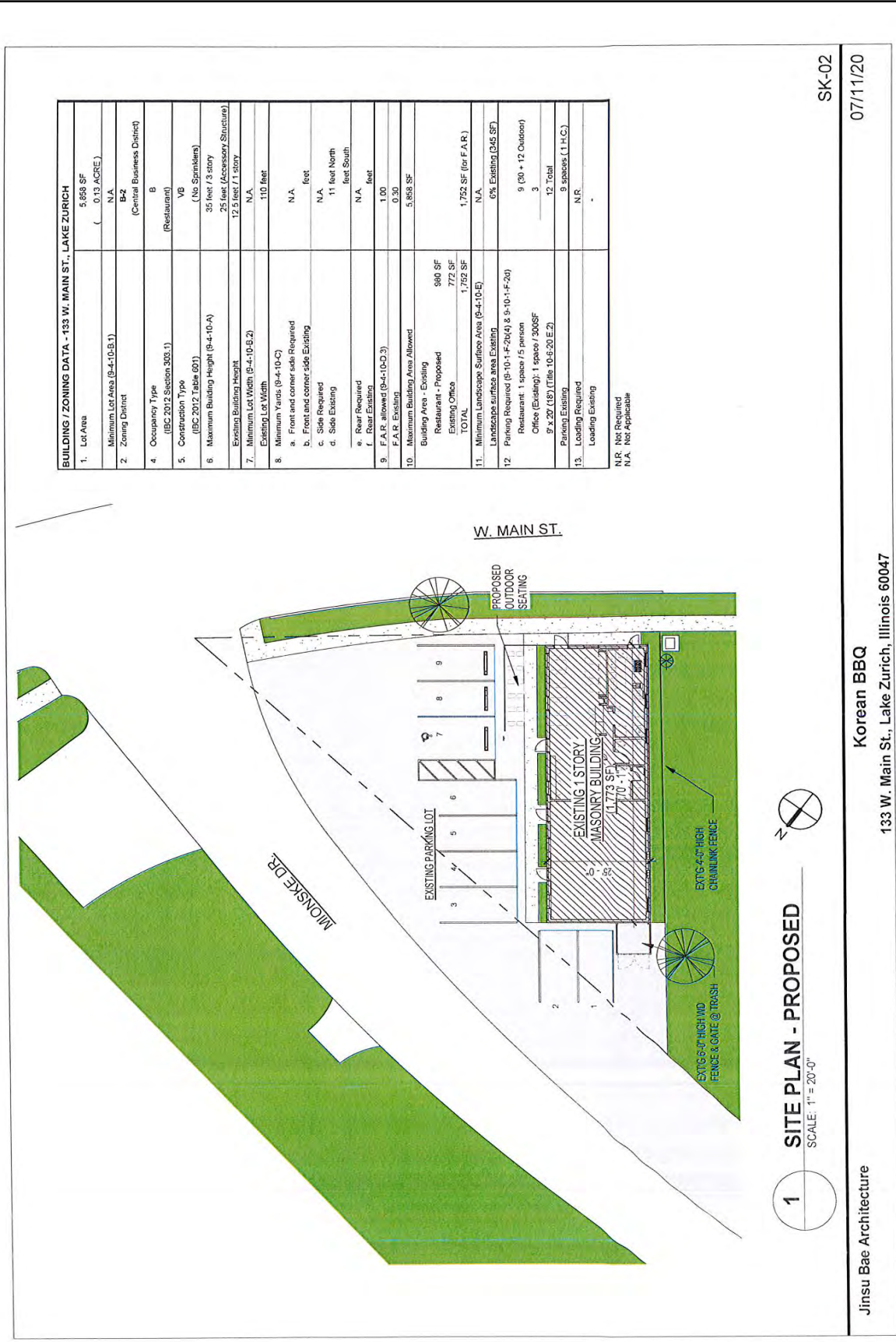


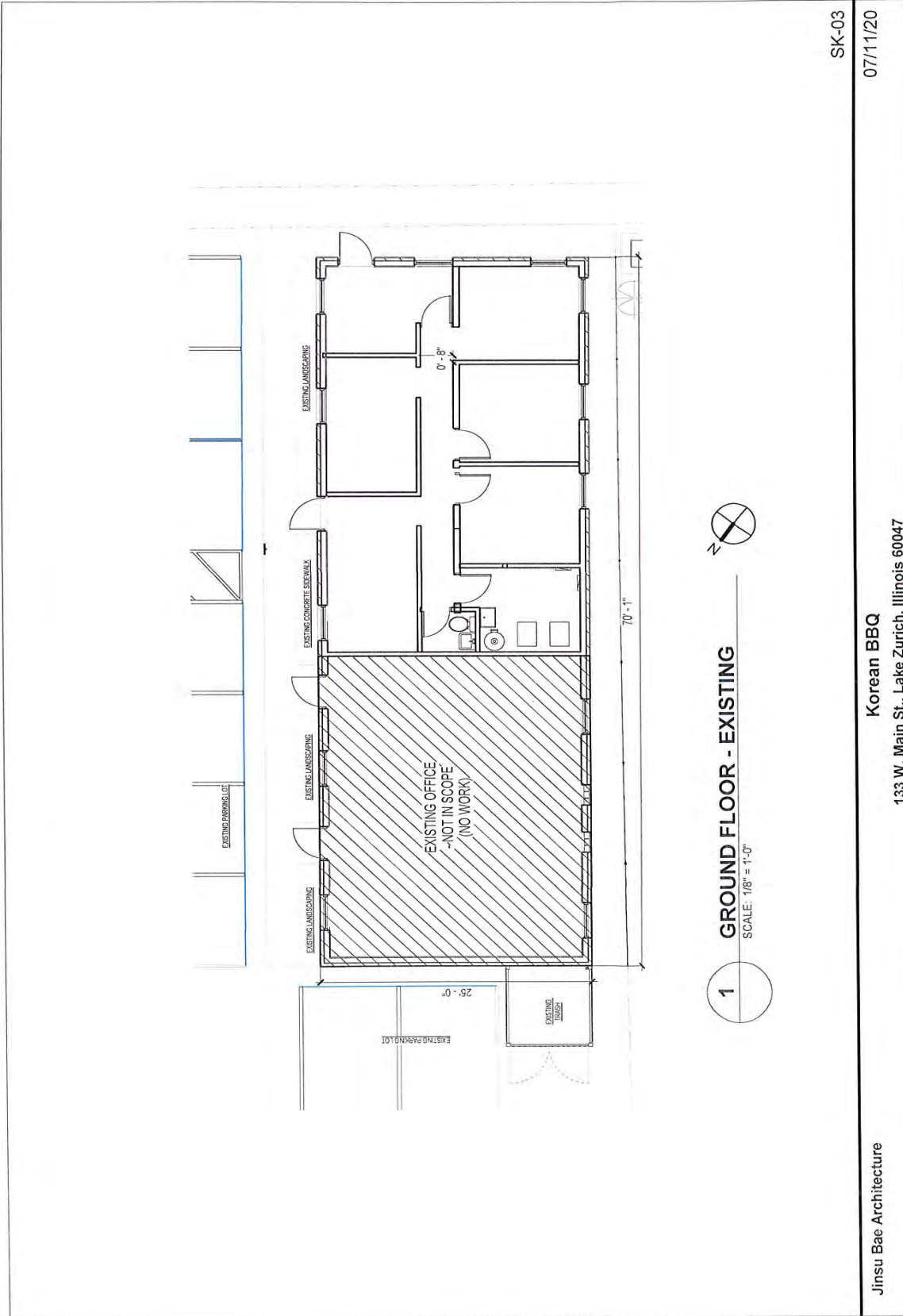
1 SITE PLAN - EXISTING  
SCALE: 1" = 20'-0"

SK-01  
07/11/20

Korean BBQ  
133 W. Main St., Lake Zurich, Illinois 60047

Jinsu Bae Architecture

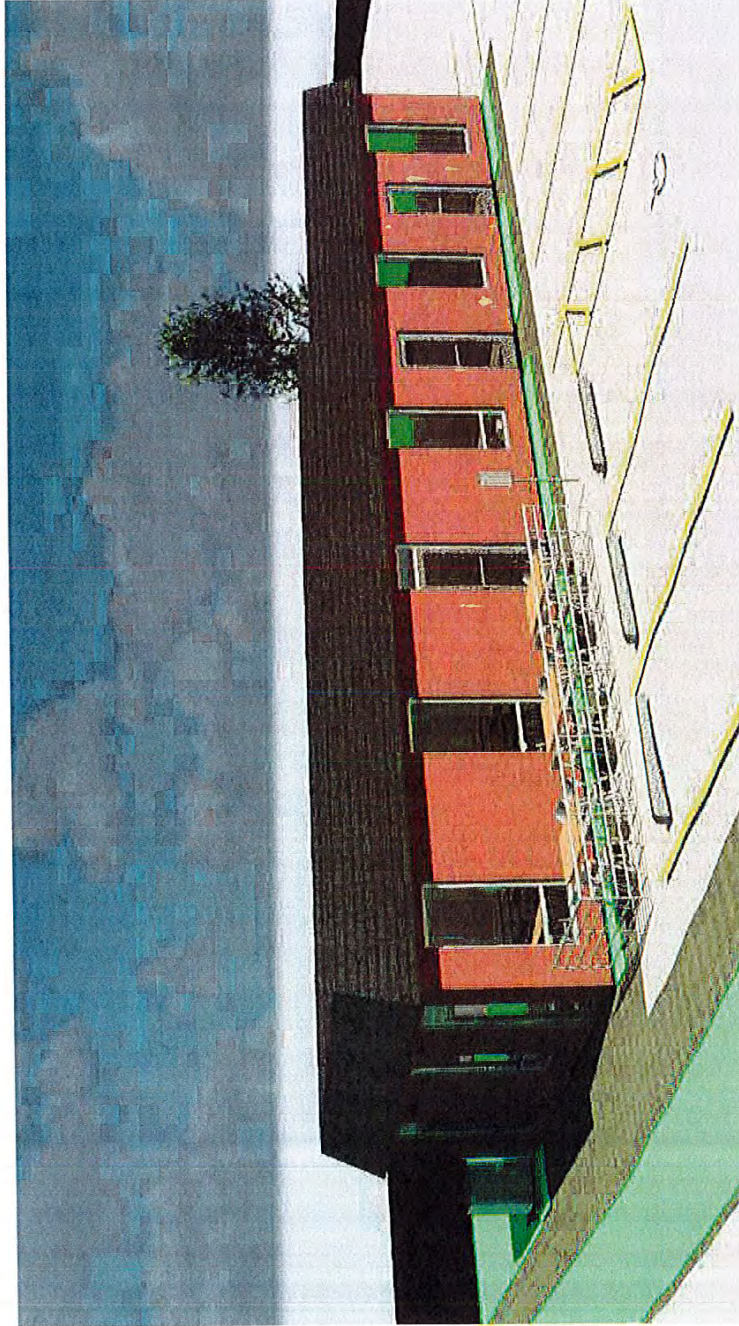












PERSPECTIVE VIEW - LOOKING FACADE (Looking East)

SK-05

07/04/20

Korean BBQ  
133 W. Main St., Lake Zurich, Illinois 60047

Jinsu Bae Architecture

Village of Lake Zurich and Village  
of Wauconda

Solid Waste Collection Contract with  
Prairieland Disposal Inc.

September 1, 2020 – August 31, 2025

448706\_1

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448706\_1

**VILLAGE OF LAKE ZURICH AND VILLAGE OF  
WAUCONDA  
SEPTEMBER 1, 2020 TO AUGUST 31, 2025  
REFUSE REMOVAL CONTRACT WITH  
PRAIRIELAND DISPOSAL, INC.**

This Refuse and Recycling Collection Contract (Hereinafter "Contract" or "Agreement") is made this 3rd day of August, 2020 by and between Prairieland Disposal, Inc. ("Contractor") and the Villages of Lake Zurich and Wauconda ("The Villages").

**I. Recitals.**

**WHEREAS**, The Villages sought proposals for refuse removal and recycling of waste generated by its residents and by municipal-owned facilities within the Villages and after review, selected the Contractor.

**WHEREAS**, the Villages and Contractor hereby desire to enter into an exclusive contract for a five (5) year period commencing Sept 1, 2020 and ending Aug 31, 2025 for Curbside collection of refuse, yard waste, and recyclable materials for all single-family, attached single family, and multi-family units, 4 units or less that utilize curbside collection service.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficient of which is hereby acknowledged, the Villages and Contractor agrees as follows:

**II. General Provisions.**

**1. Definitions.** The following words and phrases are defined for this Contract.

- (a) Bulk Items (also sometimes referred to as "Bulk Materials"): Any items set forth as refuse which are too large to fit into an approved refuse container and which exceed, in total, fifty (50) pounds in weight.  
Examples include sofas, large tables and chairs, dressers, bookcases, box springs, and other large household furniture.
- (b) Breach: Means a breach of this Contract by either the Villages or the Contractor. A breach by one of the Villages shall not constitute a breach by the other, and Contractor shall continue to abide by this Contract as to the Village which is not in breach.
- (c) Customer/Household: all residential households in the Villages, including all single-family, attached single-family and multi-family units
- (d) Contract: shall consist of those terms set forth herein and the terms and provisions of that Request for Proposals issued by the Village of Lake Zurich on February 7, 2020 with a Proposal Opening on May 27, 2020.

(The "RFP") including all addenda issued, the signed proposal, and any other

documents as may be deemed necessary by the Village. The RFP is attached hereto as **Exhibit A**, and the provisions of the RFP are hereby made part of this Contract, as if set forth herein. To the extent that any provision in the RFP is not set forth or has been omitted from this Contract document, or in the event of any inconsistency or conflict between any provision of this Contract and the provisions set forth in the RFP, the provisions of the RFP shall be followed and control. All requirements, terms or conditions of the Contract and RFP shall be met at all times during the term of the Contract by Contractor.

- (e) Curbside: A position immediately behind the curb or edge of the street, off of the pavement area and within the parkway area used for collection of refuse, yard waste, and recycling materials.
- (f) E-Scrap (also known as “E-Waste”): Shall mean “covered electronic devices as defined in the Illinois Consumer Electronic Recycling Act (415 ILCS 151/1-1, et seq.)”
- (g) Food Scraps: Food scraps are also referred to in this Contract as “food waste” or as “food organics”.
- (h) Household Construction and Demolition Debris: Waste materials from “do-it-yourself” interior and exterior Household Construction, remodeling, and repair projects, including, but not limited to, drywall, plywood, paneling, lumber, and other building materials, cabinets, carpeting, disassembled household fixtures, small amounts of sand, concrete, rocks, sod, and similar materials.
- (i) Household: All single-family, attached single-family and multi-family units that utilize curbside collection service.
- (j) Household Garbage: All food scraps, unwanted and discarded household or kitchen wastes, from routine domestic housekeeping, such as rejected or unused food and food residues, paper used in wrapping food, household rubbish, inorganic and incombustible household waste (i.e., cans, metal ware, broken glass, crockery, stoneware, and similar waste resulting from the regular operation of the household), empty cartons and crates, discarded toys, discarded clothing and furniture, and similar material. Household garbage shall not include waste from any manufacturing process, construction material, broken concrete, lumber, large rocks, and other similar material recyclables and yard waste.
- (k) Refuse: Household Garbage and Bulk Materials. Excludes Household Construction Materials and Debris
- (l) Refuse Container:
  - (i) Garbage Can: A plastic or galvanized metal can of a capacity not less than four (4) gallons and not to exceed thirty-four (34) gallons in size. No can shall exceed fifty (50) pounds in weight when filled.
  - (ii) Garbage Bag: A plastic bag of a capacity not to exceed thirty-three (33) gallons in size and fifty (50) pounds in weight when filled.
  - (iii) Toter: A wheeled plastic container with a tight-fitting top, not to exceed ninety-five (95) gallons in size, requiring a semi-automatic lifting mechanism for collection. All Toters must be approved by and/or supplied by the Contractor. Toters may include customer-supplied

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cans marked with an "X."

- (iv) Bundle: Any material allowed under the definition of Refuse, such as wood, boxes or other loose items, which do not exceed 4' in lengths or 50 lbs.
  
- (m) Recyclables (also referred to as recyclable materials): Materials that have a useful second life in the economic cycle if they are successfully collected, separated, processed and marketed for return to the economic mainstream. Recyclable materials shall include newspapers, magazines, telephones books, catalogs, junk mail, cardboard, regular paperboard; wet strength paperboard, mixed or miscellaneous paper products, tin, steel, and bi-metal beverage and food cans, aluminum cans and foil, plastics, clear, green and brown glass including bottles and jars, and such other materials as are included per the SWALCO recycle guidelines.
  
- (n) Uncollectable: Toxic, hazardous, radioactive, and bio-hazardous materials such as but not limited to unused medications, automotive batteries, paint, insecticide, oil, gasoline, antifreeze, tires, or their containers will not be collected. *Materials and items as defined by law and state and federal agencies as toxic or hazardous.*
  
- (o) White Goods: Items as defined by Section 22.28 of the Illinois Environmental Protection Act, included but not limited to any domestic and/or commercial large appliance which contains CFC or HCFC refrigerants gas, PCB containing capacitors, mercury switches, or other hazardous components. Other examples include, but are not limited to, refrigerators, freezers, air conditioners, ranges (both electric and gas), humidifiers, dehumidifiers, water heaters, furnaces, and other similar large appliances. [NOTE: Water softeners are not considered White Goods.]
  
- (p) Yard Waste (also known as "landscape waste"): Grass and garden clippings, leaves, pruning's of small diameter green stemmed shrubs, weeds, plant materials, aquatic weeds, and other material accumulated as the result of the care of lawns, shrubbery, vines, and trees, and other materials as described at 415 ILCS 5/3.270, and branches or tree trunks not to exceed four (4) feet in length and two (2) inches in diameter individually. Yard waste also includes kitty litter, dog waste, and food scraps.
  
- (q) Yard Waste (landscape waste) Containers:
  - (i) Kraft Paper Bag: A special biodegradable paper bag, not to exceed thirty three (33) gallons in size, which shall shred and degrade quickly in the composting process.
  - (ii) Toter: A wheeled plastic container with a tight-fitting top, not to exceed ninety-five (95) gallons in size, requiring a semi-automatic lifting mechanism for collection. All Toters must be approved by and/or supplied by the Contractor.
  - (iii) Bundle: Limbs, branches, or other loose items that do not exceed four (4) feet in length and fifty pounds in weight. Each branch shall not exceed two (2) inches in diameter, with the total diameter of the Bundle not to exceed eighteen (18) Inches. Multiple bundles are allowed up to the 15 bag limit per week.

## 1.2 Rules of Construction

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

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- (b) Headings: Headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope of intent of this Agreement.
  - (c) Calendar Days: Unless otherwise provided in this Agreement, any reference in this Agreement to “day” or “days” shall mean calendar days and not business days. If the date for giving of any notice required to be given or the performance of any obligation under this Agreement falls on Saturday, Sunday, or federal holiday, then the notice or obligations may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.
2. Contract Term. The Contract term shall commence on September 1, 2020 and end on August 31, 2025 and include Curbside collection of Refuse, Yard Waste/food waste, and recyclable materials for all single-family, attached single-family and multi-family units that utilize curbside collection service. The Contract shall not include properties serviced by centralized dumpsters, or commercial, industrial, or institutional properties unless specified.
- 2.1 Contract may be extended for up to an additional five (5) years, but only by a written extension agreement by mutual agreement of the parties.
  - 2.2 No amendment of this Contract shall be valid unless made in writing and approved by majority vote of the Villages’ Board of Trustees.
3. Customer Rates. The rates charged to The Villages Residents by Contractor are as follows: There will be an annual increase.
- 3.1 On September 1, 2021 and on each twelve-month anniversary date thereafter (the “Adjustment Date”), the charges for refuse, recycling, yard waste and leaf vacuuming (Unlimited and unlimited service and leaf vacuum) and as set forth on Schedule A below shall increase by 3.5%.
  - 3.2 Schedule A
    - A. RESIDENTIAL REFUSE COLLECTION PROGRAM
      - 1) LIMITED SERVICE
        - Street-side collection
        - \$ 19.83 plus Village fees  
household per month  
For Small Wheeled Cart (35 gallon)
        - \$19.83 plus Village fees Per  
household per month  
For Medium Wheeled Cart (65 gallon)
        - \$3.10  
Per sticker cost

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- |    |   |  |
|----|---|--|
| 2) | UNLIMITED SERVICE<br>Street-side collection | \$ <u>20.83</u> plus Village fees<br>Per household per month<br>For Large Wheeled Cart (95 gallon) |
|----|---|--|

The rates above include the cart. Senior Citizen rates for Customers 65 years of age and older shall be reduced by 10% from the above quoted rates.

- |    |  |  |
|----|--|--|
| 2) | COST OF PRIVATE SERVICES   | \$ <u>15.00</u><br>Per cubic yard                      |
| 3) | WHITE GOODS COLLECTION For<br>collecting white goods at the<br>Customer's curb | \$ <u>10.00</u> _____ Per<br>White Good                |
| 4) | CART SIZE CHANGE FEE   | \$ <u>25.00</u><br>One free change allowed once a year |

B. RECYCLABLE MATERIALS COLLECTION PROGRAM

- |    |                   |   |
|----|-------------------|---|
| 1) | UNLIMITED SERVICE | \$ <u>Included</u><br>Per household per month |
|----|-------------------|---|

The rate above includes the cart, either 65 or 95 gallons. Senior Citizen rate for Customers 65 years of age and older shall be reduced by 10% from the above quoted rate.

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C. LANDSCAPE WASTE/FOOD SCRAP COLLECTION PROGRAM

- 1) UNLIMITED SERVICE  
The flat rate over the period from April 1 to mid-December for unlimited collection of landscape waste / food scraps.

\$ Included Additional charge, if any, to allow food scraps to be commingled with landscape waste

D. MONTHLY RATE TO LEASE ADDITIONAL CARTS

Medium Wheeled Cart, 65 Gallon	5.00
\$	_____

Large Wheeled Cart, 95 Gallon	\$ <u>5.00</u>
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E. EMERGENCY SERVICES

- 1) Rate for Equipment and Personnel if requested by the Villages

\$ <u>45.00</u>	\$ <u>105.00</u>
Per hour per worker	Per hour per vehicle

\$ 10.00  
Per cubic yard

F. BASIS FOR DETERMINING PRICES UNDER THE CONTRACT

It is expressly understood and agreed that:

Adjustment of Compensation: Beginning **September 1, 2021** and on September 1 thereafter during the term of the Agreement, the amount payable to the CONTRACTOR for services shall be adjusted by the following:

3.5% flat each year

4. Franchise Fee: The Contract shall provide the Village of Lake Zurich with an annual franchise fee of \$9,000 and the Village of Wauconda with an annual franchise fee of \$7,000. Payments shall be due by August 31 of each year for the length of the contract, fee to remain the same for the duration of Contract.
5. Performance Bond: The Contractor shall furnish a performance bond for the faithful performance of this Contract, in a form acceptable to the Villages, to be executed by a responsible surety company and to be in the penal sum of Two Hundred Fifty Thousand Dollars (\$250,000). Such performance bond shall be furnished annually by the Contractor for the following year of this Contract and shall indemnify the Villages against any loss resulting from any failure of performance by the Contractor. Either of the Villages can draw on this bond for any breach or failure by the Contractor to perform its obligations hereunder, including those set forth in Par. 25 hereof.
6. Billing and Payment. The Contractor shall bill the resident directly for all services and be responsible for collection on all accounts. The Contractor is responsible for any losses due to failure of residents to pay for services. Bills sent by the Contractor to the residents shall be accurate, clear, and itemized for each charge imposed on the resident. Bills shall be based on monthly rates but shall be issued to customers at least every three months. The Villages will have no responsibility for billing or collection of any charges from Residents/Households.

Residents will be given thirty (30) days to pay their invoice. At thirty one (31) days a late fee will be applied, after forty-five (45) days accounts will be placed on suspended service and a finance charge will be assessed. Finance charge is 5%, but shall be no greater than authorized by law. Additional finance charges will occur every month until the invoice is paid in full.

It is the customer's responsibility to stop or transfer service. If resident plans to move they will need to call 45 days in advance to receive a refund for unused portion. Refunds are in full months only. Residents are not able to opt out of service.

7. Final Disposal. Processing of the collected Refuse, Recyclable, and Yard Waste materials will be the responsibility of the Contractor, subject to the following conditions.

- (a) Residential Waste:

- (i) Residential waste shall be removed from the Villages at the close of each day of collection and shall be disposed of at one or more SWALCO-designated lawfully operated pollution control facilities at the Contractor's sole cost and expense. The SWALCO-designated facilities in operation at the time of execution for this contract are the Countryside Landfill in Grayslake, the Advanced Disposal/Zion Landfill in Zion, the Pheasant Run Landfill in Kenosha County, Wisconsin, the Livingston Landfill in Livingston County, Illinois, and Lee County Landfill in Lee County, IL, and the Newton County Landfill in Newton County, Indiana.



(ii) Notwithstanding the foregoing the Villages reserves the right to direct the location of disposal to another pollution control facility. The Villages shall not require the Contractor to use any other facility without negotiating an agreeable adjustment to the Contractor's compensation under this Agreement.

(b) Landscape Waste:

- (i) All Landscape Waste shall be disposed of in a lawful manner, either: (A) at Illinois Environmental Protection Agency (IEPA permitted landscape waste composting facilities), at which Landscape Waste is treated, composted, ground, or land-applied; or (B) via land application at legal agronomic rates.
- (ii) No Landscape Waste may be disposed of at a landfill or solid waste incinerator, unless otherwise authorized by the Illinois Environmental Protection Act (415 ILCS 5/1, et seq.) and approved in advance and in writing by the Villages.

(c) Recyclable Materials:

- (i) All Recyclable Materials shall be collected, separated and otherwise treated so as to facilitate the sale of Recyclable Materials to end-use markets or to Recyclable Material brokers. All collected Recyclable Materials shall be recycled regardless of the income received or the cost to the Contractor resulting from the sale of the Recyclable Materials.
- (ii) The Contractor shall deliver all collected Recyclable Materials to the SWALCO- designated recycling facility (the "Designated Facility"), which is currently the Waste Management/Recycle America, LLC Intermediate Processing Facility located in Grayslake, Illinois.
- (iii) No Recyclable Materials may be deposited in a landfill or waste incinerator. The Contractor shall abide by the Rules and Regulations set forth by the Designated Facility. The Villages may terminate this Agreement if the Contractor fails to abide by the Rules and Regulations set forth by the Designated Facility used for the processing of collected Recyclable Materials.

(d) Transfer Station Transportation Adjustment:

In the event that a transfer station opens within the Village limits during the term of this agreement, Contractor agrees to review its costs associated with the transportation and disposal of refuse and recyclables (if applicable) and negotiate in good faith a rate adjustment in the event there is a cost reduction in its transportation costs.

In the event that the Villages directs the disposal of any Residential Waste, Landscape Waste or Recyclable Materials to any alternate facility pursuant to this Section, the Villages and the Contractor agree to negotiate an equitable adjustment to the Contractor's compensation under this Agreement as a result of an increase or decrease in realized costs.

(e) Solid Waste Collection Data:

The Contractor shall provide to the Villages, on a quarterly basis, a report on the quantity of: (i) Residential Waste collected within the Villages, (ii) Recyclable Materials collected within the

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Villages, and (iii) Landscape Waste collected within the Villages. The Contractor shall also provide data to the Villages on the amount of materials collected for other special collections conducted in the Villages pursuant to this Agreement, as requested by the Villages. The Contractor shall prepare and deliver to the Villages, at least once every year, a breakdown, by number and type, of the residential service levels chosen by the customers in the Villages. The Contractor acknowledges and agrees that the Villages will provide program data and other public information to each Customer upon request.

8. Quality of Performance and Complaints.

- (a) The Contractor will maintain a business practice to accept customer calls and complaints whereby, at a minimum, during regular business hours, Contractor responds within 24 hours to all customer calls and complaints. Contractor's staff shall be knowledgeable and courteous in answering customer information requests and resolving resident complaints regarding the collection service. The Contractor shall meet with the Villages as often as needed to review customer complaints and resolutions. The Contractor shall, at each service address, neatly return the containers where they were found. The Contractor shall repair or replace at their expense containers damaged as a result of their handling thereof, reasonable wear and tear accepted. Contractor agrees to reduce all customer complaints to writing and share copies of all complaints with the Village's within 5 days of receipt. Contractor agrees to develop a standardized complain process and form, subject to the review and approval of the Villages, if requested by the Villages at any time during this Contract term.
- (b) The Contractor shall undertake to perform all services rendered hereunder in a neat, thorough and competent manner, without supervision by the Villages, and to use care and diligence in the performance of all specified services and to provide neat, orderly, uniformed and courteous employees and personnel on its crews.
- (c) The Contractor shall be liable to the Villages for damage to any rights-of-way caused in connection with the provision of the services provided herein, ordinary wear and tear accepted.
- (d) The Contractor shall prohibit and use its best efforts to enforce the prohibition of any drinking of alcoholic beverages or use of illegal drugs by its drivers and employees while on duty or in the course of performing their duties under this Contract.
- (e) The Villages shall have the right to request reassignment of any driver in the event misconduct by or complaints about the driver comes to the attention of the Villages.

9. Employment. During the performance of this Contract and/or supplying of materials, equipment and supplies, the Contractor must be in full compliance with all laws of the State of Illinois relating to employment, including equal employment opportunity requirements.

10. Contractor Vehicles. All of the Contractor's collection equipment must be maintained and operated in compliance with all federal, state and local statutes, ordinances and regulations to assure the safety of the collection crew and The Villages residents. All collection equipment shall be covered and secured to prevent material blowing, leaking or falling out during transit. All collection equipment shall be clearly identified by affixing the Contractor's name and telephone number permanently and conspicuously to both sides of the equipment. Contractor shall at all times maintain an adequate fleet of vehicles to perform its obligations hereunder.

11. Missed Collections. The Contractor has established and publicized a procedure for receiving and

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responding to resident complaints of missed collections. Complaints of missed collections received by the Contractor or the Villages on the day following the scheduled day for collection shall be remedied by collecting the materials by 6:00 pm on the following day. A representative of the Contractor shall contact a designated representative of the Villages to resolve any issues. In the event of a temporary street blockage or limitations on access to any curbside area(s) occurs, Contractor shall act in good faith to continue collections by rerouting its vehicles or working with affected residents to otherwise provide for alternate means of collections.

12. Point of Collection. Collection shall be made at the curbside.
13. Insurance. The Contractor hereby certifies that it has all insurance coverages required by law and that it has at least the following insurance coverages in force during the term of the Contract:

Type of Insurance	Each Occurrence	Aggregate
General Liability		
Bodily Injury	\$5,000,000	\$5,000,000
Property Damage	\$5,000,000	\$5,000,000
Contractual Insurance – Broad Form	\$5,000,000	\$5,000,000
Automobile Liability		
Bodily Injury	\$5,000,000	\$5,000,000
Property Damage	\$5,000,000	\$5,000,000
Umbrella or Excess Liability Coverage		\$5,000,000

Worker’s Compensation & Occupational Diseases: Minimum statutory requirements in compliance with applicable State of Illinois law.

Each insurance policy issued for this coverage, and a certificate of insurance shall be issued to the Villages at least annually as proof of such required coverages and additional insured, and shall name the Villages, its elected and appointed officials, officers, employees, and agents as additional insureds for the term of this Contract. Said policies shall provide that they not be cancelled unless (a) the Villages agrees, in writing, to the cancellation of said insurance policy and (b) a substitute insurance policy is obtained by the Contractor which is satisfactory to the Villages. Nothing contained in the insurance requirement shall be construed as limiting the extent of the Contractor's responsibilities for payment of damages resulting from its operations under this Contract. Upon execution of this Agreement and thereafter upon written request by the Villages, Contractor shall provide to the Villages a copy of the insurance declaration sheet evidencing compliance with this provision of the Agreement.

14. Licenses and Permits. The Contractor shall obtain, at its own expense, all permits and licenses which may be required to complete the Contract.

15. Compliance with Laws. The Contractor shall comply at all times with all applicable federal, State and municipal laws, ordinances and regulations at any time applicable to the Contractor's operations under this Agreement, without any increase due the Contractor's compensation as set forth in this Agreement as a result of such compliance. Specifically, but without limitation of the foregoing, the Contractor shall comply with any amended The Villages ordinances or regulations imposed in the discretion of the Villages to protect the public health, safety, and welfare.

16. Indemnification. The Contractor hereby indemnifies and holds harmless the Villages, its officers and employees from any and all liability, losses or damages, including attorney's fees and costs of defense the Villages may suffer as a result of claims, demands, suits, actions or proceedings of any kind or nature, including worker's compensation claims, in any way resulting from or arising out of the operations of Contractor under this Contract, including operations of subcontractors of the Contractor. Upon the written demand by the Villages the Contractor shall, at his/her own expense, appear, defend and pay all fees of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith. If any judgments shall be rendered against the The Villages in any such action, the Contractor shall, at his own expense, satisfy and discharge same.

The Contractor expressly understands and agrees that any insurance coverage required by this Contract, or otherwise provided by the Contractor, shall in no way limit the responsibility of the Contractor to indemnify, keep and hold harmless, and defend the Villages as herein provided.

Nothing in the above paragraph shall be considered to preclude the Villages from receiving the benefits of any insurance the Contractor may carry which provides for indemnification for any loss or destruction of, or damage to property in the custody and care of the Contractor where such loss, destruction or damage is to The Villages property.

The Contractor shall do nothing to prejudice the Villages' right to recover against third parties for any loss, destruction of, or damage to the Villages' property and upon the request of the Villages, at the Villages' expense, furnish to the Villages all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Villages in obtaining recovery).

17. Default. Upon default of Contractor's obligations under this Contract the Villages shall have the right to solicit another contractor to complete the obligations of Contractor. The Contractor shall be obligated to pay to the Villages all costs incurred to such other contractor and for any other costs and fees incurred by reason of the failure of the Contractor to perform hereunder, including reasonable attorneys' fees. If Contractor default continues for 20 days following written notice of default from the Villages, the Villages, at its option, may terminate this Contract; exercise any of its legal rights including drawing upon the Contractor's letter of credit issued hereunder and pursue all such remedies as may be available to the Villages. Contractors' performance of its obligations hereunder shall not be excused by events or occurrences of nature commonly known as "force majeure" or acts of God or strikes beyond the Contractor's control.

18. Non-Assignability. The Contractor shall not assign this Contract, or any part thereof, to any other person, firm or corporation without the previous written consent of the Villages.

19. Fees to Prevailing Party. The parties agree that the venue of any action to enforce or interpret this Agreement shall be in the circuit court of the county in which the Village Halls of the Villages of

Lake County Municipalities, Illinois, is located. The prevailing party to any litigation shall be entitled to recover from the non-prevailing party, its reasonable attorney fees and costs incurred therein.

20. Penalties and Fines. The Contractor shall be solely liable for all fines and penalties imposed by the Villages or any other governmental agency resulting from the Contractor's faulty performance or failure to perform its duties and obligations under this Contract.
21. Execution of Contract. Notification in writing by the Villages to the successful company of award of contract shall be deemed a final contract award. The proposal submittal form, as submitted and signed by the company, shall constitute a final agreement and the proposal specifications contained herein shall become part of the agreement. Any additional work to be performed, as mutually agreed upon by the Villages and the company, shall become a part of that agreement. Unless it is specifically stated otherwise on the proposal, the proposal will be awarded to, or placed with, and payment made to the person or company that signs the proposal.
22. Breach of Contract by Contractor: Each of the following shall constitute a Breach on the part of the Contractor:
  - a) Failure of the Contractor to perform in a timely fashion any obligation under this Agreement shall constitute a Breach only if such failure remains uncured for seven (7) days after receipt of notice to the Contractor from the Villages of such failure; or
  - b) Any of the following: (1) The Contractor's being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, (2) a bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted by the Contractor under the laws of any jurisdiction, (3) a bankruptcy, reorganization, insolvency, arrangement or similar proceeding being instituted against the Contractor under the laws of any jurisdiction, which proceeding has not been dismissed within one hundred twenty (120) days, (4) any action or answer by the Contractor approving of, consenting to or acquiescing in any such proceeding, or (5) the levy of any distress, execution or attachment upon the property of the contractor which shall ( or which reasonably might be expected to) substantially interfere with its performance under this Agreement.
23. Events of Default and Remedies of Village: If a Breach occurs under this Agreement and Contractor fails to cure such Breach within seven (7) days after written notice from either Village, the Villages may declare an Event of Default and may thereafter exercise any one or more of the following remedies:

*As an option, either or both Villages may call upon the sureties to perform the obligations of this Contract for such period as Contractor may fail to perform said obligations until Contractor is again able to assume such obligations in the event Contractor indicates the ability and willingness to do so.*

*As another option, either or both Villages may terminate this Agreement immediately, upon notice to the Contractor. Upon such termination, the Contractor shall cease providing all services under this Agreement.*



*Either or both Villages may seek and recover from the Contractor any unpaid amounts due either Village along with all of its substantiated costs for the failure of the Contractor to perform any obligation under this Agreement, and all damages, whether based upon contract, work stoppage, strike, Contractor negligence (including tort), warranty, delay or otherwise, arising out of the performance or non-performance by the Contractor of its obligations under this Agreement resulting from the Breach.*

*Either or both Villages may (A) call upon the sureties to perform their obligations of this Contract under the performance bond, or (B) in the alternative, after releasing the sureties from their obligations under the performance bond, take over and perform the required services by its own devices, or may enter into a new agreement for the required services, or any portion thereof.*

*Either or both Villages shall have the power to proceed with any right or remedy granted by federal or State law as it may deem best, including any suit, action or special proceeding in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any proper legal or equitable remedy as the Village shall deem most effectual to protect the rights aforesaid, insofar as such may be authorized by law.*

*Upon any such termination of this Agreement, the Contractor shall, for a period to be determined by either or both Villages in its sole and absolute discretion, but not longer than 120 days, continue to perform the contractual services during which period the Customers shall pay the Contractor its scheduled compensation; provided, however, that the period of Contractor's continued service shall be set forth in the Village's notice of termination to the Contractor.*

### III. Refuse Collection Specifications.

1. Collections Standards. The Contractor will provide Curbside collection of Refuse, Yard Waste, and Recyclable Materials for all single-family, attached single-family and multi-family units that utilize Curbside collection service. The contract shall not include properties serviced by centralized dumpsters or commercial, industrial, or institutional properties unless specified.

The Contractor shall provide collection equipment that will not disfigure or damage The Villages streets, and operators that will operate vehicles in a manner that will not damage streets, sidewalks, overhead trees, etc. The Villages shall require the Contractor to repair, at the Contractors expense, all damage to The Villages property that is caused by spills, skidding vehicles, driving on sidewalks or parkways, equipment malfunction, or operator negligence. Contractor shall pay any The Villages invoice for repair within thirty (30) days.

The Contractor shall pick up and clean all materials blown, littered within a reasonable distance, not greater than five (5) feet, of the toter or bags, or, any materials broken or strewn in an fashion as a result of handling by collection. Each vehicle shall be equipped with at least one broom and one shovel for use in cleaning up material. In the event an area or areas would require the use of a street sweeper because of spillage or any other reason, the Contractor shall promptly dispatch all necessary equipment, at the Contractor's expense.

The Contractor shall be responsible for collecting all Refuse items normally collected in the event of flooding or other man-made or natural disasters, regardless of the amount of material generated. Additional equipment may be required of Contractor to handle the collection. Pricing of disaster collection shall be agreed upon by the Contractor and the Villages. The Villages in such cases may waive regular collection times, and the Contractor may have to supply additional equipment to handle the amount of Refuse.

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2. Refuse Disposal. Processing of the collected Refuse, Recyclable, and Yard Waste materials will be the responsibility of the Contractor.
3. Improperly Prepared Materials. When the Contractor encounters improperly prepared Refuse, the following procedure shall be followed:
  - (a) On the first occurrence, the Contractor shall pick up all Refuse, Recyclable or Yard Waste material and process it properly, as well as White Goods and/or Bulk Materials. The Contractor shall complete a tag approved by the Villages noting the problem and leave it with the resident. The address and date shall be documented. Each tag or label shall provide a brief explanation as to why the material will not be collected in the future. Contractor shall keep copies of all such notices.
  - (b) Upon the second and same ensuing occurrence by the same resident, the Contractor shall leave the improperly prepared material, collect any properly prepared material, complete a notice and leave it with the resident. The Contractor shall leave items only when the second offense is regarding the same occurrence and displays the same circumstances as the first offense of improperly prepared materials.
4. Special Collections. The Contractor shall offer a special Curbside collection service for large quantities of Refuse including, but not limited to: Bulk Items, Household Construction and Demolition Debris, and move-in or move-out clean-up rubbish. Such services shall be by advance arrangements with the Contractor at the residents' request.

The collection costs for such services shall be based upon cubic yards of Refuse as specified on the enclosed price quotation sheet. The Contractor shall also specify the minimum cubic yardage of Refuse necessary for the collection to be considered a special collection. Items, which are less in total than the minimum requirements, shall be considered Bulk Materials for collection and disposal purposes. The resident shall make payment for any special collection directly to the Contractor, and collection of such fees shall be the sole responsibility of the Contractor.

The Contractor shall advise the resident directly of the terms of such collection; i.e. what materials will be collected, how the materials should be prepared, the date of collection, the policy on furnishing advance estimates of charges, and the like. The Contractor shall also, at the request of the Villages, collect quantities of Refuse, debris, or Yard Waste left at the curb in unusual circumstances, i.e. evictions or "skip-outs", and shall bill the property owner for such costs.

The Contractor shall also offer dumpster rental and pick-up service for residents with Household remodeling and repair projects that generate large quantities of construction and Demolition Debris which cannot be easily picked up at the Curbside. The terms of, as well as charges and payment for, this service shall be arranged solely between the Contractor and the resident.

Dumpsters or other special collection containers may not be placed on a public street or right-of way without written permission by the Department of Public Works.

5. White Goods. The Contractor shall have a plan for the separate collection and proper recycling/disposal of White Goods collected in compliance with all State and Federal legislation. The cost of collection and disposal of White Goods containing CFC or HCFC refrigerant gas, PCB containing capacitors, mercury switches, and other hazardous components shall be at the rate specified herein.

The resident shall make payment for any special collection directly to the Contractor, and collection

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of such fees shall be the sole responsibility of the Contractor.

The Contractor shall advise the resident directly of the terms of such collection; i.e. what materials will be collected, how the materials should be prepared, the date of collection, the policy on furnishing advance estimates of charges, and the like.

6. 95 Gallon Toter. The Contractor shall make available to residents participating in the Curbside collection service use of a 95-gallon Toter. The Contractor shall provide the toters and any other related equipment necessary for collection to the resident. Residents shall pay the monthly cost for Refuse collection per the flat monthly fee set forth on Schedule A in hereof. In addition to the Toter, residents may put an unlimited amount of Refuse and/or Yard Waste (up to a maximum limit per week of 15 bags or bundles) at the curbside.
7. Quarterly Data Collection Report. The Contractor shall prepare and submit to the Villages a quarterly Refuse, recycling, and Yard Waste report, due by the 20th day of each January, April, July and October during the Contract period. The report shall include, but not be limited to the following information:
  - a) Total weight in tons and total volume in compacted yards of refuse, recyclables and yard waste collected each month.
  - b) Name and location of the compost facility used by Contractor.
  - c) Number and percentage of curbside collection customers setting out materials on a weekly basis. The Contractor shall also provide participation on a monthly basis.

All reports, data, and information, once supplied to the Villages, will become the property of the Villages to be used as it will solely determine without obligation to any person, firm, or corporation, except as provided by law. The Villages reserves the right to audit the financial and administrative records of the Contractor as they pertain to the Refuse, recycling, and Yard Waste services in the Villages.

#### IV. Yard Waste, Leaf Vacuuming and Recycling Collection Specifications.

1. Program Design. Yard Waste collection service shall be offered from April 1st through the 2<sup>nd</sup> full week of December during the term of the contract.
2. Collection Standards. In order for an approved container to be collected, each container must be properly marked yard waste. There shall be a 15 bag limit per week.

The Contractor is required to provide a tagging system for any Yard Waste that does not get collected. Each tag or label must provide a brief explanation as to why the material was not collected, including, but not limited to, overcapacity, container overweight, unacceptable yard waste and the like. Contractor shall keep copies of all such notices.

3. Yard Waste Toter. The Contractor shall make available to residents participating in the curbside collection service, as an optional service, use of a 95-gallon toter. This shall be the same toter used for refuse but shall have a Yard Waste "sticker" affixed by the resident when used for Yard Waste collection. The Contractor shall provide the toters necessary for collection to the resident. Residents who request a yard waste toter must do so during the month of September to avoid a delivery fee.
4. Leaf Vacuuming. The Villages-wide leaf vacuuming for all residential properties will occur for a total of eight (8)

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weeks every fall. Dates for leaf vacuuming shall be mutually agreed upon between Contractor and The Villages. Loose leaves should be raked not more than 2ft from street/curb and at least 3ft from obstructions by property owner or such leaves will not be collected.

V. Recycling Collection Specifications.

1. Collection Standards. The recycling collection service shall use each household's choice of a 95 gallon recycling toter supplied and maintained by the Contractor. The Contractor shall leave the containers used at the point of collection. The Contractor shall be responsible for any damage caused to such containers by the Contractor, except from weather or normal wear and tear. Residents may not use their own containers. The cost of the curbside recycling program shall be built into the flat rate for refuse collection with no additional charge to either the Villages or resident for curbside recycling service.
2. Ownership and Proceeds. All recyclable materials placed for collection shall be owned by and be the responsibility of the resident until the materials are collected by the Contractor. Once collected, the material then becomes the property and responsibility of the Contractor. The Contractor is responsible for transporting, processing, and marketing the collected recyclable materials. Any non-recyclable material collected shall be disposed of by and at the expense of the Contractor in accordance with federal, state, and local laws, rules, and regulations.

All proceeds from the sale of Recyclable Materials shall be retained by the Contractor. The Contractor agrees to provide a quarterly accounting statement, broken out into Lake Zurich and Wauconda, detailing the weight of Recyclable Materials collected. Contractor acknowledges that Lake Zurich and Wauconda are active members of the Solid Waste Agency of Lake County, which has in effect a rebate program whereby the Solid Waste Agency of Lake County receives certain funds from the recycling facility, and distributes a portion of these funds to its members, including the Villages of Lake Zurich and Wauconda, and Contractor waives any claim to any portion of the funds collected by the Solid Waste Agency of Lake County through this program.

3. Additional and Exceptions Recyclable Items. The Villages reserves the right to require additional recyclable items to be collected should the Contractor provide this service for any other municipal customer within Lake County. As per recycling centers / State of Illinois guidelines.

VI. Notices.

All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, or (iii) by certified mail, return receipt requested, and deposited in the U.S. mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following the deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section, each party shall have the right to change the address or addressee, or both, for all future notices and communications to the other party, but no notice of a change of address or addressee shall be effective until actually received.

Any notifications relating to the terms of this contract shall utilize the following addresses:

Prairieland Disposal Inc.	Village of Lake Zurich
21N988 Pepper Road	70 East Main Street

Lake Barrington, IL 60010

Lake Zurich, IL 60047

VII. Miscellaneous Provisions:

1. Severability: The provisions of this Agreement shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Agreement shall be in any way affected thereby. The unenforceability of any provision of this Agreement in a specific situation shall not affect the enforceability of that provision in any other situation.
2. Entire Agreement: This Contract sets forth the entire agreement of the Villages and the Contractor with respect to the provisions of residential and municipal refuse services and compensation therefor, and there are no other understandings or agreements, oral or written, between the Villages and the Contractor with respect to the residential and municipal refuse services and the compensation therefor, nor was the making and execution of this Agreement induced by any representation, statement, warranty, agreement, or action other than those expressed or explicitly referenced herein.

Prairieland Disposal Inc.

Village of Lake Zurich

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

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

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

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

Village of Wauconda

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

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



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