

**INTERGOVERNMENTAL AGREEMENT BETWEEN VILLAGE OF ARLINGTON
HEIGHTS AND ARLINGTON HEIGHTS PARK DISTRICT FOR THE
CONSTRUCTION, OPERATION AND MAINTENANCE OF A STORMWATER
DETENTION BASIN IN RAVEN PARK, ARLINGTON HEIGHTS, ILLINOIS**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is entered into this 7th day of February, 2022, by and between the Village of Arlington Heights, an Illinois municipal corporation (“Village”), and the Arlington Heights Park District, an Illinois park district and unit of local government (“Park District”). Village and Park District are hereinafter sometimes referred to individually as a “Party,” and collectively as the “Parties.”

RECITALS

WHEREAS, the Village owns, operates, and maintains a storm sewer collection system, including certain ancillary facilities and improvements, throughout its corporate boundaries; and

WHEREAS, the Village and its residents have experienced, and continue to experience, severe flooding during heavy rain events; and

WHEREAS, the boundaries of the Village and the Park District are nearly coterminous and the two entities attempt to keep them coterminous; and

WHEREAS, the Parties have, in the past, undertaken numerous cooperative programs in reserving and obtaining open space land for recreation purposes at minimal or no cost and through the interchange of services and equipment to the benefit of the Parties’ residents and taxpayers; and

WHEREAS, the Village has undertaken the Berkley Hintz storm water improvement project that includes the construction of stormwater storage and installation of large storm sewer pipes; and

WHEREAS, the Village requires land for stormwater detention as part of the storm water improvements contemplated by the Berkley Hintz stormwater improvement project; and

WHEREAS, the Park District is the owner of certain property commonly referred to as Raven Park, located at 2913 N. Mitchell Avenue, Arlington Heights, Illinois (“Park Property”); and

WHEREAS, the Park District is willing to allow the Village to use a portion of Raven Park for stormwater detention; and

WHEREAS, the Parties reasonably believe that the construction, operation and maintenance of certain stormwater improvements in portions of Raven Park is expected to reduce the frequency and severity of flooding within the Parties’ respective corporate boundaries; and

WHEREAS, based on the foregoing, the Park District has determined that it is in the public's interest to grant certain easement rights to the Village in order to facilitate the construction, operation, and maintenance of certain stormwater improvements in portions of Raven Park ("Raven Park Stormwater Detention Site"); and

WHEREAS, the Village, by virtue of its power as a home rule unit of government as provided in Article VII, Section 6 of the 1970 Constitution of the State of Illinois, and Park District, by virtue of its powers set forth in Sections 8-1 and 8-11 of the Park District Code (70 ILCS 1205/8-1 and 8-11), are authorized to enter into this Agreement; and

WHEREAS, a cooperative intergovernmental agreement is appropriate and such an agreement is authorized and encouraged by Article 7, Section 10 of the Illinois Constitution and the Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq.*); and

WHEREAS, the Parties wish to define and establish their respective rights, responsibilities and obligations with respect to the construction, operation, and maintenance of the stormwater improvements installed in the Raven Park Stormwater Detention Site.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Parties agree as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and made a part hereof as though fully set forth herein, the same constituting the factual basis for this Agreement.

2. Stormwater Improvements. The Village shall, at its sole cost and expense, design and construct certain mutually agreed upon stormwater improvements in the Raven Park Stormwater Detention Site ("Stormwater Improvements"). The Stormwater Improvements shall be based upon, and shall in all respects fully comply with, the Approved Plans and Specifications (as that term is defined in Paragraph 5, a copy of which is attached hereto and incorporated herein by reference as Exhibit A. The Parties specifically acknowledge that the plans and specifications attached hereto as Exhibit A at the time of execution of this Agreement may be preliminary in nature and may not be the Approved Plans and Specifications defined in Paragraph 5.C. below. Accordingly, the Parties agree that the Approved Plans and Specifications, once completed and agreed upon by both Parties, shall be attached to this Agreement as Exhibit A and shall replace any preliminary plans and specifications attached hereto at the time of execution. The Parties, through their respective Executive Director and Village Manager, shall execute an appropriate document confirming the attachment of the Approved Plans and Specifications to this Agreement.

3. Easements. To facilitate the construction, operation and maintenance of the Stormwater Improvements, the Park District shall grant to the Village certain temporary construction easement rights and certain perpetual access and maintenance easement rights in and to the Raven Park Stormwater Detention Site to be used for stormwater management purposes. The temporary construction easement and perpetual access and maintenance agreement shall be in

substantially the form attached hereto as Exhibit B and incorporated herein by reference, subject to such additional modifications as mutually agreed to by the Parties in writing.

4. Review of Village's Plans and Specifications.

A. The Village shall submit to the Park District for review and comment the proposed plans and specifications for the Stormwater Improvements to be constructed by the Village in the Raven Park Stormwater Detention Site pursuant to this Agreement. The Village has submitted plans and specifications to the Park District for review. All plans and specifications shall be prepared in accordance with all applicable Village ordinances, County of Cook Ordinances, and State and Federal statutes, rules, and regulations. The Village shall conduct at least one public informational meeting regarding the proposed plans and specifications, and shall attend and participate in such other public meetings reasonably requested by the Park District.

B. Park District shall have no liability for any errors, omissions, or other defects in any plans or specifications for the Stormwater Improvements, and its review and/or approval shall not constitute a limitation on or waiver by Park District of its rights under this Agreement or a defense by the Village to the exercise by Park District of its remedies for Village's breach of its obligations under this Agreement or as a basis for the Village to avoid its indemnification obligations under this Agreement.

5. Schedule of Construction. The Parties shall reasonably cooperate in coordination of the construction, operation and maintenance contemplated by this Agreement or any exhibits hereto, so as to minimize any adverse impact on Park District operations, including but not limited to Park District's use of Raven Park or the Raven Park Stormwater Detention Site. When issuing any bids for any work to be done pursuant to this Agreement, the Village shall submit a proposed construction schedule to the Park District for such work. The Village shall notify the Park District as far in advance as practicable, but in any event not less than ten (10) days, weather permitting, prior to commencement of construction, staging or site preparation for any construction, operation and maintenance contemplated by this Agreement or any exhibits attached hereto. The Village shall also provide the Park District with a copy of the construction schedule for any construction, operation and maintenance contemplated by this Agreement or any exhibits attached hereto, as the same may be revised from time to time and otherwise give the Park District reasonable advance notice of any planned activities on or in the Raven Park Stormwater Detention Site that may affect the Park District's conduct of its normal activities or operations, including but not limited to Park District's use of Raven Park or the Raven Park Stormwater Detention Site. Any construction schedule provided by the Village under this paragraph shall be based upon prior consultation with the Park District, and shall be designed, to the greatest extent practicable, to minimize any adverse impact on Park District operations, including but not limited to Park District's use of Raven Park or the Raven Park Stormwater Detention Site.

6. Demolition of Facilities or Improvements. If it is necessary for the Village to demolish any Park District facilities or improvements in order to fully implement the Approved Plans and Specifications, including but not limited to any existing sidewalks, paths, or trails, the Village shall be responsible for the full cost of such demolition and the relocation of the

demolished facilities or improvements in other areas of Raven Park, the location of which shall be identified by the Park District in its sole discretion. The Village shall give the Park District as much advance notice of such demolition or site preparation as practicable, but in no event less than seven (7) business days advance notice, to allow the Park District sufficient time to salvage or remove any facilities or improvements.

7. Restoration of the Park Stormwater Detention Sites.

A. Following the Village's completion of any Stormwater Improvements constructed in the Raven Park Stormwater Detention Site pursuant to this Agreement, the Village shall, at its sole cost and expense shall, restore all affected portions of the Raven Park Stormwater Detention Site and any other affected portions of Park District owned property to the same or better condition as existed immediately prior to the commencement of any activity thereon by the Village.

B. Additionally, the Village, at its sole cost and expense, shall repair all damage caused by the Village's construction at the Raven Park Stormwater Detention Site, any improvements located thereon, and any other affected portions of Park District owned property, and replace all lost or destroyed items upon notice to the Village and a reasonable time thereafter to perform such replacement.

C. All restoration, repair and replacement shall be completed to the reasonable satisfaction of Park District within thirty (30) days after the completion of the Stormwater Improvements or, if due to weather conditions or other circumstances which in the Park District's opinion would make any such restoration, repair and replacement inadvisable, then within such later time period as the Park District reasonably shall request.

8. Maintenance and Repair of the Stormwater Improvements. The Village shall maintain the Stormwater Improvements in such a manner so as to ensure that the Stormwater Improvements remain in good working order and repair at all times, and will further ensure that the Stormwater Improvements comply at all times with applicable federal, state and local law, including the ordinances and regulations of the County of Cook and the Village of Arlington Heights. The Village's maintenance obligations under this paragraph 10 shall include, but are not limited to, the obligations set forth in the Detention Basin Maintenance Tasks and Schedule, attached hereto as Exhibit C and incorporated herein by reference. In the event that the Park District determines that the Village is not in compliance with the terms of this paragraph 10, the Park District shall provide the Village written notice of said noncompliance. Upon receipt of said notice, the Village shall have thirty (30) days to commence the necessary measures to cure said noncompliance. Notwithstanding the above thirty (30) day cure period, the Village shall take immediate action to cure said noncompliance in the case of an emergency likely to cause immediate harm, damage or danger to surrounding property or to the public or private health, safety or welfare. In the event that the Village fails to commence the necessary measures to cure said noncompliance at the expiration of the periods set forth herein, or otherwise exhibits an unwillingness to cure said non-compliance, the Park District shall have the right, but not the obligation, to take all steps necessary to bring the stormwater improvements into good working order and repair and to ensure compliance with all applicable federal, state and local laws,

including the ordinances and regulations of the County of Cook and the Village of Arlington Heights, and the Village shall be responsible for all reasonable costs and expenses incurred by the Park District in connection with same, including reasonable attorneys' fees. Except for emergency situations or unless otherwise agreed upon by the Parties, the Village shall provide not less than thirty (30) days advance written notice before beginning any work or maintenance on the Stormwater Improvements. In the event of an emergency, and if prior notice is not possible, the Village shall provide notice to the Park District at the earliest reasonable opportunity.

9. Indemnification and Hold Harmless.

A. To the fullest extent permitted by law, the Village agrees to indemnify, defend, save and hold harmless the Park District and its elected and appointed officials, officers, employees, agents, and volunteers (individually and collectively, the "Park District's Indemnitees") from and against any and all liabilities, claims, losses, and/or demands for personal injury and/or property damage, including reasonable attorneys' fees, arising out of or caused by any act or omission of the Village, any of its contractors or subcontractors, anyone directly or indirectly employed or engaged by any of them, or anyone for whose acts any of them may be liable, arising out of or in connection with any work or activity performed pursuant to this Agreement, the grants of easement contemplated by this Agreement, any work or activity performed on or in the Raven Park Stormwater Detention Site which relates to or involves the Stormwater Improvements constructed and installed by the Village, and/or any work or activity performed in connection with the Village's construction, operation, or maintenance of the Stormwater Improvements. (The items in the preceding sentence for which indemnification is required are hereinafter referred to as "Claims"). Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph. The Village shall similarly protect, indemnify and hold and save harmless Park District's Indemnitees from and against any and all claims, costs, causes, actions and expenses including but not limited to court and administrative costs, reasonable attorneys and paralegal fees (collectively, "Legal Fees") incurred by reason of the Village's failure to fully perform any of its obligations under, and/or Village's breach or default of or under, any provision of this Agreement. The Village, however, shall not be required to indemnify, defend, save, and hold harmless the Park District for the negligent or willful acts or omissions of the Park District.

B. The Park District will indemnify, defend, save, and hold harmless the Village, and its officers, agents and employees from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, the Village may suffer as a result of claims, demands, suits, actions or proceedings of any kind or nature in any way resulting from or arising out of any wrongful or negligent act or omission of the Park District, or its contractors or subcontractors, under this Agreement. The Park District, however, shall not be required to indemnify, defend, save, and hold harmless the Village for the negligent or willful acts or omissions of the Village.

10. Subsequent Modifications. The Park District reserves the right of access to and use of the Raven Park District Stormwater Detention Site in any manner not inconsistent with the rights granted to the Village under this Agreement or any exhibits attached hereto, including but not limited to the right to install recreational, athletic and other park structures, landscaping, gardens, shrubs, driveways, sidewalks, parking lots, and ingress and egress roadways on or in the Raven Park District Stormwater Detention Site that do not then or later conflict with the stormwater improvements or the easement rights granted hereunder. The Village shall not modify any Stormwater Improvements constructed pursuant to the terms of this Agreement or any exhibits attached hereto, or add any additional stormwater improvements not specifically included in this Agreement or any exhibits or addenda attached hereto, without the prior, express written approval of the Park District.

11. Insurance. At all times while this Agreement remains in effect, each Party shall procure adequate insurance and/or self-insurance to protect itself, its officers, employees and agents from any liability for bodily injury, death and/or property damage in connections with the stormwater improvements constructed pursuant to this Agreement or any exhibits attached hereto.

12. Termination.

A. The Village may, in its sole discretion and prior to the construction of any Stormwater Improvements, declare this Agreement, including any exhibits attached hereto, null and void by sending the Park District the appropriate notice pursuant to paragraph 18 below.

B. The Park District may, in its sole discretion, declare this Agreement, including any exhibits attached hereto, null and void by sending the Village the appropriate notice pursuant to paragraph 18 below in the event the Village does not enter into an agreement for the construction of the Stormwater Improvements contemplated by this Agreement or by any exhibits attached hereto within two (2) years from the execution date of this Agreement,.

13. No Waiver. No waiver of any rights which Park District has in the event of any default or breach by Village under this Agreement shall be implied from the failure by Park District to take any action on account of such breach or default, and no express waiver shall affect any breach or default other than the breach or default specified in the express waiver and then only for the time and to the extent therein stated.

14. Entire Agreement. This instrument contains the entire agreement between the Parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect, and any modifications to this Agreement must be in writing and must be signed by all Parties to this Agreement.

15. Severability. Invalidation by judgment or court order of any one or more of the covenants or restrictions contained herein shall in no way affect any other provisions which shall remain in full force and effect.

16. Law Governing. The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance.

17. Captions and Paragraph Headings. Captions and paragraph headings are for convenience only and are not a part of this Agreement and shall not be used in construing it.

18. Notices. All notices provided for herein shall be served upon the Parties by personal delivery, email, fax or Certified United States mail, return receipt requested, at the following locations, or at such other location or locations as the Parties may from time to time designate in writing:

Notice to Park District:

Executive Director
Arlington Heights Park District
410 North Arlington Heights Road
Arlington Heights, IL 60004

Notice to Village:

Village Manager
Village of Arlington Heights
33 South Arlington Heights Road
Arlington Heights, IL 60005

Notices shall be deemed given when received by the Party to whom it was sent.

19. No Waiver of Tort Immunity. Nothing contained in this Agreement is intended to constitute nor shall constitute a waiver of the rights, defenses, and immunities provided or available to either Party under the Illinois Local Governmental and Governmental Employees Tort Immunity Act with respect to claims by third parties.

20. No Third Party Beneficiaries. This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a party to this Agreement, or to acknowledge, establish, or impose any legal duty to any third party.

21. Compliance with Laws. The Parties shall comply with all applicable federal, state, county, and local statutes, ordinances, rules, regulations, and codes.

22. Counterparts. This Agreement may be executed in counterparts that, taken together, will be effective as if they were a single document. Signatures transmitted by a .pdf file or facsimile shall be treated as originals.

23. Prevailing Party. The prevailing party in any suit or action to enforce the provisions of this Agreement shall be entitled to recover his or her costs in enforcing this Agreement, including reasonable attorneys' fees.

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

ARLINGTON HEIGHTS PARK DISTRICT VILLAGE OF ARLINGTON HEIGHTS

President, Board of Park Commissioners

ATTEST:

Secretary, Board of Park Commissioners

President

ATTEST:

Village Clerk

EXHIBIT A

Approved Plans and Specifications

EXHIBIT A

- REMOVE SIGN AND PLANTING NW CORNER OF PARK
- Expand Basin in NW
- Shift Grading Along East Side

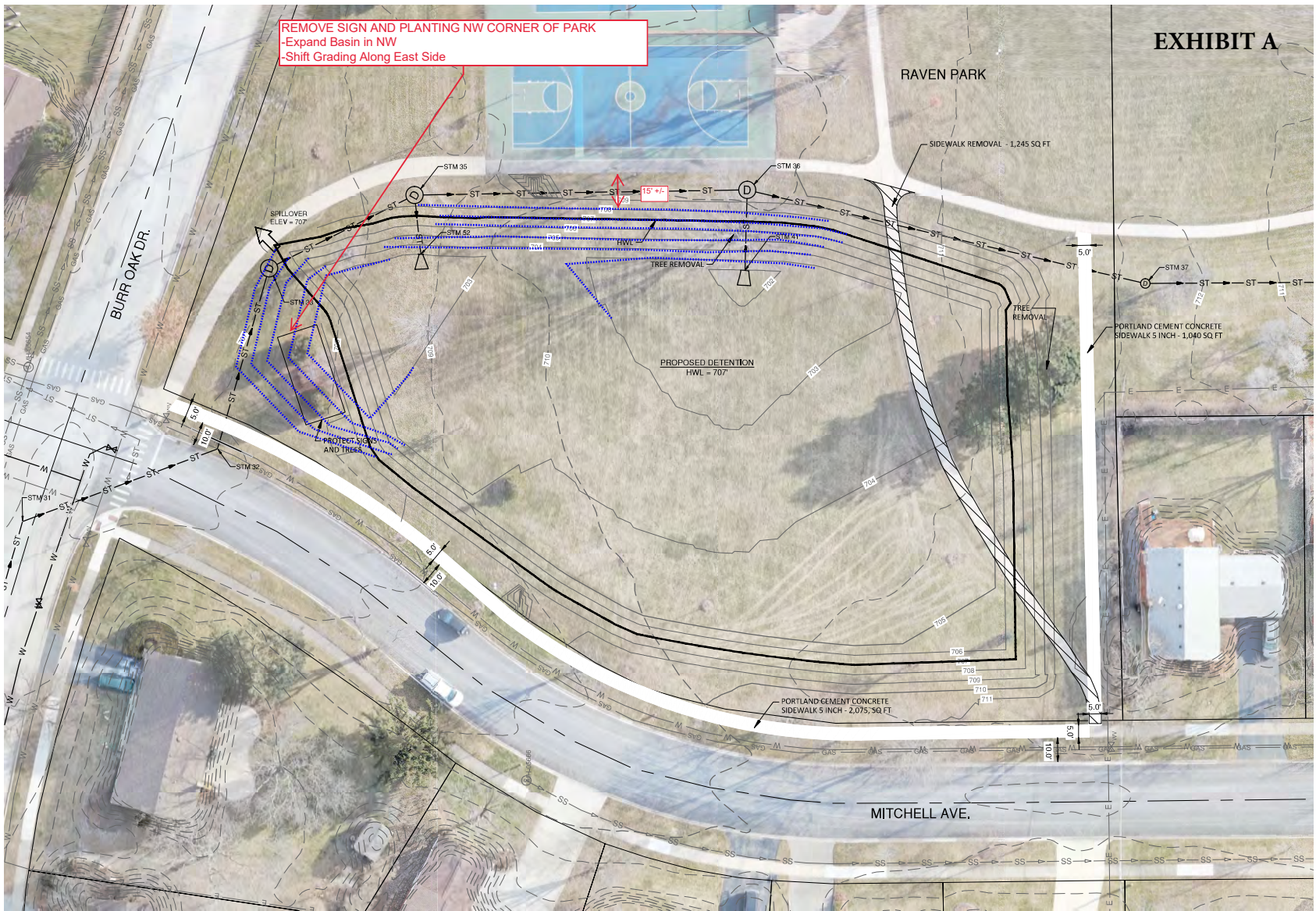


EXHIBIT B

Form Temporary Construction Easement and Perpetual Access
and Maintenance Easement Agreement

TEMPORARY CONSTRUCTION EASEMENT AND PERPETUAL ACCESS AND MAINTENANCE EASEMENT AGREEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AND PERPETUAL ACCESS AND MAINTENANCE EASEMENT AGREEMENT ("Agreement") is made and entered into as of this 7th day of February, 2022 ("Effective Date") by and between the Village of Arlington Heights, an Illinois municipal corporation ("Village"), and the Arlington Heights Park District, an Illinois park district and unit of local government ("Park District"). Village and Park District are hereinafter sometimes referred to individually as a "Party," and collectively as the "Parties."

RECITALS

WHEREAS, the Village owns, operates, and maintains a storm sewer collection system, including certain ancillary facilities and improvements, throughout its corporate boundaries; and

WHEREAS, the Village has undertaken the Berkley Hintz storm water improvement project that includes the construction of stormwater storage and installation of large storm sewer pipes; and

WHEREAS, the Village requires land for stormwater detention as part of the storm water improvements contemplated by the Berkley Hintz stormwater improvement project; and

WHEREAS, the Park District is the owner of certain property commonly referred to as Raven Park, located at 2913 N Mitchell Avenue, Arlington Heights, Illinois ("Park Property"); and

WHEREAS, the Park District is willing to allow the Village to use a portion of Raven Park for stormwater detention; and

WHEREAS, following a series of extensive negotiations, the Parties subsequently entered into an agreement entitled "Intergovernmental Agreement Between Village of Arlington Heights and Arlington Heights Park District for the Construction, Operation and Maintenance of a Stormwater Detention Basin in Raven Park, Arlington Heights, Illinois" ("IGA") for the purpose of installing and maintaining certain agreed upon stormwater improvements in portions of the Park Property ("Planned Improvements"), and setting forth the respective rights and obligations of the Parties with respect to same; and

WHEREAS, the IGA obligates the Park District to grant the Village a temporary construction and permanent access and maintenance easement in order to facilitate the construction, operation and maintenance of the Planned Improvements; and

WHEREAS, the Park District has determined that it is in the public interest and in the interest of intergovernmental cooperation to grant such an easement to the Village, subject to the terms and conditions of this Agreement; and

WHEREAS, the Park District has the authority to grant such an easement pursuant to Articles 8-1 and 8-11 of the Park District Code of the State of Illinois (70 ILCS 1205/8-1 and 8-11); and

WHEREAS, the Parties desire to formally establish their respective rights and obligations regarding the construction, use, maintenance, and repair of the Planned Improvements.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and made a part hereof as though fully set forth in this paragraph 1, the same constituting the factual basis for this Agreement.

2. Grant of Temporary Construction Easement. Subject to the terms and conditions of this Agreement, Park District hereby grants to Village, and any of Village's agents, representatives, employees, contractors, subcontractors, material suppliers, successors or assigns, a temporary construction easement under, over, on and across those portions of the Park Property legally described in Exhibit A and depicted in Exhibit B, both of which are attached hereto and incorporated herein by reference ("Temporary Construction Easement Premises"), for the purpose of constructing the Planned Improvements ("Temporary Construction Easement").

3. Term of Temporary Construction Easement. The Temporary Construction Easement granted pursuant to paragraph 2 of this Agreement shall begin on the Effective Date of this Agreement and shall expire thirty (30) days after final completion of the Planned Improvements.

4. Grant of Non-exclusive Perpetual Access and Maintenance Easement. Subject to the terms and conditions of this Agreement, Park District hereby grants to Village, and any of Village's agents, representatives, employees, contractors, subcontractors, material suppliers, successors or assigns, a non-exclusive perpetual access and maintenance easement over and across those portions of the Park Property legally described in Exhibit A and depicted in Exhibit B ("Access and Maintenance Easement Premises" and, together with the Temporary Construction Easement Premises collectively referred to as the "Easement Premises") for access, ingress, and egress for vehicles and pedestrians solely for the maintenance and repair of the Planned Improvements (the "Access and Maintenance Easement"); provided, however, that major maintenance, including any construction or reconstructions, shall require, prior to such work, the prior express written consent of Park District.

5. Term of the Perpetual Access and Maintenance Easement. The Access and Maintenance Easement granted pursuant to paragraph 4 of this Agreement shall begin following final completion of the Planned Improvements and shall be perpetual in nature. Notwithstanding the above, the Parties hereto, or their successors or assigns, may mutually agree in writing to terminate the Access and Maintenance Easement at any time.

6. Scope of Work. The construction of the Planned Improvements shall be performed in accordance with the plans, specifications, drawings, and other related documents prepared by Crawford, Murphy & Tilly ("CMT") and attached hereto as Exhibit C and incorporated herein by reference, subject to any changes or modifications agreed to in writing by both Parties ("Final Plans").

7. Additional Easement Conditions. In addition to the other terms and conditions set forth in this Agreement, the Temporary Construction Easement and Access and Maintenance Easement, together with any ancillary rights given to Village under this Agreement, shall be subject to the following conditions:

(a) Park District reserves the right of access to and use of the Easement Premises in any manner not inconsistent with the rights granted to Village under this Agreement, including but not limited to the right to install landscaping, gardens, shrubs, driveways, sidewalks, parking lots, and ingress and egress roadways on the Easement Premises that do not then or later conflict with the Planned Improvements or the easement rights granted hereunder.

(b) Village shall notify Park District at least ten (10) days prior to commencement of any excavation, construction, repair, maintenance, staging, site preparation, or other work or activity on the Easement Premises, weather permitting. The Parties shall reasonably cooperate with respect to the commencement, timing, and location of such work or activity so as to protect the public at large and to avoid any interference with Park District's use of the Park Property or the Easement Premises. Village shall also provide Park District with a copy of the construction schedule for the Planned Improvements as the same may be revised from time to time and otherwise give Park District reasonable advance notice of any planned activities on the Easement Premises that may affect Park District's conduct of its normal activities and use of the Park Property.

(c) All construction or other work or activity performed by any entity within the Easement Premises shall be performed in a safe and sound manner and in accordance with all applicable federal, state and local laws, including the ordinances and regulations of the Village of Arlington Heights and Arlington Heights Park District and conducted in a manner so as to avoid damage to the Park Property.

(d) The Temporary Construction Easement and Access and Maintenance Easement shall be used and enjoyed solely by Village and its duly authorized agents, representatives, employees, contractors, subcontractors, material suppliers, successors or assigns, and Village shall not assign its easement rights in whole or in part to any other person or entity.

(f) The Park Property, including the Easement Premises, shall at all times be kept free of accumulations of debris, waste and garbage resulting from the Planned Improvements.

(e) No equipment, machinery or materials shall be brought or permitted to come onto or remain on any portion of the Park Property other than the Temporary Construction Easement Premises, and then subject to such reasonable restrictions, if any, as shall be specified by Park District.

(g) Park District shall have the right at any time to:

(i) impose weight and load restrictions on the Easement Premises which Park District reasonably determines are necessary or advisable under the circumstances, but which will not unreasonably restrict construction traffic necessary for planned improvements; and

(ii) suspend the Temporary Construction Easement or the Access and Maintenance Easement immediately for safety or health reasons or upon fourteen (14) days' notice for breach by Village of any of its obligations under this Agreement, until the reasons for the suspension have been rectified to Park District's reasonable satisfaction and without waiving Park District's right to terminate the Temporary Construction Easement or the Access and Maintenance Easement as provided in paragraph 14, below.

(h) Park District shall have the right to enter upon the Easement Premises at any time(s) to inspect, maintain or repair the Park Property including the Easement Premises and improvements thereon, to determine Village's compliance with the terms and conditions of this Agreement, and for any other lawful purpose(s). Park District's reservation of such rights or its failure to exercise same shall not impose or create any responsibility or liability on Park District or affect, reduce or nullify in any way Village's obligations under this Agreement. Village shall cooperate with Park District's reasonable requests to inspect the Easement Premises. Notwithstanding anything to the contrary herein, both Parties understand and acknowledge that the Village shall be solely responsible for maintenance and repair of the Planned Improvements.

8. Hazardous Materials. No explosives or flammable or hazard materials of any kind shall be transported across, brought upon, or stored or deposited on, the Park Property (except as needed for vehicles or equipment for the Planned Improvements provided that Village and its contractors shall be liable for any damage to or contamination of Park Property resulting from such activity or use). As used in this Agreement, "Hazardous Materials" means any hazardous or toxic substances, materials or wastes, including, but not limited to solid, semi-solid, liquid or gaseous substances which are toxic, ignitable, corrosive, carcinogenic or otherwise dangerous to human, plant or animal health or well-being and those substances, materials, and wastes listed in the United States Department of Transportation Table (49 CFR 972.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto or such substances, materials, and wastes regulated under any applicable local, state or federal law including, without

limitation, any material, waste or substance which is (I) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as "hazardous substances" pursuant to Section 1251 et. seq. (33 U.S.C. Section 1321) or listed pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et. seq. (42 U.S.C. Section 6903), or (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et. seq. (42 U.S.C. Section 9601) or any other applicable environmental law.

9. Restoration Obligations. Upon termination of the Temporary Construction Easement by expiration or otherwise, or upon completion of any work contemplated by this Agreement and performed pursuant to the Access and Maintenance Easement granted pursuant to paragraph 4, Village at its sole cost and expense shall restore the Easement Premises, and any other affected portion(s) of Park Property, to the same or better condition as existed immediately prior to the commencement of any activity thereon by Village and replace all lost or destroyed items. All restoration, repair and replacement shall be completed to the reasonable satisfaction of Park District within thirty (30) days after the termination of the Temporary Construction Easement or upon completion of any work contemplated by this Agreement and performed pursuant to the Access and Maintenance Easement granted pursuant to paragraph 4, or if due to weather conditions or other circumstances which in Park District's opinion would make any such restoration, repair and replacement inadvisable, then within such later time period as Park District reasonably shall request.

10. Village shall conduct its operations on the Park Property entirely at its own risk. To the fullest extent permitted by the laws of the State of Illinois, Village hereby forever waives, relinquishes and discharges and holds harmless Park District, its elected and appointed officials, officers, employees, agents, and volunteers from any and all claims of every nature whatsoever, which Village may have at any time against Park District, its elected and appointed officials, officers, employees, agents, and/or volunteers, including without limitation claims for personal injury or property damage sustained or incurred by Village or any person claiming by, through or under Village, relating directly or indirectly to the Planned Improvements, the construction of the Planned Improvements or the exercise of the rights and privileges granted hereunder, except to the extent such claims are caused in whole or in part by the wrongful or intentional acts or omissions of the Park District, or its elected and appointed officials, officers, employees, agents, .

11. Village shall defend, indemnify and hold harmless Park District, its elected and appointed officials, officers, employees, agents, and volunteers against and from any and all liabilities, claims, losses, costs, damages and expenses of every nature whatsoever, including without limitation reasonable attorneys' and paralegal fees, suffered, incurred or sustained by any such indemnified persons, including without limitation liabilities for the death of or injury to any person or the loss, destruction or theft of or damage to any property, relating directly or indirectly to, or arising directly or indirectly from, the exercise by Village, its employees, agents, or contractors, or any other person acting on its or their behalf, or with its or their authority or permission, of the rights and privileges granted Village under this Agreement. Village shall defend, indemnify and hold harmless Park District against and from any and all claims, losses, costs, damages and expenses, including without limitation reasonable attorneys' and paralegal fees,

suffered, sustained or incurred by Park District as a result of Village's breach of any provision of this Agreement or otherwise incurred by Park District in enforcing the terms of this Agreement.

12. Insurance.

(a) Village shall keep in full force and effect at all times during this Agreement commercial general liability insurance, including contractual liability coverage, Workers' Compensation insurance, and such other types of insurance in such amounts and with such companies or self-insurance pools as are reasonably acceptable to Park District, but, in any event, not less than the coverages and amounts set forth in Exhibit D. The minimum insurance coverage specified in this Paragraph 12 may be provided by self-insurance, participation in a risk management pool, commercial policies of insurance, or a combination thereof. Village shall name the Park District, its elected and appointed officials, officers, employees, agents, and volunteers as an additional insured on any such insurance, and shall provide Park District with a copy of a Certificate of Insurance and Additional Insured Endorsement evidencing same prior to commencing any work or activity on the Park Property, and said insurance shall not be modified, terminated, canceled or not renewed without at least thirty (30) days advanced written notice to the Park District.

(b) In addition to, and in furtherance and not in limitation of, Village's insurance obligations set forth above, and at no cost to Park District, Village shall require any contractor(s) or subcontractor(s) performing any of the work contemplated by this Agreement to obtain and keep in full force and effect for so long as any claim relating to the Planned Improvements legally may be asserted, comprehensive general liability and property damage insurance written to include the coverages and for not less than the minimum limits, or greater if required by law, as provided in Exhibit D attached hereto and incorporated herein by reference, and to otherwise comply with all other requirements set forth therein. Village shall similarly require any contractor(s) or subcontractor(s) performing any of the work contemplated by this Agreement to defend, indemnify and hold harmless Park District in accordance with and as more fully set forth in Subsection D of Exhibit D attached hereto.

13. Village shall not cause or suffer or permit to be created any mechanics' or materialmen's liens or claims against the Park Property. Village shall defend, indemnify and hold harmless Park District from and against any such claims or liens.

14. The Temporary Construction Easement and the Access and Maintenance Easement granted to Village hereunder may be terminated as follows:

(a) immediately upon written notice to Village in the event Village or its contractors(s) shall fail to procure or maintain the insurance required, or shall fail to provide evidence of such insurance coverage as required, under paragraph 12, above.

- (b) immediately upon Village's failure to remedy or obtain remedy by its contractor(s) of any breach of any term or condition of this Agreement (other than paragraph 12 regarding insurance) within five (5) days after written notice of such breach is delivered to Village, unless the breach cannot be cured within 5 days, and the Village has commenced the cure and diligently pursues its completion; or
- (c) immediately upon abandonment of the Planned Improvements by Village or its contractor(s). For the purposes of this subparagraph, abandonment shall be deemed to have occurred in the event no activity is conducted on the Planned Improvements for a period of sixty (60) consecutive days once the work has commenced, save for force majeure or casualty; provided, however, that the Village will not be deemed to have abandoned the Planned Improvements after they are complete.

15. No waiver of any rights which Park District has in the event of any default or breach by Village under this Agreement shall be implied from failure by Park District to take any action on account of such breach or default, and no express waiver shall affect any breach or default other than the breach or default specified in the express waiver and then only for the time and to the extent therein stated.

16. Nothing contained in this Agreement shall be construed or deemed to diminish or constitute a waiver or relinquishment of the rights, privileges, defenses and immunities available or afforded to either Party under the Illinois Local Governmental and Governmental Employee's Tort Immunity Act or under other State statutes affording similar protections.

17. There are no third party beneficiaries to this Agreement, intended or otherwise, and no claim as a third party beneficiary under this Agreement may or shall be made, or be valid against, either Party.

18. All notices provided for herein shall be served upon the Parties by personal delivery, email, fax or Certified United States mail, return receipt requested, at the following locations, or at such other location or locations as the Parties may from time to time designate in writing:

Notice to Park District:

Executive Director
Arlington Heights Park District
410 North Arlington Heights Road
Arlington Heights, IL 60004

Notice to Village:

Village Manager
Village of Arlington Heights
33 South Arlington Heights Road
Arlington Heights, IL 60005

Notices shall be deemed given when received by the Party to whom it was sent.

19. This Agreement contains the entire agreement between the Parties with respect to the use of the Park Property by Village in connection with the Planned Improvements and cannot be modified except in a writing, dated subsequent to the date hereof and signed by both Parties.

20. This Agreement may be executed in counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same instrument. In the event any signature is delivered by facsimile or by email delivery of a scanned PDF file, such signature shall create a valid and binding obligation of the Party with the same force and effect as if the facsimile or scanned PDF page were an original thereof.

21. Nothing in this Agreement shall be deemed to create any joint venture or partnership between the Parties. Neither Park District nor Village shall have the power to bind or obligate the other except as to the extent expressly set forth in this Agreement.

22. This Agreement shall be governed and construed in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed by a duly authorized officer thereof, as of the year and date first above written.

ARLINGTON HEIGHTS PARK VILLAGE OF ARLINGTON HEIGHTS DISTRICT

President, Board of Park Commissioners

ATTEST:

Secretary, Board of Park Commissioners

President

ATTEST:

Village Clerk

GRANTOR'S ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO
HEREBY CERTIFY THAT _____ and _____, personally
known to me to be the same persons whose names are subscribed to the foregoing instrument,
appeared before me this day in person, and acknowledged that they signed, sealed and delivered
the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this __ day of _____, 2022.

Notary Public

My Commission expires: _____

GRANTEE'S ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO
HEREBY CERTIFY THAT _____ and _____, personally
known to me to be the same persons whose names are subscribed to the foregoing instrument,
appeared before me this day in person, and acknowledged that they signed, sealed and delivered
the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this __ day of _____, 2022.

Notary Public

My Commission expires: _____

EXHIBIT A

**LEGAL DESCRIPTION OF PARK PROPERTY, TEMPORARY CONSTRUCTION
EASEMENT PREMISES AND ACCESS AND MAINTENANCE EASEMENT
PREMISES**

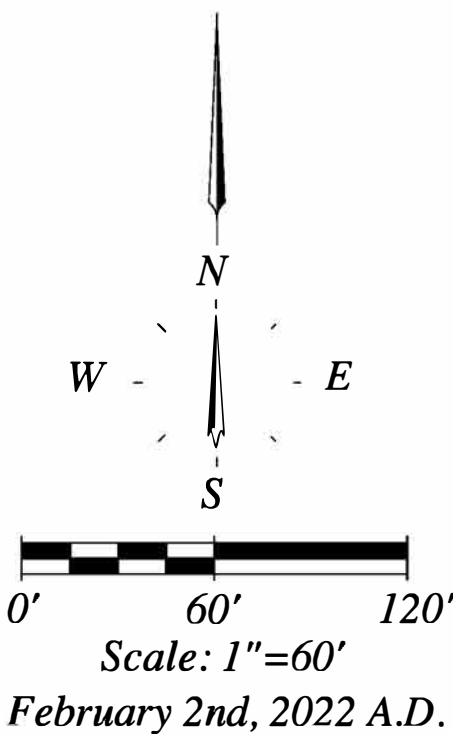
LEGAL DESCRIPTION

*THE WEST 228.10 FEET OF "LOT A" IN PARCEL 1 OF BERKLEY SQUARE UNIT 7, BEING A
SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 11,
EAST OF THE THIRD PRINCIPAL MERIDIAN, AND RECORDED AUGUST 8, 1968 AS DOCUMENT
NUMBER 20578659*

PIN 03-07-401-014-0000

EXHIBIT B
PLAT OF EASEMENT

Plat of Easement
Public Storm Water Detention Basin and
Public Utilities
Village of Arlington Heights



THE WEST 228.10 FEET OF "LOT A" IN PARCEL 1 OF BERKLEY SQUARE UNIT 7, BEING A
SUBDIVISION IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 11,
EAST OF THE THIRD PRINCIPAL MERIDIAN, AND RECORDED AUGUST 8, 1968 AS DOCUMENT
NUMBER 20578659

This Easement is hereby reserved for and granted to the Village of Arlington Heights and to its successors and assigns, over all of the areas marked "Public Storm Water Detention Basin and Public Utilities" on the plat for the perpetual right, privilege, and authority to survey, construct, reconstruct, repair, inspect, maintain and operate Public Storm Water Detention Basin and Public Utilities and the right of access across the property for necessary men and equipment to do any of the above work. The right is also granted to trim or remove any trees, shrubs or other plants on the easement that interfere with the operation of the sewers or other utilities. No permanent buildings shall be placed on said easement. No change to the topography or storm water management structures within the easement area shall be made without express written consent of the Village Engineer, but same may be used for purposes that do not then or later interfere with the aforesaid uses or rights.

The Village of Arlington Heights, or its designees, shall, upon completion of any work authorized by this grant, restore the easement premises to the same or better condition than that existing prior to the beginning of work. The Village of Arlington Heights, will perform only emergency procedures as deemed necessary by the Village Engineer of The Village of Arlington Heights

Approved by the President and Board of Trustees
of The Village of Arlington Heights, Cook County,
Illinois, at a meeting held the _____ day of _____,
2022 A.D.

By: _____
President

Attest: _____
Village Clerk

I hereby certify that I find no deferred installments of outstanding
unpaid special assessments due against the above described property.

Thomas F. Kuehne, Village Collector

Pin # 03-07-401-014

Also Known as:
Raven Park
2913 N. Mitchell Avenue

This is to certify that the Arlington Heights Park District is the owner of
this property described in the above legal description and that as such
owner has caused the Easement hereon drawn to be granted to
The Village of Arlington Heights, Illinois.

Dated this _____ day of _____, A.D., 2022.

Benjamin M. Rea, Director of Parks and Planning
Arlington Heights Park District

State of Illinois)
County of Cook) SS

I, _____, a Notary Public in aforesaid County in the
State aforesaid, do hereby certify that _____, personally
known to me to be the same person(s) whose name(s) is (are) subscribed to the
foregoing instrument, appear before me this day in person and acknowledged
that as the owner(s) of the property described hereon, signed, sealed, and
delivered the said instrument as free and voluntary act for the uses and purposes
therein set forth.

Given under my hand and notarial seal this _____ day
of _____, A.D., 2022.

Notary Public

Approved this _____ day of _____, A.D., 2022
by the Village Engineer of The Village of
Arlington Heights, Illinois.

By: _____
Michael L. Pagones, P.E.
Reg. No. 062-047673

EXHIBIT C
FINAL PLANS

EXHIBIT C

REMOVE SIGN AND PLANTING NW CORNER OF PARK
-Expand Basin in NW
-Shift Grading Along East Side

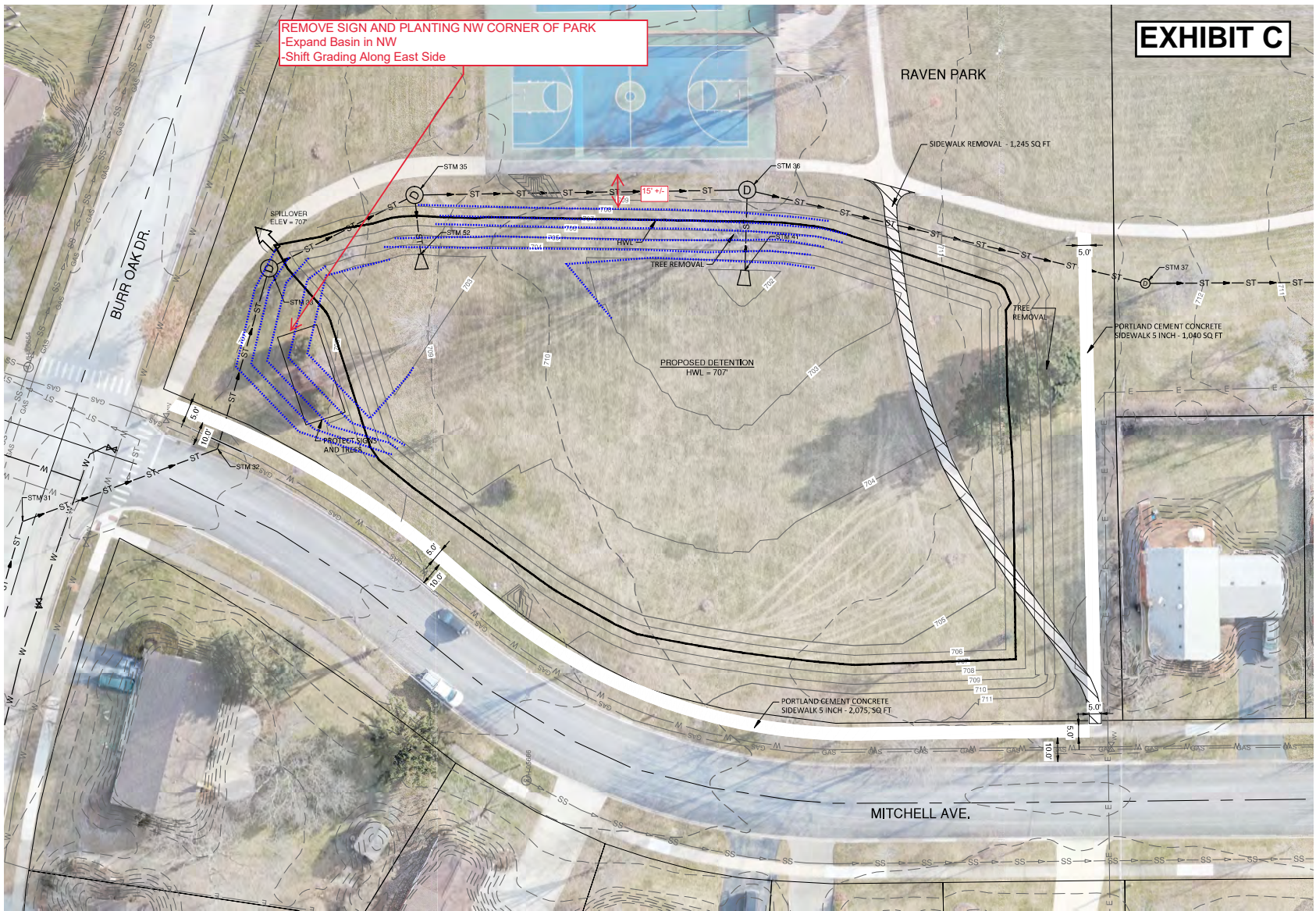


EXHIBIT D INSURANCE REQUIREMENTS

A. Commercial General and Umbrella Liability Insurance

Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$3,000,000 each occurrence. The coverage amounts set forth may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Park District, and its elected and appointed officials, officers, employees, agents, and volunteers shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Park District. Any insurance or self-insurance maintained by Park District shall be excess of the Contractor's insurance and shall not contribute with it.

There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

B. Workers Compensation Insurance

Contractor shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

C. General Insurance Provisions

1. Evidence of Insurance

Prior to beginning work, Contractor shall furnish Park District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

Failure of Park District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Park District to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Park District shall have the right, but not the obligation, of prohibiting Contractor or any of Contractor's employees, agents, contractors, or subcontractors from entering the Park Property or the Easement Premises until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by Park District.

2. Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A- VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A- VII or a Best's rating is not obtained, the Park District has the right to reject insurance written by an insurer it deems unacceptable.

3. Cross-Liability Coverage

If Contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

Contractor hereby represents to and covenants with the Park District that Contractor has and shall maintain (and encumber as necessary) adequate financial resources to cover and protect the Park District and its elected or appointed officials, officers, employees, agents, and volunteers with respect to any claim arising out of the activities to be conducted by or on behalf of Contractor on the Park Property that falls within a deductible or self-insured risk and is thereby not covered by insurance required to be provided under this Agreement.

4. Subcontractors

Contractor shall cause each contractor or subcontractor employed by Contractor to purchase and maintain insurance of the type specified above. When requested by the Park District, Contractor shall furnish copies of certificates of insurance and applicable policy endorsement evidencing coverage for each subcontractor.

D. Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Park District and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Contractor's work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting therefrom and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Contractor shall similarly protect, indemnify and hold and save harmless the Park District and its officers, officials, employees, volunteers and agents against and from any and all claims, costs,

causes, actions and expenses including but not limited to legal fees, incurred by reason of Contractor's breach of any of its obligations under, or Contractor's default of, any provision of this Agreement or its contract with the Village.

EXHIBIT C

Detention Basin Maintenance Tasks and Schedule



Village of Arlington Heights

33 South Arlington Heights Road
Arlington Heights, Illinois 60005-1499
(847) 368-5000
Website: www.vah.com

DETENTION BASIN MAINTENANCE, TASKS AND SCHEDULE

GENERAL MAINTENANCE OBJECTIVES

The Village of Arlington Heights conducts annual inspections and preventative maintenance of the separate storm sewer system to ensure proper operation during dry and wet weather flows. The Village recognizes that proper and regular maintenance of the separate storm sewer system effectively maximizes its conveyance and storage capacity. This plan will work in conjunction with The Village of Arlington Heights Operation and Maintenance Plan as submitted to the Environmental Protection Agency

FIRST YEAR OF OPERATION

The Village of Arlington Heights Public Works shall inspect and maintain all Village installed infrastructure including but not limited to, all pipes, drainage structures, and detention basin. Any deficiencies identified during inspection shall be repaired following standard construction practices. Inspections will be performed monthly in periods of dry and wet weather flow. Re-establishment of any vegetation that was not successfully established shall be repaired by Public Works in the spring following original construction if necessary.

ANNUAL MAINTENANCE

The Village of Arlington Heights Public Works Department will conduct annual inspections after the first year of operation to ensure the storm water facility is functioning as intended and after any storm event great than a 10-year intensity. Repairs will be performed based on the Director of Public Works discretion and in accordance with standard construction practices this shall include but not limited to, removal of silt and sedimentation from the detention basin, storm sewer pipe and structure repair, rehabilitation or replacements as necessary, Re-establishment of vegetation that may be the result from scour or long-term water storage. Any deficiencies identified during inspection shall be repaired following standard construction practices.



Village of Arlington Heights

33 South Arlington Heights Road
Arlington Heights, Illinois 60005-1499
(847) 368-5000
Website: www.vah.com

RECORD KEEPING

The Village of Arlington Heights Public Works Department shall keep records from all inspections and repairs performed at their facility for a period no shorter than 10 years after creation.