AGENDA
REGULAR CITY COUNCIL MEETING
City Council Chambers, 333 S Green Street
Monday, June 3, 2019

1. Call to Order.

2. Roll Call.

3. Pledge of Allegiance.

4. Proclamation: Declaring June 21-28 as Bicycle Week in the City of McHenry

5. Public Comments: Any member of the public wishing to address the Council is invited to do so by signing in at the meeting entrance and, when recognized, stepping to the podium. Opportunities for Public Comment are also provided under each Individual Action Item.

6. Consent Agenda: Motion to Approve the Following Consent Agenda Items:

   A. Simplified Municipal Telecommunications Tax Ordinance;

   B. Block Party Request for St. Patrick Church, 3500 Washington Street, on Sunday, June 23, 2019 between 7:00am and 5:00pm.;

   C. Appointments to City Council Committees;

   D. Parks & Recreation Facilities Alcohol and Special Use Permit Requests;

   E. May 20, 2019 City Council Meeting Minutes;

   F. Issuance of Checks in the amount of $114,707.38.


   A. Motion to approve a Conditional Use Permit to allow the outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road.

   B. Motion to approve the issuance of a Class A Liquor License to Whiskey Straight LLC, located at 3932 Main Street, McHenry, Illinois.

   C. Motion to approve and authorize the execution of a Development Agreement and Release of Letter of Credit and Annexation Agreement Obligations between the City of McHenry and Thelan Sand & Gravel, Inc.
D. Motion to approve and authorize the execution of a Letter of Intent with Leopardo Companies, Inc. for the Completion of a Capital Program Audit to identify cost savings for reinvestment to address the City’s capital improvement and equipment needs.

8. **Discussion Only Items.**

9. **Executive Session.**

   A. Pending Litigation
   
   B. Property Disposition

   C. Review of Executive Session Minutes

10. **Individual Action Item Agenda Continued**

    E. Motion to a) pass a Resolution approving Executive Session meeting minutes as presented; b) authorize the release of Executive Session meeting minutes as presented; and c) the destruction of any Executive Session recordings that have existed for more than 18 months and for which the minutes of that meeting have been approved. (this item is not to be passed until after Executive Session)

11. **Staff Reports.**

12. **Mayor’s Report**

13. **City Council Comments.**

14. **Adjourn.**

The complete City Council packet is available for review online via the City website at [www.ci.mchenry.il.us](http://www.ci.mchenry.il.us). For further information, please contact the Office of the City Administrator at 815-363-2108.

The proceedings of the City Council meeting are being video-recorded and every attempt is made to ensure that they are posted on the City of McHenry, IL “YouTube” channel within twenty-four (24) hours of the meeting adjournment.

NOTICE: In compliance with the Americans with Disabilities Act (ADA), this and all other City Council meetings are located in facilities that are physically accessible to those who have disabilities. If additional accommodations are needed, please call the Office of the City Administrator at 815-363-2108 at least 72 hours prior to any meeting so that accommodations can be made.
PROCLAMATION

PROCLAMATION DECLARING JUNE 21-28, 2019, AS CITY OF MCHERNY BICYCLE WEEK

WHEREAS, the bicycle is an environmentally-sound, economical, and effective means of personal transportation, recreation, and exercise; and

WHEREAS, use of the bicycle for personal transportation benefits residents of the City of McHenry by reducing traffic, reducing carbon emissions, improving air quality, and decreasing dependence on finite fossil fuel energy sources; and

WHEREAS, use of the bicycle for recreation encourages families and friends to spend time together outdoors enjoying city parks, McHenry County Conservation District properties, trails, and quiet residential neighborhoods; and

WHEREAS, use of the bicycle for exercise provides adults and children can have positive health benefits including decreasing body fat levels, increasing cardiovascular fitness, increasing muscle strength, and decreasing stress levels; and

WHEREAS, the City of McHenry endeavors to promote safe and responsible bicycling; and

WHEREAS, there is a need for all motor vehicle drivers and bicyclists to be better educated regarding traffic laws and bicycle safety.

NOW, THEREFORE BE IT PROCLAIMED, by this City Council of the City of McHenry, Illinois that the week of June 21 to June 28, 2019, is hereby designated City of McHenry Bicycle Week and all residents are encouraged to enjoy riding bicycle in a safe and responsible manner.

BE IT FURTHER PROCLAIMED, that all motor vehicle drivers and bicyclists are encouraged to participate in the Illinois Bicycle Safety Quiz Challenge available at www.bikesafetyquiz.com.

BE IT FURTHER PROCLAIMED, that the City Clerk of the City of McHenry is hereby authorized to spread a copy of this proclamation upon the records of the City of McHenry.

DATED at the City of McHenry, Illinois, this 3rd day of June, A.D., 2019.

_______________________________
Mayor, Wayne Jett

_________________________________
Deputy City Clerk, Monte Johnson
CONSENT AGENDA SUPPLEMENT

DATE: June 3, 2019

TO: Mayor and City Council

FROM: Monte Johnson, Deputy City Clerk

RE: Passage of Simplified Municipal Telecommunications Tax

ATT: Proposed Ordinance

AGENDA ITEM SUMMARY:
The purpose of this consent agenda item is to pass and repeal a telecommunications tax.

BACKGROUND/ANALYSIS:
The Council passed Ordinance No MC-19-1185 on January 21, 2019. After submitting this ordinance to the Illinois Department of Revenue, one of their attorneys wanted to change some wording to the ordinance that was presented to and passed by the City of McHenry. This new ordinance does not change anything that was passed (other than technical wording), and the intent of the ordinance has stayed the same. The attorney for the Department of Revenue suggested the changes and advised the City of McHenry to repeal the old ordinance and pass this ordinance as presented.

RECOMMENDATION:
Therefore, if Council concurs, it is recommended that a motion be made to pass the Ordinance as attached.
Ordinance No. MC-19-XXXX


WHEREAS, this municipality desires to change the rate of its Simplified Municipal Telecommunications Tax pursuant to the Simplified Municipal Telecommunications Tax Act (35 ILCS 636/5-1 et seq.);

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of McHenry, McHenry County, Illinois that:

Section 1. Tax imposed. A simplified municipal telecommunications tax is hereby imposed upon the act or privilege of originating in the municipality or receiving in the municipality intrastate or interstate telecommunications by a person at the rate of 3% of the gross charges for such telecommunications purchased at retail from a retailer, in accordance with and subject to the provisions of the Simplified Municipal Telecommunications Tax Act (5 ILCS 636/5-1 et seq.).

Section 2. Illinois Department of Revenue to administer. The tax hereby imposed shall be collected and enforced by the Department of Revenue of the State of Illinois. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of the Ordinance.

Section 3. Clerk to file Ordinance with Illinois Department of Revenue. The Municipal Clerk is hereby directed to file a certified copy of this Ordinance with the Illinois Department of Revenue prior to March 20, 2019.

Section 4. Effective date. The Ordinance shall be in full force and effect from and after its passage and approval and publication in pamphlet form as required by law, provided, however, that Section 1 of this Ordinance shall take effect for all gross charges billed by telecommunications retailers on (i) the first day of July next following the adoption and filing of this Ordinance with the Department of Revenue, if filed on or before the preceding March 20th or (ii) the first day of January next following the adoption and filing of this Ordinance with the Department of Revenue, if filed on or before the preceding September 20th.

Section 5. Repeal of conflicting provisions. All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of Section 1 of this Ordinance.

Section 6. Publication. This ordinance shall be published in pamphlet form by and under authority of the City of McHenry, McHenry County, Illinois.
Passed this 3rd day of June, 2019.

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<tr>
<th></th>
<th>Ayes</th>
<th>Nays</th>
<th>Absent</th>
<th>Abstain</th>
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<td>Alderwoman Baehne</td>
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<td>Alderman Schaefer</td>
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APPROVED:

__________________________________________

Mayor Wayne Jett

(SEAL)

ATTEST: ____________________________________

Deputy Clerk Monte Johnson

Passed: _________________________________
CONSENT AGENDA ITEM

DATE: June 3, 2019

TO: Mayor and City Council

FROM: Monte Johnson

RE: Block Party Request

ATT: Application

AGENDA ITEM SUMMARY:
The following Block Party application has been submitted for consideration by Council:

Washington Street: An application has been submitted by St. Patrick Church, located at 3500 Washington St, for the purpose of holding a block party on Sunday, June 23rd, between 7:00 a.m. and 5:00 p.m. They are requesting temporary closure of Washington Street from Court Street to Green Street.

The Public Works Department and Police Department have reviewed the application and have no issues with the request.

BACKGROUND/ANALYSIS:
The City of McHenry allows block parties on all residential streets providing that they do not block intersections, cul-de-sacs or other roadways. To schedule a block party, city residents obtain a permit application online or at the Municipal Center and return it to the City Administrator’s office. There is no fee for the permit. Once approved, only moveable barriers (sawhorses) that are dropped off and picked up by Public Works can be used to control traffic. Blocking streets with vehicles is prohibited.

RECOMMENDATION:
Therefore, if Council concurs, then it is recommended a motion be made to approve the block party request as presented. Public Works will provide barricades and the McHenry Township Fire Protection District and Police Department will be notified of the event.
Block Party Permit Application

Application submitted by: Cecilia Adams [ST. PATRICK CHURCH]

Street Address: 3500 WASHINGTON ST

Date Submitted: May 13th, 2019

Date of Block Party: June 23rd, 2019

Hours of Proposed Street Closure: 7:00 a.m./p.m. until 5:00 p.m./a.m.

Subdivision Name:

Specific Location of Proposed Street Closure (i.e. from what intersection to what intersection):
Washington Street
from Court ST to Green ST

Contact Person(s): Cecilia Adams

Contact Person(s) Address: 3500 Washington St
Email: cadams@stpatsmchenry.org

Daytime Phone Number: 815-385-0025 Evening Phone Number: 815-347-9436

I hereby certify all persons in my neighborhood impacted by the closure of this street have been notified of same.

Signed: Cecilia Adams
Date: 5/13/19

UPON COMPLETION, PLEASE SUBMIT APPLICATION TO:
CITY OF MCHENRY
ADMINISTRATION OFFICE
333 SOUTH GREEN STREET
MCHENRY IL 60050
OR FAX: 815-363-2119
OR E-MAIL: dmeadows@ci.mchenry.il.us

OFFICE USE ONLY

COUNCIL APPROVAL ON: 1/1/1

□ NOTIFICATION MADE TO:
□ McNHERY POLICE DEPT.
□ McNHERY PUBLIC WORKS STREET DIVISION
□ McNHERY TOWNSHIP FIRE PROTECTION DISTRICT
□ APPLICANT
CONSENT AGENDA ITEM

DATE: June 3, 2019

TO: City Council

FROM: Wayne Jett, Mayor

RE: City Council Committee Appointments for Consent Approval

The purpose of this agenda item is for Council consideration and consent of City Council Committee appointments for the period June 3, 2019 through April 30, 2020 as follows:

Public Works Committee (Staff Liaison - Troy Strange)
Alderman Vic Santi, Chair
Alderman Andy Glab
Alderman Chad Mihevc

Parks and Recreation Committee (Staff Liaison - Bill Hobson)
Alderman Jeff Schaefer, Chair
Alderwoman Bobbi Baehne
Alderman Pat Devine

Community Development Committee (Staff Liaison – Ross Polerecky)
Alderman Pat Devine, Chair
Alderwoman Bobbi Baehne
Alderwoman Sue Miller

Finance and Personnel Committee (Staff Liaison – Carolyn Lynch)
Alderman Chad Mihevc, Chair
Alderwoman Sue Miller
Alderman Jeff Schaefer

As discussed and agreed by Council, the purpose of committees will be to meet upon referral of a specific topic by City Council, or upon request based on an identified need for input and direction by City Staff.

If Council concurs, then it is recommended that the list of City Council Committee appointments be approved by consent of the City Council.
CONSENT AGENDA SUPPLEMENT

DATE: June 3, 2019

TO: Mayor and City Council

FROM: Bill Hobson, Director of Parks and Recreation

RE: McHenry Parks & Recreation Facilities Alcohol & Special Use permit requests

ATT: Permit List and Applications

All fees and documentation have been satisfactorily submitted for the attached McHenry Parks & Recreation Facilities Alcohol & Special Use permit requests.

If Council concurs, then it is recommended a motion is considered to approve the attached McHenry Parks & Recreation Facilities Alcohol & Special Use permit requests.
Shelter Rental Alcohol Permits
These are alcohol permit requests associated with shelter rentals

<table>
<thead>
<tr>
<th>Date</th>
<th>Applicant</th>
<th>Address</th>
<th>Park</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>06-15-19</td>
<td>Susan Dorwaldt</td>
<td>4702 W Northfox Ln #3</td>
<td>PP A</td>
<td>Class Reunion</td>
</tr>
</tbody>
</table>

Special Use Permits
These are special use permit requests associated with shelter rentals

<table>
<thead>
<tr>
<th>Date</th>
<th>Applicant</th>
<th>Address</th>
<th>Park</th>
<th>Special Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>06-30-19</td>
<td>Danielle Rehberg</td>
<td>1609 Castlebar Rd</td>
<td>Vets Park</td>
<td>Bounce House</td>
</tr>
</tbody>
</table>

Recreation Center Room Rental Alcohol Permits
These are alcohol permit requests associated with Recreation Center room rentals or programs.

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<thead>
<tr>
<th>Date</th>
<th>Applicant</th>
<th>Address</th>
<th>Rec Center</th>
<th>Purpose</th>
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</thead>
<tbody>
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</tbody>
</table>
McHenry Parks & Recreation
Shelter, Alcohol & Special Use Permit Application

Application Date: 5-15-19

Rental Date: SATURDAY JUNE 15 2019  Rental Time: 9:00 - ? - ? P.M.

Name of Applicant: SUSAN M. DORWALDT  Date of Birth: 11-12-1963

Group/Organization (if applicable): SMYER SCHOOL CLASS REUNION

Address: 4702 W. METHFORD #3  City/State/Zip: Mchenry IL 60050

Home Phone:  Cell Phone: 708-533-3406

Personal Email: Sibertiger002@yahoo.com

Event Title/Activity: CLASS REUNION  Attendance: 75-50

List all activities to be held: VOLLEY BALL, BAGGO'S

SHELTER:  ☐ Knox Shelter A  ☒ Petersen Shelter A  ☐ Petersen Shelter C  ☐ Veterans Shelter

☐ Knox Shelter B  ☐ Petersen Shelter B  ☐ Veterans Gazebo  ☐ Other__________

WEDDING:  ☐ Tents removed at Veterans Memorial Park ($25 fee)

BEER/WINE: (at least 4 weeks notice needed)

☐ Type of Alcohol to be Served:  ☐ None  ☐ Wine  ☐ Beer  ☐ NO OTHER ALCOHOL ALLOWED

☐ Amount of Alcohol:  Wine Bottles # 5  Beer Cases # 2  Beer Kegs #__________

SPECIAL USE: (at least 4 weeks notice needed) – Equipment provided by renter

☐ Tent  ☐ Bounce House Location:________________________

☐ Applicant to call JULIE (1-800-892-0123) for staking of Tents and Bounce Houses

☐ Tables #  ☐ Chairs #  ☐ Benches #  ☐ Wedding Arch

☐ Performer  ☐ Music: ☐ DJ  ☐ Band  ☐ Carnival Rides  ☐ Animals

☐ Catered Pig Roast

☐ Other__________

OTHER:  Groups or

DAMAGE DEP:  Credit Card  Signature:

Approval will be based on the items listed above. Any other requests are subject to further approval. If applicable, health permits are required by law for concessions and catering. Please make arrangements to obtain permits. McHenry County Department of Health 815-334-4585

I agree all alcohol containers will be removed by applicant or placed in proper containers on site on the rental date and that no underage or intoxicated person will be allowed to consume any alcohol brought into City of McHenry property under this permit. I agree that none of the alcohol allowed in City of McHenry property, pursuant to this application will be sold, it being understood that the sale of alcohol under this permit issued pursuant to this application is expressly prohibited. I also understand that not complying with the rules will result in loss of deposit.

I agree to hold the City of McHenry, its employees and agents harmless, and indemnify same from any and all liability of injury to person or property occurring as a result of the activity sponsored by permittee and said person shall be liable to the City of McHenry for any all damage to parks, recreation facilities and equipment owned by same, which results from or during the activity of permittee or is caused by participant in said activity. All persons agree to comply with the City of McHenry Municipal Code and all Parks & Recreation regulations. I have read and fully understand the McHenry Recreation Shelter Guidelines.

Signature: SUSAN M. DORWALDT  Date: 5-15-19
McHenry Parks & Recreation
Shelter, Alcohol & Special Use Permit Application

Application Date: 5/15/19

Rental Date: 6/30/19 Rental Time: 12 pm - 3 pm

Name of Applicant: Danielle Rehberg Date of Birth: 8-16-88

Group/Organization (if applicable):

Address: 11099 Castelbar Road. City/State/Zip: McHenry, IL 60050

Home Phone: 815-347-7541 Cell Phone: Same

Personal Email: dani@hotmail.com

Event Title/Activity: Baptism Attendance: 45-50 ppl

List all activities to be held: food & cake

SHELTER:
- ☐ Knox Shelter A
- ☐ Petersen Shelter B
- ☐ Petersen Shelter C
- ☑ Veterans Shelter

WEDDING:
- ☑ Rails removed at Veterans Memorial Park ($25 fee)

BEER/WINE: (at least 4 weeks notice needed)
- ☑ None
- ☑ Wine
- ☑ Beer

NO OTHER ALCOHOL ALLOWED

Amount of Alcohol:
- Wine Bottles #
- Beer Cases #
- Beer Kegs #

SPECIAL USE: (at least 4 weeks notice needed) - Equipment provided by renter
- ☑ Tent
- ☑ Bounce House Location:

Applicant to call JULIE (1-800-892-0123) for staking of Tents and Bounce Houses
- ☐ Tables #
- ☐ Chairs #
- ☐ Benches #
- ☐ Wedding Arch
- ☐ Performer
- ☐ Music: ☑ DJ ☐ Band
- ☐ Carnival Rides
- ☐ Animals
- ☐ Catered Pig Roast
- ☐ Other

OTHER:
- ☐ Group

DAMAGE DEP:
- ☑ Credit
- ☐ Signa

Signature: Danielle Rehberg Date: 5/15/19

Approval will be based on the items listed above. Any other requests are subject to further approval. If applicable, health permits are required by law for concessions and catering. Please make arrangements to obtain permits. McHenry County Department of Health: 815-334-4585

I agree that all alcohol containers will be removed by applicant or placed in proper containers on site on the rental date and that no underaged or intoxicated person will be allowed to consume any alcohol brought into City of McHenry property under this permit. I agree that none of the alcohol allowed in City of McHenry property, pursuant to this application will be sold, if being understood that the sale of alcohol under this permit issued pursuant to this application is expressly prohibited. I also understand that not complying with the rules will result in loss of deposit.

I agree to hold the City of McHenry, its employees and agents harmless, and indemnify same from any and all liability of injury to person or property occurring as a result of the activity sponsored by permittee and said person shall be liable to the City of McHenry for any and all damage to parks, recreation facilities and equipment owned by same, which result from or during the activity of permittee or is caused by participant in said activity. All persons agree to comply with the City of McHenry Municipal Code and all Parks & Recreation regulations. I have read and fully understand the McHenry Recreation Shelter Guidelines.

Signature: Danielle Rehberg Date: 5/15/19
Call to Order
The City Council of the City of McHenry, Illinois, met in regular session on Monday, May 20, 2019, at 7:00 p.m. in the McHenry City Council Chambers, 333 S. Green Street, McHenry, IL.

Roll Call

Pledge of Allegiance
Mayor Jett proceeded to lead those present in the Pledge of Allegiance.

Proclamation
Mayor Jett read a prepared proclamation proclaiming June 12, 2019, as William Pondel Day.

Recognition
Chief of Police Birk recognized the accomplishments of McHenry Police Officer Larry Popp and the retirement of Canine Officer Duke. Handlers and canine officers of other entities were on hand as well to show their support and recognition of Officer Popp and Duke.

Public Comment
Mayor Jett asked if there were any comments from the public in attendance, and there were none.

Consent Agenda:
Motion to Approve the Following Consent Agenda Items:
A. An Ordinance Prohibiting the Use of Groundwater as a Potable Water Supply by the Installation or Use of Potable Water or by Any Other Method Within a Certain Area in the City of McHenry;
B. A Resolution and Bill of Sale Approving a Transfer of Ownership of Canine Officer Duke from the City of McHenry to Officer Larry Popp;
C. Approval of a Three (3) Year Professional Services Contract for Auditing Services with Eder, Casella and Company in the amount of $130,875;
D. Award of Bid for the 2019 Crack Sealing Maintenance Program to SKC Construction, Inc. in the amount of $24,700;
E. Waiving of Competitive Bids and Award of Bid for 2019 Street Sweeping Services to Lakeshore Recycling Systems in the amount of $79,695;
F. May 6, 2019 City Council Meeting Minutes;
G. Issuance of Checks in the amount of $1,291,250.38;
H. As Needed Checks in the amount of $151,376.94.

No members of the Council wished to remove any items from the consent agenda for separate consideration. **A motion was made by Alderman Schaefer and seconded by Alderman Santi to approve consent agenda items A-H as presented.** There being no further discussion on the motion Deputy Clerk Johnson called the roll. Roll Call: Vote: 7-ayes: Alderman Schaefer, Alderman Santi, Alderman Glab, Alderwoman Baehne; Alderman Mihevc, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.

**Individual Action Item Agenda**

**Motion to approve an Ordinance Amending Chapter 14, Section 14-36 Alcoholic Beverages, and Chapter 4 Alcoholic Liquor, to allow for the creation of a “Bring Your Own Alcohol” Liquor License.**

Alderman Santi questioned if they would be able to obtain a gaming license since this is not a full license or a pour license. Chief Burke stated that they are not eligible for gaming. Alderman Glab asked if there would be a limit to the number of licenses, and Chief Burke explained that only two would be issued each year. The Chief also explained that currently there is no way to enforce this through the City’s code, and there is a need to regulate businesses allowing patrons to bring alcohol on site. This type of license would be similar to the special events license in that the Mayor would have the ability to approve licenses without bringing them to Council for approval. It was debated if the licenses would come before the Council at renewal time each year, and it is believed that they would.

Alderman Schaefer stated that he would like the issuance of licenses become a public record, and it was agreed that if a license is issued it would be identified in the Mayor & Council Report section of the agenda. Although there was some discussion that the wording of the ordinance may need to be changed, it was decided that the ordinance could be passed as presented and amended later if needed. **A motion was made by Alderwoman Baehne and seconded by Alderwoman Miller to approve the ordinance Amending Chapter 14, Section 14-26 Alcoholic Beverages, and Chapter 4 Alcoholic Liquor, to allow for the creation of a “Bring Your Own Alcohol” Liquor License.** Roll Call: Vote: 7-ayes: Alderwoman Baehne, Alderwoman Miller, Alderman Devine, Alderman Mihevc, Alderman Schaefer, Alderman Glab, Alderman Santi. 0-nays, 0-abstained. Motion carried.

**Ordinance Amending the FY19/20 Budget, Account 100.22.8300, in the Amount of $27,109.88**
for the Purchase of a Replacement Police Vehicle and Related Equipment; and, Authorization to Purchase One 2019 Ford Interceptor Utility from Buss Ford in an amount not to exceed $32,165.00 and the Purchase and Installation of Vehicle Equipment from Ultrastrobe, Inc. at a cost not to exceed $8,621.36.

Chief Burke explained that a marked patrol vehicle was damaged beyond repair, and there is a need to replace it. Because the vehicle is being purchased through the State’s joint purchase program, this meets the requirements of the bidding process. A motion was made by Alderman Santi and seconded by Alderman Schaefer to pass the Ordinance Amending the FY19/20 Budget, Account 100.22.8300, in the Amount of $27,109.88 for the Purchase of a Replacement Police Vehicle and Related Equipment; and, Authorization to Purchase One 2019 Ford Interceptor Utility from Buss Ford in an amount not to exceed $32,165.00 and the Purchase and Installation of Vehicle Equipment from Ultrastrobe, Inc. at a cost not to exceed $8,621.36. Roll Call: Vote: 7-ayes: Alderman Santi, Alderman Schaefer, Alderman Glab, Alderwoman Baehne, Alderman Mihevc, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.

Motion to approve a Revocable License Agreement between the City of McHenry and Pedal and Pour, Inc.

Alderman Santi asked if this agreement was just for one pedal boat. It was explained that this does authorize one pedal boat and it would be necessary to come back to Council to add a second pedal boat. A motion was made by Alderman Santi and seconded by Alderman Glab to approve a Revocable License Agreement between the City of McHenry and Pedal and Pour, Inc. Roll call: Vote: 7-ayes: Alderman Santi, Alderman Glab, Alderwoman Miller, Alderman Devine, Alderman Mihevc, Alderwoman Baehne, Alderman Schaefer. 0-nays, 0-abstained. Motion carried.

Conditional Use Permit for an Assembly Use and Variances for the property located at 4724 and 4716 W. Crystal Lake Road (McHenry High School, West Campus).

City Administrator Morefield explained that this topic calls for a conditional use permit and three variances. This went before the Planning and Zoning Commission with unanimous approval. In addition to the information in the meeting packet, the Council received responses to concerns brought up by some Council members on various topics. A consulting team from Gewalt Hamilton Associates was present on behalf of District 156 to answer questions.

Many issues were discussed at length including the salt dome structure, the plants and landscaping, the drainage area by the pond, a drainage ditch agreement between the school and the City, the size of the retention pond, a tree with a safety issue, the location of the tennis courts, a drainage easement with 39 lots, the possibility of adding a traffic light, and driving issues on Crystal Lake Road and the surrounding subdivisions.
Alderwoman Miller thanked the representatives from Gewalt Hamilton Associates for their presentation. She also sat in on the presentation with Planning and Zoning. She expressed desire to change to direction and tone of the meeting and thanked the consultants for their work.

In regards to the traffic light, Alderman Glab stated that IDOT should be contacted and should help determine if a light is needed. He said he has been in touch with State Senator Wilcox and would like to have a meeting set up between the City, IDOT, and the School District. Lynn Means of Gewalt Hamilton Associates said that the criteria for installing the light fall from the federal levels, and IDOT would not approve an installation of street lights until those criteria are warranted. The school district previously stated that they would pay for the installation of a light if and when the light is warranted.

During the discussion about the water runoff and the drainage easements, Director of Community Development Polerecky stated that there would be no more runoff coming from the school property as there is now. He is willing to identify issues with the easements for the 39 lots near the school property.

School Superintendent Ryan McTague was present and expressed commitment to work with the City. He feels there is a great relationship with the school, the City, and the Police Department. Although things are difficult with one ingress/egress during the 15 minute windows before and after school, efforts are being made to minimize the impact on driving. He stated that school gets out in a week and a half and school needs to open in the fall. Things need to move forward to make improvements. He is willing to meet with whomever is necessary to get things worked out.

Alderwoman Miller believes things need to move forward so that the project is not held up. Alderwoman Baehne stated that this is an exciting time for the school district and the kids, and wishes her kids had these opportunities when they were in school.

City Attorney McArdle suggested a motion be made but with stipulations stated in the motion to help ease some of the concerns by Council members. **A motion was made by Alderwoman Miller and seconded by Alderwoman Baehne to approve the Conditional Use Permit for an Assembly Use and Variances for the property located at 4724 and 4716 W Crystal Lake Road (McHenry High School, West Campus), subject to the following conditions to be satisfied within 60 days:**

1) the execution of an intergovernmental agreement regarding the timing and payment of costs for a future installation of a traffic light on Crystal Lake Road;
2) Confirmation to the satisfaction of the City Council of the adequacy of the storm drainage easement along Kensington to the south of the school;
3) the site constructed in substantial compliance with the site plans presented tonight with a revised date of May 20, 2019;
4) presentation of information by City staff relative to the northwest drainage agreement and a staff review of the west drainage agreement, pertaining to lots 1-39.

Roll Call: Vote: 7-ayes: Alderwoman Miller, Alderwoman Baehne, Alderman Santi, Alderman Glab, Alderman Schaefer, Alderman Mihevc, Alderman Devine. 0-nays, 0-abstained. Motion carried.
Discussion Only Items

Jessup Manufacturing Tax Abatement

City Administrator Morefield explained that Jessup Manufacturing wants to raise buildings and undergo a major expansion to their operations in McHenry. They are looking at a $6 million investment and increasing jobs. Part of the challenge is the costs to complete the project. A packet of information has been submitted along with a preliminary application for the tax abatement program. Mr. Jessup was present to discuss the scope of the project and answer any questions regarding the preliminary request.

Mr. Jessup stated that the company has been in the community for a long time. They are located on Route 120 and also have a facility in Lake Bluff. A packet of information was handed out to Council members, and Mr. Jessup reviewed the materials. The business in McHenry is strong but running out of space. They are looking at options for expanding and would like to do something similar to what was done in Lake Bluff. One big hurdle towards expansion is the need for a water line extended to their location. When they were annexed by the City decades ago, a water line was never extended to their property. They are working on obtaining easements but the estimated cost for the water line alone is $223,000. There would be a lot of benefits to the community by expanding, including the redevelopment of that area, an increased water supply, reduction in truck congestion on Route 120, and the addition of jobs.

It is estimated that property taxes would increase $172,000 per year. Jessup Manufacturing is asking for a five year abatement of 100% to help finance the investment. The taxes for the City of McHenry would account for about $7,000 of that $172,000 increase. If there is enough interest, the issue would be formally brought back before the Council for formal approval and before engaging other taxing bodies of the tax abatement request. Mayor Jett stated that Jessup would clean up the property in the area, fix the façade of the building, and make a nice entrance to the City of McHenry on the east side. The Council came to a consensus that a tax abatement agreement could be brought back to a meeting for consideration.

Thelan Dredging Material Agreement

City Attorney McArdle explained that the City has an agreement with Thelan for the disposal of the Fox waterway using City or contracted trucks. New pricing has been worked out in exchange for releasing Thelan from their letters of credit for improvements on Route 31. An agreement with the details will be brought to the Council at the June 3rd meeting.

Full Service Personal Care Establishment Liquor Licenses

Chief Burke reported that there has been interest in personal care businesses in town to serve alcohol as part of a package for a service that customers are buying. Research has been done and shows that other towns have been issuing licenses similar to the one requested in McHenry.
There was a discussion about the benefits of empowering and helping local businesses versus the possibility of more video gaming. Because the establishment would be serving the alcohol, the business has the opportunity and right to apply for video gaming. Although it was discussed that this is not the intent of a personal care establishment, some Council members feared that this could open the door to more video gaming. Chief Burke was instructed to do more research on the topic and come back to the Council with more information at a later date.

**Executive Session**
City Attorney McArdle did not want to adjourn into executive session, although he did say there were pending litigation issues at the Water Treatment Plant that would need to be discussed at the June 3rd Council meeting.

**Staff Reports**
City Administrator Morefield explained that Council members should be getting an email explaining how Dropbox will no longer be used for Council packets. Instructions will be forwarded on about how that information can be retrieved from the City’s Sharepoint intranet.

Chief Burke reported that Sergeant Cox has announced his retirement for June 25th, which opens up a vacancy in the sergeant pool. The Council is invited to attend a small retirement ceremony.

**Mayor and City Council Comments**
Mayor Jett reported that committee assignments will be brought before the Council at the June 3rd meeting. Interest has also been received for the City Clerk position, and Mayor Jett and City Administrator Morefield will interview candidates in the near future.

Alderman Glab reported that the State Senator has nothing submitted from McHenry for capital improvement projects that need funding. Interim Public Works Director Strange stated that a request went to the McHenry Council of Governments about a possible lift station project. He will sit down with Senator Wilcox and see if that is a funding possibility.

**Adjournment**
There being no further public business to discuss, a **Motion was made by Alderman Santi and seconded by Alderwoman Miller to adjourn from the public meeting at 10:01 p.m.** Roll call: Vote: 7-ayes: Alderman Santi, Alderwoman Miller, Alderman Glab, Alderman Schaefer, Alderwoman Baehne, Alderman Mihevc, Alderman Devine. 0-nays, 0-abstained. Motion carried.

Respectfully submitted,

Monte Johnson, Deputy Clerk
### Expense Approval Register

#### List of Bills Council Meeting 6-3-19

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Grand Total: 32,732.71
## Fund Summary

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# Expense Approval Register

## #2 List of Bills Council Meeting 6-3-19

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**Grand Total:** 81,974.67

Packet: APPKT01508 - 6-3-19 RECT INV

5/29/2019 1:17:38 PM
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AGENDA SUPPLEMENT

TO: Mayor and City Council

FOR: June 3, 2019 Regular City Council Meeting

FROM: Douglas Martin, Director of Economic Development

RE: Conditional Use Permit to allow outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road

ATT:

1. Location Map
2. Planning and Zoning Commission Minutes dated April 17, 2019
3. Ordinance approving a conditional use permit to allow outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road
4. Application Packet

AGENDA ITEM SUMMARY:
Council is being asked to consider a Conditional Use Permit to allow outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road.

BACKGROUND:
In 2002, the City Council unanimously approved a request for a conditional use permit to allow outside storage of vehicles and trailers, as well as a variance to the minimum lot width required in the I-1 zoning district for the property located at 4172 Bull Valley Road, immediately to the east of the subject property.

In September 2008, Cornerstone requested an expansion to the existing conditional use permit to include 4564 Bull Valley Road, subject property, and permission to allow a recycling/handling center with outside storage of recycling materials contained in bins or box containers. The City Council approved the request (6-1) to allow the expansion of the existing conditional use permit and approval for a recycling center including outside storage of bin containers and roll-off boxes for a five-year term. Since that time, Cornerstone Material has vacated the site. The
conditional use permit approved in 2008 has automatically expired due to inactivity; however, the lot width variance is not automatically revoked and remains with the property.

In 2017, the owner of the subject property received a conditional use permit for the outside storage of recreational vehicles and boats in conjunction with a contractor’s office. The current applicant is requesting a conditional use permit to allow outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road.

**ANALYSIS:**
In accordance with the zoning ordinance, a conditional use permit is required for outside storage associated with any permitted or conditional use allowed in the I-1 Industrial zoning district. In this case, the applicant is proposing an office and outdoor storage of vehicles, other than just recreational vehicles and boats. The proposed location of the outdoor storage is far from view of Bull Valley Road and is unlikely to detract from the surrounding area. All of the surrounding properties are zoned industrial with the exception of Northwestern-Centegra Hospital south of Bull Valley Road. With that being said the outside storage must be kept somewhat neat and orderly. Boats and other vehicles cannot be stored anywhere on the property. There must be designated areas on the site for which they are stored.

In 2002 and 2008 a conditional use permit approved for Cornerstone Material Recovery was approved with seven and five-year time limitations respectively. While Cornerstone substantially cleaned-up the property, the property has since become a dumping ground. The applicant has done quite a bit to clean up the site since purchasing it.

Staff is aware there are long-range plans for this general area included in the comprehensive plan, which go beyond the scope of this proposal. With the hospital being across the road and vacant land to the north, west, and east, there are many development and redevelopment alternatives possible in the future. The time limitation placed on the conditional use permit, for Cornerstone Material Recovery, was in anticipation of redevelopment of this property along with the surrounding properties potentially for commercial and/or residential uses. This has not come to fruition as of yet.

Staff is not proposing a time limitation associated with the approval of the applicant’s request. Economic conditions remain uncertain and staff believes a time constraint would be unfair and the property may remain vacant indefinitely. The applicant has a viable business and when the property does redevelop in the future market forces will dictate whether the applicant remains on the subject property or decides to relocate. Staff believes the proposed use will provide a number of benefits to the City including:
An additional viable business locating in the City of McHenry;
Cleaning and removal of trash and debris on subject property, as well as ongoing maintenance;
Potential increase in assessed valuation, along with surrounding properties, which may at some point encourage developers to assess development/redevelopment options.

Unless a new business locates on the subject property staff believes the area will remain stagnant and an eyesore. The applicant owns a significant piece of property and in the future, this could play a key role in redevelopment of this area. Due to the isolated location of the site and the greater portion of the property is not visible to the public.

Future roadway improvements are planned along Bull Valley Road west of Illinois Route 31 at some point in the future, including consolidation of access points and roadway widening, which will alter the dynamics of the area. At that time, it may be more plausible for new development/redevelopment to occur. Staff does not believe that this area will necessarily remain industrial in nature but at the same time does not want to prevent a viable business from locating there.

PLANNING AND ZONING COMMISSION:
The Planning and Zoning Commission unanimously recommended approval of a conditional use permit to allow outside storage of vehicles in conjunction with a towing operation for the property located at 4564 Bull Valley Road, subject to the following conditions:

- The property shall be cleared of all debris, including any inoperable vehicles, trailers, etc. and anything unrelated to the request being considered;
- The property keeps a neat and orderly appearance;
- Boats and recreational vehicles must be stored in one area of property—not all over the property;
- Vehicles must be stored in the area indicated on the site plan;
- Applicant work with City Staff in locating signage for business off of Bull Valley Road, not impeding access or site lines to other businesses, customers or vehicles traversing the roadway;
- Provide minimal security lighting/cameras on-site.
RECOMMENDATION:

Therefore, if the City Council concurs, it is recommended that a motion be made to approve the attached ordinance granting a conditional use permit to allow outside storage of vehicles in conjunction with a towing operation for the property located at 4564 Bull Valley Road, subject to the following conditions:

- The property shall be cleared of all debris, including any inoperable vehicles, trailers, etc. and anything unrelated to the request being considered;
- The property keeps a neat and orderly appearance;
- Boats and recreational vehicles must be stored in one area of property-not all over the property;
- Vehicles must be stored in the area indicated on the site plan;
- Applicant work with City Staff in locating signage for business off of Bull Valley Road, not impeding access or site lines to other businesses, customers or vehicles traversing the roadway;
- Provide minimal security lighting/cameras on-site.
Location Map:
Chairman Strach called the Public Hearing to order at 7:33 p.m. regarding File No. Z-945 an application for a conditional use permit to allow outside storage of vehicles in conjunction with a towing operation for the property located at 4564 Bull Valley Road.

Chairman Strach stated Notice of the Public Hearing was published in the Northwest Herald on March 26, 2019. Notices were mailed to all abutting property owners of record as required by ordinance. The subject property was posted. A Certificate of Publication and Affidavit of Compliance with notice requirements are on file in the City Clerk’s Office.

In attendance were Krzysztof Lenart, 1524 River Terrace Dr. Johnsburg IL 60051 and Brandon Lenart, of the same address, who were sworn in by Chairman Strach. Krzysztof Lenart stated they are seeking to establish a tow yard in McHenry at 4564 Bull Valley Road with outside storage. They currently tow for McHenry County Sheriff’s Department and would like to establish a relationship for towing with the McHenry Police Department. They need to get approval for storing vehicles outside in conjunction with a small towing office that will be operated out of one of the buildings at 4564 Bull Valley Road. Mr. Lenart further stated they will not operate as a junk yard or repair shop but will strictly be doing towing.

Director of Economic Development stated in 2017 the owner of the subject property received a conditional use permit for the outside storage of recreational vehicles and boats in conjunction with a contractor’s office. The current applicant is requesting a conditional use permit to allow outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road.

A conditional use permit is required for outside storage associated with any permitted or conditional use allowed in the I-1 Industrial zoning district. In this case, the applicant is proposing an office and outdoor storage of vehicles, other than just recreational vehicles and boats. The proposed location of the outdoor storage is far from view of Bull Valley Road and is
unlikely to detract from the surrounding area. All of the surrounding properties are zoned industrial with the exception of Northwestern-Centegra Hospital south of Bull Valley Road.

Director Martin stated Staff is aware there are long-range plans for this general area included in the comprehensive plan, which go beyond the scope of this proposal. With the hospital being across the road and vacant land to the north, west, and east, there are many development and redevelopment alternatives possible in the future. The time limitation placed on the previous conditional use permit was in anticipation of redevelopment of this property along with the surrounding properties, potentially, for commercial and/or residential uses. This has not come to fruition as of yet.

Staff is not proposing a time limitation associated with the approval of the applicant’s request. Economic conditions remain uncertain and staff believes a time constraint would be unfair and the property may remain vacant indefinitely. Staff believes the proposed use will provide benefits to the City including an additional viable business locating in the City of McHenry; Cleaning and removal of trash and debris on subject property, as well as ongoing maintenance; and potential increase in assessed valuation, along with surrounding properties, which may at some point encourage developers to assess development/redevelopment options.

Unless a new business locates on the subject property, staff believes the area will remain stagnant and an eyesore. The applicant owns a significant piece of property and in the future this could play a key role in redevelopment of this area. Due to the isolated location of the site the greater portion of the property is not visible to the public.

Future roadway improvements are planned along Bull Valley Road west of Illinois Route 31 at some point in the future, including consolidation of access points and roadway widening, which will alter the dynamics of the area. At that time, it may be more plausible for new development/redevelopment to occur. Staff does not believe that this area will necessarily remain industrial in nature but at the same time does not want to prevent a viable business from locating there.

Director of Economic Development Martin stated Staff recommends approval of a conditional use permit to allow the outdoor storage of vehicles on the subject property, in conjunction with a towing operation subject to the conditions presented and Staff believes that the criteria in table 31 of the zoning ordinance have been met.

Chairman Strach invited questions and/or comments from the Commission.
Commissioner Gurda recused himself from the hearing.

Commissioner Walsh asked what type of security will be in place for the tow yard. Mr. Lenart stated there are gates and chain link fence as well as cameras.

Mr. Brian Blanchard, 6008 Tomlinson Dr., McHenry, IL was sworn in by Chairman Strach. Mr. Blanchard stated he is the property owner and he confirmed there are already cameras on the property. In response to a question posed by the commission, Mr. Blanchard stated there is gas in the boats at times but the majority of the time they are stored they are winterized and have no gas in them. In the summer there will be some RV’s and other recreational vehicles stored that may have gas in them but they are kept clean and monitored for leakage.

Commissioner Miller inquired what type of vehicles will be stored. Mr. Lenart responded it is mostly crash cars and cars to be impounded. In response to Commissioner Miller’s concern about the vehicles leaking on the property, Mr. Lenart added they use oil dry and fabrics to absorb all leaking liquids.

Commissioner Sobotta asked what the typical length of time is for vehicle storage. Mr. Brandon Lenart stated it depends upon the vehicle but should never be longer than 3-4 months. Mr. Krzysztof Lenart stated it is typically no longer than 30 days.

Chairman Strach opened the floor to questions and comments from the audience. There was nobody in attendance who wished to address the Commission regarding this matter.

Chairman Strach closed the public comment portion of the hearing 7:42 pm.

Motion by Doherty seconded by Miller to recommend to the City Council with regard to File No. Z-945 an application for a conditional use permit to allow outside storage of vehicles in conjunction with a towing operation for the property located at 4564 Bull Valley Road, subject to the following conditions, as presented:

- The property shall be cleared of all debris, including any inoperable vehicles, trailers, etc. and anything unrelated to the request being considered;
- The property keeps a neat and orderly appearance;
- Boats and recreational vehicles must be stored in one area of property—not all over the property;
- Vehicles must be stored in the area indicated on the site plan;
• Applicant work with City Staff in locating signage for business off of Bull Valley Road, not impeding access or site lines to other businesses, customers or vehicles traversing the roadway;

• Provide minimal security lighting/cameras on-site.

And Staff finds that the criteria in table 31 of the zoning ordinance have been met.

Voting Aye: Doherty, Miller, Sobotta, Strach, and Walsh.

Voting Nay: None.

Not Voting: None.

Abstaining: None.

Absent: Thacker.

Motion carried 5-0

Chairman Strach closed the Public Hearing regarding File No. Z-945 at 7:45 pm.
ORDINANCE NO 19-
AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO ALLOW OUTSIDE STORAGE OF VEHICLES IN CONJUNCTION WITH A TOWING OPERATION FOR THE PROPERTY LOCATED AT 4564 BULL VALLEY ROAD IN THE CITY OF MCHENRY, MCHENRY COUNTY, ILLINOIS

WHEREAS, the City of McHenry, McHenry County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the City’s home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, a petition has been filed by DN N DRTY, LLC, 4564 Bull Valley Road, McHenry, IL 60050 (“Applicant”), requesting a Conditional Use Permit to allow outside storage of vehicles in conjunction with a towing operation at 4564 Bull Valley Road. The property is legally described on Exhibit “A” attached hereto and incorporated herein, the “SUBJECT PROPERTY”; and

WHEREAS, a public hearing on said petition was held before the Planning and Zoning Commission on April 17, 2019 in the manner prescribed by ordinance and statute, and as a result of said hearing, the Planning and Zoning Commission did recommend to the City Council the granting of the requested Conditional Use Permit; and

WHEREAS, the City Council has considered the evidence and recommendations from the Planning and Zoning Commission and finds that the approval of the requested Conditional Use Permit is consistent with the objectives of the City of McHenry Zoning Ordinance to protect the public health, safety, morals and general welfare of its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCHENRY, MCHENRY COUNTY, ILLINOIS, AS FOLLOWS:
SECTION 1: That the SUBJECT PROPERTY is hereby granted a Conditional Use Permit to allow outside storage of vehicles in conjunction with a towing operation subject to the following conditions:

- The property shall be cleared of all debris, including any inoperable vehicles, trailers, etc. and anything unrelated to the request being considered;
- The property keeps a neat and orderly appearance;
- Boats and recreational vehicles must be stored in one area of property—not all over the property;
- Vehicles must be stored in the area indicated on the site plan;
- Applicant work with City Staff in locating signage for business off of Bull Valley Road, not impeding access or site lines to other businesses, customers or vehicles traversing the roadway;
- Provide minimal security lighting/cameras on-site.

SECTION 2: In granting said Conditional Use Permit, the City Council finds that the requirements of Table 31 of the Zoning Ordinance have been met in that:

1. Any adverse impact of types or volumes of traffic flow not otherwise typical in the zoning district has been minimized.
2. Any adverse effects of noise, glare, odor, dust, waste disposal, blockage of light or air, or other adverse environmental effects of a type or degree not characteristic of permitted uses in the zoning district, have been appropriately controlled.
3. The proposed use will fit harmoniously with the existing natural or man-made character of its surroundings, and with permitted uses in the zoning district. The use will not have undue deleterious effect on the environmental quality, property values, or neighborhood character already existing in the area or normally associated with permitted uses in the district.
4. The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities, in such a way as to place undue burdens upon existing development in the area.
5. The proposed use will not be detrimental to the safety or health of the employees, patrons, or visitors associated with the use nor of the general public in the vicinity.
6. The proposed use is in harmony with all other elements of compatibility pertinent to the Conditional Use and its particular location.

**SECTION 3:** All Ordinances or parts thereof in conflict with the terms and provisions hereof are hereby repealed to the extent of such conflict.

**SECTION 4:** This Ordinance shall be published in pamphlet form by and under the authority of the corporate authorities of the City of McHenry, McHenry County, Illinois.

**SECTION 5:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED THIS _______ DAY OF ______________________, 2019

AYES: ________________________________

NAYS: ________________________________

ABSTAINED: __________________________

ABSENT: ______________________________

NOT VOTING: _________________________

APPROVED THIS _______ DAY OF ______________________, 2019

______________________________

______________________________

MAYOR

CITY CLERK
Exhibit A

Legal Description of the Subject Property
Applying for a conditional use permit for DN N DRTY, LLC at the location of 4564 Bull Valley Rd. McHenry, IL 60050. Our use of this property would be storage for recreational vehicles. As the use of this property happens we would be considering the following factors, to not adverse any impacts of volumes of traffic flow not otherwise typical in the zoning district. Also would not be impacting the environment by any which way. As we are surrounded by similar uses of property, we would be sure to keep everything up to par with the rules and regulations with the zoning district.

DN N DRTY, LLC will be supplying a Plot of survey, in reason of wanting to put a sign up along Bull Valley Rd. at the entrance of the property. It will be facing the way traffic flows east to west. Also being 4’x8’ in size and red and black in color. It would be clean and professional. To complete the following DN N DRTY, LLC would need approval of this.
PUBLICATION APPLICATION

Planning and Zoning Commission
City of McHenry

333 South Green Street • McHenry, IL 60050 • Tel: (815) 363-2170 • Fax: (815) 363-2173

1. Name of Applicant: D N N DRTY, LLC
   Address: 4564 Bull Valley Rd, McHenry, IL
   Tel: 815 307 3939

2. Name of Property Owner (If other than Applicant):
   Brian Blanchard
   Address: PO Box 872, McHenry, IL
   Tel: 847 641 1358

3. Name of Engineer (If represented):
   Address:
   Tel:
   Fax:

4. Name of Attorney (If represented):
   Address:
   Tel:
   Fax:

5. Common Address or Location of Property:
   4564 Bull Valley Rd, McHenry, IL 60050

6. Requested Action(s) (check all that apply):
   √ Zoning Map Amendment (Rezoning)
   〇 Zoning Variance - Minor
   〇 Conditional Use Permit
   〇 Zoning Text Amendment
   〇 Zoning Variance
   〇 Other

Provide a brief description of the Requested Action(s). For example, the operation that requires a Conditional Use Permit, the specific Zoning Variance needed, or the new zoning classification that is requested:

The operation of outdoor storage requires a conditional use permit.
7. Current Use of Property: **Outdoor Storage**

8. Current Zoning Classification of Property, Including Variances or Conditional Uses:
   - **Outside Storage for recreational vehicles**

9. Current Zoning Classification and Land Use of Adjoining Properties:
   - North: **Vacant land**
   - South: **Vacant land**
   - East: **Vacant land**
   - West: **Vacant land**

10. Required Attachments (check all items submitted):
   - Please refer to the Public Hearing Requirements Checklist to determine the required attachments.

   1. Application Fee (amount) $________
   2. Narrative Description of Request
   3. FORM A – Public Hearing Application
   4. FORM B – Zoning Map Amendment (Rezoning) Application
   5. FORM C – Conditional Use Application
   6. FORM D – Zoning Variance Application
   7. FORM E – Use Variance Application
   8. Proof of Ownership and/or Written Consent from Property Owner in the Form of an Affidavit
   9. Plat of Survey with Legal Description
   10. List of Owners of all Adjoining Properties
   11. Public Hearing Notice
   12. Sign (Provided by the City, to be posted by the Applicant)
   13. Site Plan
   14. Landscape Plan
   15. Architectural Rendering of Building Elevations
   16. Performance Standards Certification
   17. Traffic Analysis
   18. School Impact Analysis
11. Disclosure of Interest

The party signing the application shall be considered the Applicant. The Applicant must be the owner or trustee of record, trust beneficiary, lessee, contract purchaser, or option holder of the subject property or his or her agent or nominee.

Applicant is Not Owner
If the Applicant is not the owner of record of the subject property, the application shall disclose the legal capacity of the Applicant and the full name, address, and telephone number of the owner(s). In addition, an affidavit of the owners(s) shall be filed with the application stating that the Applicant has the authority from the owners(s) to make the application.

Applicant or Owner is Corporation or Partnership
If the Applicant, owner, contract purchaser, option holder, or any beneficiary of a land trust is a corporation or partnership, the application shall disclose the name and address of the corporation's officers, directors, and registered agents, or the partnership's general partners and those shareholders or limited partners owning in excess of five percent of the outstanding stock or interest in the corporation or interest shared by the limited partners.

Applicant or Owner is a land Trust
If the Applicant or owner is a land trust or other trust or trustee thereof, the full name, address, telephone number, and extent of interest of each beneficiary shall be disclosed in the application.

12. Certification

I hereby certify that I am aware of all code requirements of the City of McHenry that relate to this property and that the proposed use or development described in this application shall comply with all such codes.

I hereby request that a public hearing to consider this application be held before the Planning and Zoning Commission, and thereafter that a recommendation be forwarded to the City Council for the adoption of an ordinance(s) granting the requested action(s), including any modifications to this application or conditions of approval recommended by the Zoning Board of Appeals or City Council.

Signature of Applicant(s)

Print Name and Designation of Applicant(s)

Brandon Lenart
Table 31 of the City of McHenry Zoning Ordinance provides that in recommending approval or conditional approval of a Conditional Use Permit, the Planning and Zoning Commission shall transmit to the City Council written findings that all of the conditions listed below apply to the requested action.

Please respond to each of these conditions as it relates to your request.

1. **Traffic**
   Any adverse impact of types or volumes of traffic flow not otherwise typical in the zoning district has been minimized.

   We are not going to impact traffic flow in the area of zoning.

2. **Environmental Nuisance**
   Any adverse effects of noise, glare, odor, dust, waste disposal, blockage of light or air, or other adverse environmental effects of a type or degree not characteristic of permitted uses in the zoning district have been appropriately controlled.

   We are not going to impact anymore to the environment, and will block out any direct lights by fencing & trees.

3. **Neighborhood Character**
   The proposed use will fit harmoniously with the existing natural or man-made character of its surroundings and with permitted uses in the zoning district. The use will not have undue deleterious effect on the environmental quality, property values, or neighborhood character existing in the area or normally associated with permitted uses in the district.

   Surrounded by same or similar uses of property.
4. Public Services and Facilities
The proposed use will not require existing community facilities or services to a degree disproportionate to
that normally expected of permitted uses in the district, nor generate disproportionate demand for new
services or facilities, in such a way as to place undue burdens upon existing development in the area.

Not going to impact in any way

5. Public Safety and Health
The proposed use will not be detrimental to the safety or health of the employees, patrons, or visitors
associated with the use nor of the general public in the vicinity.

Not going to impact in any way

6. Other Factors
The proposed use is in harmony with all other elements of compatibility pertinent to the Conditional Use
and its particular location.

It is in correct use with all other elements
4564 Bull Valley Rd
McHenry, IL
REGULAR AGENDA ITEM

DATE:       June 3, 2019
TO:         City Council
FROM:       Wayne Jett, Mayor
RE:         Issuance of Class A Liquor License to Whiskey Straight LLC dba Whiskey Straight, located at 3932 Main Street, McHenry, Illinois
ATT:        Letter from Dan Hart to Council Explaining Business Concept Liquor License Application

AGENDA ITEM SUMMARY:
The purpose of this agenda item is for Council’s consideration for the issuance of a Class A Liquor License to Whiskey Straight, located at 3932 Main Street.

BACKGROUND/ANALYSIS:
Two already successful business owners – Dan Hart (DC Cobbs McHenry and Smith’s Central Garage) and Kevin Slimko (Slim’s Barber Shop, Crystal Lake) – are seeking to partner to bring a unique, destination-oriented business to 3932 Main Street – Whiskey Straight. While the primary business at this location will be as an upscale men’s barbershop, their business plan also includes offering other amenities such as shoe shines/shoe repairs and barber-training classes, as well as being able to offer a small (6-8 seat) bar area where customers will be able to purchase and consume upscale whiskeys and scotches. The concept, as discussed in the attached letter, will be “1920’s speakeasy themed” and will result in extensive improvements to the existing building. Also identified in the letter, video gaming will be offered as an amenity at the location. Conscious of the recent discussions by Council regarding video gaming, Dan has identified that no video gaming signage (interior or exterior) will be visible from the street and that gaming will be located in a separately enclosed room, also not visible from the street.

As Mayor and Liquor Commissioner, I am supportive of this project on many levels. First, Dan and Kevin bring proven business success. They each own existing businesses (in Dan’s case, many businesses) with a built-in following that will no doubt bring instant interest in this new venture. Second, this concept is unique not only to McHenry and McHenry County, but to this region. While similar concepts can be found around the United States, this will be a “one of a kind”
destination specific to McHenry. Third, Dan is already well-versed in what is required to obtain and maintain a liquor license. With this background and knowledge, he will be able to ensure that staff is appropriately trained and that local and state liquor laws are maintained. This knowledge makes this proposed business different than others that may come before Council seeking liquor licenses as an amenity to the primary business. Finally, and most important to me, Dan holds a vision for what McHenry could become and has already shown a willingness to invest in the community (DC Cobbs and Smith’s Central Garage). With this concept, he is willing to invest in an area of McHenry that is often overlooked and overshadowed by Green Street and Riverside Drive, and he understands that Main Street has great potential. He is interested in being part of the solution to revitalize Main Street. In my opinion, this is exactly the type of private investment that is needed to kick-start more redevelopment on Main Street. If you have any knowledge of Dan’s businesses, you know that he is not going to cut corners and that this will be a first-class establishment. In short, Dan and Kevin are willing to take a chance on investing in McHenry and, as such, we should support them in this venture. Most certainly, this is more appealing than seeing vacant and neglected buildings.

I understand from discussions with Dan and some Council Members on this issue that the presence of video gaming may be a negative for this project. As you know, I am not the biggest fan of video gaming and believe that we need to continue to address this topic as a Council. However, we need to remember that video gaming revenues contribute approximately $600,000 to General Fund Revenues and, despite our personal opinions of video gaming, its existence does not place additional burden on public services in return for these revenues. Next, I believe that we truly have to consider requests for liquor licenses (with or without the potential for video gaming) on a case-by-case basis on the merits of the overall business concept. Finally, as it relates to this project, Dan is an existing business owner in the community (one of which offers video gaming) and, unlike “video gaming cafes”, video gaming will be offered only as an amenity at the location and will not be advertised at the facility per his letter.

As additional information, unlike the discussion that Council had on May 20th regarding full service personal care liquor licenses, in the case of this request, the plan includes the location of a bar for the sale of alcohol as a separate service – in other words the alcohol is not offered as part of a “package” - therefore a Class A Liquor License has been requested and is the most appropriate for this request.

RECOMMENDATION:
Therefore, if Council concurs, I recommend that a motion be made to approve the issuance of a Class A Liquor License to Whiskey Straight LLC dba Whiskey Straight, located at 3932 Main Street, McHenry, Illinois pending the successful completion of the required background check.
McHenry City Council,

I am writing to you to share an exciting new concept that I would like to bring to McHenry and to ask for your support.

The continued revitalization of McHenry’s downtown business districts is important to me. As an investor, property owner, and business owner in McHenry, I want to continue to work with you to bring great opportunities to the community.

As you probably know, I am an investor in The Hub Market; now own Smith’s Garage; and brought my own branded dining concept, D.C. Cobbs, to McHenry. The transformation of Green Street over the last 18 months has been amazing and the support of the City, its staff, and residents is incredible. This support is what has made me continue to invest in the community, as an investor in The Hub Market on Green Street, and most recently as owner of Smith’s Garage on Pearl Street, where I hope to make a positive impact in the Riverside Drive area.
I believe that as a result of what we have been able to do with the McHenry Downtown Theatre and D.C. Cobbs, we have opened the door for more investors to come into the area. This is proven with The Hub Market, Jexals, and even Buddyz who chose to undertake a remodel and expansion. I understand that Buddyz is actually up a significant amount in sales since the opening of D.C. Cobbs, meaning more people are coming to Green Street as a destination. The improvements to Walsh Park, the Green Street Bridge, Riverwalk expansion at Miller Point, and creek dredging project are creating a positive buzz that we hear about every day. Personally, the revitalization of Green Street has been exciting to watch, as well as be a part of, and I think over the next several years we will see it continue to flourish. I also believe that Riverside Drive offers many exciting opportunities with its access to the Fox River.

I strongly believe that the next area of the downtown to focus on is Main Street. I have heard that Main Street is the “forgotten downtown” of McHenry and avoided by many because of its rougher character and supposedly undesirable people that hang around the area. As someone who makes business decisions based the potential for return, I have conducted a great deal of research on the Main Street area. In general, I found the buildings to be in sound structural condition, needing mostly some love and care. The area is easily accessible from Route 120, Route 31 and Crystal Lake Road and includes ample parking with the existing commuter parking lot just west of the railroad tracks. There are already some great local businesses in the area such as Plum Garden, Moe’s on Main, and Main Street Station, creating a good base from which to grow. What is needed is a spark to ignite additional activity and investment in this area.

I am looking to spark revitalization on Main Street through a business concept that, while not new, is new to McHenry County and the surrounding region. I recently purchased the building at 3932 Main Street as an investment opportunity. This is a mixed use building that has previously been home to various businesses and most recently a tattoo shop. After purchasing the building I decided to ask through Facebook what residents wanted to see developed in the area. Many great ideas were tossed around. Everything from restaurants to organic grocery stores. Some ideas came up multiple times and received positive feedback. One of these was the concept of an upscale barbershop with bar service. Interested, I began to do some research on this concept. I found quite a few places that exist around the country, and world, that do this. I then began to brainstorm and reach out to professional contacts for guidance and advice. One of the first people that I approached was a close friend of mine, Kevin Slimko, known as “Slim The Barber”, to see if he had any advice or would be interested in being involved. Kevin has owned “Slim’s Barber Shop” In Crystal Lake for 14 years. Many of Kevin’s clients commute from as far away as Chicago to get a haircut at Slim’s. Kevin also has a very large social media following and produces training videos for barbers.

Once I started explaining the concept Kevin immediately said that he was interested, thought that this could be a successful concept, and one that would draw people from some distances to McHenry. In addition, Kevin is already interested in opening a second location. This is what pushed me to really be interested in investing in this unique concept and bringing it to McHenry.
With Kevin as the head barber and co-owner, this business would be able to draw a great deal of traffic from surrounding communities. These customers would in turn frequent other local businesses in McHenry. Increased customers on Main Street, along with the significant investment that I am willing to make in rehabilitating the building, would result in other people being willing to step up to invest in the Main Street area, just as they have done with Green Street. Kevin and I have come up with a concept for the new business as well as having met with contractors to get bids and the rough cost of opening. If you have visited any of the projects that I am involved with, I do not cut corners and demand only the best workmanship and details.

The name of the new business would be “Whiskey Straight”, an upscale men’s barbershop featuring dark woods and leather in the decor. With a primary business of being a barbershop, “Whiskey Straight” will include the following:

- A small bar with 6-8 seats and a selection of upscale whiskeys and scotches that are not commonly available.
- Feature shoothes as well as the outsourcing of shoe repairs.
- Several small tables for customers to converse and socialize.
- Allow food to be delivered and consumed on site from any of our local restaurants.
- Feature wine tastings and small group events.
- Barber classes, upscale men’s hair care and beard products and select apparel.
- “Whiskey Straight” will be open at 9am, 6 days a week.
- Extensive remodeling of the interior and exterior of the building, including façade and awning improvements. We would also like to discuss the possibility of an outside mural with the City of McHenry.

Finally, wanting to be completing forthcoming, “Whiskey Straight” will offer video gaming. I understand that this has become a debated topic in McHenry and I want to be able to include video gaming as discretely as possible. Our concept is to build a small, enclosed room in the back of the facility with the feel of a 1920’s “speakeasy” in which the gaming machines would be located. In addition, there will be no advertisement of video gaming will exist visible from the outside. As proposed, the gaming would be offered only as an additional amenity to the primary focus of the business, a barbershop.

We are excited about bringing the concept of “Whiskey Straight” to McHenry and bringing it to Main Street in particular. We firmly believe that if you decide to support our vision, we will be able to kickstart the revitalization of the Main Street area. I do not enter into business opportunities lightly, and would not propose this concept if I did not believe that it would bring something unique and successful to the community.

Please contact me directly at 630.854.8881 if you would like to discuss this concept with me further or if you have any questions or concerns. We would like to move quickly and appear before the city council for our liquor license request in order to begin renovations and open this summer. I hope that we will be able to count on your support.
Cheers,
Dan Hart

Conceptual Ideas:
## CITY OF MCHENRY
### APPLICATION FOR LIQUOR LICENSE

#### Section 1: License Classification
- **Date of Application:** 5/20/19
- **License Type:** (Class A, Class B, Class C, Class D) A
- **Catering Endorsement (Yes/No):** NO
- **New License or Transfer of License (select one):** NO

#### Section 2: Applicant Business
- **Name of Business:** B's Heat Pizza
- **Address:** 100 Main St, McHenry, IL 60050
- **Telephone:** 815-382-7111
- **Email Address:** bshope@dcnet.com

#### Section 3: Business Type
- **Type of Business:** (Select One: Club, Single Proprietor, Partnership, LLC or Corporation) LLC
- **Principal Type of Business (Identify One: Bar, restaurant, retail store, hotel restaurant, gas station, gaming parlor, etc.):** Bar
- **List State of filing for LLC, Corporation, Partnership and Solo Proprietors:** Illinois
- **How long has the sole proprietor, Club, Partnership, Corporation or LLC been in the business of selling alcohol? (List Date):**

#### Section 4: Zoning
- **What Zoning Classification is the property? (Select One):**

#### Section 5: Business Location History
- **Date on which the business opened or will open at the above Business Location:**
- **Is the property on which the applicant business is located owned or leased by the applicant?** Owned

#### Section 6: Business Agent
- **List Agent: An Agent is the authorized representative of the Licensee who has supervisory authority over all employees of the license premises. An agent may be an owner, partner, member, or designated manager.**

### A copy of the property lease agreement must be attached to this application. Please mark N/A or Attached

### If property is owned by a land trust, trustee must file affidavit disclosing names and addresses of all beneficial owners and percentage of interest. Please mark N/A or Attached

### Is the location of applicant's business for which license is sought within one hundred feet of any church, school (except institutions of higher education), hospital, funeral home, home for aged or indigent persons or for veterans and their families or any military or naval station? (Yes or No)

### How many private property parking spaces are associated with the business location? (LIST NUMBER)

### Section 7: Business Agent
- **Full Name:** Daniel T. Hart
- **DOB:** 02/18/80
- **Home Address:** 415 Washington St, Woodstock, IL 60098
- **Citizenship Birth or Naturalization:**
- **If Naturalized: List date & place of naturalization:**
**Section 7: Business History**

Have the applicant(s) (including all 5% or higher owners), corporation, LLC, or partnership ever engaged in the business or sale of alcoholic liquor at any other location? (Yes or No) **Yes**

<table>
<thead>
<tr>
<th>Name of Person</th>
<th>Name of associated corporation, LLC or partnership</th>
<th>DBA Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dan Hart</td>
<td>Mchenry Mobile Inc.</td>
<td>DBA Cobb's Mobile</td>
<td>Mchenry, IL</td>
</tr>
<tr>
<td></td>
<td>Mchenry Mobile LLC</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lords Mobile LLC</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mchenry Mobile LLC</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lords Mobile LLC</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mchenry Mobile LLC</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lords Mobile LLC</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mchenry Mobile LLC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Section 8: Business Licensing and Filling Identification**

<table>
<thead>
<tr>
<th>Illinois State Liquor License Number</th>
<th>Applicant's Retailer's Occupational Tax (NOT) Registration Number</th>
<th>Has applicant been delinquent in the payment of the Retailer's Occupational Tax (Sales Tax)? (Yes or No)</th>
<th>If you answered &quot;Yes&quot; above provide a reason otherwise mark N/A.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>No</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Section 9: Insurance**

List the name and address of your insurance company along with the policy number(s) for both the applicant business and the owner of the building in which the alcoholic liquor will be sold for the duration of the license.

<table>
<thead>
<tr>
<th>Society</th>
<th>Address</th>
<th>Policy Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Section 10: Background Questionnaire**

The following questions are in relation to the McHenry City Liquor Ordinance and Illinois law as it pertains to liquor licensing. All questions must be answered honestly. Failure to do so may disqualify you from the application process.

- Are you familiar with all the laws of the United States, State of Illinois and ordinances of the City of McHenry pertaining to the sale of alcoholic liquor and are you able to abide by them? (Yes or No) **Yes**
- Will you maintain the entire premises in a safe, clean and sanitary manner from conditions, which might cause accidents? (Yes or No) **Yes**
- Will you attempt to prevent rowdiness, fights and disorderly conduct of any kind and immediately notify the McHenry Police Department of any such events take place? (Yes or No) **Yes**
- Has any manufacturer, importer, distributor or distributor of alcoholic liquors directly or indirectly paid or agreed to pay for this license, advanced money or anything else of value or any credit (other than merchandising credit) in the ordinary course of business for a period not in excess of 90 days, or is such a person directly or indirectly interested in the ownership, conduct or operation of the place of business? (Yes or No) **No**
- Have any of the applicants, including all listed agents and partners who have a minimum of a 5% ownership in the business been convicted of any violation of any law pertaining to alcoholic liquor? (Yes or No) **No**

**If “Yes” provide the name of the applicant and a description of the violation**

<table>
<thead>
<tr>
<th>Name</th>
<th>Description: Include date and location</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**If “Yes” provide the name of the applicant and a description of the violation**

<table>
<thead>
<tr>
<th>Name</th>
<th>Description: Include date and location</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Have any of the applicants, including all listed agents and partners who have a minimum of a 5% ownership in the business been convicted of a felony or misdemeanor? (Yes or No)** **No**

**If “Yes” provide the name of the applicant and a description of the violation**

<table>
<thead>
<tr>
<th>Name</th>
<th>Description: Include date and location</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Section 10 Continued: Background Questionnaire

Will you lend all your employees refuse to serve or sell alcoholic liquor to an intoxicated person or to a minor?  
(Yes or No) **YES**

Has any owner(s) or member(s) of a Partnership been issued a federal wagering device stamp or a federal wagering stamp by the federal government for the current tax period? If a Corporation, has any officer, manager, or director thereof or any stockholder owning in the aggregate more than twenty (20) percent of the stock, been issued a federal wagering device stamp or a federal wagering stamp by the federal government for the current tax period? (Yes or No) **NO**

<table>
<thead>
<tr>
<th>Name</th>
<th>Date and Location of Issuance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Have you, or any partner, or owner of 5% or more shares of the business or Agent, ever had a liquor license revoked or suspended? (Yes or No) **NO**

<table>
<thead>
<tr>
<th>Name</th>
<th>Date and Location of Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Is any individual who is directly or indirectly interested in applicant's place of business, a law-enforcing official or elected public official (mayor, alderman, and member of any City commission, committee or board)? (Yes or No) **NO**

<table>
<thead>
<tr>
<th>Name</th>
<th>Address and Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Have you ever been convicted of a gambling offense (if a partnership or corporation, include all partners, owners of 5% or more shares of the corporation and the local manager)? (Yes or No) **NO**

<table>
<thead>
<tr>
<th>Name</th>
<th>Date and Location of Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Section 11: Ownership Records

<table>
<thead>
<tr>
<th>Owner #1</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name</strong></td>
<td>Daniel Hurt</td>
</tr>
<tr>
<td><strong>DOB</strong></td>
<td>02/19/80</td>
</tr>
<tr>
<td><strong>Address</strong></td>
<td>145 Ambrosett St, Woodstock</td>
</tr>
<tr>
<td><strong>Phone</strong></td>
<td>150. 864. 9886</td>
</tr>
<tr>
<td><strong>Percentage of Ownership</strong></td>
<td>51%</td>
</tr>
<tr>
<td><strong>Citizenship (Birth or Naturalization)</strong></td>
<td>Birth</td>
</tr>
<tr>
<td><strong>If Naturalized: List time &amp; place of naturalization</strong></td>
<td></td>
</tr>
</tbody>
</table>

#### Employment History for Last 10 Years

<table>
<thead>
<tr>
<th>Employer</th>
<th>Occupation</th>
<th>Address</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>DC Cobb</td>
<td>Owner</td>
<td>150. 864. 9886</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Owner #2</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name</strong></td>
<td>Kevin Simko</td>
</tr>
<tr>
<td><strong>DOB</strong></td>
<td>03/12/75</td>
</tr>
<tr>
<td><strong>Address</strong></td>
<td>2123 Hillside Ter, May 11, Woodstock</td>
</tr>
<tr>
<td><strong>Phone</strong></td>
<td>773. 517. 9781</td>
</tr>
<tr>
<td><strong>Percentage of Ownership</strong></td>
<td>100%</td>
</tr>
<tr>
<td><strong>Citizenship (Birth or Naturalization)</strong></td>
<td>Birth</td>
</tr>
<tr>
<td><strong>If Naturalized: List time &amp; place of naturalization</strong></td>
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</table>

#### Employment History for Last 10 Years

<table>
<thead>
<tr>
<th>Employer</th>
<th>Occupation</th>
<th>Address</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Simon Baker</td>
<td>Owner</td>
<td>107 N. Main St, Crystal Lake</td>
<td>06-Present</td>
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</tbody>
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### Owner #3

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td><strong>DOB</strong></td>
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<tr>
<td><strong>Address</strong></td>
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<tr>
<td><strong>Phone</strong></td>
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#### Employment History for Last 10 Years

<table>
<thead>
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<th>Employer</th>
<th>Occupation</th>
<th>Address</th>
<th>Dates</th>
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<tr>
<td>Owner #4</td>
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<td>Percentage of Ownership</td>
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<td>Citizenship (Birth or Naturalization)</td>
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<tr>
<td>If Naturalized: List time &amp; place of naturalization</td>
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</table>

**Employment History for Last 10 Years**

<table>
<thead>
<tr>
<th>Employer</th>
<th>Occupation</th>
<th>Address</th>
<th>Dates</th>
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<td>Address</td>
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<td>Phone</td>
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<td>Percentage of Ownership</td>
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<tr>
<td>Citizenship (Birth or Naturalization)</td>
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<tr>
<td>If Naturalized: List time &amp; place of naturalization</td>
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**Employment History for Last 10 Years**

<table>
<thead>
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<th>Occupation</th>
<th>Address</th>
<th>Dates</th>
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<tr>
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<td>DOB</td>
</tr>
<tr>
<td>Address</td>
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<tr>
<td>Phone</td>
</tr>
<tr>
<td>Percentage of Ownership</td>
</tr>
<tr>
<td>Citizenship (Birth or Naturalization)</td>
</tr>
<tr>
<td>If Naturalized: List time &amp; place of naturalization</td>
</tr>
</tbody>
</table>

**Employment History for Last 10 Years**

<table>
<thead>
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<th>Employer</th>
<th>Occupation</th>
<th>Address</th>
<th>Dates</th>
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<td>Name</td>
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<td>Address</td>
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<tr>
<td>Percentage of Ownership</td>
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<tr>
<td>Citizenship (Birth or Naturalization)</td>
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<tr>
<td>If Naturalized: list time &amp; place of naturalization</td>
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<table>
<thead>
<tr>
<th>Employment History for Last 10 Years</th>
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</thead>
<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>Owner #2:</th>
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</thead>
<tbody>
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<tr>
<td>DOB</td>
</tr>
<tr>
<td>Address</td>
</tr>
<tr>
<td>Phone</td>
</tr>
<tr>
<td>Percentage of Ownership</td>
</tr>
<tr>
<td>Citizenship (Birth or Naturalization)</td>
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<tr>
<td>If Naturalized: list time &amp; place of naturalization</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Employment History for Last 10 Years</th>
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</thead>
<tbody>
<tr>
<td>Employer</td>
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</table>

<table>
<thead>
<tr>
<th>Owner #3:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
</tr>
<tr>
<td>DOB</td>
</tr>
<tr>
<td>Address</td>
</tr>
<tr>
<td>Phone</td>
</tr>
<tr>
<td>Percentage of Ownership</td>
</tr>
<tr>
<td>Citizenship (Birth or Naturalization)</td>
</tr>
<tr>
<td>If Naturalized: list time &amp; place of naturalization</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Employment History for Last 10 Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer</td>
</tr>
<tr>
<td>-----------</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
Owner #10

Name
DOB
Address
Phone

Percentage of Ownership

Citizenship (Birth or Naturalization)
If Naturalized: List time & place of naturalization

Employment History for Last 10 Years

<table>
<thead>
<tr>
<th>Employer</th>
<th>Occupation</th>
<th>Address</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Section 12: Required Attachments

Business Draft Shop Insurance
Property Draft Shop Insurance (if Applicable)
Business Filing Paperwork with State: (Club, Sole Proprietor, Partnership, LLC or Corporation)
State Liquor License
Building Lease Agreement (if Applicable)

I, the undersigned, being first duly sworn, deposes and says that I (we), have read the above and foregoing Application, caused the answers to be provided thereto and all of the information given on said Application to be true and correct, and consent to investigation and background check by the Local Liquor Control Commissioner or his designee and agree to comply with all City Ordinances and the rules stated on this application.

SOLE PROPRIETOR:

Signature of Applicant
Print Name

PARTNERSHIP:
(Authorized Agent of the Partnership)

Signature
Print Name
Title

CORPORATION:
(Authorized Agent of the Corporation)

Signature
Print Name
Title

AGENT: (Must be signed by agent also if agent is not an owner)

Signature of Local Manager
Print Name
# Certificate of Liability Insurance

**Issuer:** Whiskey Straight LLC  
**Address:** 3932 Main St  
**City:** McHenry  
**State:** IL  
**ZIP Code:** 60050

**Insurer A:** Society Insurance  
**Policy No.:** 15261

**Insurer B:** Hartford Ins Co of the Midwest  
**Policy No.:** 37478

**Producer:** Lamb, Little & Co  
**Address:** 1101 Perimeter Drive  
**City:** Schaumburg  
**State:** IL  
**ZIP Code:** 60173

**Contact:** Iwona Zwolinska  
**Phone:** 847-710-7735  
**Fax:** 847-399-7077  
**Email:** iwona@lamblitia.com

**Certificate Number:** 526744130  
**Revision Number:**

**Coverages**

<table>
<thead>
<tr>
<th>Type of Coverage</th>
<th>Description</th>
<th>Policy No.</th>
<th>Policy Effective Date</th>
<th>Policy Expiration Date</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>A COMMERCIAL GENERAL LIABILITY</td>
<td>EXCESS OCCURRENCE</td>
<td>BP17023304</td>
<td>8/3/2016</td>
<td>8/2/2019</td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>LOSS DAMAGE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PERSONAL &amp; ADJURY</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>PRODUCTS COMP/OP AGG</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>MED EX/EXP (Any one person)</td>
<td></td>
<td></td>
<td></td>
<td>$1,000,000</td>
</tr>
<tr>
<td></td>
<td>GENERAL AGGREGATE</td>
<td></td>
<td></td>
<td></td>
<td>$2,000,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AUTOMOBILE LIABILITY</th>
<th>EXCESS UMBRELLA LIABILITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANY AUTO</td>
<td>UM17023307</td>
</tr>
<tr>
<td>OWNED AUTOS ONLY</td>
<td>8/3/2018</td>
</tr>
<tr>
<td></td>
<td>EXCESS UMBRELLA LIABILITY</td>
</tr>
<tr>
<td></td>
<td>CLAIMS MADE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A WORKERS' COMPENSATION &amp; EMPLOYERS' LIABILITY</th>
<th>DESCRIPTION OF OPERATIONS (ACORD 197). Additional Remarks Schedule, may be attached if more space is required</th>
</tr>
</thead>
<tbody>
<tr>
<td>SWECAB88BLR</td>
<td></td>
</tr>
<tr>
<td>N J</td>
<td></td>
</tr>
<tr>
<td>W</td>
<td></td>
</tr>
<tr>
<td>M</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CERTIFICATE HOLDER</th>
<th>CANCELLATION</th>
</tr>
</thead>
</table>
| City of McHenry  
**Address:** 333 S. Green Street  
**City:** McHenry  
**State:** IL  
**ZIP Code:** 60050 |

<table>
<thead>
<tr>
<th>Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized Representative</td>
</tr>
</tbody>
</table>

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REGULAR AGENDA ITEM

DATE: June 3, 2019

TO: City Council

FROM: Derik Morefield, City Administrator

RE: Consideration to approve and authorize the execution of a Development Agreement and Release of Letter of Credit and Annexation Obligations between the City of McHenry and Thelan Sand & Gravel

ATT: Development Agreement and Release

As identified by Attorney McArdle during the May 20, 2019 City Council Meeting, Staff has been working with representatives of Thelan Sand & Gravel to coordinate the disposal of Boone Creek dredged materials directly to their existing operation on Route 120 just east of McHenry. In summary, this would reduce the City’s cost of having to move the material twice (first, to the South Wastewater Treatment Plant site for drying, and second, offsite for final disposal). Additionally, the disposal fee is significantly less than what the City would otherwise pay. In exchange for this, the City would agree to release existing Letters of Credit (LOC) for improvements identified in a 2003 Annexation Agreement between the City and Concord Homes, assumed by Thelan as successor to Concord in 2015. It is important to note that the responsibility for improvements remains with Thelan, or a future developer of the site, and that this agreement simply releases the existing LOCs. New LOCs would be put into place upon development of the property. Attorney McArdle will provide additional detail at the Council Meeting.

Therefore, if Council concurs, it is recommended that a motion be made to approve and authorize the execution of a Development Agreement and Release of Letter of Credit and Annexation Obligations between the City of McHenry and Thelan Sand & Gravel.
Development Agreement and Release
Letter of Credit and Annexation Agreement Obligations

This Agreement is entered into by and between the City of McHenry ("City") and Prairie Pointe Land Development Corp., an Illinois Corporation ("Developer") and Thelen Sand & Gravel, Inc. ("TSG"), this ____ day of June, 2019.

Recitals

A. WHEREAS, the City and Concord Homes, Inc. entered into an Annexation Agreement dated February 17, 2003 ("Annexation Agreement") relative to the territory described in the attached Exhibit A ("Annexed Land"). A copy of the Annexation Agreement, without exhibits, is attached hereto as Exhibit B.

B. WHEREAS, within the Annexation Agreement, section 20 provided, in part, the following obligations on behalf of the OWNER:

   a. OWNER agrees to construct... (a) public sidewalk on one side of Veterans' Parkway and (a) 8' wide asphalt bike path on the other...

   ...

   c. At the request by the CITY, the OWNERS shall be responsible for and pay the cost of construction and installation of a traffic control signal at the intersection of State Route 31 and the proposed Collector Road on the subject property (Veterans Parkway), as depicted on the Concept Plan. These funds shall be secured by a letter of credit prior to the CITY's approval of the OWNERS' final plat of the last phase of the SUBJECT PROPERTY, or sooner in the event the traffic warrants have been met. In the event the traffic signal is warranted prior to OWNERS' final plat of approval, no permits or plats shall be issued or approved until the required letters of credit are posted. ...

(parentheticals added.)

Collectively, these obligations relating to construction of the bike path, sidewalk and traffic control signal shall be referred to as "Annexation Agreement Obligations".

C. WHEREAS, on or about December 18, 2015, the Developer, as successor in interest to the Annexed Land, signed an Agreement to Assume Developer Obligations, a copy of which is attached hereto as "Exhibit C" ("Assumption Agreement").

D. WHEREAS, in the Assumption Agreement, Developer assumed the Annexation Agreement Obligations, secured by a letter of credit issued by American Community Bank & Trust on December 18, 2015, with an assigned number of 15-230 and in the sum of $418,000, a copy of which is attached as "Exhibit D" ("Assumption LOC").
E. WHEREAS, as successor in interest to the Annexed Land, the Developer also secured its obligation to install certain on-site public improvements (including public infrastructure improvements including sewer, water and other public improvements) at the Prairie Pointe Business Park by a letter of credit issued by American Community Bank & Trust on December 19, 2003, with an assigned number of 03-061 and in the initial sum of $1,255,662.50, subsequently reduced, by amendment, to $501,811,000.00 on or about December 30, 2006, a copy of which is attached as “Exhibit E” (“On Site Improvement LOC”).

F. WHEREAS, the City is currently in the process of hauling dredged material from Boone Creek, in conjunction with dredging operations of the Fox Waterway Agency (“Dredge Project”), and desires to coordinate disposal of the dredged material with TSG. TSG is the guarantor of the Assumption LOC and its President, Steve Thelen, is the President of Developer.

NOW, THEREFORE, in consideration of the agreements and promises made herein, the adequacy and sufficiency of which is acknowledged by the parties hereto is agreed as follows:

1. Upon execution of this Agreement by all of the parties hereto, the Assumption LOC and On Site Improvement LOC shall be considered released by the City and may be cancelled by the issuer, American Community Bank & Trust.

2. In consideration of the release of the Assumption LOC and On Site Improvement LOC and thus, the release of TSG as guarantor of the Assumption LOC, TSG agrees to permit the City to dispose of all 2019 dredge material on the Dredge Project at the TSG disposal site in Lakemoor, Illinois at the following cost: $10.00 per truckload for the first 500 trucks and $20.00 per truckload thereafter, not to exceed a total of 20,000 cubic yards of Dredge Project material. These prices only apply to the Dredge Project.

3. Developer hereby assumes the obligation for, and guarantees timely completion of, all of the Annexation Agreement Obligations secured within Exhibit D (bike path, sidewalk and traffic signal) and the full installation of certain remaining on-site public improvements secured within Exhibit E (including public infrastructure improvements including sanitary sewer, potable water and other public improvements), in compliance with the Annexation Agreement and City Subdivision Control Ordinance, at the Prairie Pointe Business Park (collectively, “Improvement Obligations”). To secure this Agreement to install the referenced improvements and Improvement Obligations, Developer agrees that no building permits shall be issued on that certain 38 acres of land (approximately), within the Annexed Land of the Annexation Agreement, legally described as follows:

Lots 1 through 15 inclusive and lot 17 in Prairie Pointe Business Park being a subdivision of part of the Southeast Quarter of Section 10, all in Township 44 north, Range 8, East of the Third Principal Meridian, according to the plat thereof Recorded January 6, 2004 as Document 2004R0001227, in McHenry County, Illinois.

depicted and designated Developer 38 Acres, on the drawing attached as “Exhibit F” (“Developer 38 Acre Parcel”) until the Improvement Obligations are fully met (“Building Permit Hold”). Provided, however, this Building Permit Hold shall be released by the City upon the Developer
filing with the City, as beneficiary, new letters of credit as described in Exhibits D and E, in the same amounts and on similar forms and issued by a bank reasonably acceptable to the City.

4. In the event traffic warrants are met at the intersection of Illinois Rt. 31 and Veterans’ Parkway prior to any building permits being requested from the City relative to the Developer 38 Acre Parcel, the Developer fails to honor its agreements herein by failing to pay for the traffic light installation cost as set forth herein and in the Annexation Agreement Obligations ("Traffic Light Installation Cost"), and the City ends up paying for any of these costs, Developer further agrees that all costs incurred by the City shall be fully repaid by the Developer prior to any building permits being requested from the City relative to the Developer 38 Acre Parcel. To secure this agreement by the Developer, at such time as warrants are met, the Developer further agrees to file with the City Letters of Credit described and in amounts stated in Exhibits D and E, on forms and issued by a bank reasonably approved by the City. The Letters of Credit shall provide for its draw by the City upon any request for issuance of any building permits relative to the Developer 38 Acre Parcel. In the event said Letters of Credit are not timely filed by Developer, the City may, at its discretion, file a recapture ordinance against the Developer 38 Acre Parcel, imposing the Traffic Light Installation Cost incurred by the City.

5. The agreements and promises herein shall burden and run with the Developer 38 Acre Parcel, described below, shall be binding on the successors and assigns of the Developer, and a copy of this Agreement shall be filed in the Office of the Recorder of Deeds, McHenry County:

Legal Description—38 Acres

Lots 1 through 15 inclusive and lot 17 in Prairie Pointe Business Park being a subdivision of part of the Southeast Quarter of Section 10, all in Township 44 north, Range 8, East of the Third Principal Meridian, according to the plat thereof Recorded January 6, 2004 as Document 2004R0001227, in McHenry County, Illinois.

City of McHenry

By ____________________________

Its Mayor Date

Prairie Pointe Land Development Corp.

By ____________________________

Its President Date

Thelen Sand & Gravel, Inc.

By ____________________________

Its President Date

Z:\McHenryCityof\Thelen\ReleaseLOC&Obligations.docx
Exhibit A
Legal Description of the SUBJECT PROPERTY

Parcel 1
That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian commencing at East Quarter Corner of said Section 10; thence South 89 degrees 20 minutes 17 seconds West along the North line of the Northeast Quarter of said Southeast Quarter, a distance of 849.97 feet to the point of beginning; thence South 00 degrees 31 minutes 38 seconds East, a distance of 385.22 feet; thence South 19 degrees 14 minutes 10 seconds East, a distance of 100.30 feet; thence South 00 degrees 31 minutes 38 seconds East, a distance of 403.01 feet; thence South 26 degrees 29 minutes 53 seconds West, a distance of 423.96 feet; thence South 11 degrees 02 minutes 43 seconds West, a distance of 80.00 feet; thence North 78 degrees 57 minutes 17 seconds West, a distance of 55.79 feet to a point of curvature; thence westerly 226.55 feet along a curve to the right having a radius of 840.00 feet, the chord of said curve bears North 71 degrees 13 minutes 42 seconds West 225.86 feet to a point of tangency; thence North 63 degrees 30 minutes 07 seconds West, a distance of 181.90 feet; thence South 26 degrees 29 minutes 53 seconds West, a distance of 168.64 feet to the South line of the Northwest Quarter of the said Southeast Quarter; thence South 89 degrees 30 minutes 45 seconds West along said South line, a distance of 403.99 feet to a line lying 200 feet easterly and parallel with the easterly Right-of-Way of Illinois State Route 31; thence North 26 degrees 29 minutes 53 seconds East along said parallel line, a distance of 1481.53 feet to the North line of the Northeast Quarter of the said Southeast Quarter; thence North 89 degrees 20 minutes 17 seconds East along said North line, a distance of 413.81 feet to the point of beginning, containing 21.65 acres more or less.

Parcel 2
That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian beginning at the East Quarter Corner of said Section 10; thence South 00 degrees 31 minutes 39 seconds East along the East line of the Northeast Quarter of the said Southeast Quarter, a distance of 1324.07 feet to the Northeast corner of the Southeast Quarter of the said Southeast Quarter; thence South 00 degrees 32 minutes 32 seconds East along the East line of the Southeast Quarter of the said Southeast Quarter, a distance of 432.17 feet; thence North 89 degrees 57 minutes 36 seconds West, a distance of 50.30 feet to a point of curvature; thence westerly 568.31 feet along a curve to the right having a radius of 840.00 feet, the chord of said curve bears North 79 degrees 35 minutes 01 seconds West 557.53 feet to a point of tangency; thence North 51 degrees 12 minutes 06 seconds West, a distance of 101.69 feet to a point of curvature; thence northwesterly 343.91 feet along a curve to the left having a radius of 710.00 feet, the chord of said curve bears North 65 degrees 04 minutes 42 seconds West 340.56 feet to a point of tangency; thence North 78 degrees 57 minutes 17 seconds West, a distance of 67.40 feet; thence North 11 degrees 02 minutes 43 seconds East, a distance of 80.00 feet; thence North 26 degrees 29 minutes 53 seconds East, a distance of 423.96 feet; thence North 00 degrees 31 minutes 38 seconds West, a distance of 403.01 feet; thence North 19 degrees 14 minutes 10 seconds West, a distance of 100.30 feet; thence North 00 degrees 31 minutes 38 seconds West, a distance of 385.22 feet to the North line of the Northeast Quarter of the said Southeast Quarter; thence North 89 degrees 20 minutes 17 seconds East along said North line, a distance of 849.97 feet to the point of beginning, containing 32.27 acres more or less.

POOR QUALITY
For Imaging

EXHIBIT
To Development Agreement
Exhibit A

Legal Description of the SUBJECT PROPERTY

Parcel 3

That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Thirteenth Principal Meridian commencing at the East Quarter Corner of said Section 10; thence South 00 degrees 31 minutes 39 seconds East along the East line of the Northeast Quarter of the said Southeast Quarter, a distance of 1324.07 feet to the Northwest corner of the Southeast Quarter of the said Southeast Quarter; thence South 00 degrees 32 minutes 32 seconds East along the East line of the Southeast Quarter of the said Southeast Quarter, a distance of 432.17 feet to the point of beginning; thence continuing South 00 degrees 32 minutes 32 seconds East along the said East line, a distance of 889.74 feet to the Southeast corner of said Southeast Quarter; thence South 89 degrees 37 minutes 52 seconds West along the South line of the Southeast Quarter of the said Southeast Quarter, a distance of 1513.88 feet to the Southwest corner of the said Southeast Quarter; thence North 09 degrees 21 minutes 03 seconds West along the West line of the Southeast Quarter of the said Southeast Quarter, a distance of 1319.16 feet to the Northwest corner of the Southeast Quarter of the said Southeast Quarter; thence South 89 degrees 30 minutes 45 seconds West along the South line of the Northwest Quarter of the said Southeast Quarter, a distance of 203.51 feet; thence North 26 degrees 29 minutes 53 seconds East, a distance of 168.64 feet; thence South 63 degrees 30 minutes 07 seconds East, a distance of 181.90 feet to a point of curvature; thence easterly 225.55 feet along a curve to the left having a radius of 840.00 feet, the chord of said curve bears South 71 degrees 15 minutes 42 seconds East 22.80 feet to a point of tangency; thence South 78 degrees 57 minutes 17 seconds East, a distance of 123.19 feet to a point of curvature; thence southeasterly 343.91 feet along a curve to the right having a radius of 710.00 feet, the chord of said curve bears South 65 degrees 04 minutes 42 seconds East 340.36 feet to a point of tangency; thence South 51 degrees 12 minutes 06 seconds East, a distance of 101.69 feet to a point of curvature; thence easterly 568.31 feet along a curve to the left having a radius of 840.00 feet, the chord of said curve bears South 70 degrees 35 minutes 01 seconds East 557.53 feet to a point of tangency; thence South 89 degrees 57 minutes 56 seconds East, a distance of 50.30 feet to the point of beginning, containing 35.01 acres more or less.
CONCORD ANNEXATION AGREEMENT

This Agreement made and entered into this 17th day of February, 2003, by and between the CITY OF McHENRY, an Illinois municipal corporation (hereinafter referred to as "CITY"), CONCORD HOMES, INC. ("OWNER"), and CONCORD HOMES, INC. ("CONTRACT PURCHASER")

RECITALS

A. The OWNER holds fee simple title to the real estate legally described on Exhibit A, attached hereto and made a part of this Agreement by reference, hereinafter referred to as the "SUBJECT PROPERTY" and was CONTRACT PURCHASER thereof.

B. The OWNER has filed with the City Clerk a Petition for Annexation of the SUBJECT PROPERTY to the CITY, contingent upon the terms and provisions of this Agreement which Petition has been filed in accordance with 65 ILCS 5/7-1-8, and the ordinances of the CITY.

C. The SUBJECT PROPERTY is currently improved with a single-family residence and farm buildings on north east side of State Route 31, and is zoned A-1, Agricultural, pursuant to the McHenry County Zoning Ordinance.

D. The SUBJECT PROPERTY has no electors residing thereon.

E. The SUBJECT PROPERTY consists of one contiguous tract of land which is not within the corporate boundaries of any municipality or subject to an Annexation Agreement with any other municipality, and is presently contiguous to and may be annexed to the CITY in accordance with 65 ILCS 5/7-1-1, et seq.

F. The OWNER desires to annex the SUBJECT PROPERTY to the CITY in accordance with the terms of this Agreement.

G. The CITY has determined that the annexation of the SUBJECT PROPERTY in accordance with the terms of this Agreement is in the best interest of the CITY, will promote sound planning and growth of the CITY, and otherwise enhance and promote the general welfare of the CITY and its residents.

H. Notice to the Fire Protection District, Public Library District or Township of the annexation of the SUBJECT PROPERTY is not required.
I. This Agreement is made pursuant to and in accordance with the provisions of 65 ILCS 5/11-15.1-1, et seq.

J. Prior to the date of this Agreement, all public hearings were held upon proper notice and publications as are required for the CITY to effect the terms of this Agreement.

NOW THEREFORE, in consideration of their respective agreements set out herein, the CITY and OWNER HEREBY AGREE AS FOLLOWS:

1. Annexation. Upon execution of this Agreement, as allowable by law, the CITY shall enact an ordinance annexing the SUBJECT PROPERTY. A copy of said ordinance, together with an accurate plot of the SUBJECT PROPERTY, shall be filed with the County Clerk of McHenry County and recorded with the Recorder of Deeds of McHenry County. This Agreement in its entirety, together with the aforesaid Petition for Annexation, shall be null, void and of no force and effect unless the SUBJECT PROPERTY is zoned and classified as provided in this Agreement by the adoption of ordinances by the CITY immediately following the execution of this Agreement.

2. Zoning. Immediately following the annexation of the SUBJECT PROPERTY, the CITY shall adopt an ordinance granting a zoning map amendment to RM-2, High-Density Multi-Family Residential District, C-5, Highway Commercial District, and BP, Business Park District, for the SUBJECT PROPERTY in substantial conformance with the zoning district boundaries depicted on Exhibit B, entitled "Zoning Exhibit", prepared by Smith Engineering Consultants, dated 9/19/02, attached hereto and made a part of this Agreement by reference.

3. Variance. Immediately following the annexation and zoning of the SUBJECT PROPERTY, the CITY shall adopt an ordinance granting a variance to allow multiple buildings on a zoning lot for that portion of the property zoned RM-2, with the condition that no more than twelve (12) units shall be constructed within a single building.

4. Concept Plan Approval. The Concept Plan, prepared by JEN Land Design, dated December 19, 2002, attached hereto as Exhibit C and made a part of this Agreement by reference (hereinafter referred to as "Concept Plan"), is hereby approved. It is understood that the representations on the Concept Plan regarding land uses, maximum number of units, the public rights-of-way, open space layout, stormwater management facilities and the configuration of lots is preliminary in nature and the final road and lot layout will be determined at the time of final platting for the SUBJECT PROPERTY. OWNER agrees, however, that representations regarding the location of proposed zoning designations, the provision of a collector road, and landscaping buffer along Route 31 shall be binding and any amendments to such representations, except as otherwise provided herein, shall require an amendment to this Agreement.
5. **Maximum Number of Residential Units.** OWNER shall be entitled to construct 244 new residential dwelling units on that portion of the SUBJECT PROPERTY zoned RM-2.

6. **Limitation on Number of Units Allowed Per Year.** Upon application by the OWNER and review by the CITY, the CITY shall issue permits for the construction of no more than sixty (60) residential units per calendar year. The first calendar year shall begin on the date of final plat approval by the City Council for the RM-2 portion of the SUBJECT PROPERTY.

   If, during the course of a calendar year, the OWNER has received building permits for less than 60 units and the issuance by the CITY of a building permit for one (1) additional residential building would cause the total number of units to exceed 60, CITY Staff shall, at its discretion, issue said building permit. However, no further building permits for residential units shall be issued in the same calendar year.

7. **Building Elevations.**

   a. **RM-2 Zoning.** OWNER agrees that multi-family units constructed on that portion of the SUBJECT PROPERTY zoned RM-2 shall have an appearance in substantial accordance with Exhibit D entitled "Building Elevations", prepared by Bloodgood Sharp Buster, undated, attached hereto and made a part of this Agreement by reference (hereinafter referred to as "Building Elevations").

   b. **BP Zoning.** OWNER agrees that appearance of all buildings constructed on that portion of the SUBJECT PROPERTY zoned BP shall comply with the CITY's Zoning Ordinance requirement for BP uses.

   c. **C-5 Zoning.** OWNER agrees that all buildings constructed on that portion of the SUBJECT PROPERTY zoned C-5 shall have a finished appearance on all sides of such buildings having frontage on a public street.

8. **Landscape Plans.** Prior to issuance of any Occupancy Permits by the CITY, OWNER shall install and maintain landscaping, berming, fencing and other improvements in accordance with Exhibit E entitled "McHenry Site Preliminary Landscape Plan", prepared by Pugsley & Lathem Ltd., dated 12/20/02, attached hereto and made a part of this Agreement by reference (hereinafter referred to as "Landscape Plans"). In all areas of the SUBJECT PROPERTY that have been final platted, unless weather prevents the installation of said landscaping, berming and fencing, and in that event, temporary occupancy permits may be issued to the OWNER. OWNER shall implement, install, enforce, and maintain the Landscape Plans within the SUBJECT PROPERTY, and shall incorporate the Landscape Plans into the covenants and restrictions placed on the SUBJECT PROPERTY prior to CITY approval of the first final plat of subdivision within the SUBJECT PROPERTY.

9. **Covenants and Maintenance.** OWNER agrees to provide for implementation, enforcement, and maintenance of all Landscape Plans, private paths, open space,
gas pipeline easements, private recreational facilities, storm water and drainage systems, including detention basins and retention ponds, wetlands, and conservation areas, as provided on Exhibit C, Exhibit D and Exhibit E by creating one or more "homeowners' association" or appropriate organizations. The provisions of each homeowners' association corporate charter and bylaws and any covenants used in its enforcement shall be submitted to the CITY with each final plat of subdivision. It is acknowledged and agreed that the CITy shall have the right, but not the obligation, to enforce all provisions of the homeowners' association charters, bylaws, and covenants, as they relate to stormwater management, and that all such documents shall so provide. It is further acknowledged and agreed that all homeowners' associations bylaws and covenants will specifically provide that these shall not be amended as they relate to such implementation, enforcement, and maintenance, and the means for providing funds therefore, without the prior approval of the CITY.

10. Back-Up Special Service Area. Prior to CITY approval of the first final plat of subdivision within the SUBJECT PROPERTY, OWNER and CITY agree to establish a Special Service Area over that portion of the SUBJECT PROPERTY zoned RM-2 to finance special municipal services as a back-up measure to the private "homeowners' association" and assessment to ensure the continued maintenance of the private subdivision improvements, including open space, landscaping, and other amenities, as provided in this Agreement.

11. Tree Survey and Preservation Plan. OWNER shall provide a tree survey and preservation plan for review and approval by the CITY prior to CITY approval of the first final plat of subdivision within the SUBJECT PROPERTY, in accordance with the CITY's Tree Preservation ordinance.

12. Curb, Gutter and Sidewalks. OWNER shall install public sidewalks on at least one side of the street, concrete curb and gutter, and an enclosed storm sewer system, designed and constructed in accordance with the ordinances of the CITY, in the areas of the SUBJECT PROPERTY zoned BP and C-5. Public sidewalks on both sides of the street, curb and gutter, and an enclosed storm sewer system shall be installed in all other areas of the SUBJECT PROPERTY, in compliance with the ordinances of the CITY.


a. The SUBJECT PROPERTY shall be developed with municipal sanitary sewer and water. OWNER will be allowed to extend the municipal water and sewer lines to service the SUBJECT PROPERTY, and the CITY will service the development with water and sanitary sewer treatment facilities. Water and sanitary treatment plant and main capacity will be made available to the development on the same basis as it is made available to other developments.
b. The CITY acknowledges that there is currently sanitary sewer treatment plant capacity available from the CITY to service the SUBJECT PROPERTY however, the CITY does not agree to reserve any capacity for the SUBJECT PROPERTY. No action of the CITY regarding application to the Illinois or U.S. Environmental Protection Agency for permission to construct sanitary sewer lines on any part of the SUBJECT PROPERTY shall be construed to constitute any representation, warranty, or reservation by the CITY to OWNER that municipal sanitary sewer treatment plant or sanitary sewer main capacity or municipal water will be available to service the SUBJECT PROPERTY when OWNER applies to the CITY for connection permits.

c. The CITY shall exercise its power of eminent domain, if necessary, to assist OWNER in obtaining all necessary easements, not already in existence, to enable the installation of the aforesaid sanitary sewer and water improvements. OWNER shall pay all eminent domain costs and expenses incurred by the CITY, including but not limited to attorney's fees, title charges, appraisals, surveys, cost, deposition cost, witness fees, litigation expenses and judgments in the acquisition of any easement.

14. Interim Sanitary Sewer Connection. CITY agrees to allow connection of the SUBJECT PROPERTY to the existing sanitary sewer line located on the east side of Route 31 north of the property on an interim basis. OWNER acknowledges that the City's Master Plan for Sewer and Water indicates that the SUBJECT PROPERTY will be served by a future sanitary sewer line extending east to Barrville Road. OWNER agrees that when said sanitary sewer line is installed and operational, the CITY will require that the interim connection will be abandoned and the SUBJECT PROPERTY be connected to the new line, at OWNER'S sole cost and expense.

15. Existing Recapture Agreement. OWNER acknowledges that the SUBJECT PROPERTY is subject to an existing sanitary sewer and water reimbursement or "recapture" agreement between the CITY and McHenry State Bank, as Trustee under Trust Agreement No. 819, dated August 31, 1994 ("Pintozi Agreement"). The sanitary sewer and water connections being made to the SUBJECT PROPERTY will not be made in any respect to the improvements made under the Pintozi Agreement relating to "Lot 4 in Highpoint Subdivision" and on that basis, the CITY will not be requiring the OWNER to pay reimbursement pursuant to the Pintozi Agreement. OWNER hereby agrees to hold the CITY harmless from any liability the CITY may have under the Pintozi Agreement for failure to collect monetary reimbursement from the OWNER, pursuant to the Pintozi Agreement. In the event it is determined by any court of law in the future or by agreement of the CITY and the Pintozi representatives that the Pintozi Agreement should apply to the SUBJECT PROPERTY. In such event, the OWNER shall either reimburse the CITY for any and all liability to the beneficiaries to the Pintozi Agreement, including reasonable attorneys fees incurred by the CITY in defending its position, or pay the beneficiaries under the Pintozi Agreement directly.

03-029-5272
16. **Reimbursement Provision.** Upon development of any portion of the SUBJECT PROPERTY, the CITY reserves the right to request OWNERS to construct additional, expanded or oversized municipal public improvements onsite which benefit not only the SUBJECT PROPERTY, but also other properties being or to be developed in the relevant service areas for such improvements. In the event OWNERS make such improvements, the following provisions shall apply and be included in a subsequent reimbursement agreement:

a. The properties which may reasonably be expected to benefit directly or indirectly from the construction and installation of such additional onsite expanded or oversized improvements ("Benefited Property") will be determined by the CITY's Consulting Engineer.

b. OWNERS shall be allowed reimbursement for expanded or oversized improvements as follows:

1. 100% for improvements made onsite of the SUBJECT PROPERTY; and
2. Proportionately on a per acreage basis for improvements made onsite of the SUBJECT PROPERTY.

c. The CITY shall endeavor to collect a pro rata sum of money from the owners of the Benefited Property upon connection. The total sum subject to reimbursement to the OWNER, as well as the pro rata sum to be collected from the Benefited Property owners shall be determined by the CITY's Consulting Engineer taking into account the following factors: construction and easement costs; professional fees; testing and analysis fees; and legal and administrative expenses. In addition, interest shall be collected from the commencement date of this reimbursement provision, calculated annually at one percent (1%) over the last July 1, five-year treasury bill rate. The sum collected shall be paid to OWNERS after deduction of two percent (2%) for administrative charges due CITY. In the event that any State statute shall determine an interest rate other than set forth in this paragraph 16.c., the State Requirement shall prevail.

d. Subject to a nonappealable final court order, directing CITY to act otherwise, the CITY shall not issue any connection permits until the Benefited Property owner pays the reimbursement charge set forth in this paragraph.

e. The CITY will use its best effort to collect the cost provided herein from the Benefited Property owners but shall not be liable to OWNERS if the CITY is, for any reason, unable to collect said cost. The CITY's liability to reimburse OWNERS shall be limited to payment from funds actually collected from Benefited Property OWNERS.

f. The CITY and OWNERS reserve the right to, at any time during the term of this Annexation Agreement, file the Reimbursement Agreement with the McHenry County Recorder of Deeds and notify the owners of the Benefited Property of the terms of this reimbursement provision.
g. OWNERS shall reimburse and indemnify CITY for all costs, engineering and
attorney's fees and liability incurred by the CITY in attempting to collect the
reimbursement amount subject to this reimbursement provision.

h. This reimbursement provision shall have a commencement date when the CITY
Engineer issues a letter indicating substantial completion of the public
improvements which are the subject of the Reimbursement Agreement and shall
terminate upon the earlier of ten years thereafter or upon reimbursement by the
benefited property owners of the charges referred to in this reimbursement
provision.

17. Temporary Signage.

a. Advertising Signs. The CITY agrees to issue permits, following receipt of proper
applications and fees, for a maximum of three (3) temporary subdivision
advertising signs (one each for the residential, commercial and business park
portions of the development) on the SUBJECT PROPERTY, at locations
selected by the OWNER. The signs shall be two-sided or v-shaped, a maximum
of sixty-four (64) square feet in area per side, twelve (12) feet in height, and set
back a minimum of ten (10) feet from the property line. The signs shall be
removed when the SUBJECT PROPERTY has reached ninety (90) percent
occupancy of the total number of residential units proposed, based upon
issuance of Certificate of Occupancy.

b. On-Site Directional Signs. On-site directional signs identifying the sales office(s)
and model(s) shall be allowed subject to approval by the Community
Development Department of the CITY, upon payment of a one-time permit fee,
with said signs to be removed on or before termination of sales office(s).

c. Temporary Marketing Signs. Upon payment of required permit fees to the CITY,
temporary marketing signs shall be permitted to the OWNER for participation in
the Festival of Homes sponsored by the Chicago Tribune. These temporary
marketing signs shall not exceed four (4) feet by nine (9) feet and shall be posed
for five (5) consecutive weeks at a time, not more than four (4) times a year.


a. Model Homes. Upon the annexation of the SUBJECT PROPERTY and in
advance of any final plat of subdivision or engineering approval, the OWNER
shall be permitted, at the OWNER'S sole risk, to construct, maintain and occupy
model units in one or more product lines being offered by the OWNER and to
construct and maintain other appurtenant facilities for said model units, including
temporary sanitary facilities and systems (when a permit is received from the
McHenry County Health Department) in advance of the construction of sanitary,
storm sewer, storm water detention facilities and water mains; provided,
however, no such construction shall prejudice the power and right of the CITY to
review, approve and disapprove final plats of subdivision and engineering plans
for any parcel containing said models. OWNER shall have the time to use

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said models, as well as their garages, for sales, sales promotions and offices for sales personnel, all as may be desirable or in any way connected with the sales of dwellings on the SUBJECT PROPERTY. The CITY agrees to allow the OWNER to construct temporary parking facilities paved to the sidewalk with curb depressed or other appurtenances to the model units and sales offices subject to the approval of the Community Development Department of the CITY and compliance with all applicable codes of the CITY.

b. Construction Trailers. Construction storage trailers used to build dwelling units shall be allowed at locations to be approved by the Community Development Department of the CITY. Upon the occupancy of 80% of the units in each phase, all construction storage trailers shall be removed from that phase of development. At all times during development of the SUBJECT PROPERTY, construction storage trailers shall be parked no closer than 300 feet from the nearest occupied home.

19. Underground Utilities. OWNER shall install underground, at OWNER's cost, all new electricity, gas, telephone lines and any other utility or cable devices, lines, or conduits necessary to service the development of the SUBJECT PROPERTY.

20. Road Improvements and Contributions.

a. Collector Road. OWNER agrees to construct the east-west road as depicted on the Concept Plan, with a landscaped center median, and a public sidewalk on one side and 6' wide asphalt bike path on the other. CITY and OWNER acknowledge that the ultimate design of the road will have two through lanes in each direction and left and right turn lanes at street intersections. CITY agrees to allow OWNER to install one lane in each direction, required turn lanes, sidewalk, bike path and the landscaped center median, with the understanding that additional lanes will be constructed as part of future development in the area. Said construction by the OWNER shall ensure that the future road expansion can occur without undue disruption of the existing improvements.

b. Reservation of Land for Future Roadway Connections. OWNER agrees to reserve right-of-way necessary for the future road connections as depicted on the Concept Plan:

1) North to the Tonyan Industrial Park; and
2) South to the property owned by William and Sylvia Lid, 2002 S. Route 31, PIN 14-10-452-001, as depicted on Exhibit F attached hereto.

c. Traffic Signal. At the request by the CITY, the OWNERS shall be responsible for and pay the cost of the construction and installation of a traffic control signal at the intersection of State Route 31 and the proposed Collector Road on the SUBJECT PROPERTY, as depicted on the Concept Plan. These funds shall be

03-029-5275
secured by a letter of credit prior to the CITY's approval of OWNERS' final plat of the last phase of the SUBJECT PROPERTY, or sooner in the event the traffic warrants have been met. In the event the traffic signal is warranted prior to OWNERS' final plat of approval, no permits or plat shall be issued or approved until the required letters of credit are posted. Subsequent to the OWNER'S construction of the traffic signal, the CITY shall, upon OWNER'S request, commission a traffic study at OWNER's expense to determine whether or not other parcels have benefited from the construction and installation of a traffic control signal. If the traffic study determines that other parcels have benefited from the construction and installation of said traffic control signal, then in that event, the CITY will allow reimbursement to OWNER consistent with Paragraph 16 of this Agreement set forth hereinafore.

21. Limitations on C-5 Zoned Property. All portions of the SUBJECT PROPERTY zoned C-5 Highway Commercial District shall maintain a minimum parking setback of twenty-five (25) feet and a minimum building setback of fifty (50) feet, both measured from the Illinois Route 31 property line. In addition, the uses allowed on those portions of the SUBJECT PROPERTY zoned C-5 Highway Commercial District shall be limited to those listed in Exhibit G attached hereto.

22. Donations, Contributions, and Fees. OWNER acknowledges that the development of the SUBJECT PROPERTY will impact on schools, parks, the library and fire protection districts and other public services within the CITY. To reduce the effects of this impact, and as a condition of this Agreement, OWNER shall be obligated to pay and/or donate, or cause to be donated to the CITY, or provide improvements for the benefit of the CITY as follows:

a. Annexation Fees.
   i. OWNER shall pay to the CITY the lump sum of $45,826 (representing $1,000 per acre zoned residential, and $500 per acre zoned commercial) within ninety (90) days following City Council approval of the annexation of the SUBJECT PROPERTY to the CITY.
   ii. OWNER shall pay to the CITY the sum of $90 per residential unit, including single-family and multi-family units, constructed on the SUBJECT PROPERTY upon issuance of each building permit.
   iii. OWNER shall pay to the CITY the sum of $1,886 per residential unit $1,056 to School District No. 15, $789 to School District No. 196 and $61 to the Library District constructed on the SUBJECT PROPERTY upon issuance of each Certificate of Occupancy.

b. Cash Donations.
   i. OWNER shall pay to the CITY certain Cash Donations per residential unit constructed on the SUBJECT PROPERTY upon issuance of each building

03-029-5276
permit. The Cash Donations payable by the OWNER to the CITY shall be calculated as follows:

<table>
<thead>
<tr>
<th>Dwelling Unit</th>
<th>School Districts</th>
<th>Parks</th>
<th>Library Unit</th>
<th>Fire Dist</th>
<th>Total per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>185</td>
<td>15</td>
<td>$1,965</td>
<td>$265</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>$1,147</td>
<td>$161</td>
<td>$1,990</td>
<td>$3,561</td>
<td>$295</td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>$2,020</td>
<td>$270</td>
<td>$4,913</td>
<td>$7,293</td>
<td>$295</td>
</tr>
<tr>
<td>4 Bedroom</td>
<td>$4,022</td>
<td>$1,702</td>
<td>$4,180</td>
<td>$4,980</td>
<td>$295</td>
</tr>
</tbody>
</table>

The Cash Donations referred to in this chart shall collectively be referenced to as "Minimum Cash Contribution Amounts".

ii. In the event the Minimum Cash Contribution Amounts, as calculated above, are less than the cash donation amounts set forth in the CITY’s ordinances, as amended from time to time, an amount equal to the amounts specified in the CITY’s ordinances, after adjustments as calculated above for land donations, shall be paid, rather than the Minimum Cash Contribution Amount provided in this Agreement.

iii. In the event the CITY’s cash contribution ordinance, or any other ordinance of the CITY relating to cash contributions for schools, parks, library and fire protection districts, is repealed or declared by a court of law to be found unenforceable and all appeals have been exhausted, OWNER agrees to pay, subsequent to such final court action, the Minimum Cash Contribution Amounts set forth in this Agreement. In the event such final court order requires the CITY or School Districts to return or refund monies paid by the OWNER pursuant to the CITY’s ordinances, OWNER expressly agrees to allow the CITY or School Districts to retain the Minimum Cash Contribution Amounts previously paid by the OWNER. It is the express intent of the OWNER to release the CITY and School Districts from any liability or obligation to refund the Minimum Cash Contribution Amount paid pursuant to this paragraph under any circumstances.

c. **Release.** OWNER hereby releases the CITY, School Districts 15 and 156, Library District, and Fire Protection District from any and all liability or damage to OWNER and waives the right to challenge, by lawsuit or otherwise, the validity, legality or enforceability of the donations and fees set forth in this Agreement, or the purpose for which the money is spent. OWNER agrees not to pay any fees under protest.

03-029-5277
d. Donations Distinguished from Fees. Other than the donations specified in the foregoing paragraphs, during the term of this Agreement, and irrespective of any existing, new or revised donation ordinances of the CITY, OWNER shall not be required to donate any land or money to the CITY, or by action of the CITY, to any other governmental body. Building permit fees, water and sewer connection and capital development fees, and other similar fees which are charged for specific services provided by the CITY, shall be payable in accordance with the CITY ordinances in existence and as amended from time to time, except as specifically provided in this Agreement.

1. Distribution. That portion of these fees to be distributed to the schools, as determined exclusively by the CITY, may be distributed for the benefit of some or all schools within School Districts 15 and 156, at the discretion of the City Council. To the extent any of these funds are distributed to said School Districts, they may be used for operating expenses at those schools within School Districts 15 and 156, as directed by the City Council, at the time of distribution. In the event a distribution agreement in a form approved by the CITY is not executed by the School Districts prior to distribution of said funds to the School Districts, the CITY may retain the entire amount paid pursuant to this paragraph for CITY use. Nothing herein is intended to create third party beneficiary rights in School Districts 15 and 156 or the Library District.

2. Annual Adjustment. At the end of each one-year period, with the first adjustment occurring May 1, 2003, the fees referenced in the preceding paragraphs a) ii, a) iii, and b) i, shall be adjusted upward by the percent that the Chicago Area Consumer Price Index has moved upwards since December 31, 2001, and every December 31st thereafter. For the purpose of this paragraph, the price index to be used for comparative purposes shall be that index for the annual average Chicago area CPI-U, as published by the United States Department of Labor, Bureau of Labor Statistics.

23. Agricultural Uses. The CITY agrees that those portions of the SUBJECT PROPERTY that have not been finished platted may be used for agricultural purposes, including crop farming over the entire parcel, and that such use may be continued as a legal nonconforming use in accordance with the ordinances of the CITY.

24. Binding Effect and Term. This Agreement shall be binding upon and inure to the benefit of the parties hereto, successor owners of record and their heirs, assigns, and lessees, and upon successor municipal authorities of the CITY and successor municipalities for a period of twenty (20) years from the date of execution hereof, and any extended time agreed to by amendment to this Agreement.

25. Amendment. This Agreement may only be amended by written instrument executed by all parties hereto. Provided, however, in the event title to the SUBJECT PROPERTY, in whole or part, is transferred to successors in interest, future
amendments relating to the SUBJECT PROPERTY may be made by and between the CITY and the title holders to the parcel specifically requesting the amendment without consent required by other record owners of the SUBJECT PROPERTY.

26. Notice and Default. Before any failure of any party to this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party alleging the breach shall provide notice to the party alleged to be in default specifying the nature of said default, and thirty (30) days elapses from the receipt of said default notice without the default being cured. Notice shall be in writing and delivered via certified mail, addressed as follows:

CITY
City Administrator Douglas K. Maxeiner
333 S. Green Street
McHenry, IL 60050

Alfred F. Krumholz, Jr.
1000 Barton Court
Glenview, IL 60025-4426

Concord Homes Inc.
1540 East Dundee Road, #350
Palatine, IL 60074

27. Stop Orders. The CITY will issue no stop orders directing work stoppage on buildings or parts of the development without setting forth the section of CITY ordinances or of this Agreement allegedly violated by OWNER, and OWNER may forthwith proceed to correct such violations as may exist; provided, however, that the CITY shall give notice in advance to the OWNER of its intention to issue stop orders at least twenty-four (24) hours in advance of the actual issuance of such stop orders, except in the event a health, life or safety emergency is deemed to exist by the CITY.

28. Ordinance Changes. Except as otherwise specified herein, all ordinances of the CITY and other applicable jurisdictions shall apply to the SUBJECT PROPERTY, OWNER and all successors and assigns in title. If during the term of this Agreement, the provisions of the existing ordinances and regulations which may relate to the development, subdivision, construction of improvements, buildings, appurtenances and all other development of the SUBJECT PROPERTY, are amended or modified in any manner so as to impose more restrictive requirements, such more restrictive requirements shall be enforceable as applied to the SUBJECT PROPERTY, so long as such amendments or modifications are non-discriminatory in their application and effect throughout the CITY or other applicable jurisdictions.

03-029-5279
29. **Obligations.** All obligations of the OWNER in this Agreement, including monetary obligations in existence now and in the future, as a result of this Agreement, shall constitute covenants running with the land and such monetary obligations shall also be liens upon the land. OWNER hereby consents to the filing of a lien on the SUBJECT PROPERTY or parts thereof for which obligations are owed when any obligations are more than ninety (90) days overdue.

30. **Enforceability.** It is agreed that the parties to this Agreement may enforce and compel performance, whether by law or in equity, by suit, mandamus, injunction, declaratory judgment, or other court procedure, only in courts of the State of Illinois; no such action may be brought in any Federal court. In the event that either party to the Agreement files suit to compel performance by the other, the prevailing party shall be entitled to recover, as part of the costs otherwise allowed, its reasonable attorney's fees incurred therein.

31. **Waiver.** The failure of the CITY to insist, in any one or more instances, upon performance of any terms or conditions of this Agreement, shall not be construed as a waiver of future strict performance of any such term, covenant or condition and the obligations of the OWNER shall continue in full force and effect.

32. **Severability.** If any provision of this Agreement, other than the provisions relating to the requested zoning changes and Preliminary Plat described herein and the ordinances adopted in connection therewith, is held invalid by any court of competent jurisdiction, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date indicated above.

CITY OF McHENRY

By: ____________________________
   Mayor Pamela J. Alhoff

Attest: __________________________
   City Clerk James C. Jones

OWNER AND FORMER CONTRACT PURCHASER
CONCORD HOMES, INC.

By: ____________________________
   Vice President

By: ____________________________
   Vice President
Agreement to Assume Developer Obligations

In consideration of the promises and agreements made herein, the adequacy and sufficiency of which is acknowledged as being received by the undersigned and in further consideration of the City of McHenry signing the attached Release of Lennar Chicago, Inc. from Letter of Credit Obligations from that Certain Annexation Agreement dated February 17, 2003 between Concord Homes, Inc. and the City of McHenry ("Release Agreement") dated December 21, 2015 and acceptance by the City of McHenry of the Replacement letter of credit referenced in the Release Agreement, the undersigned Prairie Points Land Development Corp. does hereby agree to assume the Developer Obligations under the Annexation Agreement referenced in the Release Agreement limited to further development of the bike path and sidewalk required pursuant to Section 20(e) of the Annexation Agreement and installation of the traffic signal required pursuant to Section 20(c) of the Annexation Agreement which shall all be constructed and installed immediately following traffic signal warrants being met as set forth in Section 20(c) of the Annexation Agreement. The City of McHenry and Prairie Points Development Corp., acknowledge that the existing two (2) lane collector road known as Veterans Parkway is complete as currently built and is not required to be widened to four (4) lanes and nothing in this Agreement shall excuse the Developer from complying with the terms of the Annexation Agreement with regard to portions of the property it owns which is the subject of the Annexation Agreement.

A copy of this Assumption Agreement shall be filed by the City of McHenry with the McHenry County Recorder of Deeds as affecting the property legally described on the attached Exhibit A.

Prairie Points Development Corp.

[Signature]

President  Date 1/10/2016
EXHIBIT A

to Agreement to Assume Developer Obligations

Parcel 1
That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian commencing at East Quarter Corner of said Section 10; thence South 89 degrees 20 minutes 17 seconds West along the North line of the Northeast Quarter of said Southeast Quarter, a distance of 849.97 feet to the point of beginning; thence South 00 degrees 31 minutes 38 seconds East, a distance of 385.22 feet; thence South 19 degrees 14 minutes 10 seconds East, a distance of 100.30 feet; thence South 00 degrees 31 minutes 38 seconds East, a distance of 403.01 feet; thence South 26 degrees 29 minutes 33 seconds West, a distance of 423.96 feet; thence South 11 degrees 02 minutes 43 seconds West, a distance of 80.00 feet; thence North 78 degrees 57 minutes 17 seconds West, a distance of 226.55 feet along a curve to the right having a radius of 840.00 feet, the chord of said curve bears North 71 degrees 13 minutes 42 seconds West 225.96 feet to a point of tangency; thence North 03 degrees 30 minutes 07 seconds West, a distance of 181.90 feet; thence South 26 degrees 29 minutes 53 seconds West, a distance of 168.64 feet from the South line of the Northwest Quarter of the said Southeast Quarter, thence South 89 degrees 30 minutes 45 seconds West along said South line, a distance of 403.99 feet to a line lying 20 feet easterly of and parallel with the easterly Right-of-Way of Illinois State Route 31; thence North 26 degrees 29 minutes 53 seconds East along said parallel line, a distance of 1481.53 feet to the North line of the Northeast Quarter of the said Southeast Quarter; thence North 89 degrees 20 minutes 17 seconds East along said North line, a distance of 413.81 feet to the point of beginning, containing 21.65 acres more or less.

Parcel 2
That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian beginning at the East Quarter Corner of said Section 10; thence South 00 degrees 31 minutes 38 seconds East along the East line of the Northeast Quarter of said Southeast Quarter, a distance of 1324.07 feet to the Northeast corner of the Southeast Quarter of the said Southeast Quarter; thence South 00 degrees 32 minutes 32 seconds East along the East line of the Southeast Quarter of the said Southeast Quarter, a distance of 432.17 feet, thence North 89 degrees 57 minutes 55 seconds West, a distance of 50.39 feet to a point of curvature; thence westerly 588.31 feet along a curve to the right having a radius of 840.00 feet, the chord of said curve bears North 70 degrees 35 minutes 01 seconds West 557.53 feet to a point of tangency; thence North 51 degrees 12 minutes 06 seconds West, a distance of 101.69 feet to a point of curvature; thence northeasterly 343.91 feet along a curve to the left having a radius of 710.00 feet, the chord of said curve bears North 65 degrees 04 minutes 42 seconds West 340.56 feet to a point of tangency; thence North 78 degrees 57 minutes 17 seconds West, a distance of 67.40 feet; thence North 11 degrees 02 minutes 43 seconds East, a distance of 80.00 feet; thence North 26 degrees 29 minutes 53 seconds East, a distance of 423.96 feet; thence North 00 degrees 31 minutes 38 seconds West, a distance of 403.01 feet; thence North 19 degrees 14 minutes 10 seconds West, a distance of 100.30 feet; thence North 00 degrees 31 minutes 38 seconds West, a distance of 385.22 feet to the North line of the Northeast Quarter of said Southeast Quarter; thence North 89 degrees 20 minutes 17 seconds East along said North line, a distance of 849.97 feet to the point of beginning, containing 32.27 acres more or less.
Parcel 3
That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian commencing at the East Quarter Corner of said Section 10; thence South 00 degrees 31 minutes 39 seconds East along the East line of the Northeast Quarter of the said Southeast Quarter, a distance of 1324.07 feet to the Northeast corner of the Southeast Quarter of the said Southeast Quarter; thence South 00 degrees 32 minutes 32 seconds East along the East line of the Southeast Quarter of the said Southeast Quarter, a distance of 432.17 feet to the point of beginning; thence continuing South 00 degrees 32 minutes 32 seconds East along the said East line, a distance of 889.74 feet to the Southeast corner of said Southeast Quarter; thence South 89 degrees 37 minutes 52 seconds West along the South line of the Southeast Quarter of the said Southeast Quarter, a distance of 1333.88 feet to the Southwest corner of the said Southeast Quarter; thence North 00 degrees 21 minutes 03 seconds West along the West line of the Southwest Quarter of the said Southeast Quarter, a distance of 1319.16 feet to the Northwest corner of the Southwest Quarter of the said Southwest Quarter; thence South 89 degrees 30 minutes 45 seconds West along the South line of the Northwest Quarter of the said Southwest Quarter, a distance of 203.51 feet; thence North 26 degrees 29 minutes 53 seconds East, a distance of 168.64 feet; thence South 63 degrees 30 minutes 07 seconds East, a distance of 181.90 feet to a point of curvature; thence easterly 226.55 feet along a curve to the left having a radius of 840.00 feet, the chord of said curve bears South 71 degrees 13 minutes 42 seconds East 225.86 feet to a point of tangency; thence South 78 degrees 57 minutes 17 seconds East, a distance of 123.19 feet to a point of curvature; thence southeasterly 343.91 feet along a curve to the right having a radius of 710.00 feet, the chord of said curve bears South 63 degrees 04 minutes 42 seconds East 340.56 feet to a point of tangency; thence South 51 degrees 12 minutes 06 seconds East, a distance of 191.69 feet to a point of curvature; thence easterly 568.31 feet along a curve to the left having a radius of 840.00 feet, the chord of said curve bears South 70 degrees 35 minutes 01 seconds East 557.53 feet to a point of tangency; thence South 89 degrees 57 minutes 56 seconds East, a distance of 50.30 feet to the point of beginning, containing 33.01 acres more or less.
December 18, 2015

IRREVOCABLE LETTER OF CREDIT NO. 15-230

BENEFICIARY: CITY OF MCHENRY, ILLINOIS
AN ILLINOIS MUNICIPAL CORPORATION
333 SOUTH GREEN STREET
MCHENRY, ILLINOIS 60050

APPLICANT: PRAIRIE POINTE LAND DEVELOPMENT CORP.
28955 W. ROUTE 173
ANTIOCH, ILLINOIS 60002

AMOUNT: USD $418,000.00 (FOUR HUNDRED EIGHTEEN THOUSAND AND 00/100
US DOLLARS)

EXPIRATION: DECEMBER 18, 2016, SUBJECT TO TERMS BELOW

GENTLEMEN:

WE HEREBY ESTABLISH OUR IRREVOCABLE LETTER OF CREDIT NO. 15-230 IN YOUR
FAVOR FOR THE ACCOUNT OF PRAIRIE POINTE LAND DEVELOPMENT CORP. FOR A SUM
NOT TO EXCEED FOUR HUNDRED EIGHTEEN THOUSAND AND 00/100 US DOLLARS
($418,000.00) AVAILABLE BY YOUR DRAFTS AT SIGHT IN FORM ATTACHED HERETO AS
EXHIBIT A, ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

CERTIFICATE IN THE FORM ATTACHED HERETO AS EXHIBIT B, EXECUTED BY AN
AGENT OR OFFICIAL OF THE CITY OF MCHENRY.

FORTY-FIVE (45) DAYS PRIOR TO THE EXPIRATION OF THIS IRREVOCABLE LETTER OF
CREDIT, WE WILL NOTIFY THE CITY OF MCHENRY, MCHENRY MUNICIPAL CENTER, 333
SOUTH GREEN STREET, MCHENRY, ILLINOIS 60050, ATTENTION: CITY CLERK, BY
CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE IMPENDING EXPIRATION DATE,
IN NO EVENT SHALL THIS IRREVOCABLE LETTER OF CREDIT OR THE COMMITMENT
EVIDENCED BY IT EXPIRE WITHOUT SUCH 45 DAYS NOTICE.

THE WORK OR IMPROVEMENTS COVERED BY THIS IRREVOCABLE LETTER OF CREDIT
ARE: THE PUBLIC IMPROVEMENTS FOR CITY OF MCHENRY, MCHENRY, ILLINOIS
CONSISTING SPECIFICALLY OF THE SITE IMPROVEMENTS SET FORTH IN THE AGREEMENT
TO ASSUME DEVELOPER OBLIGATIONS SET FORTH ON EXHIBIT C ATTACHED HERETO
AND INCORPORATED HEREIN BY REFERENCE.

WE EXPRESSLY AGREE THAT OUR OBLIGATIONS UNDER THIS IRREVOCABLE LETTER OF
CREDIT WILL NOT BE IMPAIRED, MODIFIED OR AFFECTED BY ANY EXTENSION OF TIME
WITH RESPECT TO, OR ALTERATION IN THE WORK OR IMPROVEMENTS COVERED BY THIS
IRREVOCABLE LETTER OF CREDIT, AS DESCRIBED ABOVE. WE HEREBY WAIVE NOTICE OF
ANY AND ALL SUCH EXTENSIONS OF TIME AND ALTERATIONS.
WE HEREBY AGREE WITH THE DRAWERS, ENDORSERS AND BONA FIDE HOLDERS OF ALL DRAFTS DRAWN AND DOCUMENTS PRESENTED UNDER AN IN COMPLIANCE WITH THE TERMS OF THIS IRREVOCABLE LETTER OF CREDIT, THAT SUCH DRAFTS WILL BE DULY HONORED UPON PRESENTATION TO US. IF, WITHIN 5 DAYS OF THE DATE ANY DRAFT DRAWN IN CONFORMITY WITH THIS IRREVOCABLE LETTER OF CREDIT, IS PRESENTED, WE FAIL TO HONOR SAME, WE AGREE TO PAY ALL ATTORNEY'S FEES, COURT COSTS AND OTHER EXPENSES INCURRED BY THE CITY OF MCHENRY IN ENFORCING THE TERMS OF THIS LETTER OF CREDIT.

THIS LETTER OF CREDIT SHALL BE DEEMED A CONTRACT MADE UNDER THE LAWS OF THE STATE OF ILLINOIS AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH SUCH LAWS. THE UNDERSIGNED AGREES THAT VENUE FOR ANY ACTIONS BROUGHT WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN THE TWENTY SECOND JUDICIAL COURT,awhicy ouN C,awicy ouN C, awicy ouN C.

THE UNDERSIGNED REPRESENTS AND WARRANTS THAT THE UNDERSIGNED HAS FULL POWER AND AUTHORITY TO ISSUE THIS LETTER OF CREDIT, AND THAT ALL CONDITIONS PRECEDENT TO THE ISSUANCE OF THE LETTER OF CREDIT HAVE BEEN SATISFIED.

VERY TRULY YOURS,

AMERICAN COMMUNITY BANK & TRUST

[Signature]

ANDY HARTLIEB, PRESIDENT
SIGHT DRAFT

EXHIBIT A TO AMERICAN COMMUNITY BANK & TRUST
IRREVOCABLE LETTER OF CREDIT NO. 15-230

$ _____________________

DATE: ____________________

TO: AMERICAN COMMUNITY BANK & TRUST
1290 LAKE AVENUE
WOODSTOCK, ILLINOIS 60098

AT SIGHT, PAY TO THE ORDER OF THE CITY OF MCHenry, THE SUM OF
$ _____________________ US DOLLARS (USD ____________________)

VERY TRULY YOURS,

CITY OF MCHenry

BY: ____________________
TITLE: ____________________

DRAFT NO. ____________________ DRAWN UNDER AMERICAN COMMUNITY BANK & TRUST
IRREVOCABLE LETTER OF CREDIT NO. 15-230 DATED DECEMBER 18, 2015

FORM OF SIGHT DRAFT APPROVED ON 12/18/2015.

AMERICAN COMMUNITY BANK & TRUST

BY: ____________________

ANDY HARTLIEB, PRESIDENT
EXHIBIT B TO AMERICAN COMMUNITY BANK & TRUST
IRREVOCABLE LETTER OF CREDIT NO. 15-230

CERTIFICATE
DEFECTIVE MATERIAL OR WORKMANSHIP

THE CITY OF MCHENRY, AN ILLINOIS MUNICIPAL CORPORATION, HEREBY CERTIFIES AS
FOLLOWS:

1. THIS STATEMENT IS EXECUTED BY ________________________, WHOSE POSITION
OR TITLE IS ________________________, AND WHO IS DULY AUTHORIZED TO
EXECUTE THIS STATEMENT ON BEHALF OF THE CITY OF MCHENRY.

2. THIS STATEMENT IS MADE AND DELIVERED TO OBTAIN PAYMENT AGAINST
AMERICAN COMMUNITY BANK & TRUST LETTER OF CREDIT NO. 15-230, DATED
DECEMBER 18, 2015.

3. THE WORK OR IMPROVEMENTS COVERED BY THE AFORESAID IRREVOCABLE
LETTER OF CREDIT ARE: COMPLIANCE WITH THAT CERTAIN ASSUMPTION OF
CERTAIN DEVELOPER OBLIGATIONS SIGNED BY PRAIRIE POINTS LAND
DEVELOPMENT CORPORATION AND DATED DECEMBER 18, 2015;

4. THAT ALL OR ANY PORTION OF THE SAID WORK OR IMPROVEMENTS HAS NOT
BEEN COMPLETED OR DOES NOT CONFORM TO THE PLANS AND SPECIFICATIONS
APPROVED BY THE CITY OF MCHENRY OR TO THE APPLICABLE ORDINANCES AND
REGULATIONS OF THE CITY OF MCHENRY; OR

5. THAT AMERICAN COMMUNITY BANK & TRUST LETTER OF CREDIT NO. 15-230,
DATED DECEMBER 18, 2015 IS ABOUT TO EXPIRE AND HAS NOT BEEN RENEWED.

DATED: ______________________

CITY OF MCHENRY

BY: ______________________

TITLE: ______________________

FORM OF CERTIFICATE APPROVED ON DECEMBER 18, 2015.

AMERICAN COMMUNITY BANK & TRUST

BY: ______________________

ANDY HARTLIB, PRESIDENT
Agreement to Assume Developer Obligations

In consideration of the premises and agreements made herein, the adequacy and sufficiency of which is acknowledged as being received by the undersigned and in further consideration of the City of McHenry signing the attached Release of Lennar Chicago, Inc. from Letter of Credit Obligations from that Certain Annexation Agreement dated February 17, 2003 between Concord Homes, Inc. and the City of McHenry ("Release Agreement") dated December 21, 2015 and acceptance by the City of McHenry of the Replacement letter of credit referenced in the Release Agreement, the undersigned Prairie Pointe Land Development Corp. does hereby agree to assume the Developer Obligations under the Annexation Agreement referenced in the Release Agreement limited to further development of the bike path and sidewalk required pursuant to Section 20(a) of the Annexation Agreement and installation of the traffic signal required pursuant to Section 20(c) of the Annexation Agreement which shall all be constructed and installed immediately following traffic signal warrants being met as set forth in Section 20(c) of the Annexation Agreement. The City of McHenry and Prairie Point Development Corp. acknowledge that the existing two (2) lane collector road known as Veteran’s Parkway is complete as currently built and is not required to be widened to four (4) lanes and nothing in this Agreement shall excuse the Developer from complying with the terms of the Annexation Agreement with regard to portions of the property it owns which is the subject of the Annexation Agreement.

A copy of this Assumption Agreement shall be filed by the City of McHenry with the McHenry County Recorder of Deeds as affecting the property legally described on the attached Exhibit A.

Prairie Pointe Development Corp.

By: __________________________, President  Date
EXHIBIT A

to Agreement to Assume Developer Obligations

Parcel 1
That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian commencing at East Quarter Corner of said Section 10; thence South 89 degrees 20 minutes 17 seconds West along the North line of the Northeast Quarter of said Southeast Quarter, a distance of 849.97 feet to the point of beginning; thence South 00 degrees 31 minutes 38 seconds East, a distance of 385.22 feet; thence South 19 degrees 14 minutes 10 seconds East, a distance of 100.30 feet; thence South 00 degrees 31 minutes 38 seconds East, a distance of 403.01 feet; thence South 26 degrees 29 minutes 53 seconds West, a distance of 423.96 feet; thence South 11 degrees 02 minutes 43 seconds West, a distance of 80.00 feet; thence North 78 degrees 57 minutes 17 seconds West, a distance of 53.79 feet to a point of curvature; thence westerly 226.55 feet along a curve to the right having a radius of 840.00 feet, the chord of said curve bears North 71 degrees 13 minutes 42 seconds West 225.86 feet to a point of tangency; thence North 63 degrees 30 minutes 07 seconds West, a distance of 181.90 feet; thence South 26 degrees 29 minutes 53 seconds West, a distance of 168.64 feet to the South line of the Northwest Quarter of the said Southeast Quarter; thence South 89 degrees 30 minutes 45 seconds West along said South line, a distance of 403.99 feet to a line lying 20 feet easterly of and parallel with the easterly Right-of-Way of Illinois State Route 31; thence North 26 degrees 29 minutes 53 seconds East along said parallel line, a distance of 1481.53 feet to the North line of the Northeast Quarter of the said Southeast Quarter; thence North 89 degrees 20 minutes 17 seconds East along said North line, a distance of 413.81 feet to the point of beginning, containing 21.65 acres more or less.

Parcel 2
That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian beginning at the East Quarter Corner of said Section 10; thence South 00 degrees 31 minutes 39 seconds East along the East line of the Northeast Quarter of the said Southeast Quarter, a distance of 1324.67 feet to the Northeast corner of the Southeast Quarter of the said Southeast Quarter; thence South 00 degrees 32 minutes 32 seconds East along the East line of the Southeast Quarter of the said Southeast Quarter, a distance of 432.17 feet; thence North 89 degrees 57 minutes 56 seconds West, a distance of 50.30 feet to a point of curvature; thence westerly 568.31 feet along a curve to the right having a radius of 840.00 feet, the chord of said curve bears North 70 degrees 35 minutes 01 seconds West 557.53 feet to a point of tangency; thence North 51 degrees 12 minutes 06 seconds West, a distance of 101.69 feet to a point of curvature; thence northwesterly 345.91 feet along a curve to the left having a radius of 710.00 feet, the chord of said curve bears North 65 degrees 04 minutes 42 seconds West 340.55 feet to a point of tangency; thence North 78 degrees 57 minutes 17 seconds West, a distance of 67.40 feet; thence North 11 degrees 02 minutes 43 seconds East, a distance of 80.00 feet; thence North 26 degrees 29 minutes 53 seconds East, a distance of 423.95 feet; thence North 00 degrees 31 minutes 38 seconds West, a distance of 403.01 feet; thence North 19 degrees 14 minutes 10 seconds West, a distance of 100.30 feet; thence North 00 degrees 31 minutes 38 seconds West, a distance of 385.22 feet to the North line of the Northeast Quarter of said Southeast Quarter; thence North 89 degrees 20 minutes 17 seconds East along said North line, a distance of 849.97 feet to the point of beginning, containing 32.27 acres more or less.
Parcel 3
That part of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian commencing at the East Quarter Corner of said Section 10; thence South 00 degrees 31 minutes 39 seconds East along the East line of the Northeast Quarter of the said Southeast Quarter, a distance of 1324.07 feet to the Northeast corner of the Southeast Quarter of the said Southeast Quarter; thence South 00 degrees 32 minutes 32 seconds East along the East line of the Southeast Quarter of the said Southeast Quarter, a distance of 232.17 feet to the point of beginning; thence containing South 00 degrees 32 minutes 32 seconds East along the said East line, a distance of 889.74 feet to the Southeast corner of said Southeast Quarter; thence South 89 degrees 37 minutes 52 seconds West along the South line of the Southeast Quarter of the said Southeast Quarter, a distance of 1333.88 feet to the Southwest corner of the said Southeast Quarter; thence North 00 degrees 21 minutes 03 seconds West along the West line of the Southeast Quarter of the said Southeast Quarter, a distance of 1319.16 feet to the Northwest corner of the Southeast Quarter of the said Southeast Quarter; thence South 89 degrees 30 minutes 45 seconds West along the South line of the Northwest Quarter of the said Southeast Quarter, a distance of 203.51 feet; thence North 26 degrees 29 minutes 53 seconds East, a distance of 168.64 feet; thence South 63 degrees 30 minutes 07 seconds East, a distance of 181.90 feet to a point of curvature; thence easterly 226.55 feet along a curve to the right having a radius of 840.00 feet, the chord of said curve bears South 71 degrees 13 minutes 42 seconds East 225.86 feet to a point of tangency; thence South 78 degrees 57 minutes 17 seconds East, a distance of 123.19 feet to a point of curvature; thence southeasterly 343.91 feet along a curve to the right having a radius of 710.00 feet, the chord of said curve bears South 65 degrees 04 minutes 42 seconds East 340.56 feet to a point of tangency; thence South 51 degrees 12 minutes 06 seconds East, a distance of 101.69 feet to a point of curvature; thence easterly 568.31 feet along a curve to the left having a radius of 840.00 feet, the chord of said curve bears South 70 degrees 35 minutes 01 seconds East 557.53 feet to a point of tangency; thence South 89 degrees 57 minutes 36 seconds East, a distance of 50.30 feet to the point of beginning, containing 35.01 acres more or less.
AMENDMENT TO IRREVOCABLE LETTER OF CREDIT

TO: City of McHenry
    333 S Green Street
    McHenry IL 60050

RE: LETTER OF CREDIT NO. 03-061
    Prairie Pointe Land Development Corp.
    420 N Front Street
    McHenry Il 60050

Please be advised that our Letter of Credit No. 03-061, dated December 19, 2003 in the amount of $1,255,662.50—and subsequently reduced to $501,811.00—issued to you is hereby amended as follows:

The Letter of Credit is hereby extended until December 30, 2007

All other terms and conditions remain unchanged.

AMERICAN COMMUNITY BANK & TRUST

BY: [Signature]

Andrew T. Hartlieb, President

DATE: December 30, 2006
December 19, 2003

City of McHenry
333 South Green Street
McHenry, Illinois 60050

GUARANTEE OF MATERIAL AND WORKMANSHIP
IRREVOCABLE LETTER OF CREDIT NO. 03-061

Beneficiary: City of McHenry, Illinois
an Illinois Municipal Corporation

Applicant: Prairie Point Land Development Corp.
420 North Front Street
McHenry, IL 60050

Amount: $1,255,662.50

Expiration: December 31, 2004

Gentlemen:

We hereby establish our Irrevocable Letter of Credit No. 03-061
in your favor for the account of Prairie Point Land Development Corp. for a sum or sums not to
exceed ONE MILLION TWO HUNDRED FIFTY FIVE THOUSAND SIX HUNDRED SIXTY
TWO AND 50/100 DOLLARS (U.S.$1,255,662.50) available by your drafts at sight in form
attached hereto as Exhibit A, accompanied by the following documents:

Certificate in the form attached hereto as Exhibit B, executed by an agent or official of
the City of McHenry.

Forty-five (45) days prior to the expiration of this Irrevocable Letter of Credit, we will notify the
City of McHenry, McHenry Municipal Center, 333 South Green Street, McHenry, Illinois
60050, ATTENTION: City Clerk, by Certified Mail, Return Receipt Requested, of the
impending expiration date. In no event shall this Irrevocable Letter of Credit or the commitment
evidenced by it expire without such 45 days notice.

The work or improvements covered by this Irrevocable Letter of Credit are: the public
improvements for the Prairie Point Business Park, McHenry, Illinois, consisting specifically of
the public infrastructure improvements including sewer, water and the improvements at the
Prairie Point Business Park. This Irrevocable Letter of Credit is established to insure against
defective materials and workmanship in the construction of the above described improvements.
Page Two

We expressly agree that our obligations under this Irrevocable Letter of Credit will not be impaired, modified or affected by any extension of time with respect to, or alteration in the work or improvements covered by this Irrevocable Letter of Credit, as described above. We hereby waive notice of any and all such extensions of time and alterations.

We hereby agree with the drawers, endorsers and bona fide holders of all drafts drawn and documents presented under and in compliance with the terms of this Irrevocable Letter of Credit, that such drafts will be duly honored upon presentation to us. If, within 5 days of the date any draft drawn in conformity with this Irrevocable Letter of Credit, is presented, we fail to honor same, we agree to pay all attorneys fees, court costs and other expenses incurred by the City of McHenry in enforcing the terms of this Letter of Credit.

This Letter of Credit shall be deemed a contract made under the laws of the State of Illinois and shall be governed by and construed in accordance with such laws. The undersigned agrees that venue for any actions brought with respect to this Letter of Credit shall be in the Nineteenth Judicial Circuit, McHenry County, Illinois.

The undersigned represents and warrants that the undersigned has full power and authority to issue this Letter of Credit, and that all conditions precedent to the issuance of the Letter of Credit have been satisfied.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce, Publication No. 500.

American Community Bank & Trust

Andrew T Hartlieb
President
Exhibit A to American Community Bank & Trust
Irrevocable Letter of Credit No. 03-061

SIGHT DRAFT

$__________________________

Date:_____________, 20___

TO: American Community Bank & Trust

At sight, pay to the order of the City of McHenry, the sum of $__________________________

__________________________ Dollars

($__________________________)

CITY OF MCHENRY

By:________________________________________

________________________________________

Title

Draft No. _______ drawn under American Community Bank & Trust
Irrevocable Letter of Credit No. 03-061,
dated December 19, 2003

Form of Sight Draft Approved
on December 19, 2003

American Community Bank

(Name of Bank)

By:________________________________________

________________________________________

Title
Exhibit B to American Community Bank & Trust
Irrevocable Letter of Credit No. 03-061

CERTIFICATE
DEFECTIVE MATERIAL OR WORKMANSHIP

The City of McHenry, an Illinois municipal corporation, hereby certifies as follows:

1. This statement is executed by _______________, whose position or title is _______________, and who is duly authorized to execute this statement on behalf of the City of McHenry.

2. This statement is made and delivered to obtain payment against (insert Bank’s name) Irrevocable Letter of Credit No. _______________, dated _______________, 20_._

3. The work or improvements covered by the aforesaid Irrevocable Letter of Credit are:

[Blank line]

as shown on the following plans or specifications submitted to the City of McHenry

[Blank line]

4. That all or any portion of the said work or improvements has not been completed or does not conform to the plans and specifications approved by the City of McHenry or to the applicable ordinances and regulations of the City of McHenry.

Dated: _______________, 20__

CITY OF McHENRY

By: _______________

Title

Form of Certificate Approved on December 19, 20__

[Signature]

(American Community Bank)

By: _______________

Title
REGULAR AGENDA ITEM

DATE: June 3, 2019

TO: Mayor and City Council

FROM: Derik Morefield, City Administrator
       Ross Polerecky, Community Development Director
       John Birk, Chief of Police
       Troy Strange, Interim Public Works Director
       Carolyn Lynch, Finance Director
       Bill Hobson, Parks & Recreation Director

RE: Authorization for the Mayor to Execute a Letter of Intent with Leopardo Companies, Inc. for the Completion of a Capital Program Investment Grade Audit to identify cost savings for reinvestment to address the City’s capital improvement and equipment needs.

ATT: Presentation Material
     Letter of Intent

AGENDA ITEM SUMMARY:
The purpose of this agenda item is for the City Council to consider authorizing the execution of a Letter of Intent with Leopardo Companies, Inc. for the completion of a Capital Program Investment Grade Audit to identify opportunities for cost reductions, costs savings and reinvestment as an opportunity to address the city’s capital improvement and capital equipment needs. Two items of importance should be noted. First, that the completion of the audit itself is of no cost to the City of McHenry. Leopardo guarantees that they will develop a budget that is cost neutral or better for implementation. If the City chooses not to implement the developed program, only then is the city obligated to pay Leopardo $50,000 for reimbursement of services. If however, the program is implemented Leopardo will serve as the City’s “general contractor” for the implementation of identified improvements through a Guaranteed Performance Contract.

The City of McHenry is dedicated to providing the citizens, businesses and visitors of McHenry with the highest quality of programs and services in a customer-oriented, efficient and fiscally responsible manner.
BACKGROUND:
On December 3, 2018 Leopard Companies, Inc. presented a strategy to the City Council that is being implemented by public bodies across the country as a means to analyze energy and operational cost savings that can then be reinvested to address public facility and public equipment needs. In summary, the city is able to draw upon the breadth of expertise and knowledge of Leopardo to conduct an investment grade audit of specific municipal expenditures to determine opportunities to realize costs reductions/savings that can then be redirected to meet existing and future needs related to public facilities (e.g., municipal center/parks garage roofs, various facility HVAC and maintenance issues, etc.) and a realistic replacement program to address vehicle/equipment replacement needs.

Three primary issues were brought up by Council as concerns at the December 3, 2018 meeting – 1) Why can’t city staff conduct this analysis and develop a program of costs savings, including a vehicle/equipment leasing and replacement program, and why can’t the city just bond for these improvements; 2) Why should the city use Leopardo Companies, Inc. and not go through a Request for Qualifications (RFQ) selection process for services; and, 3) If the investment grade audit is no cost to the city, how does Leopardo profit from the project? These are addressed as follows:

1. Simply, City Staff does not have the expertise or time to conduct the level of assessment that is required. Leopardo’s 40+ years of experience and nationwide contacts ensures that the city is able to leverage the most competitive pricing to realize cost savings and undertake building improvements and vehicle/equipment leasing costs. Bonding for the improvements identified by Leopardo would cost more than what has been proposed by Leopardo.

2. While the city could choose to complete an RFQ process, the result would be the identification of a list of qualified firms that we would then negotiate a pricing contract with. It would not guarantee a lower cost. In addition, there is no requirement for the city to conduct an RFQ process for the selection of a firm for these services. This is a professional service. Given the depth and quality of Leopardo’s feasibility study and the breadth of Leopardo’s expertise to address multiple areas of our operations, City Staff recommends entering into an LOI with Leopardo without expending the additional time and City resources to conduct an RFQ. This will allow the City to realize savings and capture the value of this program right away.

3. Leopardo will make money by serving as the General Contractor for identified public facility improvement projects. This cost will be factored in to the analysis and be paid through realized cost reductions/savings. The city benefits from this relationship because Leopardo will be able to manage and implement the overall program on behalf of the municipality. Think of it as building a house, Leopardo will manage all of the individual contractors to ensure that the improvements are coordinated.
Now that these questions have been addressed, the item is coming back before Council for consideration, with a Staff recommendation to approve moving forward.

ANALYSIS:
As Council is aware, the City of McHenry is facing a significant financial dilemma regarding our ability to fund current and future capital improvements. In fact, at this point the City has kicked the proverbial can down the road for so long on some items that catastrophic failures on vehicles and equipment is imminent. One example of this over the past two years has been the rooftop units (RTUs) on the Municipal Center. Two of the four units have now been replaced due to complete failure.

Each year, staff and Council must choose how to spend limited funding between many competing needs – roads, vehicles, equipment, municipal facility improvements/maintenance. In an attempt to address these needs, in FY18/19 Council chose to increase the Telecommunications and Local Sales taxes to generate additional revenues. Unfortunately, needs far outweigh the funding mechanisms currently in place and without thinking “outside of the box” the city will continue to edge towards the virtual edge of the cliff on being able to address most of these issues.

The opportunity presented by Leopardo Companies, Inc. provides the city with a way to redirect existing funding and/or costs savings/reductions to finance improvements to public facilities and a way to implement a realistic vehicle and equipment replacement program. Further, by addressing these needs through this program, items related to public facility maintenance/improvements and vehicle/equipment replacement will no longer have to compete with other capital improvements such as the Local Street Program.

While staff understands that this is a concept that is new to Council, and that there may still be questions about its functionality, staff believes that the potential benefits of moving forward outweigh the risk of continuing to delay public facility maintenance projects and vehicle/equipment replacement. We are basically “kicking the can down the road.” In short, Leopardo Companies, Inc. will either develop a plan that is cost neutral or better for addressing needs, or they will not. Neither of these will cost the city unless we choose not to implement a feasible plan that is presented. Doing nothing provides us with no alternatives.

On an additional and related note, the previous presentation by Leopardo included the potential for the installation of solar energy facility on the Petersen Farm property that would be able to be utilized to sell energy as well as provided energy for municipal facilities. Due to a variety of factors this facility is now off of the table as an option. However, Leopardo believes that solar energy could be installed on existing municipal facilities to realize costs savings.

Representatives from Leopardo Companies, Inc. will be in attendance at the June 3, 2019 City Council Meeting to provide additional information and to answer any questions that Council may have.
RECOMMENDATION:
Therefore, if Council concurs, it is recommended that a motion be made to authorize the execution of a Letter of Intent for professional services between the City of McHenry and Leopardo Companies, Inc.
Capital Creation Strategies
Agenda

- Leopardo Team
- Capital Creation Strategies
- Feasibility Study Findings
- Financial Overview
- Traditional Plan, Bid, Spec vs. Capital Creation
- Cost of Delay
- M&V Profile
- Next Steps
Leopardo Team

Rob Vollrath
*Chief Business Officer*

Anthony J. Leopardo
*Director, Strategic Relations*

Drake Wahlers, P.E., CEM
*V.P. of Engineering*

Mike Mrachek
*Senior Project Manager*

Joe Frankini, P.E., LEED AP
*Senior V.P. of Operations*

Justin Jezierski
*Project Consultant*

Chris Knosp
*Director, Fleet Solutions*

40+ YEARS OF EXPERIENCE

9 OFFICES + HUNDREDS OF JOBSITE ACROSS THE COUNTRY

475+ EMPLOYEES

PPA/PPP
FUEL CONVERSION
TRAFFIC SIGNALS
FLEET LEASING
INFORMATION TECHNOLOGY

LEOPARDO'S UNIQUE OFFERINGS

OVER 568M TEAM EXPERIENCE

OVER 6.5B IN CONSTRUCTION
Promotes Operational Conservation Projects/Infrastructure Improvements

- **Guaranteed** utility savings
- **Guaranteed** operational savings
- **Verification** of annual savings through a monitoring program
- Project cost – no change orders
- **Guaranteed** equipment performance
- Ongoing operational support
- Single point of accountability
Major Infrastructure Needs

**Facilities**
- Roof Replacements at City Hall and Merkel Aquatic Center
- Window Replacements at Public Works
- Failing HVAC Equipment at Various Facilities
- Conversion of Lighting Systems to LED

**Operations**
- Half of City’s Fleet (54 Vehicles) is over 10 Years Old
- Estimated Replacement Cost of Old Fleet is $4,086,073
- Current Fleet Maintenance Spend is $414,387

Cost-Savings Opportunities

**Utility Savings**
- Facility Upgrades
- Solar Power Purchase Agreements
- IT Upgrades
- Utility Procurement
- Demand Response

**Fleet Maintenance & Fuel Savings**
- Fleet Alternative Fuel
- Fleet Leasing Program
Feasibility Study Findings

Fleet Overview

- 107 Total Vehicles
- $6,719,410 Total Replacement Cost
- $414,387 Annual Maintenance Spend

<table>
<thead>
<tr>
<th>Overall Fleet</th>
<th>Qty:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over 10 Years Old</td>
<td>54</td>
</tr>
<tr>
<td>5 -10 Years Old</td>
<td>26</td>
</tr>
<tr>
<td>Under 5 Years</td>
<td>27</td>
</tr>
<tr>
<td>Total</td>
<td>107</td>
</tr>
</tbody>
</table>
Feasibility Study Findings

Fleet Overview

- Fleet requests have only been **20.4%** funded over past 6 years.
- Significant portion of McHenry’s fleet is over 10 years old.
- Fleet maintenance costs significantly higher than average.
- Risk of catastrophic failure and use of emergency funds.

<table>
<thead>
<tr>
<th>Requested vs. Budgeted</th>
<th>Project</th>
<th>14/15</th>
<th>15/16</th>
<th>16/17</th>
<th>17/18</th>
<th>18/19</th>
<th>19/20</th>
<th>6-Year Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requested General Fund</td>
<td>$504,661</td>
<td>$636,405</td>
<td>$626,157</td>
<td>$740,500</td>
<td>$1,020,000</td>
<td>$2,149,920</td>
<td>$5,677,643</td>
<td></td>
</tr>
<tr>
<td>Budgeted General Fund</td>
<td>$58,000</td>
<td>$200,500</td>
<td>$190,800</td>
<td>$132,500</td>
<td>$0</td>
<td>$0</td>
<td>$581,800</td>
<td></td>
</tr>
<tr>
<td>Percent Approved General Fund</td>
<td>11.5%</td>
<td>31.5%</td>
<td>30.5%</td>
<td>17.9%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>10.2%</td>
<td></td>
</tr>
<tr>
<td>Requested Enterprise Fund</td>
<td>$540,000</td>
<td>$680,000</td>
<td>$300,000</td>
<td>$0</td>
<td>$732,000</td>
<td>$175,000</td>
<td>$2,427,000</td>
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</tr>
<tr>
<td>Budgeted Enterprise Fund</td>
<td>$0</td>
<td>$360,000</td>
<td>$300,000</td>
<td>$305,000</td>
<td>$110,000</td>
<td>$0</td>
<td>$1,075,000</td>
<td></td>
</tr>
<tr>
<td>Percent Approved Enterprise Fund</td>
<td>0.0%</td>
<td>52.9%</td>
<td>100.0%</td>
<td>N/A</td>
<td>15.0%</td>
<td>0.0%</td>
<td>44.3%</td>
<td></td>
</tr>
<tr>
<td>Percent Approved Overall</td>
<td>5.6%</td>
<td>42.6%</td>
<td>53.0%</td>
<td>59.1%</td>
<td>6.3%</td>
<td>0.0%</td>
<td>20.4%</td>
<td></td>
</tr>
</tbody>
</table>
Fleet Overview

Replacement Costs For Fleet 10 Years and Older

<table>
<thead>
<tr>
<th>Department</th>
<th>Number of Vehicles</th>
<th>Replacement Cost</th>
<th>Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police</td>
<td>7</td>
<td>$246,324</td>
<td>General</td>
</tr>
<tr>
<td>Street</td>
<td>20</td>
<td>$2,723,017</td>
<td>General</td>
</tr>
<tr>
<td>Parks</td>
<td>10</td>
<td>$323,475</td>
<td>General</td>
</tr>
<tr>
<td>Administration</td>
<td>5</td>
<td>$175,290</td>
<td>General</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>42</strong></td>
<td><strong>$3,468,106</strong></td>
<td><strong>General Fund Total</strong></td>
</tr>
<tr>
<td>Water</td>
<td>2</td>
<td>$68,465</td>
<td>Enterprise</td>
</tr>
<tr>
<td>Wastewater</td>
<td>4</td>
<td>$152,630</td>
<td>Enterprise</td>
</tr>
<tr>
<td>Utilities</td>
<td>6</td>
<td>$396,872</td>
<td>Enterprise</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>12</strong></td>
<td><strong>$617,967</strong></td>
<td><strong>Enterprise Fund Total</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>54</strong></td>
<td><strong>$4,086,073</strong></td>
<td></td>
</tr>
</tbody>
</table>

Without Replacing Older Vehicles:

- Substantial Increases in Maintenance Costs
- Increased Risk of Catastrophic Failures
- Use of Emergency Funds
Financial Overview

Before Project

Operational Costs ($1,537,799)

During Project

Savings ($85,542)

Reduced Operational Costs ($1,263,809)

Project Implementation

Guaranteed Savings ($273,990)

Reduced Operational Costs ($1,263,809)

After Project

Utilize Positive Cash Flow as Needed

Fund Capital Improvements from the Savings

Reduce Operating Budget
## Traditional Plan, Bid, Spec vs. Capital Creation

<table>
<thead>
<tr>
<th></th>
<th>Plan/Bid/Spec</th>
<th>Capital Creation Strategies</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FINANCIAL</strong></td>
<td>CAPITAL/BOND/CASH TAX BURDEN (LEVY IMPACT) BURDEN ON BUDGET</td>
<td>MONEY YOU ARE ALREADY BUDGETING IN OPERATING BUDGET</td>
</tr>
<tr>
<td><strong>ON-GOING SUPPORT</strong></td>
<td>NO SUPPORT AFTER WARRANTY PERIOD</td>
<td>CONTINUOUS PARTNERSHIP OVER LIFE OF CONTRACT</td>
</tr>
<tr>
<td><strong>UPFRONT FEES</strong></td>
<td>YES PAY AS YOU GO</td>
<td>NONE FIRST PAYMENT AFTER CONSTRUCTION COMPLETE</td>
</tr>
<tr>
<td><strong>COST</strong></td>
<td>TYPICALLY 20% HIGHER</td>
<td>LOWER, UP FRONT AND LIFE CYCLE</td>
</tr>
<tr>
<td><strong>CHANGE ORDERS</strong></td>
<td>YES, ALMOST ALWAYS</td>
<td>NO, ONLY CUSTOMER DRIVEN</td>
</tr>
<tr>
<td><strong>TIMELINE</strong></td>
<td>LONGER PROCESS</td>
<td>STREAMLINED, SHORTER PROJECT SCHEDULE</td>
</tr>
<tr>
<td><strong>SAVINGS</strong></td>
<td>NO, SAVINGS NOT CAPTURED</td>
<td>YES, SAVINGS GUARANTEE</td>
</tr>
<tr>
<td><strong>RISK</strong></td>
<td>CITY</td>
<td>LEOPARDO</td>
</tr>
</tbody>
</table>
### Cost of Delay

Each Month the Project is Delayed: Monthly Loss or Cost

<table>
<thead>
<tr>
<th>Month</th>
<th>Monthly Loss or Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Month 1</td>
<td>($22,832)</td>
</tr>
<tr>
<td>Month 2</td>
<td>($22,832)</td>
</tr>
<tr>
<td>Month 3</td>
<td>($22,832)</td>
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<tr>
<td>Month 4</td>
<td>($22,832)</td>
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<tr>
<td>Month 5</td>
<td>($22,832)</td>
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<td>Month 6</td>
<td>($22,832)</td>
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<td>Month 7</td>
<td>($22,832)</td>
</tr>
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<td>Month 8</td>
<td>($22,832)</td>
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<tr>
<td>Month 9</td>
<td>($22,832)</td>
</tr>
<tr>
<td>Month 10</td>
<td>($22,832)</td>
</tr>
<tr>
<td>Month 11</td>
<td>($22,832)</td>
</tr>
<tr>
<td>Month 12</td>
<td>($22,832)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>($273,990)</strong></td>
</tr>
</tbody>
</table>

**Risk of Catastrophic Failures, Use of Emergency Funds and Less Funding for Roads**
M&V Profile

Total Projects with Measured + Verified Savings

41

Number of Missed Guarantees

0

Percent Actual Total Savings Guarantee Delivered

178%
### Next Steps

#### 1. LOI
- City assigns a committee to work with contractor to develop scope options
- **LOI Parameters**
  - Scope
  - Financial Term
  - Schedule
  - Development Cost
  - Self-Funding
- Council approves and executes LOI

#### 2. IGA
- Kick-Off meeting with City and contractor to develop scope options and project goals
- Contractor performs energy and design analysis
- Contractor to pre-qualify sub-contractors
- Contractor coordinates sub-contractor walk-throughs with local contractors
- Contractor works with city to secure preliminary project financing
- Contractor develops proposal to city with firm fixed pricing and guaranteed savings
- City decides what items inside of the proposal to move forward with and finalize contract
Next Steps

Project Development Timeline

- City Council Approves & Executes LOI 6/3/2019
- Investment-Grade Audit Process 60 Days

Benefits of LOI

- No upfront cost for Investment-Grade Audit.
- Breakage Fee of $50k only assessed if City chooses not to move forward with a self-funding program.
- If Contractor cannot provide a self-funding project, then the breakage fee is waived.
Letter of Intent

June 3rd, 2019

Mayor Wayne Jett
City of McHenry
333 S. Green Street
McHenry, IL 60050

RE: Letter of Intent

Dear Mayor Jett:

Leopardo Companies, Inc. ("Contractor") presented a feasibility study, dated September 6th, 2018, to the City of McHenry ("Owner"). The Owner has reviewed the study and has chosen Contractor as the provider for services.

The intent of the project offering is to provide modernization and upgrades to the current infrastructure. The finalized scope of work, installation cost, and savings are to be determined under the negotiated final design.

It is the intent to negotiate in good faith and enter into an agreement with Contractor. The execution of a final Guaranteed Performance Contract will be contingent upon the following items:

- Contractor will perform a detailed engineering assessment, systematic pre-measurement, and the necessary engineering services to properly design the systems, savings, and renovations that the Owner chooses to implement.
- The Owner shall have input into the design and selections of the systems and the scope of the renovation work to best meet the intended outcome.
- Provided that the Contractor presents a budget neutral or better project to the Owner, in the event that the Owner chooses not to move forward with any Guaranteed Performance Contract, it is agreed that Contractor will be reimbursed for all costs incurred including technical, engineering, planning, measurement, and preparation of the agreement.
- The reimbursement rate will be calculated at a cost of $50,000.00 plus any hard costs that Contractor incurs.

Both parties agree that an agreement will be entered into within ninety (90) days of the date of this letter.

City of McHenry

By:________________________________________

Title:______________________________________

Date:_____________________________________

Leopardo Companies, Inc.

By:________________________________________

Title:______________________________________

Date:_____________________________________
REGULAR AGENDA ITEM

DATE: June 3, 2019

TO: Mayor and City Council

FROM: Monte Johnson, Deputy City Clerk

RE: Semi-Annual Review of Executive Session Meeting Minutes

ATT: Resolution

AGENDA ITEM SUMMARY:
Pursuant to the Illinois Open Meetings Act, a semi-annual review of minutes and recordings of all closed executive sessions that have not yet been released for public review must be conducted semi-annually.

BACKGROUND:
The determination of which minutes, if any that may be released is based on the advice of legal counsel. The Act also permits the destruction of executive session recordings that exists more than 18 months after the date the meeting was recorded.

Executive Session minutes presented for approval and release:
12/03/18  5 ILCS 120/2(c)(21) Review of Executive Session Minutes
02/18/19  5 ILCS 120/2(c)(2) Collective Bargaining Matters
03/18/19  5/ILCS 120/2(c) (11) Litigation to Acquire Real Estate

ANALYSIS:
Upon approval of the attached Resolution in Open Session, all Executive Session minutes prior to March 19, 2019, will be released.

Recommendation: If Council concurs, then it is recommended a motion is made in Open Session to pass the attached Resolution approving a) Executive Session meeting minutes as presented; b) authorizing the release of Executive Session meeting minutes as presented No; and c) destruction of any executive session recordings that exist more than 18 months and the minutes for that meeting have been approved.
RESOLUTION

WHEREAS, the Illinois Open Meetings Act specifies that Executive Session minutes be reviewed at least once every six months;

WHEREAS, upon advice from Counsel, the McHenry City Council recommends approval of the following Executive Session Minutes;

12/03/18  5/ILCS 120/2(c) (21)  Semi-Annual Review of Executive Session Minutes
02/18/19  5/ILCS 120/2(c) (2)  Collective Bargaining
03/18/19  5 ILCS 120/2(c) (11)  Potential Litigation

WHEREAS, upon advice from Counsel, the McHenry City Council recommends release of all of the above referenced Executive Session Minutes, as the need for confidentiality no longer exists.

NOW THEREFORE, BE IT RESOLVED as specified in the Illinois Open Meetings Act that authorization is hereby granted to approve the substance of and release of the above referenced executive session minutes and destruction of all Executive Session recordings that exists more than 18 months prior to the date of this Resolution.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be made a permanent part of the City Council minutes.

Passed and approved this 3rd day of June, 2019

Alderman Santi  _____  _____  _____  _____
Alderman Schaefer  _____  _____  _____  _____

______________________     ________________________
Wayne Jett, Mayor      Monte Johnson, Deputy Clerk