AGENDA
REGULAR CITY COUNCIL MEETING
City Council Chambers, 333 S Green Street
Monday, November 4, 2019

1. Call to Order.

2. Roll Call.

3. Pledge of Allegiance.

4. 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.

5. Consent Agenda: Motion to Approve the Following Consent Agenda Items:
   A. Sign variance to Lennar Builders to allow advertising signs to be placed in the City’s right-of-way for a period of one year;
   B. Contract with Dixon Engineering, Inc. for water tower coating inspection services in the amount of $14,415.00;
   C. Award of bid for the installation of holiday lighting in Veterans Memorial Park to Fox Valley Lighting for $19,500.00;
   D. Resolution recognizing the importance of apprenticeships and designating November 11-17, 2019 and National Apprenticeship Week in the City of McHenry;
   E. October 21, 2019, City Council Meeting Minutes;
   F. October 28, 2019, Special City Council Meeting Minutes;
   G. Issuance of Checks in the amount of $1,633,961.31.


7. Discussion Items.
   A. Orchard Beach Road
   B. 2019 Property Tax Levy

8. Executive Session.

9. Staff Reports.


11. City Council Comments.

12. Adjourn.
The complete City Council packet is available for review online via the City website at 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.
CONSENT AGENDA SUPPLEMENT

TO: Mayor and City Council
FROM: Ross Polerecky, Community Development Director
FOR: November 4th, 2019 Regular City Council Meeting
RE: Sign variance request for Lennar Builders
ATT: Sign application, Map of sign locations

Agenda Item Summary:
The Community Development Department received a sign variance request from Lennar Builders to place temporary signs at various right-of-way locations around the City.

Background:
Lennar Builders purchased all remaining residential lots within the Legend Lakes Subdivision in October of 2018, to date they have sold 14 new single family homes. Lennar has submitted a sign variance request to allow the placement of temporary sales signs at various right-of-way locations throughout the city. Lennar uses these temporary signs to showcase the Legend Lakes Subdivision and direct potential homebuyers to their sales office. The signs they are requesting will be placed at the locations depicted on the attached map. These signs will be placed in the right-of-way on Fridays at 6pm and collected by 6am Monday mornings.

Analysis:
This form of advertising is a key element to the builder’s sales teams. Staff understands the importance of these signs and has no concerns. Staff recommends this variance be good for one year with an option to extend the variance upon City Council approval. Signs may only be placed on the weekends in the time outlined in the permit (6pm Fri- 6am Mon), if Lennar does not abide by the conditions of the permit, staff shall notify Lennar in writing of the infraction and then disallow the signs for the remainder of the approved one-year timeframe.

Recommendation:
Therefore, if the City Council concurs, it is recommended that a sign variance be granted to Lennar Builders, to allow advertising signs to be placed in the city right of way per the attached
map, this variance request shall be good for one year with the option to extend with City Council approval.
Non-Residential Minor Permit Application

PERMIT NO. 19-10-141

Community & Economic Development
333 S Green St, McHenry, IL 60050
Email: CED@cityofmchenry.org
(815)363-2170

PROPERTY

ADDRESS: Legend Lakes Subdivision - Welcome Home Center, 325 Trafal Lane, McHenry, IL

ESTIMATED COST OF CONSTRUCTION: N/A

Existing Use: □ Commercial □ Indust/Office □ H/C

Air Conditioning □ Fire Suppression □ Freestanding □ Other: Temporary weekend marketing signage

Accessory Bldg □ Lawn Irrigation □ Wall □

Driveway/Lot Pav. □ Masonry □ Temporary

Demolition □ Retaining Wall (over 4') □

Electric □ Remodel/Alteration □ Over the Counter

Fence □ Seal Coating/Stripe □ Re-roof

Furnace □ Sidewalk/Stairs □ Water Heater

Fire Alarm □ Siding □ Water/Sewer Repair

Owner: Lennar Homes
Address: 1141 E. Main Street
City: Ste.108
Phone: (224) 283-3115
State: IL
Zip: 60018

E-mail: richard.murphy@lennar.com
Contractor: Vital Signs
Phone: (815) 423-6326
E-mail: jenny.tibble@vitalsignssolutionsinc.com

Electrical Contractor: N/A
Phone: ( )
Submit a copy of an electrical license with this application.

Plumbing Contractor: N/A
Phone: ( )
Submit the following: Letter of intent on plumbing contractors letterhead (with corporate seal, or notary seal) stating that they are doing this job; copy of State plumbing license; copy of certificate of State registration.

Roofing Contractor: N/A
Phone: ( )
Note! Submit a copy of a State of Illinois roofing contractor license with this application.

Notes: Request for temporary, offsite, weekend marketing signage while sales are active within the Legend Lakes community (see Ex A). Be sure to visit the City web site (www.cityofmchenry.il.us) and review the handouts found under Permits, Applications & Forms.

All information provided herein is true and correct and all ordinances and codes of the City of McHenry shall be complied with. I hereby represent and agree that, in consideration of this permit being issued, only the work herein applied for will be done and that the premises being worked on will only be used for the purposes set forth herein. I understand and hereby acknowledge it's the property owner's responsibility to ascertain if there are any existing private covenants, conditions and/or deed restrictions, which may further regulate and/or prohibit work for which this building permit from the City has been obtained. I further acknowledge it's the property owner's responsibility to obtain required written or other permission or follow any other private approval process from any such home, property owner's or other association, if applicable, prior to commencing work on my property even if a building permit is issued by the City. I hereby indemnify the City, its officials and employees from any and all liability for damages, lawsuits, attorneys fees and injuries, including death sustained by anyone or damage to any property, including surveying errors and encroachment liability which accrue against the City.

SIGNED: 

For Office Use

Approved By
Issued
Expiration
Scanned

Name: ____________________________
Date: ____________________________
Date: ____________________________

(Rev. 9/15)
Now Selling

Legend Lakes in McHenry

Legend Lakes in McHenry

Legend Lakes
325 Tralee Ln. McHenry Il.

LENNAR

LENNAR

LENNAR

DIMENSIONS: 24" Wide x 42" High
HOURS: 6PM FRIDAY TO 6AM MONDAY
CONSENT AGENDA SUPPLEMENT

DATE: November 4, 2019

TO: Mayor and City Council

FROM: Troy Strange, Director of Public Works

RE: Water Tower Coating Inspection Services

ATT: Dixon Engineering Inc. - ROV Inspection Services Proposal:
Tower #1, Tower #2, Tower #3, Tower #4

AGENDA ITEM SUMMARY:
Staff requests City Council to consider awarding a contract for inspection services from Dixon Engineering Inc. of Greenfield, Wisconsin to evaluate the conditions of interior and exterior coatings on the City of McHenry’s four water towers.

BACKGROUND:
Dixon Engineering, Inc. has provided inspection services to the City of McHenry for several years and is a firm which specializes in coating inspections of above ground water storage facilities. The proposed scope of services includes inspection of all four of the Cities above ground water storage facilities. These services also include coating inspections related to construction work of cellular providers that have equipment on two of the City's water towers: Tower #1 located at 4225 Sioux Lane and Tower #2 located at 3906 W Albany. In August 2014, Dixon Engineering, Inc. completed remote operated vehicle (ROV) inspections on Tower #1, Tower #2, and Tower #4. Tower #3 was inspected in 2013 and ultimately painted in 2016. The American Water Works Association recommends interior and exterior inspections at least every three to five years.

ANALYSIS:
Staff has reviewed the proposal and finds it to be acceptable. The Water Division FY2019/FY2020 operating budget includes funds from its contractual account (5110) to pay for the proposed inspections.

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.
RECOMMENDATION:
Therefore, if Council concurs, it is recommended to award a contract to Dixon Engineering, Inc. for inspection services in an amount not to exceed $14,415.00.
October 7, 2019

Mr. Mike Palmer  
City of McHenry  
1415 Industrial Drive  
McHenry, IL 60050

Subject: Inspection Services Proposal for 1,000,000 Gallon Spheroid Crystal Lake Road Tank, 500,000 Gallon Double Ellipse Sioux Tank, 500,000 Gallon Toro Ellipse Albany Tank, and 750,000 Gallon Barney/Richard Spheroid Tank

Dear Mike:

Enclosed is a maintenance proposal for ROV inspections of the four subject elevated tanks. The Basis of Payment for an ROV inspection is Lump Sum for travel, inspection and report.

Our Proposal/Contract form consists of the Contract Provisions and Schedules A, B, and C. Schedule A includes a detailed Scope of Services for both the Owner and DIXON. Schedule B includes fees and terms of payment. Schedule C provides billing rates for additional services that may be provided during the inspection. The Proposal/Contract form becomes a Contract when the proposal is accepted and signed by the Owner, and then signed by DIXON.

We appreciate the opportunity to submit this proposal. If you have any questions, please feel free to contact me at (414) 429-3430 or kayla.mulcahy@dixonengineering.net.

FOR DIXON ENGINEERING, INC.,

Kayla Mulcahy
Project Manager

Enclosure

Members: Society of Protective Coatings • American Water Works Association
Consulting Engineers Council
1,000,000 Gallon Spheroid, (Crystal Lake Road), #99-56-05-04
500,000 Gallon Double Ellipse, (Sioux Tank), #99-56-05-02
500,000 Gallon Toro Ellipse, (Albany), #99-56-05-05
750,000 Gallon Spheroid, (Barney & Richard Ct.), #99-56-05-03

THIS IS AN AGREEMENT effective as of [Effective Date] (“Effective Date”) between [City of McHenry, Illinois] (“Owner”) and Engineer (“Dixon Engineering, Inc.”).

1.01 SIGNATURES:

<table>
<thead>
<tr>
<th>Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kayla Mulcahy, Project Manager</td>
<td>October 7, 2019</td>
</tr>
</tbody>
</table>

PROPOSED by DIXON (not a contract until approved by Project Manager or Officer) Proposal Date

<table>
<thead>
<tr>
<th>CONTRACT Approved by Owner</th>
<th>Position</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

CO SIGNATURE (If Required) Date

<table>
<thead>
<tr>
<th>CONTRACT APPROVED by DIXON PROJECT MANAGER</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Address for OWNER’S receipt of Notices

Address for DIXON’S receipt of Notices

4811 S. 76th St. Suite 109
Greenfield, WI 53220

1.02 CONTRACT/PROPOSAL:

A. Signatures acknowledge that this Contract consists of 9 pages.

B. Owner’s Project, of which DIXON’s services under this Agreement are a part, is generally identified as follows: [Four Elevated Tanks] (“Project”).

C. DIXON’s services under this Agreement are generally identified as follows, and further definition of Services by both Owner and DIXON are included as Maintenance Inspection Services (ROV) per Schedule A

EJCDC® E-520, 2015 Edition of Short Form of Agreement Between Owner and DIXON for Professional Services. DIXON is required to notify all parties that under license to EJCDC DIXON has made minor modifications, and that this is therefore not an EJCDC document.
Owner and DIXON further agree as follows:

2.01 BASIC AGREEMENT:
   A. DIXON shall provide or furnish the Services set forth in this Agreement. Services are delineated for both the Owner and DIXON in Schedule A – Scope of Services. If authorized by Owner, or if required because of changes in the Project, DIXON shall furnish services in addition to those set forth above (“Additional Services”).
   B. DIXON shall complete its Services within a reasonable period of time.
   C. If, through no fault of DIXON, such periods of time or dates are changed, or the orderly and continuous progress of DIXON’s Services is impaired, or DIXON’s Services are delayed or suspended, then the time for completion of DIXON’s Services, and the rates and amounts of DIXON’s compensation, shall be adjusted equitably.

3.01 PAYMENT PROCEDURES:
   A. Invoices: DIXON will prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. Additional financial terms are found in Schedule B.
   B. Payment: As compensation for DIXON providing or furnishing Services and Additional Services, Owner shall pay DIXON as set forth in Paragraphs 3.01 (Payment Procedures), 3.02 (Basis of Payment), and 3.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise DIXON in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

3.02 BASIS OF PAYMENT:
   A. Owner shall pay DIXON for services as follows:
      1. Lump Sum amount of Fourteen Thousand, Four Hundred, and Fifteen Dollars ($14,415.00). See Schedule B for cost breakdown of services.

3.03 ADDITIONAL SERVICES: For Additional Services, Owner shall pay DIXON an amount equal to the cumulative hours charged in providing the Additional Services by each of DIXON’s employees, times standard hourly rates for each applicable billing classification; plus reimbursement of expenses incurred in connection with providing the Additional Services and DIXON’s consultants’ charges, if any. DIXON’s standard hourly rates and terms are attached as Schedule C.

4.01 ATTACHMENTS:
   1. Schedule A – Scope of Work of both the Owner and DIXON.
   2. Schedule B – Cost breakdown per phase of Work and Additional Terms of Payments.
SCHEDULE A
Maintenance Inspection (ROV)
1,000,000 Gallon Spheroid, (Crystal Lake Road), #99-56-05-04
500,000 Gallon Double Ellipse, (Sioux Tank), #99-56-05-02
500,000 Gallon Toro Ellipse, (Albany), #99-56-05-05
750,000 Gallon Spheroid, (Barney & Richard Ct.), #99-56-05-03
McHenry, Illinois

A. Scope of Services Performed by Owner (ROV):
   1. Provide scheduling for mutually agreeable inspection date.
   2. Provide access to DIXON personnel to all areas scheduled for inspection.
   3. Provide insurance for Owner’s personnel. They are not covered by DIXON’s insurance.
   4. Perform chlorine residuals and bacteriological testing after completion of the inspection.
   5. Fill the tank to the normal high water operating level and if possible, isolate it from the system while the ROV is in the tank. If it is not possible to isolate the tank, keep inlet or outlet flow rates to a minimum. This is necessary to minimize turbulence an increase the chance of clear video being recorded.

B. Scope of Services Performed by DIXON (ROV):
   1. Inspect the tank’s interior coating for remaining intactness and anticipated life. Submerged surfaces to be inspected by remotely operated vehicle (ROV). Review all interior girders and appurtenances for possible structural damage from icing or corrosion.
   2. Review all interior surfaces for corrosion and/or damage, and qualify damage for repairs. All repairs are to be quantified by extrapolation of a measured area. All quantities are estimates (usually high) because corrosion will continue between inspection and repair.
   3. Inspect the exterior coating.
   4. Review all exterior appurtenances for damage due to corrosion.
   5. Review the exterior of the exposed foundations.
   6. Review all safety requirements for ladders, cages, etc.
   7. Review all health requirements of the tank, including screening of the vent, overflow pipe, and other possible contamination sources. Notification of failed areas will be provided to the Owner on site.
   8. Prepare a report documenting all items found and recommendations for repair, including budgetary items. The engineering report is to include: Conclusions and recommendations, base report, digital photographs with descriptions, and an edited inspection video on flash drive.
SCHEDULE B
Maintenance Inspection (ROV)
1,000,000 Gallon Spheroid, (Crystal Lake Road), #13-56-05-04
500,000 Gallon Double Ellipse, (Sioux Tank), #99-56-05-02
500,000 Gallon Toro Ellipse, (Albany), #99-56-05-05
750,000 Gallon Spheroid, (Barney & Richard Ct.), #99-56-05-03
McHenry, Illinois

1. Payment for Crystal Lake Road Tank Items 1 through 8, travel time, and preparation of report as outlined in Schedule A – Scope of Services Performed by DIXON is a lump sum amount of $3,840.00.

2. Payment for Sioux Tank Items 1 through 8, travel time, and preparation of report as outlined in Schedule A – Scope of Services Performed by DIXON is a lump sum amount of $3,450.00.

3. Payment for Albany Tank Items 1 through 8, travel time, and preparation of report as outlined in Schedule A – Scope of Services Performed by DIXON is a lump sum amount of $3,450.00.

4. Payment for Barney and Richard Tank Items 1 through 8, travel time, and preparation of report as outlined in Schedule A – Scope of Services Performed by DIXON is a lump sum amount of $3,675.00.

5. All DIXON service invoices which are paid within ten (10) days of date of issue shall be discounted (Owner’s favor) one percent (1%).

6. All DIXON service invoices which are outstanding more than sixty (60) days from invoice date shall be assessed (DIXON’s favor) one percent (1%) per month interest from date thirty days after invoice date.
### SCHEDULE C
Illinois, Iowa, Minnesota, and Wisconsin
Employee Billable Rates and Terms

<table>
<thead>
<tr>
<th>Labor Class</th>
<th>Per Hour</th>
<th>Overtime Rate*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$255.00</td>
<td></td>
</tr>
<tr>
<td>Project Manager</td>
<td>$153.00</td>
<td>$230.00</td>
</tr>
<tr>
<td>Engineer</td>
<td>$158.00</td>
<td>$237.00</td>
</tr>
<tr>
<td>CWI Welding RPR</td>
<td>$137.00-$153.00</td>
<td>$206.00-$230.00</td>
</tr>
<tr>
<td>DIXON Level 3 or NACE Certified Level 3 RPR</td>
<td>$107.00-$137.00</td>
<td>$161.00-$206.00</td>
</tr>
<tr>
<td>DIXON Level 2 or NACE Level 2 RPR</td>
<td>$97.00-$122.00</td>
<td>$146.00-$183.00</td>
</tr>
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<td>DIXON Level 1 or NACE Level 1 RPR</td>
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<td>$131.00-$146.00</td>
</tr>
<tr>
<td>Contract Support Staff</td>
<td>$112.00-$138.00</td>
<td>$168.00-$207.00</td>
</tr>
</tbody>
</table>

**Expenses**
- **Mileage**: $0.70/mile + tolls, $0.60/mile
- **Lodging**: $155.00 per diem, $145.00 per diem
- **Meals**: $40.00 per diem, $35.00 per diem

FEES EFFECTIVE THROUGH: December 31, 2019

Revised: 8/6/2019
Owner and DIXON further agree as follows:

5.01 TERMINATION:
   A. The obligation to continue performance under this Agreement may be terminated:
      1. For cause,
         a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement’s terms through no fault of the terminating party. Failure to pay DIXON for its services is a substantial failure to perform and a basis for termination.
         b. By DIXON:
            1) upon seven days written notice if Owner demands that DIXON furnish or perform services contrary to DIXON’s responsibilities as a licensed professional; or
            2) upon seven days written notice if the DIXON’s Services are delayed for more than 90 days for reasons beyond DIXON’s control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 7.01.I.
      c. DIXON shall have no liability to Owner on account of a termination for cause by DIXON.
      d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 5.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
      2. For convenience, by Owner effective upon DIXON’s receipt of written notice from Owner.
   B. In the event of any termination under Paragraph 5.01, DIXON will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services
   C. Effective Date of Termination: The terminating party under Paragraph 5.01.A.1 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow DIXON to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Costs associated with any further work that is needed to prevent adverse impact on the project are to be negotiated and considered Additional Services.

6.01 SUCCESSORS, ASSIGNS, AND BENEFICIARIES:
   A. Owner and DIXON are hereby bound and the successors, executors, administrators, and legal representatives of Owner and DIXON (and to the extent permitted by Paragraph 6.01.B the assigns of Owner and DIXON) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
   B. Neither Owner nor DIXON may assign, sublet, or transfer any rights under or interest in this Agreement without the written consent of the other party, except to the extent that any
assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or DIXON to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and DIXON and not for the benefit of any other party.

7.01 GENERAL CONSIDERATIONS:

A. The standard of care for all professional related services performed or furnished by DIXON under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. DIXON makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by DIXON. Subject to the foregoing standard of care, DIXON and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

B. DIXON shall not at any time supervise, direct, control, or have authority over any Constructor’s work, nor shall DIXON have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor’s furnishing and performing of its work. DIXON shall not be responsible for the acts or omissions of any Constructor.

C. DIXON neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform its work without regard to DIXON’s relation to that Work.

D. DIXON’s opinions (if any) of probable construction cost are to be made on the basis of DIXON’s experience, qualifications, and general familiarity with the construction industry. However, because DIXON has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors’ methods of determining prices, or over competitive bidding or market conditions, DIXON cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by DIXON. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.

E. DIXON shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction contract documents other than those made by DIXON or its consultants.

F. All documents prepared or furnished by DIXON are instruments of service, and DIXON retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by DIXON of full payment due and owing for all Services and Additional Services relating to preparation of the documents and subject to the following limitations:

EJCDC® E-520, 2015 Edition of Short Form of Agreement Between Owner and DIXON for Professional Services. DIXON is required to notify all parties that under license to EJCDC DIXON has made minor modifications, and that this is therefore not an EJCDC document.
1. Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by DIXON, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by DIXON;

2. any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by DIXON, as appropriate for the specific purpose intended, will be at Owner’s sole risk and without liability or legal exposure to DIXON or to its officers, directors, members, partners, agents, employees, and consultants;

3. Owner shall indemnify and hold harmless DIXON and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys’ fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by DIXON; and such limited license to Owner shall not create any rights in third parties.

G. Owner and DIXON may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol. 

H. To the fullest extent permitted by law, Owner and DIXON (1) waive against each other, and the other’s employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, and (2) agree that DIXON’s total liability to Owner under this Agreement shall be limited to $100,000 or the total amount of compensation received by DIXON, whichever is greater.

1. **Limitation of Liability:** DIXON and Owner agree that they shall each be responsible for their own negligence and that neither party shall, under any circumstances, be responsible for the negligent acts or omissions of the other party.

2. **Percentage Share of Negligence:** To the fullest extent permitted by law, a party’s total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party’s negligence bears to the total negligence of Owner, and all other negligent entities and individuals.

I. The parties acknowledge that DIXON’s Services do not include any services related to unknown or undisclosed Constituents of Concern. If DIXON or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent of Concern, then DIXON may, at its option and without liability for consequential or any other damages, suspend performance of Services on the portion of the Project affected thereby until such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.

1. Constituents of Concern normally associated with coating projects can be hidden or occur as a result of the Work. These include metals and organic solvents. These material still are considered as Constituents of Concern only they are known or anticipated. But these constituents of concern, including lead, chrome, cadmium, mercury, and coating solvents shall not be a trigger for project termination by either DIXON or Owner.

J. Owner and DIXON agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If Owner/DIXON negotiations are unsuccessful in resolving the dispute,
then the dispute shall be negotiated by a third party agreeable to both parties and the neutral negotiator's determination shall be legally binding on both parties.

K. This Agreement is to be governed by the law of the state in which the Project is located.

L. DIXON's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.

8.01 TOTAL AGREEMENT:
A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and DIXON and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

9.01 DEFINITIONS:
A. **Constructor** — Any person or entity (not including the DIXON, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

B. **Constituent of Concern** — Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
CONSENT AGENDA SUPPLEMENT

DATE: November 4, 2019
TO: Mayor and City Council
FROM: Bill Hobson, Director of Parks and Recreation
RE: Holiday Lighting in Veterans Memorial Park
ATT: Bid Packets

Agenda Item Summary: Award of Bid to Fox Valley Lighting for services to install, maintain, and remove holiday lighting in Veterans Memorial Park.

Background: It has become a tradition to light the trees in Veterans Memorial Park during the Holiday season. Staff prepared the bid documents and dispersed the documents to vendors this year and received two back; Fox Valley Lighting for $19,500 and Temple Display for $20,089.

Analysis. The 2019/20 FY budget includes $19,500 for the project. This year, the city did receive two bids. This is the first time receiving multiple bids in almost 10 years. After reviewing each of the quotes, staff is recommending the award of bid to Fox Valley Lighting.

Each firm had a similar amount of lights; 90,000 vs 93,000 and the bid difference of $589 favored the new contractor, Fox Valley Lighting.

If approved, lighting will be installed prior to the annual Downtown Christmas Walk on November 24. The contract includes maintenance throughout the holiday season and removal of the lights no later than February 1, 2020.

If Council concurs, then it is recommended a motion is considered to approve and award bid for installation of holiday lighting in Veterans Memorial Park to Fox Valley Lighting for $19,500 as presented.
CITY OF MCHENRY  
DEPARTMENT OF PUBLIC WORKS  
333 S. GREEN STREET  
MCHENRY, IL 60050  

BID FORM: SERVICES TO INSTALL, MAINTAIN, and REMOVE CHRISTMAS LIGHTS – 2019-20  

Bid Opening: 11:00 a.m., Tuesday, October 29, 2019  

The undersigned hereby agrees to provide and deliver the services described in these specifications and the literature attached to this bid proposal at the bid price shown below.  

| Total Bid Price     | $19,500.00 |  
| Number of Lights to be Installed | 90,000 |  
| Price per 1,000 Lights       | $216.00  

SUBMITTED BY:  

Company  Fox Valley Lighting  
Address  5N585 Dunham Trails Rd  
         Wayne IL 60184  
Name & Title  Kelly Hadfield - owner  
(Please Print)  
Signature  

Phone 224-523-8896  
Date 10/28/19
CITY OF MCHENRY
BIDDER'S CERTIFICATION

In submitting this bid, the Bidder certifies:

1) The prices in the Bid have been arrived at independently, without consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor.

2) Unless otherwise required by law, the prices which have been quoted in the Bid have not knowingly been disclosed by the Bidder, prior to opening, directly or indirectly to any other Bidder or to any competitor.

3) No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not submit a bid for the purpose of restricting competition.

4) Bidder is not barred from contracting with City of McHenry as result of a violation of either Section 33E or -3 or 33E-4 of Chapter 720 of the Illinois Compiled Statues Article 33E, Public Contracts (P.A. 85-1295).

BIDDER: Fox Valley Lighting
BY: Kelly Haglund
TITLE: Owner
DATE: 10/28/19

This certificate must be signed and dated by an officer of the Bidder and returned with the Bid.
DESCRIPTION OF PROPOSED SERVICES

to
INSTALL, MAINTAIN, and REMOVE CHRISTMAS LIGHTS

for
THE CITY OF MCHENRY

submitted by
FOX VALLEY LIGHTING

- Technique — wrap the trunks and branches of designated trees approx. 15-20 ft high
- Product — LED 5mm mini lights for significantly less electricity consumption
- Design option #1 — all lights will be the traditional white color
- Design option #2 — use a mixture of traditional white and modern pure white for a "champagne" theme
- Multi-year contract discount — Fox Valley Lighting offers a 15% discount off the 1-year bid price for a 3-year contract
- Insurance documentation — documentation for all insurance requirements as described in the bid request will be provided upon award of the project
- Schedule — installation will begin the week of Nov 11 to allow for potential weather delays and deliver the completed project by Nov 22
CITY OF McHENRY
DEPARTMENT OF PUBLIC WORKS
333 S. GREEN STREET
MCHENRY, IL 60050

BID FORM: SERVICES TO INSTALL, MAINTAIN, and REMOVE CHRISTMAS LIGHTS – 2019-20

Bid Opening: 11:00 a.m., Tuesday, October 29, 2019

The undersigned hereby agrees to provide and deliver the services described in these specifications and the literature attached to this bid proposal at the bid price shown below.

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SUBMITTED BY:

Company: Temple Display Ltd
Address: 144 C Kirkland Creek
Oswego, IL 60543

Name & Title: Tyler Temple, President
(Please Print)

Signature:

Phone: 630-851-3331
Date: 10/23/2019
CITY OF MCHENRY
BIDDER'S CERTIFICATION

In submitting this bid, the Bidder certifies:

1) The prices in the Bid have been arrived at independently, without consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor.

2) Unless otherwise required by law, the prices which have been quoted in the Bid have not knowingly been disclosed by the Bidder, prior to opening, directly or indirectly to any other Bidder or to any competitor.

3) No attempt has been made or will be made by the Bidder to induce any other person or firm to submit or not submit a bid for the purpose of restricting competition.

4) Bidder is not barred from contracting with City of McHenry as result of a violation of either Section 33E or -3 or 33E-4 of Chapter 720 of the Illinois Compiled Statutes Article 33E, Public Contracts (P.A. 85-1295).

BIDDER Temple Display, Ltd
Company Name

BY: Signature

TITLE: President

DATE: 10/23/2019

This certificate must be signed and dated by an officer of the Bidder and returned with the Bid.
A RESOLUTION RECOGNIZING THE IMPORTANCE OF APPRENTICESHIPS AND DESIGNATING NOVEMBER 11-17, 2019 AS NATIONAL APPRENTICESHIP WEEK IN THE CITY OF MCHENRY

WHEREAS, National Apprenticeship Week is an annual National Celebration that offers leaders in business, labor, education, and other critical partners a chance to express their support for apprenticeships and gives apprenticeship sponsors the opportunity to showcase their programs, facilities and apprentices in their community; and

WHEREAS, National Apprenticeship Week is an opportunity to recognize the positive impact apprenticeships have on youth, adults, businesses, and the economy as a whole; and

WHEREAS, Weekly events highlight the benefits of apprenticeships in preparing a highly-skilled workforce to meet the talent needs of employers across diverse industries; and

WHEREAS, Apprenticeships are a strong career pathway that provide employees the opportunity to earn a salary while learning the skills necessary to succeed in high-demand careers; and

WHEREAS, Apprenticeships result in obtainment of an industry-recognized credential and embody the highest competency standards, instructional rigor, and quality training of all career based programs of study; and

WHEREAS, The City of McHenry is committed to supporting employers in developing apprenticeships to cultivate a highly skilled workforce that supports our state and local economy and helps businesses thrive through numerous plans to enable companies to expand or relocate to the City of McHenry but also to remain within the City of McHenry; and

WHEREAS, the purpose of National Apprenticeship Week is to feature numerous opportunities City of McHenry and other McHenry County companies offer and to inform employers, parents and students about the pathways that could benefit them as they decide on future careers and to find and sustain enough skilled people to fill positions throughout the City of McHenry and McHenry County; and

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY OF MCHENRY RECOGNIZES THE IMPORTANCE OF APPRENTICESHIPS TO OUR COMMUNITY AND DESIGNATES NOVEMBER 11-17, 2019 AS NATIONAL APPRENTICESHIP WEEK IN THE CITY OF MCHENRY.
PASSED and APPROVED this 4th day of November, 2019.

Voting Aye:
Voting Nay:
Abstained:
Not Voting:
Absent:

__________________________
Mayor

ATTEST:

__________________________
City Clerk
Call to Order:

Roll Call: Mayor Jett called the roll call. Members present: Alderman Santi, Alderman Glab, Alderman Schaefer, Alderman Mihevc- (absent), Alderman Devine, Alderwoman Miller, Alderwoman Bahne and Mayor Jett. Others present: Attorney McArdle, Administrator Morefield, Interim Director of Public Works Strange, Director of Community Development Polerecky, Finance Director Lynch, Director of Parks and Recreation Hobson, Director of Economic Development Martin, and Chief of Police Birk, and City Clerk Ramel.

Pledge of Allegiance: Mayor Jett led those present in the Pledge of Allegiance.

Public Comments: Michelle Thimios, spoke on behalf of the United States Representative for Lauren Underwood to The Council. She explained the platform of Lauren Underwood and stated that there are two headquarter locations: Woodstock and West Chicago. She described the actions that Lauren Underwood likes to do such as cutting through red tape, she also supports local projects and funding which is why she was there today. She can be contacted through email or phone number which is also located on her social media Facebook page.

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

A. Sign Variance for Steffans Jewelers, 325 Front Street, to allow two banners on the property and the posting of signage for an additional 19 days;
C. Amended Professional Services Agreement (G802-2017) with FGM Architects in the amount of $32,800;
D. Proposal from RenoSys Corporation in the amount of $72,865 for the replacement of the Merkel Aquatic Center pool liner;
E. October 7, 2019, City Council Minutes;
F. Issuance of Checks in the amount of $171,327.01;
G. Issuance of As Needed Checks in the amount of $103,972.76.

A motion was made by Alderman Santi and seconded by Alderwoman Miller to approve consent agenda items as presented. Roll Call: Vote: 6-ayes: Alderman Santi, Alderman Schaefer, Alderman Glab, Alderwoman Baehne, Alderman Mihevc-absent, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.
City of McHenry Council
Meeting Minutes
10.21.19

Consent Agenda: Motion to Approve the Following Consent Agenda Item:

B. Bid award for the 2019-2020 Winter Tree Trimming and Pruning Program contract to Trees “R” Us, Inc. of Wauconda, Illinois in the amount of $68,650; - pulled to separate consideration by Alderman Glab

This item was explained by Director of Public Works Strange clarification of the time frame was wanted by Alderman Glab. The Council discussed this topic in regards to time frame, and how many other towns use Trees “R” Us. The topic of how many trees are pruned daily was also touched upon.

A motion was made by Alderman Santi and seconded by Alderwoman Baehne to approve consent agenda items as presented. Roll Call: Vote: 6-ayes: Alderman Santi, Alderman Schaefer, Alderman Glab, Alderwoman Baehne, Alderman Mihevc-absent, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.

Individual Action Item Agenda: Motion to Approve the Following Consent Agenda Items:

A. Motion to pass an Ordinance Amending Chapter 4: Alcoholic Liquor.

Chief Birk explained Individual Action Item Agenda, explained states role in liquor licenses. These licenses will be brought in front of Council.

A motion was made by Alderman Schaefer and seconded by Alderman Devine to approve individual action agenda items as presented. Roll Call: Vote: 6-ayes: Alderman Santi, Alderman Schaefer, Alderman Glab, Alderwoman Baehne, Alderman Mihevc-absent, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.

B. Motion to approve a Class B Mixin Mingle, Inc. at 1118 N Green St, McHenry and adopt an Ordinance increasing the number of Class B licenses from 18 to 19;

Administrator Moorefield explained the licenses. Alderman Glab asked who brings the alcohol for Mixin Mingle, the alcohol can be brought in for private invitation events, there is liability insurance. They would like to offer a cash bar open to the public event such as a city event. No public input.

A motion was made by Alderwoman Baehne and seconded by Alderman Santi to approve individual action agenda items as presented. Roll Call: Vote: 5-ayes: Alderman Santi, Alderman Schaefer, Alderman Glab, Alderwoman Baehne, Alderman Mihevc-absent, Alderman Devine, Alderwoman Miller. 1-nays, 0-abstained. Motion carried.
C. Motion to pass an Ordinance Annexing Property Located at 1208 Charles Street, McHenry, Illinois.

Director of Parks and Recreation Hobson explained this item. A few comments were made by council on this topic. Alderman Glab asked for clarification regarding this annexing. Wanted to know the benefits of this property annexation, will it be a problem down the road by taking this road in. His concern is the condition of this road and its upkeep in the future.

A motion was made by Alderman Santi and seconded by Alderwoman Miller to approve individual action agenda items as presented. Roll Call: Vote: 5-ayes: Alderman Santi, Alderman Schaefer, Alderman Glab, Alderwoman Baehne, Alderman Mihevc-absent, Alderman Devine, Alderwoman Miller, Mayor Jett: 2-nays, 0-abstained. Motion carried.

Discussion Items:

A. Capital Development Study Presentation – Baxter and Woodman

Community Development Director Polerecky introduced Baxter & Woodman. Three representatives presented the display that was brought to the Council’s attention. Gave overview of what infrastructure is and needed for support of future development. Existing development fees, where development could occur in the City of McHenry. Distant development was also addressed also further distance such as 20 years plus. Primary focus on near future focus. Population projections were also presented which could effect the growth. Water System improvements were explained there are four main systems currently. Three options were presented to increase water system improvements. The future developments were also taken in consideration. They presented a graph with comparisons for the proposed water connections. Sanitary Sewer System Improvements were presented. Several options were given to help support the sewer system and connections. Sanitary Sewer and lift stations were also described before The Council. Comparison of water development fees were explained.

Residential and non-residential fees were outlined. Some discussion occurred between Council Members. Community Development Director Polerecky asked Council to review both options supported by Director of Parks and Recreation Hobson as well. The discussion continued for some time. An ordinance to address the fees will be presented to Council per Community Development Director Polerecky.

Executive Session: There was no executive session at this time.

Staff Reports: Interim Director of Public Works Troy Strange, five way highway improvement program was received. Route 120 is part of this. Wants to talk about building funding for this project. Alderman Schaefer asked how things are going on Pearl Street, things are going well, light polls going up in November.
Mayor's Report: Nothing to report at this time.

City Council Comments:
Alderman Santi thanking the job well done. Alderman Glab wants increased committee meetings. Alderwoman Miller thanked Chief Birk for coming to the red hats meeting.

Adjourn: A motion was made by Alderman Santi and seconded by Alderwoman Miller to adjourn the meeting at 8:35. Roll Call: Vote: 6-ayes: Alderman Santi, Alderman Schaefer, Alderman Glab, Alderwoman Baehne, Alderman Mihevc-absent, Alderman Devine, Alderwoman Miller: 0-nays, 0-abstained. Motion carried.
City Council Special Meeting  
October 28, 2019

Call to Order

The City Council of the City of McHenry, Illinois, met in a special session on Monday, October 28, 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 led those present in the Pledge of Allegiance.

Public Comment

There were no comments from the public in attendance.

Motion to approve or deny a Conditional Use Permit for the construction and operation of a medicinal cannabis dispensary at 408 S Illinois Route 31

Doug Martin read details from the Agenda Supplement. He touched on the background of the application, zoning regulations, police reports regarding crashes and service calls, and the Planning and Zoning Commission recommendation for approval. He also pointed out that staff recommends the denial of the application due to safety concerns.

Mitch Zaveduk from Crystal Clear Compassionate Care took the podium to answer questions from the Council and City Attorney McArdle. It was explained that an application for this location has been submitted to the State for medicinal purposes. There is no way to tell a time frame for hearing back from the State. He has also applied for multiple recreational licenses in the area.

There are 1470 people in McHenry County with medical marijuana cards and another 3652 in Lake County. There was a lengthy discussion regarding the number of possible patrons, the number of parking spaces, and the amount of traffic at the proposed location. Rosemary Swierk
was present from RJ Properties, and explained the installation of speed bumps and also addressed traffic concerns.

Alderwoman Miller shared her research on medicinal dispensaries and discussed with Mr. Zaveduk the anticipated number of people that may be coming to his store and the length of their stay. It was Alderman Glab’s belief that these dispensaries should be located near medical districts and not on a main strip in town. An audit of parking spaces and security were also discussed at length. Mayor Jett asked if anybody from the public wanted to comment on the topic, and Scott Curry spoke to his belief that the Council should follow the Police Department recommendations about safety and that this business belongs in a medical area.

A motion was made by Alderwoman Baehne and seconded by Alderwoman Miller to approve a Conditional Use Permit for the construction and operation of a medicinal cannabis dispensary at 408 S Illinois Route 31 subject to the conditions outlined by the Planning and Zoning Commission’s recommendation. Roll call: Vote: 5-ayes: Alderwoman Baehne, Alderwoman Miller, Alderman Scahefer, Alderman Mihevc, Alderman Devine. 2-nays: Alderman Santi, Alderman Glab. 0-abstained. Motion carried.

Motion to grant the RISE Up Foundation 1) use of Petersen park to setup, host, and cleanup for the Splash Pad benefit concert from Friday, June 19, through Saturday, June 20, 2) special event liquor license for the sale of beer, wine, and malt liquor with drink ticket sales to cease 30-minutes prior to park closure, 3) a 50% reduction of the charges for city services incurred as a result of this event.

Director Hobson reviewed the Agenda Supplement regarding the benefit concert. He explained that the event is expected to be larger than most events at Petersen Park but not larger than the Tesla concert that brought in 8,500 people. The organizers of the event have made solid plans and reviewed them with the Police and Parks Departments. The RISE Foundation is a new 501(c)(3) non-profit, and the proceeds are to be given back to the City for the construction of a splash pad.

Attorney McArdle explained that the Mayor’s involvement with the foundation would not have a conflict of interest because there will be no contract made with the City. All proceeds and financial records from the non-profit foundation would be open for review to ensure open and honest dealings.

Alderman Glab had an issue with the proposed location of the splash pad. He believes there is a safety issue and that there is not enough parking to accommodate the existing park and a new splash pad. Director Hobson agreed that safety is a concern, and that the location of this splash pad is merely a proposed location. The final location is open to discussion and could be placed in a different park in the City.
A discussion ensued regarding the fees that would be charged to the organization for City services. Alderwomen Baehne and Miller would like to waive the fees as the proceeds of the event would be coming back to the City. Other events are charged fees, and while they do benefit the City, the City is not directly receiving proceeds from those events. Alderman Glab spoke against waiving the fees, and Alderman Santi thought it would be a good idea to charge fees for the first year and see how the fundraiser turns out. It was also stated that the City could initially vote to charge 50% of the fees and then later waive them if they had a change of heart.

A motion was made by Alderman Santi and seconded by Alderman Schaefer to grant the RISE Up Foundation 1) use of Petersen park to setup, host, and cleanup for the Splash Pad benefit concert from Friday, June 19, through Saturday, June 20, 2) special event liquor license for the sale of beer, wine, and malt liquor with drink ticket sales to cease 30-minutes prior to park closure, 3) a 50% reduction of the charges for city services incurred as a result of this event. Roll call: Vote:  7-ayes: Alderman Santi, Alderman Schaefer, Alderwoman Miller, Alderman Devine, Alderman Mihevc, Alderwoman Baehne, Alderman Glab. 0-nays, 0-abstained. Motion carried.

Alderman Glab Comment

Alderman Glab stated that developers are still putting signs around town without a proper permit or variance. He asked Director Polerecky if he intended to fine the developers, and Director Polerecky said he would not. Alderman Glab pointed out to the members of the Council that a staff member is not following the City ordinances and refuses to fine people after being notified of a violation.

Adjournment

A motion was made by Alderman Glab and seconded by Alderman Santi to adjourn the meeting at 9:03 p.m. Roll call: Vote: 7-ayes: Alderman Glab, Alderman Santi, Alderman Schaefer, Alderwoman Baehne, Alderman Mihevc, Alderman Devine, Alderwoman Miller. 0-nays, 0-abstained. Motion carried.
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DISCUSSION AGENDA SUPPLEMENT

DATE: November 4, 2019

TO: McHenry City Council Members

FROM: Troy Strange, Director of Public Works

RE: Orchard Beach Road, Plats, Agreements, & Covenants

ATT: Orchard Beach Road, Original Plat (1894)
Riverside Hollow, Subdivision Covenants
Riverside Hollow, Plat of Annexation
Riverside Hollow, Final Plat
Riverside Hollow, Annexation Agreement
Riverside Hollow, Annexation Ordinance

Orchard Beach Subdivision is a private subdivision located along the Fox River in unincorporated McHenry County to the west of the Riverside Hollow Subdivision which was annexed to the City of McHenry in 2002. The subdivision was platted in 1894 as a private subdivision in which the alignment of Orchard Beach Road was considered a private shared driveway. This subdivision is one of a number of private subdivisions which were platted prior to 1959 and for which the roadways do not meet dimensional requirements to be acceptable by either a Municipality or Township. The roads in these neighborhoods were maintained by private homeowner associations for years and the maintenance of these roads was largely dependent upon the cooperation of the homeowners and township governments which were able to provide some minimal assistance through the use of their motor fuel tax funds.

In 2016, the McHenry County Division of Transportation adopted a resolution which took some of these roads into its mileage for the purpose of improving them to an acceptable geometry for the purposes of re-dedicating the roads to a public jurisdiction. Orchard Beach Road was originally one of these roads. However, in 2017, the City of McHenry was informed by McHenry County that this road belonged to the City through its annexation of Riverside Hollow Subdivision and could not be improved through the County program. Staff have performed extensive

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.
research of this claim and are uncertain as to whether Orchard Beach Road is in fact the City’s to maintain.

In January 2019, staff brought a letter of intent before City Council which would have outlined the City’s participation in an agreement with McHenry County and McHenry Township to improve the existing road and turn it over to a public jurisdiction which was not yet determined. This letter of intent was not moved forward as a result of that meeting’s discussion.

At the August 19, 2019 City Council Meeting, McHenry Township Highway Commissioner Jim Condon addressed City Council with regard to beginning discussion on another letter of intent. As a result of discussion at the August 19, 2019 City Council Meeting, staff were directed to perform follow-up research regarding the annexation documents and other documents related to Riverside Hollow Subdivision and how it relates to the Orchard Beach Road discussions.

Documents related to the existing properties prior to the annexation of Riverside Hollow Subdivision and documents related to the annexation were gathered and attached to this memorandum for the reference of Council Members. These documents were gathered for the purpose to provide Council Members with a better background regarding the issue of whether the road is the City’s to maintain in whole or in part.

With regard to the alignment for Orchard Beach Road, it is referred to in different ways depending on which document is examined. The following points need to be considered when making a determination regarding maintenance responsibility:

- On the Orchard Beach Original 1894 Plat, Riverside Hollow Plat of Annexation, and the Final Engineering Plans for Riverside Hollow, the Orchard Beach Road alignment is referred to as a 25’ Driveway.
- It does not appear the maintenance of Orchard Beach Road is called out one way or another in any of the documents that were gathered.
- Section 1 of the Annexation Ordinance refers to the City annexing any and all portions of adjacent streets, roads or highways as provided by law.
- Item 14 (Page 6 of Riverside Hollow, Annexation Agreement) of the Annexation Agreement refers to a dedication of the rear fifteen (15) feet of the easternmost lots being dedicated for roadway purposes.
- The Illinois Municipal Code indicates that a municipality must annex to the far side of an adjacent highway for newly annexed properties that abut right of ways.
- A highway is defined in the Illinois Municipal Code specifically as a public way.
- The subdivision owns and maintains signs which indicate that this road is a private road, thereby indicating that it is not to be utilized for public purposes.

Based upon staff research and recommendations provided by the City Attorney, the determination of whether Orchard Beach Road is the City’s to maintain continues to depend on
the definition of a Highway in the Illinois Statutes. If the alignment is considered a highway, then an argument can be made that the City has a responsibility, and vice versa.

Direction from Council is being requested so that the issue can be concluded.
Plat of

ORCHARD 00000 BEACH

Being G. L. Herr's Subdivision

A tract of land described as follows:

1. A strip of land 100 feet wide along the east boundary of the lot, as shown on the plat, and bounded on the north by a line parallel to the north line of the lot, and on the south by a line parallel to the south line of the lot.

2. A strip of land 100 feet wide along the west boundary of the lot, as shown on the plat, and bounded on the north by a line parallel to the north line of the lot, and on the south by a line parallel to the south line of the lot.

3. A strip of land 100 feet wide along the south boundary of the lot, as shown on the plat, and bounded on the west by a line parallel to the west line of the lot, and on the north by a line parallel to the north line of the lot.

4. A strip of land 100 feet wide along the north boundary of the lot, as shown on the plat, and bounded on the east by a line parallel to the east line of the lot, and on the south by a line parallel to the south line of the lot.

The above described tract is being offered for sale on the 15th day of March, 1914.

G. L. Herr

Witness:

[Signatures]

[Plat and Diagram]
CERTIFICATION

I, Janice C. Jones, City Clerk in and for the City of McHenry, Illinois, and keeper of the official records, files, and seal thereof, do hereby certify that the attached document is a true and correct copy of City of McHenry Ordinance No. ORD-02-1056 providing for the execution of an annexation agreement between the City of McHenry and V3 Realty for the Riverside Hollow Development located on the east side of Riverside Drive at McCullom Lake Road. Said Ordinance was passed and approved by the McHenry City Council at its regularly scheduled meeting on September 17, 2001 and was signed by the Mayor on January 14, 2002.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of McHenry, Illinois this 21st day of January, 2002.

Janice C. Jones, City Clerk
of the City of McHenry, Illinois

Prepared by and Mail to:
City of McHenry
Office of the City Clerk
333 S. Green Street
McHenry IL 60050

02-032-7296 02-005-8232
ORDINANCE NO. ORD-02-1056

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT FOR THE APPROXIMATELY 54 ACRES COMMONLY KNOWN AS THE EAST SIDE OF RIVERSIDE DRIVE, AT MCCULLOM LAKE ROAD IN MCHENRY COUNTY, ILLINOIS

WHEREAS, V3 Land Vision 99-1 L.L.C. is the legal owner of record of the 54 acres of real estate located on the east side of Riverside Drive, at McCullom Lake Road, and has requested that the City enter into an Annexation Agreement for said real estate; and

WHEREAS, notice of a public hearing was published in the Northwest Herald, a newspaper of general circulation in the City of McHenry, within the time provided by law, notifying the public of a hearing on said Annexation Agreement before the Corporate Authorities of the City of McHenry; and

WHEREAS, the Corporate Authorities of the City of McHenry have held the public hearing as required by law and have found that entry into said Annexation Agreement is in the best interest of the City.

NOW, THEREFORE, BE IT ORDEANED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MCHENRY, MCHENRY COUNTY, ILLINOIS AS FOLLOWS:

SECTION 1: The Annexation Agreement, bearing the date of SEPTEMBER 17, 2001, between the City of McHenry, an Illinois Municipal Corporation, V3 Realty and Development Co., and V3 Land Vision 99-1 L.L.C., record owner, be and the same is hereby approved. A complete and accurate copy of said annexation agreement, labeled "Riverside Hollow Annexation Agreement", is attached to this ordinance and incorporated herein by reference.

SECTION 2: The Mayor and City Clerk are hereby authorized to affix their signatures as Mayor and City Clerk to said Annexation Agreement for the uses and purposes therein set forth.

SECTION 3: All Ordinance 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.

This document is being re-recorded to include pages 5, 9, and 11.
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 17TH DAY OF SEPTEMBER, 2001

AYES: BOLGER, GLAB, LOW, WIMMER, ALTHOFF

NAYS: MURGATROYD

ABSTAINED: NONE

ABSENT: NONE

NOT VOTING: NONE

APPROVED THIS 17TH DAY OF SEPTEMBER, 2001

MAYOR

ATTEST:

CITY CLERK

02-032-7298 02-005-8234
RIVERSIDE HOLLOW ANNEXATION AGREEMENT

This Agreement made and entered into this _17_ day of _Sept._, 2001 by and between the CITY OF MCHENRY, an Illinois municipal corporation (hereinafter referred to as "CITY"), and V3 Land Vision 99-1 L.L.C. its successors and assigns (hereinafter referred to as "OWNER").

RECITALS

A. V3 Land Vision 99-1 L.L.C. 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".

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 vacant, 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 two tracts of land, all of which are not within the corporate boundaries of any municipality or subject to an Annexation Agreement with any other municipality, and are 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. The CITY does not provide library or fire protection services to the SUBJECT PROPERTY, so notice to the Fire Protection District or Public Library District of the annexation of the SUBJECT PROPERTY is not required.

I. The annexation of the SUBJECT PROPERTY will include a portion of highway under the jurisdiction of McHenry Township, so notice of the annexation of the SUBJECT PROPERTY has been served to the McHenry Township Commissioner of Highways and Board of Town Trustees by certified mail.
J. This Agreement is made pursuant to and in accordance with the provisions of 65 ILCS 5/11-15.1-1, et seq.

K. 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 plat 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 RS-2, Medium-Density Single-Family Residential.

3. **Preliminary Plat.** Immediately following the annexation of the SUBJECT PROPERTY, the CITY shall adopt an ordinance approving Exhibit B, entitled "Preliminary Plat of Riverside Hollow", prepared by SDI Consultants, dated 02/22/01, and last revised on 08/09/01, attached hereto and made a part of this Agreement by reference (hereinafter referred to as "Preliminary Plat"). Approval of the Preliminary Plat shall entitle the OWNER to final plat of subdivision approval if the final plat is in substantial conformance with the Preliminary Plat, any conditions of approval have been met, and it complies with this Agreement and all applicable ordinances, including the CITY's Subdivision Ordinance, Zoning Ordinance, and Building Codes, as modified by any Variances approved by the CITY.

4. **Conditions of Zoning Approval.** The CITY's approval of the zoning map amendment as provided in this Agreement is conditioned on the development of the SUBJECT PROPERTY in substantial conformance with the Preliminary Plat, including representations on the plat regarding the maximum number of units, the public rights-of-way, open space layout, public land dedications, and the configuration of lots. Any amendments to the Preliminary Plat, except as otherwise provided herein, shall require an amendment to this Agreement.

5. **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 C, entitled "Preliminary Landscape Plans," prepared by Hitchcock Design Group, dated 02/22/01, 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. 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.

6. **Architectural Standards.** OWNER agrees that Exhibit D, entitled "Architectural Standards", attached hereto and made a part of this Agreement by reference (hereinafter referred to as "Architectural Standards"), shall be implemented and enforced by OWNER to regulate development within the SUBJECT PROPERTY, and shall be incorporated 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.

7. **Covenants and Maintenance.** OWNER agrees to provide for implementation, enforcement, and maintenance of all Architectural Standards, Landscape Plans, private paths, open space, storm water and drainage systems, including detention basins and retention ponds, wetlands, and conservation areas, as provided on Exhibit C and Exhibit D, 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 provisions of the homeowners' association charters, bylaws, and covenants, 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.

8. **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 the SUBJECT PROPERTY to finance special municipal services as a back-up measure to the private a "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.

9. **Building Permit Limitations.** OWNER and CITY agree that the CITY shall limit the number of building permits issued each year for new residences within the SUBJECT PROPERTY. The maximum number of building permits issued each one-year period shall be Forty-Five (45). The first one-year period shall begin upon CITY approval of the final plat for the first phase of development.
10. **Sanitary Sewer and Water.** 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.

a) **Water.** The OWNER shall pay to the CITY the sum of $201,000 for the installation of a new water main from its present terminus on Riverside Drive at the existing City limits, to the south property line of the SUBJECT PROPERTY, within thirty (30) days following City Council approval of the final plat for the first phase of development, but in no instance shall said payment be made later than one-hundred twenty (120) days after execution of this agreement.

b) **Sanitary Sewer.** 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.

In the event the CITY has not completed construction of the North Interceptor sanitary sewer line by the time the OWNER is ready to connect to the CITY’s sanitary sewer system, the CITY agrees to allow the OWNER to provide a temporary connection to the existing sanitary sewer line at McCullom Lake Road and Riverside Drive. OWNER further agrees that once the North Interceptor sewer is installed to a point at or near the south property line of the SUBJECT PROPERTY, OWNER shall disconnect and remove the temporary connection and provide a permanent connection to the North Interceptor line, within ninety (90) days after notification by the CITY.

The OWNER shall provide a sanitary sewer stub near the northeast corner of the SUBJECT PROPERTY, with the final location and size to be determined by the City Engineer, to provide for the future connection of properties to the north that are within the CITY’s Facilities Planning Area.

11. **Public Improvement Reimbursement.** In the event the OWNER shall construct additional, expanded or oversized municipal water and sanitary sewer improvements (hereinafter collectively referred to as "MUNICIPAL IMPROVEMENTS") which benefit not only the SUBJECT PROPERTY, but also other properties being or to be developed in the relevant service area for such utility, the following provisions shall apply:
a) The properties which will benefit directly or indirectly from the construction and or
installation of such MUNICIPAL IMPROVEMENTS (the "BENEFITED
PROPERTY") will be determined by the City Engineer at the time such
MUNICIPAL IMPROVEMENTS are constructed. The BENEFITED PROPERTY
shall include the SUBJECT PROPERTY.

b) The CITY shall endeavor to collect a pro rata sum of money from the Owners of
the BENEFITED PROPERTY as a pre-condition to said Owners being granted a
building permit. The total cost of the improvements will be spread over the
Benefited Property pro rata. 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: Total construction and easement costs,
professional fees, and testing and analysis fees. Any legal and administrative
expense shall not be considered. The pro rata sum to be paid to OWNER by the
Benefited Property owners shall equal to one-half of said total cost. Interest shall
be collected from the commencement date of this reimbursement provision,
calculated annually at nine percent (9%) per annum, compounded, not to exceed
ten (10) years from the date of this Agreement. Any reimbursement provision
shall have a commencement date when the MUNICIPAL IMPROVEMENTS
which are the subject of the reimbursement agreement are places into service
and shall end on the date of the termination of this Agreement. The sum
collected shall be paid to OWNER after deduction of two percent (2%) for
administrative charges due to the CITY. In the event that any state statute shall
determine an interest rate other than set forth in this paragraph, the state interest
rate shall prevail.

c) Subject to a non-appealable final court order directing CITY to act otherwise,
CITY shall not issue any building permits for connection to the CITY's municipal
water or sanitary sewer system until the BENEFITED PROPERTY owner either
pays the reimbursement charge set forth in this paragraph or adequately assures
the CITY that the payment will be made.

d) The CITY will use its best efforts to collect the costs provided herein from the
BENEFITED PROPERTY owners but shall not be liable to OWNER if the City is,
for any reason, unable to collect said costs. The CITY'S liability to reimburse
OWNER shall be limited to payment from funds actually collected from
BENEFITED PROPERTY owners.

e) CITY shall file this Agreement with the McHenry County Recorder of Deeds and
notify the owners of the BENEFITED PROPERTY of the terms of this
reimbursement provision.

f) OWNER shall reimburse and indemnify CITY for all costs, engineering and
attorney's fees and liability incurred by the CITY with regard to the drafting and
implementation of the Reimbursement Agreement contemplated under this Article 9.

The CITY shall cooperate with OWNER in obtaining such permits as may be necessary from time to time by both Federal and State law, including, but not limited to, the Illinois Environmental Protection Agency, to permit the development of the SUBJECT PROPERTY. Further, the CITY agrees to execute, when and where required, all necessary applications for permits to the Environmental Protection Agency and U.S. Army Corps. of Engineers for road access and the construction and use of the sewer and water mains described herein, as well as the construction of the roadways and the storm water detention areas located within wetlands, if any, on the SUBJECT PROPERTY. No action of the CITY regarding applications to the Illinois or U.S. Environmental 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 the OWNER that municipal sanitary sewer treatment plant or sanitary sewer main capacity, or water will be available to service the SUBJECT PROPERTY when OWNER applies to the CITY for individual sewer or water service connection permits.

The CITY shall exercise its power of eminent domain, if necessary, to assist the OWNER in obtaining all necessary easements, not already in existence, to enable the installation of the aforesaid improvements. OWNER shall pay for all of the eminent domain costs and expenses incurred by the CITY, including but not limited to attorney’s fees, title charges, appraisals, survey costs, deposition costs, witness fees, litigation expenses and judgments in the acquisition of any easement. Such costs and expenses of acquisition by eminent domain shall be includable in the costs and expenses that are subject to recapture by OWNER from Benefiting Parties.

12. Stormwater Management. OWNER agrees to provide storm water management facilities and pipes of sufficient size to accommodate anticipated stormwater runoff from the development, subject to review and approval by the City Engineer.

13. Vacation of Existing Right-of-Way. OWNER acknowledges that the CITY and McHenry Township intend to vacate a portion of existing Orchard Beach Drive, at the southwest corner of the SUBJECT PROPERTY. OWNER agrees to cooperate with the CITY and McHenry Township in this right-of-way vacation and agrees to provide access to Orchard Beach Road as indicated on the preliminary plat.

14. Right-of-Way Dedication, Easement for Public Utilities. OWNER agrees to dedicate fifteen (15) feet along the rear of Lots 7-9, 13-22, and 96, as indicated on the preliminary plat, for public roadway purposes. OWNER also agrees to dedicate a ten (10) foot public utility and drainage easement along the rear of said Lots 7-9, 13-22, and 96.
15. **Installation of Fencing.** Prior to the first occupancy permit issued for a new single family home, OWNER agrees to install a five (5) foot high, cedar fence along the eastern lot line of the SUBJECT PROPERTY abutting Orchard Beach Road, except along Lot 96. Maintenance and upkeep of said fence shall be the sole responsibility of the Homeowner's Association. Upon approval of the Homeowner's Association and issuance of a building permit by the CITY, a gate of identical material, style and color may be installed by individual homeowners of these lots. Language regarding maintenance/upkeep, and gating shall be incorporated 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.

16. **Open Space Covenant.** OWNER agrees that the 14.45 acres of the SUBJECT PROPERTY located north of the FAP Route 201 acreage and designated as "Outlot" on the Preliminary Plat shall remain open space in perpetuity and shall not be developed with buildings or structures. OWNER shall record with the McHenry County Recorder of Deeds a covenant running with the land which shall designate this acreage as open space in perpetuity. Said covenant shall only be amended with the consent of the CITY.

17. **Tot Lot Dedication and Improvement.** OWNER shall convey and dedicate to the CITY, for unrestricted public use, the area on the Preliminary Plat designated as "Park," Lot 97, and described as 22,389 square feet on the east side of South Branch Road, upon approval of the final plat of subdivision including this Tot Lot site. This conveyance shall be made by recordable warranty deed or such other conveyance as the CITY shall agree, free from any encumbrances, accompanied by a plat of survey and a title insurance policy in the amount of the value of the parcel, paid for and prepared by OWNER.

Prior to conveyance, OWNER shall improve said Tot Lot with playground equipment, landscaping, and other amenities, as described in this paragraph and on Exhibit E, entitled "Standard Tot Lot Design", prepared by the CITY, dated 6/12/01. The CITY shall give a credit of fifty thousand dollars ($50,000) towards the Parks component of the required Cash Contributions, as described in this Agreement, for future improvements to this Tot Lot. The minimum design standards for the Tot Lot improvements shall be based on the following criteria, but shall be subject to CITY review and approval, and shall be installed in accordance with accepted standards for the construction of similar facilities within the CITY:

a) A minimum of two sidewalks shall be provided for access from the public sidewalk to the play equipment;

b) All play equipment shall be in an area of a size to meet the recommended fall zone for all such equipment, and shall be enclosed by a concrete barrier curb. Curb depressions shall be provided to allow accessibility into the play area;

c) The surface under all play equipment shall be Fibar System 300 or equivalent;
d) Play equipment shall consist of the following: Climbing Units (Game Time Power Scape or equivalent), Swings (Game Time Prime Time Swing Frames with Seats or equivalent), Spring Animals (three (3) Game Time Saddle Mate Spring Animals or equivalent);

e) A minimum of four (4) benches shall be provided;

f) Landscaping shall be provided, installed and guaranteed for a period of two (2) years. Plans for landscaping shall be subject to CITY review and approval.

18. Temporary Signage. The CITY agrees to issue permits, following receipt of proper applications and fees, for a maximum of two (2) temporary subdivision advertising signs on the SUBJECT PROPERTY, at locations selected by the OWNER (off-site advertising signs shall not be permitted). The signs shall be two-sided or v-shaped, a maximum of sixty-four (64) square feet in area, eight (8) 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, based upon issuance of Certificates of Occupancy.

19. 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 to right to use 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.

20. 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. OWNER shall not be required to bury any existing utilities.

21. 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 $57,000 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 $546 per residential unit constructed on the SUBJECT PROPERTY upon issuance of each building permit.
   iii. OWNER shall pay to the CITY the sum of $1,838 per residential unit ($1,030 to School District NO. 15, $750 to School District No. 156 and $58 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 permit. The Cash Donations payable by the OWNER to the CITY shall be calculated as follows:

<table>
<thead>
<tr>
<th>Single Family Detached</th>
<th>School Districts</th>
<th>Parks</th>
<th>Library District</th>
<th>Fire District</th>
<th>Total per Unit</th>
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<tbody>
<tr>
<td>2 or Less Bedrooms</td>
<td>$2,071</td>
<td>$2,436</td>
<td>$258</td>
<td>$258</td>
<td>$5,023</td>
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<tr>
<td>3 Bedrooms</td>
<td>$4,750</td>
<td>$3,501</td>
<td>$258</td>
<td>$258</td>
<td>$8,767</td>
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<td>4 Bedrooms</td>
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<td>$4,545</td>
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<td>$258</td>
<td>$10,521</td>
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<tr>
<td>5 or More Bedrooms</td>
<td>$4,797</td>
<td>$4,552</td>
<td>$258</td>
<td>$258</td>
<td>$9,865</td>
</tr>
</tbody>
</table>

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

ii. CITY acknowledges and agrees that the 0.51-acre Park, and the fifty thousand dollar ($50,000) credit for future Tot Lot improvements represents twenty-two percent (22%) of the park donations required by CITY ordinances.

iii. 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.
iv. 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 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.

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.

e. **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 shall 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.
f. **Annual Adjustment** At the end of each one-year period, with the first one-year adjustment made on May 1, 2002, 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, 2000, 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.

22. **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 fifteen (15) years from the date of execution hereof, and any extended time agreed to by amendment to this Agreement.

23. **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.

24. **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
333 S. Green Street
McHenry, IL 60050

**V3 Land Vision 99-1 L.L.C.**
Attn: Keith Blais
7325 Janes Avenue
Woodridge, IL 60517

25. **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.
26. **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.

27. **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.

28. **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 judgement, 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.

29. **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.

30. **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: [Signature]
MAYOR

Attest: [Signature]
CITY CLERK

OWNER

V3 Land Vision 99-1, L.L.C.
7325 Janes Avenue
Woodridge, IL 60517

By: V3 Realty Co., L.L.C. ITS: MANAGER
By: [Signature]

Print Name: KEITH A. BLAIR
Its: [Signature]
Exhibit A

Legal Description of the SUBJECT PROPERTY

That part of the fractional southwest 1/4 of section 24, and that part of the fractional northwest 1/4 of section 25, all in township 45 north, range 8, east of the third principal meridian, described as follows: Beginning at the section corner common to sections 23, 24, 25, and 26; thence north along the west line of the southwest quarter of section 24, 1,104.8 feet; thence easterly along a line forming an angle of 88 degrees, 52 minutes, measured to the right, with a prolongation of the last described course, 1,320.0 feet; thence northeasterly, along a line forming an angle of 88 degrees, 30 minutes, measured to the right, with a prolongation of the last described course, 1,015.00 feet; thence continuing southerly along a line forming an angle of 41 degrees, 40 minutes, measured to the right, with a prolongation of the last described course, 100.3 feet; thence westerly along a line forming an angle of 27 degrees, 32 minutes, measured to the right, with a prolongation of the last described course, 201.8 feet to the south line of the southwest 1/4 of section 24 aforesaid, and being 1,440.9 feet east from the place of beginning; thence continuing southerly along the last described course, 72.10 feet; thence southerly along a line forming an angle of 45 degrees, 54 minutes, measured to the right, with a prolongation of the last described course, 608.60 feet; thence continuing southerly along a line forming an angle of 11 degrees, 43 minutes, measured to the left, with a prolongation of the last described course, 815.50 feet to an intersection with a north line of Orchard Beach Avenue; thence westerly along said north line, being on a line forming an angle of 56 degrees, 16 minutes, measured to the right, with a prolongation of the last described course, 592.65 feet to an intersection with the west line of the northwest 1/4 of section 24 aforesaid; thence north along said west line, 1,175.46 feet to the place of beginning, except any part falling within Mareta Estates Unit 1, part of the fractional southwest 1/4 of section 24, township 45 north, range 8, east of the third principal meridian, according to the plat thereof recorded May 12, 1972 as document No. 566347, and also except that part of said section 24, 100.25, township 45 north, range 8, east of the third principal meridian, described as follows: Beginning on the west line of the northwest 1/4 of said section 24, said point being 215 feet south of the northwest corner thereof; the west line therefrom for a distance of 215 feet to the northwest corner thereof; thence north on the west line of the southwest 1/4 of said section 24, for a distance of 200 feet to a point; thence east on a line forming an angle of 11 degrees, 20 minutes, to the right, with a prolongation of the last described line, at the last described point, for a distance of 264 feet to a point; thence south in a straight and direct line, for a distance of 415 feet to a point; said point being 266 feet east of the place of beginning; thence west 266 feet to the place of beginning and also excepting that part of the fractional southwest 1/4 of section 24 and that part of the fractional northwest 1/4 of section 25, all in township 45 north, range 8, east for the third principal meridian in McHenry county, Illinois, described as follows: Commencing at the section corner common to section 23, 24, 25, and 26 in township 45 north, range 8, east of the third principal meridian; thence
ON AN ASSUMED BEARING OF NORTH 00 DEGREES 03 MINUTES 37
SECONDS WEST A DISTANCE OF 1,104.80 FEET TO THE NORTHERLY LINE OF
THE TRACT OF LAND CONVEYED TO JOSEPH E. GANSAC AND SHIRLEY H. GANSAC
BY WARRANTY DEED RECORDED ON AUGUST 23, 1989 AS DOCUMENT NUMBER
MINUTES 23 SECONDS EAST, ALONG SAID NORTHERLY LINE, 30.00 FEET TO A
LINE 30.00 FEET EASTERNLY OF AND PARALLEL WITH SAID WEST LINE OF THE
37 SECONDS EAST, ALONG SAID PARALLEL LINE, 94.13 FEET TO A POINT ON
A 3,669.72 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE
Bears north 25 degrees 59 minutes 17 seconds EAST FROM SAID
CONCENTRIC WITH THE TRANSIT LINE OF FLAT 420 (F.A. 201) ACCORDING
TO THE PLAT RECORDED MAY 5, 1975 AS DOCUMENT NUMBER 636003;
THENCE SOUTHEASTERLY ALONG SAID CURVE, CONCAVE
NORTHWESTERLY, 943.27 FEET THROUGH A CENTRAL ANGLE OF 14
DEGREES 43 MINUTES 39 SECONDS TO A POINT 150.00 FEET NORTHERLY
OF A POINT OF TANGENCY ON SAID TRANSIT LINE, AS MEASURED
NORMAL THERETO; THENCE SOUTH 78 DEGREES 44 MINUTES 21
SECONDS EAST, ALONG A LINE TANGENT TO THE LAST DESCRIBED
CURVE, AND 150.00 FEET NORTHERLY OF AND PARALLEL WITH SAID
TRANSIT LINE, 817.77 FEET TO A LINE 74.50 FEET WESTERLY OF AND
PARALLEL WITH AN EASTERNLY LINE OF SAID TRACT OF LAND CONVEYED
PER DOCUMENT NUMBER 89R-02789; THENCE NORTH 19 DEGREES 36
MINUTES 45 SECONDS EAST, ALONG SAID PARALLEL LINE, 139.93 FEET;
THENCE SOUTH 70 DEGREES 23 MINUTES 15 SECONDS EAST, ALONG A
LINE PERPENDICULAR TO SAID EASTERNLY LINE 74.50 FEET TO A POINT
THE SOUTHEAST CORNER OF LOT 9 IN BLOCK 2, IN MARETTA ESTATES,
UNIT 1 ACCORDING TO THE PLAT OF SUBDIVISION RECORDED MAY 12,
1972 AS DOCUMENT NUMBER 566347, AS MEASURED ALONG SAID EASTERN
SAID EASTERN LINE, 410.33 FEET TO AN ANGLE POINT IN SAID EASTERN
LINE; THENCE SOUTH 61 DEGREES 10 MINUTES 57 SECONDS WEST,
ALONG A SOUTHEASTERLY LINE OF SAID TRACT OF LAND 33.02 FEET, TO A
LINE 150.00 FEET SOUTHERLY OF AND PARALLEL WITH SAID TRANSIT LINE;
THENCE NORTH 48 DEGREES 44 MINUTES 21 SECONDS WEST, ALONG SAID
PARALLEL LINE 826.47 FEET TO A POINT 150.00 FEET SOUTHERLY OF SAID
POINT OF TANGENCY ON SAID TRANSIT LINE, AS MEASURED
NORMAL THERETO; THENCE WESTERLY ALONG A TANGENTIAL 3,669.72 FOOT
RADIUS CURVE, CONCAVE NORTHERLY AND BEING 150.00 FEET SOUTHERLY
OF AND CONCENTRIC WITH SAID TRANSIT LINE, THROUGH A CENTRAL ANGLE
BEING 30.00 FEET EASTERNLY OF AND PARALLEL WITH THE WEST LINE
MINUTES 37 SECONDS EAST, ALONG SAID PARALLEL LINE, 479.96 FEET TO
THE NORTH LINE OF THE TRACT OF LAND CONVEYED TO PAUL A. HILLER
BY WARRANTY DEED RECORDED JULY 18, 1972 AS DOCUMENT NUMBER 571430;
THENCE SOUTH 89 DEGREES 16 MINUTES 23
SECONDS WEST, ALONG SAID NORTHERLY LINE, 30.00 FEET TO SAID
WEST LINE OF THE SOUTHWEST 1/4 OF SECTION 24; THENCE NORTH
00 DEGREES 03 MINUTES 37 SECONDS WEST, ALONG SAID WEST LINE, 904.80
FEET TO THE POINT OF BEGINNING), ALL IN MCHENRY COUNTY,
ILLINOIS.
Exhibit D

Architectural Standards

I. Anti-Monotony Code

No new single family detached dwelling of the same plan and appearance (defined as exterior colors and/or elevation) shall be built on either side of the dwelling or across the street facing it. This includes dwellings directly across the street and each lot adjacent to it.

A dwelling on a corner lot may be considered dissimilar to another if the two dwellings face different streets.

On cul-de-sac turnarounds, no dwelling shall be similar in plan and appearance within on lot on either side.

II. Architectural Standards

A. Consistent use of building materials and color shall be complimentary with the style and design of community.

B. Colors shall be chosen for compatibility with neighboring area: appropriate colors shall be subdued colors such as beige, brown, gray, etc. and should be selected to blend with the natural landscape.

C. Masonry and brick exterior accents are encouraged.

D. Fronts of buildings should have a variety of setbacks and bays.

E. The use of front porches is encouraged.

F. All driveways shall have compacted gravel/crushed stone base per code with a wearing surface of asphalt or concrete.

G. All roofs shall be designed with or a combination of gables, hips, sheds etc. (no flat roofs are allowed). Minimum roof pitch shall be 4:12.

H. Minimum dwelling size shall be 2000 sq. ft. (not including the garage or basement space).

I. A minimum of three elevation designs per plan.

J. No fences shall be installed or maintained upon the Property unless such fence or fences are constructed of cedar or maintenance free aluminum, steel or PVC with an opacity of no greater than 50% and in accordance with the laws and ordinances of the City of McHenry. In no event shall any fence exceed five (5) feet in height. The construction of chain link fences within the Property is prohibited.
K. Mailboxes shall be black, mounted on a white crossarm post, sizes and location in accordance with US Postal regulations and applicable City ordinances. A model commonly available is by Solar Group, Inc. (www.thesolargroup.com). Mailbox ST15 Series Large (T2) Size, galvanized steel, 10 7/8" H x 9 1/8" W x 21 3/4" D. Crossarm Post Model PP500W with post kit. Installation of the mailbox shall be such that the front of the mailbox itself (not the stand or pole) must be flush with the back of the curb. Actual location of mailboxes may be further restricted by City of McHenry or Postal Service Regulations.

L. All Lots shall be used for residential dwelling purposes only. Each Owner shall maintain or cause to be maintained its Lot and all improvements located thereon, including, but not limited to, the exterior of any building of buildings, pedestrian walks, driveways and landscaped areas, in a clean, sightly and safe condition, and each Owner shall at all times cause the prompt removal of all papers, debris, junked vehicles, refuse and other unsightly objects and materials therefrom and the removal of snow and ice from paved areas, when and as required. Garbage shall be placed in receptacles provided therefore, and if outside, shall be properly screened.

M. No trailer, temporary building or structure of any kind shall be permitted except temporary buildings or structures located upon a Lot used during construction of a permanent improvement, which shall be removed as promptly as practicable and in any event no later than thirty (30) days after the issuance by the City of an occupancy permit for such permanent improvement. In addition, no signage of any kind (except for a single real estate "for sale" sign as permitted by the City) shall be permitted upon any Lot or residence. Anything contained herein to the contrary notwithstanding, Declarant hereby reserves for itself and Developer the right to maintain sales offices and trailer, parking areas, sales facilities, including but not limited to model homes, signs, construction and storage trailers, structures and facilities on any portion of the Property, except on improved Lots subsequent to sale to an Owner, as Declarant and Developer see fit, without payment of any charge or fee to any Owner.

Garden sheds shall be allowed, not exceeding a floor area of 80 square feet, overall height of 9 feet, in a residential style and color comparable to the existing residence, and otherwise in compliance with City of McHenry regulations regarding accessory uses.

N. All Improvements shall be constructed in accordance with applicable governmental building codes and zoning ordinances of the City and, in the case of Developer’s approval, the approved Plan and Specifications.
Exhibit E

Standard Tot Lot Design

SPECIFICATIONS FOR PLAY EQUIPMENT
All equipment shall be Gametime or Equivalent

<table>
<thead>
<tr>
<th>Qty</th>
<th>Item No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>10000</td>
<td>49&quot; SQUARE EXPANDED METAL DEC.</td>
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<tr>
<td>1</td>
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<td>49&quot; TRIANGULAR EXPANDED METAL DEC.</td>
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<tr>
<td>4</td>
<td>10132</td>
<td>12' UPRIGHT ASSEMBLY (ALUM)</td>
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<td>11</td>
<td>10130</td>
<td>10' UPRIGHT ASSEMBLY (ALUM)</td>
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<tr>
<td>4</td>
<td>10128</td>
<td>8' UPRIGHT ASSEMBLY (ALUM)</td>
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<tr>
<td>1</td>
<td>10570</td>
<td>RADICAL RACE SLIDE</td>
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<td>FUNNEL ENCLOSURE</td>
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<tr>
<td>2</td>
<td>10442</td>
<td>2'-0&quot; ACCESS STEP LINK</td>
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<td>1</td>
<td>10037</td>
<td>4'-6&quot; TREE CLIMBER</td>
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<tr>
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<td>2'-0&quot; TRANS PLATFORM TRI. DEC.</td>
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<tr>
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<td>2'-0&quot; HORIZONTAL LOOP ATTACHMENT</td>
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<td>2'-0&quot; &quot;S&quot; HORIZONTAL LADDER ATTACHMENT</td>
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<td>1</td>
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<td>3'-4&quot; LOOP LADDER</td>
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<td>10051</td>
<td>3'-4&quot; RUNG ACCESS</td>
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<tr>
<td>1</td>
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<td>4' &amp; 6&quot; COASTER CLIMBER LINK</td>
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<td>ARCH BRIDGE LINK</td>
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<td>10655</td>
<td>QUICK &quot;L&quot; TUBE SLIDE</td>
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<tr>
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<td>4'-0&quot; SLIDE &amp; GLIDE WITH TUNNEL</td>
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<td>6&quot; CORKSCREW CLIMBER</td>
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<td>PRIMETIME SWING FRAME</td>
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<td>PRIMETIME SWING ADD-A-BAY</td>
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<td>ENCLOSED TOT SEAT, 3-1/2' OD</td>
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<tr>
<td>1</td>
<td>4176</td>
<td>ROCKET, ALUM, C SPRING</td>
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</tbody>
</table>
CERTIFICATION

I, Janice C. Jones, City Clerk in and for the City of McHenry, Illinois, and keeper of the official records, files, and seal thereof, do hereby certify that the attached document is a true and correct copy of City of McHenry Ordinance No. ORD-02-1057 providing for the annexation of the property located on the east side of Riverside Drive at McCullom Lake Road, commonly known as Riverside Hollow and comprised of 54 acres. Said Ordinance was passed and approved by the McHenry City Council at its regularly scheduled meeting on September 17, 2001 and was signed by the Mayor on January 14, 2002.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of McHenry, Illinois this 21st day of January, 2002.

Janice C. Jones, City Clerk
of the City of McHenry, Illinois

Prepared by and Mail to:
City of McHenry
Office of the City Clerk
333 S. Green Street
McHenry IL 60050
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Janice C. Jones, City Clerk
of the City of McHenry, Illinois

Prepared by and Mail to:
City of McHenry
Office of the City Clerk
333 S. Green Street
McHenry IL 60050

02-005-8252
ORDINANCE NO. ORD-02-1057

AN ORDINANCE ANNEXING THE APPROXIMATELY 54 ACRES COMMONLY KNOWN AS THE EAST SIDE OF RIVERSIDE DRIVE, AT MCCULLOM LAKE ROAD, IN MCHENRY COUNTY, ILLINOIS

WHEREAS, a written petition, signed under oath, by the legal owners of record of the real estate hereinafter described, has been filed with the City Clerk requesting annexation of said real estate to the City, contingent upon the terms and provisions of an annexation agreement, which petition has been filed in accordance with 65 ILCS 5/7-1-8; and

WHEREAS, said real estate is not located within any other municipality or subject to an annexation agreement with any other municipality, and said real estate is presently contiguous to and may be annexed to the City in accordance with 65 ILCS 5/7-1-1, et seq.; and

WHEREAS, the City of McHenry does not provide library or fire protection services to said real estate, so notice to the Fire Protection District or Public Library District of the annexation of said real estate is not required; and

WHEREAS, The annexation of said real estate will include portions of highway under the jurisdiction of McHenry Township, so notice of the annexation of the said real estate has been served to the McHenry and Township Commissioner of Highways and Board of Town Trustees by certified mail; and

WHEREAS, the City has determined that the annexation of said real estate 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.

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

SECTION 1: The real estate legally described on Exhibit A, a complete and accurate plat of said real estate attached to this ordinance and incorporated herein by reference, be and the same is hereby annexed to and made a part of the corporate limits of the City of McHenry, including any and all portions of adjacent street, roads or highways as provided by law.
SECTION 2: The City Clerk is hereby directed to cause a certified copy of this ordinance, together with said plat, to be recorded in the Office of the Recorder of Deeds of McHenry County, Illinois. Following the recordation of this ordinance and plat, a copy thereof shall be filed in the Office of the Clerk of McHenry County, Illinois.

SECTION 3: 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 4: 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 17TH DAY OF SEPTEMBER, 2001
AYES: BOLGER, GLAB, LOW, WIMMER, ALTHOFF
NAYS: MURGATROYD
ABSTAINED: NONE
ABSENT: NONE
NOT VOTING: NONE

APPROVED THIS 17TH DAY OF SEPTEMBER, 2001

[Signature]
MAYOR

ATTEST:

[Signature]
CITY CLERK
NOT SUBDIVIDED

OUTLOT A

TO BE DEDICATED
TO THE CITY

ROUTE - 201

EXCESSION

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OUTLOT B

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TYPICAL LOT DETAIL (NO SCALE)
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR
Riverside Hollow HOMEOWNERS ASSOCIATION

THIS DECLARATION (the "Declaration") made this 5th day of February, 2003, by
KENNEDY HOMES LIMITED PARTNERSHIP, an Illinois limited partnership, (hereinafter referred to as the "Declarant").

PREAMBLES:

A. Declarant is the owner in fee simple of a certain parcel of real estate in the
City of McHenry, County of McHenry, State of Illinois, legally described in Exhibit "A",
attached hereto and incorporated herein (the "Property");

B. Declarant and Developer (hereinafter defined) desire to develop a single
family residential development on the Property to be known as Riverside Hollow
Subdivision (the "development"); and

C. Declarant is desirous of submitting the Property to the provisions of this
Declaration.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held,
sold, transferred, occupied and conveyed subject to the following covenants, conditions,
easements and restrictions, all of which shall run with the Property, and be binding on all
parties having or acquiring any right, title or interest in the Property or any part thereof, and
shall inure to the benefit of each owner thereof.

54.00
ARTICLE 1

DECLARATION PURPOSES AND
PROPERTY SUBJECT TO DECLARATION

1.1. The Declarant desires to create on the Property a single family development for future owners of Lots (as hereinafter defined) for the following general purposes:

a. The Declarant, by the imposition of covenants, conditions and restrictions and the reservation of certain powers unto itself, does intend to provide for the Property a plan for development which is intended to enhance and to protect the values of Declarant's single-family residential community; and

b. The Declarant desires to provide for the maintenance of the Common Area (as hereinafter defined) portions of which may be owned by the Association (as hereinafter defined) and used in common by the Owners (as hereinafter defined) of the Property.

1.2. To further the general purposes herein expressed, the Declarant, for itself, its successors and assigns, hereby declares that the Property at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions and restrictions herein set forth.

ARTICLE 2

DEFINITIONS

The following words, when used in this Declaration or in any supplemental Declaration shall, unless the context shall prohibit, have the following meanings:

2.1. "Association" shall mean and refer to Riverside Hollow Homeowners Association, an Illinois not-for-profit corporation, and a Common Interest Community as defined in Chapter 735 ILCS 5/9-102(a)(b), Illinois Compiled Statutes, as from time to time amended, its successor and assigns.

2.2. "Board" shall mean and refer to the Board of Directors of Riverside Hollow Homeowners Association, an Illinois not-for-profit corporation; said entity shall govern and control administration and operation of the Property.
2.3. "By-Laws" shall mean and refer to the By-Laws of Riverside Hollow Homeowners Association, which is attached hereto and made a part hereof as Exhibit "C". The By-Laws are incorporated herein by this reference.

2.4. "City" shall mean and refer to the City of McHenry, Illinois.

2.5. "Common Area" shall mean and refer to all real property and improvements installed by Developer, thereon to be owned or maintained by the Association for the common use and enjoyment of all members of the Association. This shall include the Lot 96 as described on the Subdivision Plat (as hereinafter defined), attached hereto and made a part hereof as Exhibit "B".

2.6. "Declarant and/or Developer" shall mean and refer to Kennedy Homes Limited Partnership, an Illinois limited partnership.

2.7. "Lot" shall mean and refer to that portion of the Property indicated upon the recorded subdivision plat or plats of the Property improved or intended to be improved as set forth on Exhibit "B", attached hereto.

2.8. "Owner" shall mean and refer to the record owner, whether one or more persons, individuals or entities, of a fee simple title to any Lot, which is part of the Property, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

2.9. "Member or Membership" shall mean and refer to every person or entity who holds Membership in the Association.

2.10. "Mortgage" shall mean and refer to either a Mortgage or Deed of Trust creating a lien against a portion of the Property given to secure an obligation of the Owner of such portion of the Property.

2.11. "Person" shall mean and refer to a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

2.12. "Property" shall mean and refer to the real estate legally described in Exhibit "A", attached hereto and made a part hereof.

2.13. "Subdivision Plat" shall mean and refer to the Plat of Subdivision for Riverside Hollow Subdivision, as recorded with the office of the Recorder of Deeds of McHenry County, Illinois, attached hereto and made a part hereof as Exhibit "B".

2.14. "Single Family" shall mean and refer to one or more persons, each related
to other by blood, marriage or adoption, or a group of not more than three (3) persons not all so related, maintaining a common household.

2.15. "Turnover Date" shall mean and refer to the meaning referred to and set forth in Section 4.6 hereof.

ARTICLE 3

ARCHITECTURAL STANDARDS AND GENERAL RESTRICTIONS

3.1 Anti-Monotony Code.
   
   A. No new single family detached dwelling of the same plan and appearance (defined as exterior colors and/or elevation) shall be built on either side of the dwelling or across the street facing it. This includes dwellings directly across the street and each Lot adjacent to it.
   
   B. A dwelling on a corner Lot may be considered dissimilar to another if the two dwellings face different streets.
   
   C. On cul-de-sac turnarounds, no dwelling shall be similar in plan and appearance within one lot on either side.

3.2 Architectural Standards

   A. Consistent use of building materials and color shall be complimentary with the style and design of community.
   
   B. Colors shall be chosen for compatibility with neighboring area; appropriate colors shall be subdued colors such as beige, brown, gray, etc. and should be selected to blend with the natural landscape.
   
   C. Masonry and brick exterior accents are encouraged.
   
   D. Fronts of buildings should have a variety of setbacks and bays.
   
   E. The use of front porches is encouraged.
   
   F. All driveways to be constructed shall have compacted gravel/crushed stone base per code with a wearing surface of asphalt or concrete.
G. All roofs shall be designed with or a combination of gables, hips, sheds, etc. (no flat roofs are allowed). Minimum roof pitch shall be 4:12.

H. Minimum dwelling size on each Lot shall be 2000 sq. ft. (not including the garage or basement space).

I. A minimum of three elevation designs per plan.

J. No fences shall be installed or maintained upon the Property unless such fence or fences are constructed of cedar or maintenance free aluminum, steel or PVC with an opacity of no greater than 50% and in accordance with the laws and ordinances of the City. In no event shall any fence exceed five (5) feet in height. The construction of chain link fences within the Property is prohibited.

K. Mailboxes shall be black, mounted on a white crossarm post, sizes and location in accordance with US Postal regulations and applicable City ordinances. A model commonly available is by Solar Group, Inc. (www.thesolargroup.com). Mailbox ST15 Series Large (T2) Size, galvanized steel, 10 7/8" H x 9 1/8" W x 21 3/4" D. Crossarm Post Model PP500W with post kit. Installation of the mailbox shall be such that the front of the mailbox itself (not the stand or pole) must be flush with the back of the curb. Actual location of mailboxes may be further restricted by City or Postal Service Regulations.

L. All Lots shall be used for residential dwelling purposes only. Each Owner shall maintain or cause to be maintained its Lot and all improvements located thereon, including, but not limited to, the exterior of any building or buildings, pedestrian walks, driveways and landscaped areas, in a clean, sightly and safe condition, and each Owner shall at all times cause the prompt removal of all papers, debris, junked vehicles, refuse and other unsightly objects and materials therefrom and the removal of snow and ice from paved areas, when and as required. Garbage shall be placed in receptacles provided therefore, and if outside, shall be properly screened.

M. No trailer, temporary building or structure of any kind shall be permitted except temporary buildings or structures located upon a Lot used during construction of a permanent improvement, which shall be removed as promptly as practicable and in any event no
later than thirty (30) days after the issuance by the City of an occupancy permit for such permanent improvement. In addition, no signage of any kind (except for a single real estate "for sale" sign as permitted by the City) shall be permitted upon any Lot or residence. Anything contained herein to the contrary notwithstanding, Declarant hereby reserves for itself and Developer the right to maintain sales offices and trailer, parking areas, sales facilities, including but not limited to model homes, signs, construction and storage trailers, structures and facilities on any portion of the Property, except on improved Lots subsequent to sale to an Owner, as Declarant and Developer see fit, without payment of any charge or fee to any Owner or the Association. Garden sheds shall be allowed, not exceeding a floor area of 80 square feet, overall height of 9 feet, in a residential style and color comparable to the existing residence, and otherwise in compliance with City of McHenry regulations regarding accessory uses.

N. All Improvements shall be constructed in accordance with applicable governmental building codes and zoning ordinances of the City and, in the case of Developer's approval, the approved Plans and Specifications.

3.3. General Restrictions.

A. No noxious or offensive activity shall be carried on, in or upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No plants or seed or other conditions, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Lot.

B. Vacant Lots shall not be used for the purpose of raising crops thereon.

C. Commercial trucks, boats, recreational vehicles or trailers shall at all times be parked in the garage of a dwelling located on a Lot. The repair or maintenance of any motorized vehicle shall not be permitted except within the confines of the garage of a dwelling.

D. There shall be no obstruction in the driveways or other portions of the Common Area nor shall ready access to a garage or entrance to a Lot be obstructed or impeded in any manner.
E. No animals other than inoffensive common domestic household pets such as dogs and cats shall be kept on any Lot. The breeding or keeping of dogs or cats for sale or profit is expressly prohibited.

F. The operation of a "ham" or other amateur radio stations or the erection of any communication antennae or similar devices (other than simple mast antennae located on the roof of a Dwelling) shall not be allowed. Subject to Article 9, no communications discs, except television satellite dishes smaller than 24" in diameter, shall be permitted on any Lot.

G. All areas of the Lots designed or intended for the proper drainage or retention of storm water, including swale lines and ditches, shall be kept unobstructed and shall be mowed regularly. Trees, plantings, shrubbery, fencing, patios, structures, landscaping treatment or other like improvements may be planted, placed or allowed to remain in any such areas so long as they do not substantially obstruct or alter the rate or direction of flow of storm water from any Lot. No Owner shall alter the rate or direction of flow of storm water from any Lot by impounding water, changing grade, blocking or redirecting swales, ditches or drainage areas or otherwise. Each Owner acknowledges, by acceptance of a deed to a Lot, that each drainage or detention area is for the benefit of the entire Property.

H. No Owner shall permit anything to be done or kept on his Lot or in the Common Area which will increase the rate charged for or cause the cancellation of insurance carried by the Association on the Common Area improvements or contents thereof, or which would be in violation of any law, nor shall any waste be discarded in the Common Area.

I. The restriction in Article 3.2 L. shall not, however, be construed in such a manner as to prohibit an Owner from: a) maintaining his personal professional library therein; b) keeping his personal business records or accounts therein; or c) handling his personal or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said paragraph.
J. There is also reserved to the Developer, its agents and prospective purchasers and lessees, the right of ingress and egress in and through the Common Area and to park in the outdoor parking areas incident to such sales or leasing purposes designated by Developer and, during construction by the Developer, the right of ingress and egress in and through the Common Area in connection with such construction.

K. Nothing shall be altered in or removed from the Common Area except upon the written consent of the Board.

L. In the event of damage to or destruction of any dwelling, garage or other improvement installed by Developer on any Lot, the Owner or Owners from time to time of any such improvement covenant and agree that they will, within a reasonable time after such destruction, repair or rebuild the same in a substantial and workmanlike manner with materials comparable to those used in the original structure, and shall conform in all respects to the laws or ordinances regulating the construction of such structures in force at the time of such repair or reconstruction. The exterior of such structure, when rebuilt, shall be substantially the same as and of architectural design conformable with the exterior of such structure immediately prior to such damage or destruction. If an Owner fails to make the necessary repairs or reconstruction within thirty (30) days after written notice is sent, the Board may cause the same to be done and the cost thereof shall be charged to such Owner as his personal obligation and shall be a lien on his Lot.

M. No Owner shall cause or allow any activity which shall cause air, water, soil, or noise pollution which would violate any applicable laws, ordinances, rules and regulations of any governmental authority having jurisdiction over the Property. Without limiting the generality of the foregoing, no Owner shall willingly or knowingly drain or dump any refuse, sewage or other materials into storm drains or into the detention or open space areas. No building shall be erected or maintained on any Lot for manufacturing, industrial or business purposes, except pursuant to those building rights reserved to Developer.

N. All planted or landscaped areas in the public right-of-way shall be the maintenance responsibility of fronting Property Owners.

O. All planted or landscaped areas on a Lot shall be the responsibility of
the individual Lot owners for maintenance purposes.

P. Subject to the consent of the holder of any Mortgage, in the event construction of any building on a Lot ceases for a period of six months prior to the enclosure of such improvement, the Owner, upon written demand of Developer or its successors and assigns, shall raze and remove such building and landscape the Lot in a sightly manner. All expenses shall be paid by the Owner of the Lot. In the event construction of any such building ceases for a period of six (6) months after said Improvement is enclosed, the Owner, upon written demand of the Developer or City, shall landscape the Lot in a sightly manner.

Q. No Owner shall conduct, or permit any Person to conduct, any unlawful activity on the Lot owned by such Owner.

R. No commercial trucks or commercial vehicles shall be permitted upon any Lot except when such truck or commercial vehicle is actually delivering or unloading personal property to and from the Lot and except any truck or commercial vehicle which is restricted to the interior confines of the private garage. No private vehicles shall be continuously parked on the streets or roadways, but shall be kept in the driveway of the Lot or in the private garage, it being the intention to prevent obstruction of the street by continuous parking thereon. Anything contained herein to the contrary notwithstanding, the provisions of this Section shall not apply to initial construction by Developer.

ARTICLE 4

MEMBERSHIP AND BOARD OF DIRECTORS

4.1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership.

4.2. Voting Rights. The Association shall have one class of membership and each member shall have one vote for each Lot such member owns, provided that in no event shall more than one (1) vote be cast with respect to any one (1) Lot. If more than one (1) person is the record owner of any Lot, or if an Owner is a trustee, corporation, partnership or other legal entity, the vote for such Lot shall be exercised as such Owner or Owners of that Lot shall designate. Such designation shall be made in writing to the
Board or in such other manner as may be provided in the By-Laws.

4.3. **Board of Directors.** The Association shall be governed by a Board of Directors comprised of three (3) persons, or such greater number as may be determined by Board resolution. The Board shall maintain and administer the Common Area and improvements thereon in accordance with the terms and provisions of this Declaration and the By-Laws.

4.4. **Officers.** The Association shall have such Officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly provided otherwise by the Articles of Incorporation or By-Laws, all power and authority to act on behalf of the Association, both pursuant to this Declaration and otherwise, shall be vested in its Board, from time to time, and its officers under the direction of the Board and shall not be subject to the approval of the Members. The Articles of Incorporation and By-Laws of the Association may include such added provisions for the protection and indemnification of its Officers and Directors as shall be permissible by law. The Directors and Officers of the Association shall not be liable to the Owners or others for any mistake of judgment or any acts or omissions made in good faith as such Directors or Officers.

4.5. **Director and Officer Liability.** Neither the Directors nor the Officers of the Association shall be personally liable to the Owners or the Association for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors or officers except for any acts or omissions found by a court to constitute gross negligence or fraud. The Association shall indemnify and hold harmless the Directors and Officers, their heirs and legal representatives, against all contractual and other liabilities to others arising out of contracts made by or other acts of the Directors and Officers on behalf of the Owners or the Association or arising out of their status as Directors or Officers unless any such contact or such act shall have been made fraudulently or with gross negligence. The foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to attorneys' fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director or Officer may be involved by virtue of being or having been such Director or Officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have finally been adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such Director or Officer, or (ii) any matter settled or compromised unless, in the opinion of independent counsel selected by or in a manner determined by the Board there is no reasonable ground for such person being adjudged liable for gross negligence or fraud in the performance of his/her duties as such Director or Officer.

-10- 03-025-1222
4.6. **Turnover.** The Developer shall, through the Board appointed by it in accordance with Section 4.3, exercise control over all Association matters, until the first to occur of the following events: a) twenty (20) years from the date of this Declaration, b) the sale and conveyance of legal title to all of the Lots to Owners other than Declarant or an assignee of Declarant as provided in Section 11.7 hereof, or (c) Developer elects voluntarily to turnover to the Members the authority to appoint the Board, which election shall evidence by directing the Declarant to execute and record in the Office of the Recorder of Deeds of McHenry County, Illinois an instrument setting forth its intention to so turnover its authority hereunder. The date upon which the authority to appoint the Board passes to the Members is hereinafter referred to as the "Turnover Date". On or prior to the Turnover Date, the Developer shall cause Declarant to convey to the Association, and the Association shall accept, the Common Area to be owned by the Association hereunder and the Association shall undertake to maintain the Common Area pursuant to the terms hereof.

4.7. **Board Powers.** The Association, through the Board, shall have the following powers and duties:

a. Own, maintain and otherwise manage the Common Area and all Improvements thereon in accordance with the final landscape development plan and own, maintain and otherwise manage all other property acquired by the Association or which the Association agrees to maintain, including any obligation to maintain any landscaping located in concrete islands, cul-de-sac and median strips in the dedicated streets which are adjacent to or within the Property and to maintain any signage and lighting located thereon;

b. Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or firm appointed as a manager or managing agent shall provide for the right of the Association to terminate the same not later than ninety (90) days after the date of the initial meeting of the Members of the Association is held as provided by the By-Laws;

c. Establish and maintain a working capital and contingency fund in an amount to be determined by the Board;

d. Provide for the maintenance of landscaping, signs, monuments, fencing, retaining walls, water systems, brick pavers, lighting and other improvements (if any) located within the Common Areas and/or at the entrance ways to the Property.
e. At its option, mow, care for, maintain vacant and unimproved portions of the Property and remove rubbish from same and to do any other things necessary or desirable in the judgment of the Board to keep any vacant portions of the unimproved portions of the Property neat in appearance and in good order. The foregoing rights shall not apply to any Lot or other portion of the Property owned by Declarant;

f. Make such improvements to the Common Area and provide such other facilities and services as may be authorized from time to time by the affirmative vote of two-thirds (2/3) of the Members of the Association acting in accordance with its Articles of Incorporation and By-Laws, provided, however, that any such action so authorized shall always be for the express purpose of keeping Riverside Hollow Subdivision a highly desirable residential community; and

g. Exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Members by this Declaration, the Articles of Incorporation or the By-Laws.

4.8. Insurance. The Board shall also have the authority to and shall obtain comprehensive liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and worker's compensation insurance, and other liability insurance as it may deem desirable, insuring each Owner, the Association, its Officers, members of the Board, the Declarant, and their respective employees and agents from liability and insuring the Officers of the Association and members of the Board from liability for good faith actions beyond the scope of their respective authority. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The premiums for such insurance shall be common expenses payable out of the proceeds of the Assessments required by and collected in accordance with Article 6. The Association shall be further responsible for maintaining such policies of insurance for the Common Area against loss or damage by fire and such other hazards contained in the customary fire and extended coverage, vandalism and malicious mischief endorsements as the Association may deem desirable and may also obtain such other kinds of insurance as the Association shall from time to time deem prudent. The coverage shall contain an endorsement to the effect that said coverage shall not be terminated for non-payment of premiums without at least 30 days prior written notice for the Association. The Insurance policies shall contain waivers of subrogation with respect to the Board, its employees, agents, owners and mortgagees.

a. Until the Turnover Date, the Developer shall have all the rights and powers herein granted to the Association and shall be authorized and empowered to take all such actions as the Board would have been authorized and empowered to take as herein provided.

b. Until the Turnover Date, Developer may elect to maintain the Common Area and all signs and monuments located thereon and shall pay all expenses and costs in connection with the Common Area, including without limitation, the costs of improving and maintaining the Common Area (and any signs and monuments located thereon) and general real estate taxes payable in connection with the Common Area. To the extent that any real property taxes payable after the Turnover Date are attributable to the period prior to the Turnover Date, Developer shall reimburse the Association, on a pro rata basis, for such real property taxes. Declarant shall, not later than the Turnover Date, convey to the Association that portion of the Common Area to be owned by the Association.

c. Developer shall be entitled at all times to conduct sales of Lots from the Property and shall have the right, for itself and its agents, employees, guests, invitees, to utilize roads, streets, Common Area and all other portions of the Property, excluding sold Lots, for such purposes until all Lots are sold. Developer may at all times utilize signage, lighting and establish temporary construction and sales offices, buildings and trailers and construct model homes to conduct its construction, sales and marketing of the Property.

ARTICLE 5
EASEMENTS AND PROPERTY RIGHTS

5.1. Easements and Use and Enjoyment. An Easement is hereby declared and created over and upon the Common Area for the benefit of the entire Property, and every Owner shall have a right and easement of use and enjoyment and a right of access to and of ingress and egress on, over, across, in, upon and to the Common Area, and such right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the following provisions:

a. The right of the Association, in accordance with its By-Laws, to adopt rules and regulations governing the use, operation and maintenance of the Common Area.
b. The right of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Area. Notwithstanding the foregoing, no mortgage shall be placed upon the Common Area unless such mortgage is approved by the Board and by a majority of the Members, voting at a general or special meeting duly called and held in accordance with the By-Laws.

c. The right of the Association to dedicate or transfer all or any part of the Common Area or any utility system thereon to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer, signed by two-thirds (2/3) of the Members of the Board of Directors, has been recorded.

5.2. Rights of Occupants. All persons who reside on a Lot shall have the same rights to use and enjoy the Common Area and all improvements situated thereon as the Owner of that Lot, as provided in the By-Laws.

5.3. Utility Easements. The authorized telephone company, Commonwealth Edison Company, the authorized cable television company, Northern Illinois Gas Company, McHenry County Public Works Department, City of McHenry, Illinois, and all other suppliers of utilities serving the Property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair and replace conduits, cables, pipes, wires, transformers, mains, switching apparatus and other equipment, including housings for such equipment, into, over, under, on and through the Property for the purpose of providing utility services to the Property. Every Owner is also hereby granted an easement of ingress and egress over and upon the Common Area and any other Lot for any and all purposes arising out of the construction, installation, repair, maintenance, replacement and inspection of utilities servicing such Owner's Lot.

5.4. Encroachments. In the event that (a) by reason of settlement, shifting or movement, any dwelling, garage or other improvement as originally constructed by the Developer on any Lot or upon the Common Area overhangs or otherwise encroaches or shall hereafter encroach upon any other Lot or upon the Common Area, or (b) by reason of such settlement, shifting or movement it shall be necessary or advantageous to an Owner to use or occupy any portion of the Common Area for any reasonable use appurtenant thereto which will not unreasonably interfere with the use or enjoyment of the Common Area by other Owners, or (c) by reason of settlement, shifting or movement of utility, ventilation and exhaust systems, as originally constructed by Developer, any mains, pipes, ducts or conduits servicing any Lot or more than one Lot, encroach or shall hereafter encroach upon any part of any Lot or the Common Area, then, in any such
case, valid easements for the maintenance of such encroachment and for such use of the Common Area, together with the right to enter upon such other Lot or Common Area to maintain, repair and replace such other Lot or Common Area to maintain, repair and replace such encroachment, are hereby established and shall exist for the benefit of such Lot or the Common Area, as the case may be, so long as such dwelling, garage or other improvement shall remain standing, provided, however, that if any such dwelling, garage or other improvement is partially or totally destroyed and thereafter repaired or rebuilt, the same encroachment may be re-established and the easements herein granted for the maintenance, repair and replacement thereof shall continue in force; provided further that in no event shall a valid easement for any encroachment or use in the Common Area be created in favor of any Owner if such encroachment or use was created by the intentional, willful or negligent conduct of any Owner or that of his agent.

5.5. Easements Run With the Land. All easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and binding upon any owner, purchaser, mortgagee or to the person having an interest in the Property, or any part or portion thereof. Reference in the respective deeds of conveyance or in any mortgage or trust deed or other evidence of obligation to the easements and rights described in this Article or in any other part of this Declaration shall be sufficient to create and reserve such easements as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

ARTICLE 6

COVENANT FOR ASSESSMENTS

6.1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot (excluding Declarant and Developer), by acceptance of a Deed therefor, whether or not it shall be so expressed in any such deed or other covenants, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association, for each Lot owned by such Owner, all assessments and charges levied pursuant to this Declaration. Such assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge and a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with such interest and costs, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when such assessment fell due.

6.2. Purpose of Assessments. The Assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Members of the Association and, in particular, without limiting the foregoing, for
maintenance, repair, replacement, improvement and additions of and to the Common Area and the improvements thereon, for all taxes, insurance, utilities, professional and other services, materials, supplies, equipment and other costs and expenses incident to the ownership of the Common Area and all facilities and improvements thereon, for certain maintenance, and for otherwise carrying out the duties and obligations of the Board and of the Association as stated herein and in its Articles of Incorporation and By-Laws.

6.3. **Assessment Procedure - Annual Assessments.**

a. Each year, on or before December 1, the Board shall prepare a budget for the Association for the ensuing twelve (12) months which shall include estimated cash expenditures and reasonable amounts as a reserve for repairs to and replacement of the improvements on the Common Area, and for such other contingencies as the Board may deem proper, and shall, on or before December 15, notify each Owner in writing of the amount of such estimate, with reasonable itemization thereof. The budget shall also take into account the estimated net available cash income for the year, if any, that may be received by the Association. On or before the next January 1, following the preparation of the budget, and on the first day of each and every month for the next twelve (12) months, each Owner, jointly and severally, shall be personally liable for and obligated to pay to the Board or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this paragraph. On or before May 1 of each year following the initial meeting, the Board shall supply to all Owners an itemized accounting, on an accrual or cash basis, of expenses for the preceding twelve (12) months together with a tabulation of the assessments and showing net excess or deficit, on an accrual or cash basis, of income over the sum of expenses plus reserves. Any such excess may, at the discretion of the Board, be retained by the Association and shall be placed in a reserve account.

b. If said annual assessments prove inadequate for any reason, including non-payment of any Owner's assessment, the Board may, subject to the limitations on the use of capital reserves in Paragraph 6.5, charge the deficiency against existing reserves, or levy a further assessment which shall be assessed equally against all Lots subject to assessment. The Board shall serve notice for such further assessment on all Owners by a statement in writing showing the amount due and reasons therefor, and such further assessment shall become effective with the monthly installment which is due more than ten (10) days after delivery or mailing of such notice of
further assessment. All Owners shall be personally liable for and obligated to pay their respective adjusted monthly assessment.

c. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on any Owner shall not constitute a waiver or release in any manner of such Owner’s obligation to pay the maintenance costs and necessary reserves, as herein provided. Whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay his monthly installment at the then existing rate established for the previous period until the monthly installment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

6.4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Board may levy special assessments for the purpose of defraying, in whole or in part, the cost of constructing or purchasing a specified capital improvement upon or to the Common Area and for the necessary fixtures and personal property related thereto, provided that, unless otherwise provided in the By-Laws, any such assessments which in one (1) year exceed Five Thousand and No/100 Dollars ($5,000.00) for all Lots involved shall first be approved by a majority of the Board and thereafter by a majority of the votes cast by the Members present at a general or special meeting duly called for that purpose or, in lieu of such Member’s meeting, by an instrument signed by the Members owning two-thirds (2/3) of the Lots. Special assessments levied hereunder shall be due and payable at such time or times and in such manner as shall be fixed by the Board or, where applicable, as approved by the members, and shall be used only for the specific purpose for which such assessment was levied.

6.5. Capital Reserves. To the extent the annual budget includes an amount specifically designated as a capital reserve, that proportion of each installment of the annual assessments paid to the Association as the amount so designated as a capital reserve bears to the total annual budget shall be segregated and maintained by the Association in a special capital reserve account to be used solely for making repairs and replacements to the Common Area and the improvements thereon which the Association is obligated to repair and replace in accordance with the provisions of this Declaration, and for the purchase of equipment to be used by the Association in connection with its duties hereunder. At the closing of a sale to an initial Owner of a Lot, said Owner shall deposit with the Association an amount equal to One Hundred Fifty and 00/100 Dollars ($150.00) as a start up deposit to be applied to capital reserves.

6.6. Notice and Quorum. Written notice of any meeting called for the purpose of authorizing special assessments which requires approval of the Members shall be sent to
all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of voting Members in person or by proxy having sixty percent (60%) of the votes entitled to be cast shall constitute a quorum. If the required quorum is not present another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6.7. Uniform Assessments. Both annual and special assessments shall be fixed at a uniform rate for all Lots.

6.8. Collection of Assessments. Any installment of an assessment which is not paid when due shall be delinquent. If said installment is not paid within thirty (30) days after the due date, the Board may, upon notice to such Owner of such delinquency, accelerate the maturity of all remaining installments due with respect to the current assessment year, and the total amount shall become immediately due and payable and commence to bear interest from the date of acceleration at the maximum rate permitted by law. The Board may determine a late charge not to exceed Fifty and No/100 Dollars ($50.00) per month for all delinquent assessments. The Association may bring an action against the Owner personally obligated to pay assessments and recover the same, including interest, costs and reasonable attorneys' fees for any such action, which shall be added to the amount of such assessment and included in any judgment rendered in any such action. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and any such accelerated installments, together with interest, late charges as determined by the Board, costs and attorneys' fees as above provided, shall be and become a lien or charge against the delinquent Owner's Lot when payable and may be foreclosed by any action brought in the name of the Association. To the extent permitted by statute, the Board may bring an action in Forcible Entry and Detainer to collect any delinquent assessments.

6.9. No Waiver of Liability. No Owner may waive or otherwise escape liability for assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Any claim by an Owner against the Association shall be by separate action and shall not be used as a defense or counterclaim to an action by the Association to collect assessments.

6.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage placed at any time on a Lot by a bona fide lender. Each holder of a first mortgage on a Lot who obtains title or comes into possession of that Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or by deed (or assignment) in lieu of foreclosure, or any purchaser at a foreclosure sale, will take the Lot free of any claims for unpaid
assessments or charges which become payable prior to such acquisition of title, possession, or the filing of a suit to foreclose the mortgage.

ARTICLE 7

EXTERIOR MAINTENANCE BY ASSOCIATION AND OWNERS

In addition to other rights, powers and duties of the Association under applicable law or as otherwise set forth in this Declaration and in the By-Laws of the Association, the Association shall have the following rights, powers and duties with regard to the Common Area and the cost and expense of which shall be paid for by the Association from assessment funds:

Common Area. The Association shall maintain, repair, replace and manage the Common Area and all facilities, improvements and equipment thereon, and pay for all expenses and services in connection therewith, including without limiting the generality of the foregoing: landscape maintenance, comprehensive liability, hazard and other insurance, payment of all taxes, assessments and other liens and encumbrances which are assessed to or charged against the Common Area or other property owned by the Association, and such other services for the Common Area as the Board deems to be in the best interests of the Association and its Members.

Fence. The Association shall maintain, repair and replace a five foot (5') high cedar fence along the eastern lot line of the Property abutting Orchard Beach Road, except that portion of the Property along Lot 96, as indicated on the Subdivision Plat. Notwithstanding the foregoing, an Owner shall have the right, upon prior written approval of the Association and the issuance of a building permit by the City, to install a gate of identical material, style and color in that portion of the aforesaid fence along said Owner's Lot. Such installation shall be at the sole cost and expense of the Owner of said Lot.

Landscape Plan. The Association shall maintain, repair, replace and manage the landscaping located within the Property in accordance with the Landscaping Plan, which is attached hereto and made a part hereof as Exhibit "D".
ARTICLE 8

RIGHTS OF FIRST MORTGAGEES

8.1. In addition to all other rights of first mortgagees pursuant to this Declaration, and notwithstanding any other provisions herein to the contrary:

Unless at least fifty-one (51) percent of the first mortgagees (based upon one vote for each first mortgage owned) of individual Lots (hereinafter referred to as "First Mortgagees") have given their prior written approval, the Association shall not be entitled to:

a. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvement thereon which are owned, directly or indirectly, by the Association for the benefit of the Lots and the Owners. The granting of easements for public utilities or for other purposes consistent with the intended use of such property by the Association shall not, for purposes of the foregoing, be deemed to be a transfer.

b. Change the method of determining the obligations, assessments, dues, reserves for maintenance, repair and replacement of Common Areas, or other charges which may be levied against a Lot and the Owner thereof as provided in Article 6, subject, however, to the provisions in Paragraph 8.5 hereof.

c. By act or omission waive, abandon or materially change any scheme or regulations or enforcement thereof pertaining to the architectural design or the exterior appearance of any dwelling or garage on a Lot, the exterior maintenance of any such dwelling or garage, the maintenance of common fences and driveways; if any, or the upkeep of lawns and plantings on the Property.

d. Fail to maintain fire and extended coverage insurance on the insurable improvements in the Common Area in an amount not less than one hundred percent (100%) of the full insurable replacement cost.

e. Use hazard insurance proceeds for losses to any improvements to the Common Area for other than the repair, replacement or reconstruction of such improvements.
f. Change the responsibility for maintenance and repairs of the Common Area and/or Lots thereof as provided in Article 7.

g. Change the interests in the Common Area or rights to their use.

h. Change the voting rights of any Member of the Association.

i. Impose any restrictions on a Lot Owner’s right to sell or transfer his or her Lot.

j. By act or omission, seek to terminate the legal status of the Association after substantial destruction or condemnation.

8.2. First Mortgagees shall have the right to examine the books and records of the Association at reasonable times upon reasonable notice.

8.3. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area and First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

8.4. Any First Mortgagee, at its written request, shall be entitled to written notice from the Board of any default by the mortgagor of such Lot in the performance of such mortgagor’s obligations hereunder or under the By-Laws or rules and regulations of the Association which is not cured within thirty (30) days.

8.5. First Mortgagees are entitled to timely written notice, if requested in writing of:

a. Any condemnation or casualty loss that affects either a material portion of the project or the lot securing its mortgage;

b. Any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage;

c. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the owners’ association; and

d. Any proposed action that requires the consent of a specified percentage or eligible mortgage holders.

The request must include the Owners’ Association, stating both its name and
address and the Lot address of the Lot it has a mortgage on.

This Article 8 may be amended only with the written consent of seventy-five (75%) of the First Mortgagees (based upon one vote for each first mortgage owned).

**ARTICLE 8**

**DEVICES DESIGNED FOR THE AIR RECEPTION OF TELEVISION BROADCAST SIGNALS.**

In compliance with Section 207 of the Telecommunications Act of 1996, and the rules and regulations promulgated thereby, devices designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution services or direct broadcast satellite services (collectively "Dishes") which promote a viewer's ability to receive video programming services, shall be permitted and may be affixed to or placed upon the exterior walls or roof of any dwelling, garage or other improvement on a Lot; provided, however, Dishes shall be placed, to the extent feasible, in locations that are not visible from any street, provided, that this placement permits reception of any acceptable qualify signal. The location of the Dishes shall be subject to the prior written approval of the Association. In addition, the size of the Dishes shall not exceed twenty four (24) inches in diameter. Any and all Dishes permitted pursuant to this Section shall be installed in full compliance with all health, safety, fire and electrical codes, rules, regulations, ordinances, statutes and laws of the Federal Government, State of Illinois, McHenry County, the City and the Association (collectively "Health and Safety Laws"). All Dishes installed shall be properly grounded and installed in full compliance with all installation requirements of the manufacturer and all Health and Safety Laws. No Dishes shall be installed within the close proximity of any power lines. All Dishes installed, to the extent feasible, shall be painted or of such color so that the Dish blends into the background against which it is mounted, provided, however, said painting requirement does not prohibit or unreasonably interfere with the reception or signal received by the viewer. Notwithstanding anything contained herein to the contrary, the installation of any Dish shall be at the Owner's sole risk and sole cost and expense and, in the event the installation of any Dish causes any damage or destruction to any dwelling or other improvement installed by Developer or any Lot or voids or impairs any warranty which runs for the benefit of the Developer, other Lot Owners or the Association, the Owner installing and owning aid Dish shall be liable and responsible for and shall pay for any and all costs, expenses, fees and damages and repair any and all damage or destruction created thereby, including reasonable attorneys' fees and court costs. No Dish shall be affixed to, installed or placed upon the Common Area except upon the prior written consent of the Developer, not to be unreasonably withheld, and shall only be installed, affixed or placed upon the Common Area in conjunction with the Association's duly adopted rules and regulations. Notwithstanding anything contained herein to the contrary, any Owner installing and affixing any Dish to a Lot, improvement, dwelling or the
Common Area hereby agrees to and shall indemnify, defend and hold Developer and the Association harmless from and against any and all costs, expenses, suits, damages, destruction to any real property or any person, including attorneys' fees and court costs, caused by, either directly or indirectly, the installation, affixing and maintaining, whether by said Owner or a third party contractor, of a Dish pursuant to this Declaration. This Article 9 shall be binding upon and inure to the benefit of each Owner and his/her heirs, successors and assigns and shall be effective upon recordation in the Office of the McHenry County Recorder of Deeds.

**ARTICLE 10**

**LEASE OF LOTS**

Any lease agreement between an Owner and a lessee shall be in writing and shall provide that the terms of such lease are subject in all respects to the provisions of this Declaration, the Articles of Incorporation, By-Laws and rules and regulations of the Association, and that failure by the lessee to comply with the terms of such documents shall be a default under the lease. To verify this, a Rider, which can be obtained from the Board, must be signed and attached to every lease and returned to the Board. Notwithstanding, no lease is to be less than thirty (30) days. Other than the foregoing, there is no restriction on the right of any Owner, including Declarant or Developer, to lease any Lot it owns.

**ARTICLE 11**

**GENERAL PROVISIONS**

11.1. **Enforcement.** In addition to all other rights herein granted to the Association, the Association may enforce the provisions of this Declaration, the Articles of Incorporation, By-Laws and rules and regulations of the Association by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provisions. All rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, and failure of the Association to enforce any such provisions shall in no way be deemed a waiver of the right to do so thereafter. All expenses incurred by the Association in connection with any such proceedings, including court costs and attorneys' fees, together with interest thereon at the highest interest permitted by law, shall be charged to and assessed against any Owner violating any such provisions and shall be added to and deemed a part of his assessment and constitute a lien on his Lot and be enforceable as provided in Article 6. If any Owner, or his guests, violates any provisions of this Declaration, the Articles of Incorporation, the By-Laws, or the rules and
regulations of the Association, the Board may, after affording the Owner an opportunity to be heard, levy a reasonable fine against such Owner, and such fine shall be added to and deemed a part of his assessment and constitute a lien on his Lot and be enforceable as provided in Article 6.

In the event the Association fails to maintain the Common Areas or other areas or items the Association is required to maintain in accordance with the terms and conditions of this Declaration, the City of McHenry shall have the right, but not the obligation, to enforce the terms and conditions of this Declaration. Any and all costs incurred by the City of McHenry relating to the enforcement of this Declaration shall be reimbursed to the City of McHenry upon written request to the Association.

11.2. **Severability.** Invalidation of any provision of this Declaration by judgment or court order shall not affect any other provision hereof, all of which shall remain in full force and effect.

11.3. **Title in Land Trust.** In the event title to any Lot is conveyed to a title-holding trust under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiary or beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such title-holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust, notwithstanding any transfer of the beneficial interest of any such trust or any transfers of title of such Lot.

11.4. **Amendments.** The provisions of Article 5 and Paragraph 6.1, and this paragraph may be amended only by an instrument in writing setting forth such amendment signed and acknowledged by all Owners. Subject to Article 8, the remaining provisions of this Declaration may be amended by an instrument in writing setting forth such amendment signed and acknowledged by the voting Members having at least fifty-one (51%) percent of the total votes of the Members or that is approved at a duly called and held general or special meeting of Members by the affirmative vote, either in person or by proxy, of the voting Members having a majority of the total votes of the Members and containing a certification by an officer of the Association that said instrument was duly approved as aforesaid. No amendment shall be effective until duly recorded in the Office of the Recorder of Deeds of McHenry County, Illinois. This Declaration may not be amended or modified without the prior written consent of the City, which consent shall not be unreasonably withheld.

-24- 03-025-1236
11.5. **Special Amendment.** Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages encumbering any Lot, or (iii) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In addition, a Special Amendment shall also be deemed to include, until the Turnover Date, such amendment to this Declaration as Declarant elect to record at any time and from time to time for any other purpose, so long as such amendment will not materially impair the rights of the Owners hereunder or materially increase the expenses to be borne by them hereunder. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservations of, the power to the Declarant to vote in favor of, make, execute and record Special Amendments.

11.6 **Headings.** All headings set forth herein are intended for convenience only and shall not be given or construed to have any substantive effect on the provisions of this Declaration. The singular shall include the plural wherever the Declaration so requires, and the masculine the feminine and neuter and vice versa.

11.7 **Assignment by Developer/Declarant.** Notwithstanding anything herein to the contrary, Declarant and/or Developer reserve(s) the right to transfer, assign, mortgage or pledge any and all of either respective privileges, rights, title and interests hereunder, or in the Property, by means of recording an assignment of such with the Office of the Recorder of Deeds of McHenry County, Illinois. Upon such assignment, Declarant and/or Developer, as the case may be, shall be relieved from any liability arising from the performance or non-performance of such rights and obligations accruing from and after the recording of such assignment. No such successor assignee of the rights of Declarant and/or Developer shall have or incur any liability for the obligations or acts of any predecessor in interest.

11.8 **Mailing Address.** Each Owner of a Lot shall file the correct mailing address of such Owner with the Association and shall notify the Association promptly in writing of any subsequent change of address; provided, however, that if any Owner shall fail to so
notify the Association, the mailing address for such Owner shall be the common street address of the Lot owned by such Owner. The Association shall maintain a file of such addresses. A written or printed notice, deposited in the United States mails, postage prepaid, and addressed to any Owner at the last address filed by such Owner with Declarant shall be sufficient and proper notice to such Owner shall be deemed delivered on the third (3rd) day after deposit in the United States mails.

11.9 Notices. Any notice required or desired to be given under the provisions of this Declaration to any Owner shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, directed to the person who appears as the Owner at his last known address, all as shown on the records of the Association at the time of such mailing.

11.10 Binding Effect. Except for matters discussed in Article 8 of this Declaration, the easements created by this Declaration shall be of perpetual duration unless cancelled in a written document signed by ninety percent (90%) of the Owners. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

ARTICLE 12
COMMON INTEREST COMMUNITY

The Association shall act and operate as a Common Interest Community as defined in Chapter 735 ILCS 5/9-102, Illinois Compiled Statutes, , as from time to time amended. The Declaration and By-laws shall be deemed to be amended as necessary to comply with any statute relating to Common Interest Communities, and the Developer or Board may record such documents as are necessary to effect this compliance.

[SIGNATURE APPEARS ON NEXT PAGE]
IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date
and year first above mentioned.

KENNEDY HOMES LIMITED PARTNERSHIP,
an Illinois limited partnership

By: Kennedy Construction, Inc.
Its: General Partner

By: ________________________________
Name: John J. Emigh
Its: The President
STATE OF ILLINOIS  
COUNTY OF KANE

I, DEBRA M. FRESE, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that John Emigh, an officer of KENNEDY CONSTRUCTION, INC., as General Partner of Kennedy Homes Limited Partnership, personally known to me to be the same person whose name is subscribed to the foregoing Declaration of Covenants, Conditions, Easements and Restrictions for Riverside Hollow Homeowners Association, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said Declaration, on behalf of the corporation and as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 5th day of Feb., 2003.

[Signature]
Notary Public
EXHIBIT "A"

LEGAL DESCRIPTION

Riverside Hollow
McHenry, IL
OF PART OF THE SOUTHWEST QUARTER OF SECTION 24 AND OF PART OF THE
NORTHWEST QUARTER OF SECTION 25. ALL IN TOWNSHIP 45 NORTH, RANGE 8
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN McHENRY COUNTY, ILLINOIS,
RECORDED AS DOCUMENT NUMBER 2002R0069589.
EXHIBIT "B"

(SUBDIVISION PLAT)

RECORDED WITH THE RECORDER OF DEEDS
OF MCHENRY COUNTY, ILLINOIS AS DOCUMENT
NUMBER: 2002R0069589
2003R (easements)

03-025-1242
EXHIBIT "C"

BY-LAWS OF THE
RIVERSIDE HOLLOW HOMEOWNERS ASSOCIATION

ARTICLE I

NAME AND LOCATION

The name of the not-for-profit corporation is Riverside Hollow Homeowners Association ("Association"). The principal office of the Association shall be located at E. Dundee, Illinois, but meetings of members and directors may be held at such places within the State of Illinois, County of McHenry as may be designated by the Board of Directors ("Board").

ARTICLE II

BOARD OF MANAGERS

Section 1. Administration of Property Prior to Election of Initial Board of Managers. Until the election of the initial Board of Managers, the same rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board of Managers by law and in the Declaration and By-Laws shall be held and performed by the Declarant. The election of the initial Board of Managers shall be held thirty (30) days after the occurrence of one of the following events:

(a) Twenty (20) years from the date of the Declaration;

(b) The sale and conveyance of legal title to all of the lots to owners other than Declarant or an assignee of Declarant; or

(c) Declarant elects voluntarily to turn over to the members the authority to appoint a Board. Within sixty (60) days following the election of a majority of the Board of Managers other than the Declarant, the Declarant shall deliver to the Board of Managers:

Within sixty (60) days following the election of a majority of the Board of Managers other than the Declarant, the Declarant shall deliver to the Board of Managers:
(1) All original documents pertaining to the Property (as defined in the Declaration) and its administration such as the Declaration, By-Laws, Articles of Incorporation, minutes and any rules or regulations governing the Property.

(2) A detailed accounting by the Declarant, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the Association;

(3) Association funds, which shall have been at all times segregated from any other monies of the Declarant;

(4) A schedule of all personal Property, equipment and fixtures belonging to the Association, including documents transferring the Property;

(5) Any contracts, leases, or other agreements made prior to the election of a majority of the Board of Managers other than the Declarant by or on behalf of Lot Owners.

Section 2. Board of Managers (Board of Directors).

(a) The Board of Directors, also known as the Board of Managers, shall consist of three (3) persons who shall be appointed or elected in the manner herein provided, or such greater number as may be determined by Board resolution. Each member of the Board shall be a Lot Owner and shall reside on the Property, provided, however, that in the event a Lot Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any officer, director or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board, provided such person must reside on the Property unless he is a Board member nominated by the Declarant.

(b) At the initial meeting, the Voting Members shall elect three (3) Board Members. In all elections for members of the Board, each Voting Member shall be entitled to cumulate his votes in the manner provided by law and the candidates receiving the highest-number of votes with respect to the number of offices to be filled shall be deemed to be elected. Members of the Board elected at the initial meeting shall serve until the first annual meeting. The two (2) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years and the person receiving the next highest number of votes shall be elected to the Board for a term of one (1) year. In the event of a tie vote, the members
of the Board shall determine which members shall have the two (2) year terms and which members shall have the one (1) year term. Upon the expiration of the terms of office of the Board members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each, provided, however, Board members may succeed themselves. Members of the Board shall receive no compensation for their services, unless expressly authorized by the Board with the approval of Voting Members having two-thirds (2/3) of the total votes. Vacancies in the Board, including vacancies due to any increase in the number of persons on the Board, shall be filled by the Voting Members present at the next annual meeting or at a special meeting of the Voting Members called for such purpose. Except as otherwise provided in the Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present (at its meetings at which a quorum exists.) A majority of the total number of the members of the Board shall constitute a quorum. Meetings of the Board may be called, held and conducted in accordance with such resolutions as the Board may from time to time adopt.

Section 3. Officers. The Board shall elect from among its members a President who shall preside over both its meetings and those of the Voting Members, and who shall be the chief executive officer of the Board and the Association and who shall execute amendments to the Declaration and By-Laws; a Secretary who shall keep the minutes of all meetings called for that purpose. A successor to the Secretary may be elected by the Voting Members at the same meeting or any subsequent annual meeting or special meeting called for that purpose, such meeting to be held within thirty (30) days after the special meeting which removed the Board-member.

Section 4. Removal. Any Board member may be removed from office by affirmative vote of the Voting Members having at least two-thirds (2/3) of the total votes, at any special meeting called for that purpose. A successor to fill the unexpired term of a Board member removed may be elected by the Voting Members at the same meeting or any subsequent annual meeting or special meeting called for that purpose, such meeting to be held within thirty (30) days after the special meeting which removed the Board-member.

Section 5. Meetings. The Board shall meet at least four (4) times annually, on the first Monday of February, May, August and November and at such other times as the Board deems necessary. Meetings of the Board shall be open to any Lot Owner, notice of any such meeting shall be received at least forty-eight (48) hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice.

Section 6. General Powers of the Board. In addition to the duties and powers
inherently charged to and possessed by the Association as an Illinois not-for-profit corporation and the duties and powers enumerated herein and in its Articles of Incorporation and Declaration, or elsewhere provided for, and without limiting the generality of the same, the Association shall have the following duties and powers:

(a) preparation, adoption and distribution of the annual budget for the Property;

(b) levying of assessments;

(c) collection of assessments from members;

(d) owning, conveying, encumbering, leasing and otherwise dealing with Lots conveyed to or purchased by it;

(e) keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;

(f) to have access to each Lot from time to time as may be necessary for the maintenance, repair or replacement of the Common Area therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Area or to other Lot or Lots;

(g) to pay any amount necessary to discharge any mechanic's lien or other encumbrance against the Property or any part thereof which may in the opinion of the Board constitute a lien against the Property or against the Common Area, rather than merely against the interests therein of particular Lot Owners. Where one or more Lot Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred (including attorney's fees, if any) by the Board by reason of said lien or liens shall be specially assessed to said Lot owner or Lot Owners;

(h) to maintain and repair any Lot if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Area or any other portion of the Property, and a Lot owner of any Lot that has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair mailed or delivered by the Board to said Lot Owner, provided that the Board shall levy a special assessment against such Lot Owner for the cost of said maintenance or repair;

(i) The Board shall have the power to seek relief from or in connection with the assessment or levy of any general real estate taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof,
or any other lawful assessing body, which are authorized by law to be assessed and levied on the Common Area and to charge all expenses incurred in connection therewith to the Association.

(j) the Board's powers hereinabove enumerated and described in the Declaration, shall be limited in that the Board shall have no authority to acquire and pay for any structural alterations, additions to, or improvements of the Lots requiring an expenditure in excess of Five Thousand Dollars ($5,000.00), without in each case the prior approval of Voting Members having two-thirds (2/3) of the total votes;

(k) all agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Treasurer and countersigned by the President of the Board;

(1) the Board may adopt such reasonable rules and regulations, not inconsistent herewith, as it may deem advisable for the maintenance, administration, management, operation, use, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Lot Owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Lot Owners and Occupants and the Property shall at all times be maintained subject to such rules and regulations;

(m) the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board;

(n) nothing hereinabove contained shall be construed to give the Board, Association, or Lot Owners authority to conduct an active business for profit on behalf of all the Lot Owners or any one of them;

ARTICLE III
COMMITTEES

Section 1. The Board, by resolution adopted by a majority of the Board, may designate one (1) or more committees, each of which shall consist of one (1) or more members of the Board; said committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the authority of the Board in the management of the Association; but the designation of such committees and the delegation thereof of authority shall not operate to relieve the Board, or any individual
member of the Board, of any responsibility imposed upon it or him by law.

Section 2. Other committees not having and exercising the authority of the Board in the management of the Association may be designated by a resolution adopted by a majority of the members of the Board present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be Lot owners, and the President of the Association, shall appoint the members thereof. Any member thereof may be removed whenever in the judgment of the Board the best interests of the Association shall be served by such removal.

Section 3. Each member of a committee shall continue as such until the next annual meeting of the Board or until his successor is appointed and shall have qualified or until the Board shall relieve him from his role as a committee member, unless the committee shall be sooner terminated, or unless such member shall cease to qualify as a member thereof.

Section 4. One (1) member of each committee shall be appointed chairman.

Section 5. Vacancies in the membership of any committee may be filled by appointment made in the same manner as provided in the case of the original appointment.

Section 6. Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7. Each committee may adopt rules for its own governance not inconsistent with these By-Laws or with rules adopted by the Board.

**ARTICLE IV**

**MEMBERSHIP MEETINGS**

Section 1. Meetings of the Lot Owners shall be held at the principal office of the Association or at such other place in the City of McHenry, Illinois as may be designated in any notice of a Meeting, any Lot owners in writing may waive notice of a meeting or consent to any action of the Association without a Meeting.

Section 2. Special Meetings of the Lot Owners may be called at any time for the purpose of considering matters which, by the terms of the Declaration or these By-Laws, require the approval of all, or some of the Lot Owners, or for any other
reasonable purpose. Said Meetings shall be called by written notice, authorized by a majority of the Board or by the Lot Owners having one-fourth (1/4) of the total votes, and delivered not less than five (5) days prior to the date fixed for said Meeting. The Notices shall specify the date, time and place of the Meeting and the matters to be considered.

Section 3. At any Meeting of the Lot Owners, a Lot Owner entitled to vote may either vote in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. A proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy.

ARTICLE V
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Lot owner and their mortgagees. The Articles and the Declaration and By-Laws of the Association shall be available for inspection by any Lot Owner at the principal office of the Association, where copies may be purchased at reasonable cost. The Association shall also provide, upon written request by any holder, insurer or guarantor of any first mortgage that is secured by a Lot within the Property, a copy of an audited financial statement for the preceding fiscal year.

ARTICLE VI
AMENDMENTS

These By-Laws may be amended or modified from time to time by action or approval of the Lot Owners entitled to cast two-thirds (2/3) of the total votes computed as provided in Section 4.2 of the Declaration. Such Amendments shall be recorded in the Office of the Recorder of Deeds of McHenry County, Illinois.
ARTICLE VII

INTERPRETATION

In the case of any conflict between the Articles of Incorporation of the Association and these By-Laws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.
DISCUSSION ITEM

DATE: November 4, 2019
TO: Mayor and City Council
FROM: Carolyn Lynch, Finance Director
RE: 2019 Tax Levy Discussion
ATT: PTELL Calculation
2018 McHenry County Tax Rates

AGENDA ITEM SUMMARY:
The purpose of this agenda item is to discuss the 2019 Property Tax Levy and to provide City Staff guidance on the levy amount to be requested.

BACKGROUND/ANALYSIS:
Approximately 76.2% of the FY19/20 budgeted General Fund Revenues are derived from Sales Tax, Income Tax and Property Tax receipts with the remaining approximate 23.8% coming from such sources as miscellaneous other intergovernmental taxes, grants, franchise fees, licenses and permits, fines and forfeitures, and charges for services. For the FY19/20 Budget, Property Tax receipts comprised 20.5% ($4,942,359) of the total budgeted revenues ($24,060,427).

As the Council is aware, McHenry has implemented a Fund Balance and Reserve Policy and for the General Fund, this policy recommends that the unrestricted fund balance be maintained at 120 days of estimated operating expenses. Additionally, after the minimum fund balance is met, that excess fund balance should be assigned for future capital expenses. At the end of FY2018/19, there were $0 additional funds to be transferred to the Capital Improvements Fund as excess fund balance. In fact, the fund balance is actually $385,383 below the required 120 minimum, but not below the 90 day balance that requires a plan to be enacted to build up the fund balance.

As the Council discusses the property tax levy, it should keep the following factors in mind. First, that the FY19/20 General Fund Capital Improvement Program (CIP) includes about $64 million in projects (including an approximately $50 million local road program) that rely primarily on
General Fund Revenues for implementation. The 5 Year Capital Improvement Plan is in the early development phase and funding for the program will be based on budgeted revenues over expenses for FY20/21. The Capital Improvements Fund Balance has been depleted with projects to be completed in FY19/20.

The second factor is that, that despite the most conservative budgeting efforts, General Fund operating costs will continue to increase. For example, Police Pension contributions are estimated to increase $149,318, and overall salary increases are estimated to increase $466,271 for FY20/21, a total of $615,589 which represents a 2.5% increase in FY19/20 Budgeted Expenditures of $24,543,633.

The Council did approve the additional 0.25% increase in Home Rule Sales Tax which is in effect as of July 1, 2019. This revenue is being reserved for capital projects for at least the first year. The first payment was received and it is approximately $94,500 higher than last July (received in October). This is a good sign that the City will bring in an additional $1,000,000 each year from this revenue source to be used on capital projects.

Despite the fact that as a “Home Rule” community the City of McHenry is no longer subject to the Property Tax Extension Limitation Law, or PTLL - which limits increases to residents’ property taxes by preventing a local government’s property tax levy from growing at a faster pace than the rate of inflation, or 5%, whichever is less - the City has continued to follow PTLL guidelines for establishing the property tax levy. In fact, for the years 2011-2015 the City chose to maintain a flat property tax levy request at the amount that was requested in 2010. In 2016, Council chose to decrease the property tax levy request by 3%. And in 2017-2018 the levy was again maintained flat from the 2016 reduced amount.

For the 2019 tax year the inflationary rate is 1.9%. The Estimated Rate Setting EAV supplied by McHenry County is 708,626,214 (an increase of 7.4% over 2018) which includes new construction of 3,376,264. PTLL calculated with the inflationary rate and the estimated EAV equates to an Estimated Limited Extension of $4,729,088, or an $110,302 increase over last year. Even if the City were to adopt this increase, it would not come close to covering the anticipated increases in costs for FY20/21.

Based on the above information, it is important to remind the Council that freezing or reducing the City's portion of the property tax levy does not mean that home-owners will see a reduction in their property tax bill. Change in EAV also drives change in the property tax bill. When the EAV declines the tax rates must go up in order to fully fund the property tax levy because the same amount of money needs to be collected across the new lower values as requested by all taxing districts. For 2018, the EAV increased for the third consecutive year so the tax rates for the City went down slightly lowering the burden on taxpayers. In fact, in 2018 that portion of a resident’s tax bill directed to the City of McHenry was only 6.1% of the total amount. However, this does not take into consideration actions taken by the other taxing jurisdictions that comprise the total property tax bill. As an example, in 2015 the City of McHenry kept its portion of the
property tax bill the same as 2014, but the amount of property tax paid by the owner of a $200,000 home actually increased by $43.51 due to levy increases by other taxing bodies.

Annually, prior to the end of the calendar year, the City must provide the amounts required for the property tax levy so that the funds generated through this revenue mechanism will become available during the 2020/2021 fiscal year. The levy request must be approved by the City Council and submitted to the McHenry County Clerk by the last Tuesday in December (the 31st in 2019). There are public notification timeframes also associated with this process. With this date as a target, the 2019 Property Tax Resolution indicating the levy amount and Public Hearing will be presented at the November 18th, 2019 Council meeting and, upon adoption of the resolution, the Property Tax Levy Public Hearing and consideration/adoption of the levy amount is scheduled for the December 16, 2019 City Council meeting.
Property Tax Discussion

- Estimated PTELL calculation attached
  - CPI-U All Urban Consumers, All Items is 1.9% (December 2017-December 2018) (used for establishing PTELL)
    - The CPI-U All Urban Chicago, Gary, Kenosha is 1.1% (which we use for salary increases)
  - Estimated Limited Extension is $4,729,088 which is $110,302 higher than our 2018 extension

- After all audit adjustments have been made the 4/30/2019 General Fund Fund Balance is $7,254,970
  - The required ending fund balance per the Fund Balance and Reserve Policy is $7,640,353 (short $385,383)

- 5 Year Capital Improvement Plan is in the early development phase if during the budget process there are budgeted revenues over expenses capital items will be identified.

- Projected Salary Increases (Benefits not included)
  - General Fund Local 150 $63,445
  - FOP-I $140,140
  - PD Command Staff $39,353
  - FOP-II $71,711
  - General Fund Non-Bargaining Unit Employees (Compensation Study 25% percentile/estimated 3% increase) $151,622
  - Total Salary Increases $466,271

- Police Pension Funding – $2,231,742 for FY2020/21 which is levied through property taxes
  - $149,318 higher than FY19/20

- Revenues
  - First 3 months of Sales Tax Receipts for FY19/20 are up 1.5%
  - First month of Home Rule Sales Tax Rate at 0.75% was collected and is $94,500 higher than July of 2019.
  - First 3 months of Use Tax Receipts for FY19/20 are up 14%
  - Total FY18/19 Sales and Use Taxes were $9,768,862 (which is about a 1.3% increase over the 17/18 total of $9,647,977)
  - First 5 months of Income Tax Receipts for FY19/20 are up 5.6%
### City of McHenry

#### 2018 Property Taxes on $200,000 Home

**By Government Unit**

<table>
<thead>
<tr>
<th>Government Unit</th>
<th>2018 Rate</th>
<th>2018 Tax Amount</th>
<th>Percent of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>McHenry County</td>
<td>0.831721</td>
<td>$554.48</td>
<td>7.26%</td>
</tr>
<tr>
<td>McHenry Co. Conservation</td>
<td>0.237971</td>
<td>158.65</td>
<td>2.08%</td>
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<tr>
<td>MCC College District</td>
<td>0.365514</td>
<td>243.68</td>
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<td>School Dist. #15</td>
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<tr>
<td>School Dist. #156</td>
<td>2.643308</td>
<td>1762.21</td>
<td>23.07%</td>
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<td>McHenry Fire District</td>
<td>0.551940</td>
<td>367.96</td>
<td>4.82%</td>
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<td>McHenry Library</td>
<td>0.316629</td>
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<td>McHenry Twonshp. Rd. &amp; Br.</td>
<td>0.258223</td>
<td>172.15</td>
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<td>McHenry City</td>
<td><strong>0.699985</strong></td>
<td><strong>466.66</strong></td>
<td><strong>6.10%</strong></td>
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<tr>
<td></td>
<td>11.460043</td>
<td><strong>$7,640.05</strong></td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>

#### City of McHenry - PTELL (1.9% Increase)

**2019 Property Taxes on $200,000 Home**

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<td>172.15</td>
<td>2.26%</td>
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<td><strong>444.93</strong></td>
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<td>$11.427458</td>
<td><strong>$7,618.32</strong></td>
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**City Decrease - 1.9%**

-21.73
## Property Tax Limitation Worksheet
### 2019 Tax Year Estimate
Levied in 2019 - Collected in 2020

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<tr>
<th>Description</th>
<th>Value</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proj EAV</td>
<td>708,626,214</td>
<td></td>
</tr>
<tr>
<td>Prior EAV</td>
<td>624,662,787</td>
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</tr>
<tr>
<td>Inflation Factor</td>
<td>1.9%</td>
<td>From <a href="http://www.bls.gov/cpi/cpi/#tables">www.bls.gov/cpi/cpi/#tables</a>: CPI Detail Report</td>
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<th>Prior EAV</th>
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<th>Adjusted Prior EAV</th>
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<td>624,662,787</td>
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<table>
<thead>
<tr>
<th>Adjusted Prior</th>
<th>Adjusted</th>
<th>X</th>
<th>Prior EAV</th>
<th>Limit</th>
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<td>((Extension)</td>
<td>(Prior EAV)</td>
<td>/</td>
<td>Prior EAV)</td>
<td>X</td>
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<tr>
<td>4,618,786</td>
<td>624,662,787</td>
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<td>624,662,787</td>
<td>1.019</td>
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<tr>
<td>4,706,543</td>
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<table>
<thead>
<tr>
<th>Current EAV</th>
<th>Annexed In</th>
<th>Denominator</th>
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<tbody>
<tr>
<td>708,626,214</td>
<td>0</td>
<td>705,249,950</td>
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<tr>
<td>3,376,264</td>
<td></td>
<td>1.0000</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>705,249,950</td>
<td></td>
</tr>
</tbody>
</table>

**Estimated Limited Extension**

\[
\text{Estimated Limited Extension} = \frac{\text{Numerator}}{\text{Denominator}} \times \text{Limit}
\]

\[
\text{Estimated Limited Extension} = \frac{4,706,543}{705,249,950} \times 1.0000 = 6.674
\]

\[
\text{Estimated Limited Extension} = 4,729,088
\]

**Actual Limited Extension**

\[
\text{Actual Limited Extension} = \frac{\text{Numerator}}{\text{Denominator}} \times \text{Limit}
\]

\[
\text{Actual Limited Extension} = \frac{3,376,264}{705,249,950} \times 1.0000 = 0.6674
\]

**Non-Cap Amount**

\[
\text{Non-Cap Amount} = \text{Actual Limited Extension} \times \text{Limiting Rate/100 Eav}
\]

\[
\text{Non-Cap Amount} = 110,302 \times 0.6674 = 2.4%
\]