



PUBLIC MEETING NOTICE AND AGENDA  
COMMITTEE OF THE WHOLE MEETING

OCTOBER 22, 2019  
7:30 P.M.

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Audience Participation  
The public is invited to make an issue-oriented comment on any matter of public concern not otherwise on the agenda. The public comment may be no longer than 3 minutes in duration.
4. Staff Presentations
  - A. Administration
    1. Ordinance changing the current Halloween Trick-or-Treat Hours
    2. Call One Contract Renewal – PRI to SIP
  - B. Public Works
    1. Award a Contract for the SSA 51 Water Main Replacement Project
    2. Ordinance Approving a Ground Lease with Daniel Shipner for PAP-41
    3. Commercial Activity Agreement with Blue Skies Flying Services, Inc.
    4. Commercial Activity Agreement with Finefield Aviation, Inc.
    5. Commercial Activity Agreement with Mobile Avionics
  - C. Community Services
    1. Ordinance Granting a Variance to Section 15.3-1C, Front Yards, at 25 Roosevelt Street
    2. Ordinance Granting a Conditional Use for Automotive Service at 9256 Trinity Drive
    3. Ordinance Granting a Conditional Use for a Drive-Through at 290 North Randall Road
    4. Ordinance Granting a Conditional Use for Outdoor Storage of Vehicles & Variations to Section 9.4, Manufacturing Districts Bulk Chart, at 1511 Imhoff Drive
    5. Ordinance Granting Text Amendments to Section 3, Definitions, Section 11, Permitted and Conditional Use Chart, and Sections 30 through 33 of the Zoning Ordinance Related to Cannabis Business Establishments
5. Board of Trustees
  - A. Trustee Harlfinger
  - B. Trustee Huckins
  - C. Trustee Bogdanowski
  - D. Trustee Dustin
    1. Planning and Zoning Commission Liaison Report
  - E. Trustee Bojarski
  - F. Trustee Murphy
    1. Parks and Recreation Board Liaison Report

6. Village President
  - A. Proclamation – National American Indian Heritage Month (Thursday)
7. Audience Participation
8. Adjournment

MEETING LOCATION  
Lake in the Hills Village Hall  
600 Harvest Gate  
Lake in the Hills, IL 60156

The Village of Lake in the Hills is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations so that they can observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the Village’s facilities, should contact the Village’s ADA Coordinator at (847) 960-7410 [TDD (847) 658-4511] promptly to allow the Village to make reasonable accommodations for those persons.

Posted by: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019  
**DEPARTMENT:** Administration  
**SUBJECT:** Halloween Trick or Treat Hours

## EXECUTIVE SUMMARY

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At the direction of the Village Board, per their public discussion on October 10, staff has prepared an ordinance changing the current Trick or Treat hours, 2pm until 8pm, within the village to be 3pm until 7pm on October 31 of each year.

## FINANCIAL IMPACT

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None.

## ATTACHMENTS

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1. Proposed Ordinance

## RECOMMENDED MOTION

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Motion to approve the Ordinance changing the Trick or Treat Hours to 3pm until 7pm on October 31 of each year.

VILLAGE OF LAKE IN THE HILLS

ORDINANCE NO. 2019- \_\_\_\_\_

An Ordinance Changing the Halloween Trick or Treat Hours in the Village of Lake in the Hills

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

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

SECTION 1: The hours permitted for Halloween Trick or Treating are hereby changed to 3pm to 7pm on October 31 of each year.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 24th day of October 2019 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Ray Bogdanowski	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
President Russ Ruzanski	_____	_____	_____	_____

APPROVED THIS 24TH DAY OF OCTOBER, 2019

\_\_\_\_\_  
Village President, Russ Ruzanski

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Cecilia Carman

Published: \_\_\_\_\_



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Administration

**SUBJECT:** Call One Contract Renewal - PRI to SIP

## EXECUTIVE SUMMARY

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In the past year the Village has experienced several phone service outages, specifically at the Police Department, due to the age and overall state of disrepair of the aging AT&T circuit. To help alleviate these issues, Call One is recommending to upgrade the old analog phone lines, called Primary Rate Interface (PRI) coming into the Police Department and Village Hall, that run through an old AT&T circuit, to a modern digital system called Session Initiation Protocol (SIP). An additional 4G wireless backup device is also being recommended in case of an outage as the failover coverage. This solution leaves the physical phone system hardware intact, including extensions, voicemail boxes, caller ID, etc. The attached agreements will renew for the upgraded system for a term of 3 years.

## FINANCIAL IMPACT

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It is prudent to take these measures now, as the costs of the analog PRI systems is projected to only increase in the future due to the technology aging. The Analog PRI systems at both Village Hall and the Police Department would cost \$711.08 a month to renew, whereas the new digital SIP upgrade will cost only \$693.45 (\$368.20 for Police and \$325.25 for Village Hall) a month for an improved system with the benefit of failover capabilities. It will save the roughly \$211 a year, while both improving the call quality as well as providing a full failover solution.

- Police Department Call One SIP 500 (20) and 4G backup - \$368.20 Monthly
- Village Hall Call One 500 SIP (15) and 4G Backup - \$325.25 Monthly

## ATTACHMENTS

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1. LITH e911 PD.pdf
2. LITH e911 VH.pdf
3. LITH MSA PD.pdf
4. LITH MSA VH.pdf
5. LITH SOA PD.pdf
6. LITH SOA VH.pdf

## RECOMMENDED MOTION

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Recommended motion is to approve and enter into the attached Call One agreements.



## Alternate 911 Service Acknowledgment

Customer acknowledges that that in some circumstances, including those listed in 911 and e911 Disclosure Notice section of the Service Guide, E911 service may not be available through the VoIP Service or may be limited in comparison to traditional E911 service.

Village of Lake in the Hills

\_\_\_\_\_  
**Company Name**

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

Russ Ruzanski

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Call One, Inc.**

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Call One Inc. | 225 W Wacker Drive Flr 8 |  
Chicago, IL 60606  
Telephone 312-681-8300 | Fax 312-681-  
8301

7216865091



## Alternate 911 Service Acknowledgment

Customer acknowledges that that in some circumstances, including those listed in 911 and e911 Disclosure Notice section of the Service Guide, E911 service may not be available through the VoIP Service or may be limited in comparison to traditional E911 service.

Village of Lake in the Hills

\_\_\_\_\_  
**Company Name**

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

Russ Ruzanski

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Call One, Inc.**

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Call One Inc. | 225 W Wacker Drive Flr 8 |  
Chicago, IL 60606  
Telephone 312-681-8300 | Fax 312-681-  
8301

4999236133



225 W. Wacker Drive  
Chicago, IL 60606

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callone.com

## MASTER SERVICE AGREEMENT

This Master Service Agreement (“MSA”) is between Call One Inc., (“We” or “Call One”) and your company Village of Lake in the Hills (“You” or “Customer”), for the provision of telecommunications services (“Services”) from Call One to You. This MSA provides the terms and conditions under which those Services are provided to You.

In addition to this MSA, other terms and conditions apply to Call One’s provision of Services to You. Those other terms and conditions include:

- Call One’s applicable tariffs and Service Guide, located at <https://www.callone.com/regulatory-information/> which provide additional details about the provision of the Services.
- Call One’s Service Level Agreements (“SLAs”), located at <https://www.callone.com/resources/> which describe the applicable quality and performance standards for the Services.
- Call One’s Acceptable Use Policy (“AUP”), located at <https://www.callone.com/regulatory-information/>, under which You agree to use the Services in compliance with applicable laws, regulations, and standards.
  
- Any terms and conditions contained in a Service Order (described below).

By signing this MSA, You also agree to these other terms and conditions.

Together, the MSA, the Service Guide, the SLAs, the AUP, and the Service Order Agreement collectively contain the terms and conditions that apply between Call One and You, and are the agreement under which Call One provides the Services to You. Call One reserves the right to modify the Service Guide, SLAs and AUP at any time. We will give you at least thirty (30) days’ notice of any such modifications to Your email address on record. (Please provide us with an updated e-mail address should your e-mail change during the term of this MSA.) If there is a conflict between or among the MSA, the Service Guide, the SLAs, and the Service Order, the terms of the MSA take priority over the Service Guide and the Service Order; also, the MSA, the Service Guide and the Service Order take priority over the SLAs.

### 1. THE SERVICES

- a. You will order Services on Call One’s Service Order Agreement for each Service. Call One will review the Service Order and confirm whether it is able and willing to provide the Services to You. If Call One is able and willing to provide a Service to You, it will confirm the Service Order in writing.
- b. All Services are subject to availability as well as operational and systems limitations. Call One will either provide the Services using its own facilities and/or those of third-party service providers.
- c. Call One will deliver the Services to Your building or campus public network point of presence or point of demarcation. You are responsible for any extensions to the point of presence or point of demarcation. Call One is not responsible for the quality of transmission or signaling on the Your side of the network interface between You and Call One.
- d. You are also responsible for ensuring compatibility of the Services with Your equipment and services not provided by Call One. This includes, but is not limited to, ensuring that You have taken the appropriate security measures related to any equipment or services not provided by Call One.



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Chicago, IL 60606

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- e. Call One will notify you when a Service You have ordered is available. This date will be the Start of Service Date. You may test the Service to determine whether the Service is operating in accordance with the Service Guide(s) or SLA(s) applicable to that Service. You are required to provide Call One notice of any non-compliance, providing specific details of the non-compliance and the specific technical specification with which the Service does not comply, within two (2) business days of the date that Call One notifies You that the Service is available. If You do not provide this notice within that timeframe, You will be deemed to have accepted the Service.
- f. You may request moves, adds or changes (“MACs”) to certain Services. Call One will inform you if it accepts the request and inform you of the charges for such MACs.
- g. You may request a change to an accepted Service Order. However, Call One is not obligated to accept such a change. If Call One agrees to the change to an accepted Order, Call One will inform you of any charges or changes to terms and conditions resulting from the requested change. You agree to pay those charges and to those changes in terms and conditions.

## 2. Term

- a. The Term of this MSA begins on the date that You and Call One sign this MSA below, whichever is later, and continues for a period of three (3) years from that date. Upon the expiration of the initial Term, or any renewal Term, this MSA will automatically renew for one-year at the then applicable rates, unless Call One or You inform the other party, in writing, not less than thirty (30) days prior to the end of the initial Term or any renewal Term.
- b. The term for each Service (“Service Term”) shall be stated in the applicable Service Order Agreement. Each Service Term shall begin on the date that the Service is made available to You for use and You have accepted the Service, as provided in this MSA. Unless You or Call One inform the other party, in writing, not less than thirty (30) days prior to the end of the Initial Term or any renewal Term, the Service Term will automatically renew for one-year at the then applicable rates.
- c. If the Service Term for any Service extends beyond the current Term of this MSA, the Term of this MSA will automatically extend to the latest Term for that Service.

## 3. BILLING/TAXES and ADDITIONAL FEES

- a. You agree to pay, in full, all the applicable charges for the Services You order, including any charges for MACs. The charges do not include taxes, surcharges or fees, which are additional, and subject to change from time to time.
- b. If any federal, state or local taxes, fees, surcharges or other charges (“Additional Charges”) are required or permitted by governmental or regulatory authorities as a result of Call One’s provision of, our You use of, the Services, You agree to pay such Additional Charges and indemnify Call One from any liability or expense associated with those Additional Charges.
- c. To the extent not prohibited by applicable law or regulation, and in the event of a charge to any law, rule or other regulatory activity (“Regulatory Activity”) that affects one or more of the Services, Call One may at any time, upon written notice, include as Additional Charges amounts to reflect the impact of such Regulatory Activity.
- d. Charges for each Service begin from the Start of Service Date or acceptance of the Services, whichever happens first. Charges will be billed monthly. Recurring monthly charges will be billed one-month in advance; non-recurring charges will be billed in arrears.



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- e. All Services are subject to credit approval. We may require a deposit before providing Services to You. In addition, at any time there is a material and adverse change in Your financial condition, as We determine, in our sole reasonable discretion, We may require You to provide a deposit or an additional deposit to provide adequate assurance of your ability to perform under this MSA. Deposits are held as a guarantee of payment and is not a credit against any billed charges. If You breach this MSA, including by failing to pay charges when they are due, the deposit will become the property of Call One.
- f. If You file for bankruptcy or similar protection, You agree that You will consent (and not object) to any motion Call One files under the bankruptcy laws, including but not limited to under Section 362 of the Bankruptcy Code, seeking to apply the deposit to any outstanding claim and that You will not seek recovery of the deposit for any reason. You also agree that if You file for bankruptcy or similar protection, that Call One is a utility as that term is used in Section 366 of the Bankruptcy Code and You consent to the protections available under bankruptcy law to such entities.
- g. Call One will send You billing statements electronically. Should You choose to have a paper bill mailed to You, there is a \$10 per month charge, which may increase at Call One's discretion from time to time.
- h. Charges are due and payable in good, unrestricted and immediately available funds, in United States Dollars, within thirty (30) days of date Call One bills You. You will make payment at the place and in the manner specified on the billing statement.
- i. If You don't pay Your bill when due, Call One, in addition to any other remedies available to it, may do any or all of the following: (i) impose a late payment charge ("Late Fee"), which will be the lesser of one and one-half percent (1 ½%) per month or the highest rate legally permissible per month, on any past-due balance; (ii) place orders on hold and/or suspend one or more Services; (iii) request a deposit, and (iv) require an immediate wire transfer of any past due amount. You agree to reimburse Call One for reasonable attorney's fees and any other collection costs, including collection agency fees, if You do not pay Your bill when due or Your payment is not honored by Your financial institution.

#### 4. BILLING DISPUTES

- a. Other than disputes related to Service Outages, You may dispute a charge only if You believe, in good faith, that an amount has been included in your billing statement that is not owed under the terms of this MSA or a Service Order. Disputes related to Service Outages will be governed by the Service Guide.
- b. All such billing disputes must be submitted to Call One in writing within sixty (60) days of the date of the billing statement in which the charge first appeared. If You do not dispute a charge within that timeframe, the dispute will be deemed waived.
- c. If You dispute a charge, You agree to: (i) pay all undisputed charges in full when due; (ii) provide, by the due date, a written statement with reasonable detail and documentation supporting the disputed charges, and (iii) negotiate in good faith to resolve any billing disputes within thirty (30) days of the date the dispute was submitted.
- d. If We resolve the disputed charges in Your favor, We will credit the disputed charges on the following month's bill and remove any Late Fees related to the disputed charges. If the disputed charges are resolved in Call One's favor, You agree to pay the disputed charges and applicable Late Fees, within five (5) business days after Call One's written notice to You.



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## 5. TERMINATION

- a. Termination Before Start of Service Date for a Service or Services: If You terminate a Service (in whole or part) before the Start of Service Date, You agree to pay Call One all charges Call One incurs or will incur from underlying service providers, as well as costs Call One has incurred to provide the Service or Services.
- b. Termination After Start of Service Date for a Service or Services: If You terminate a Service (in whole or part) after the Start of Service Date, You agree to pay Call One an Early Termination Charge ("ETC"). The ETC includes: (1) all recurring and non-recurring charges for the terminated Service or Services through the end of the Service Term, plus (2) any additional charges Call One is assessed by the underlying service provider(s) as a result of the early termination, and (3) any waived or discounted recurring or non-recurring charges You received. Because the exact amount of Call One's damages if You terminate a Service early are impossible to determine, You and Call One agree that the ETC is a reasonable, liquidated amount for such termination, and not a penalty.
- c. Termination by Call One: Call One may terminate this MSA and any Service Orders if:
  - i. You fail to perform a non-monetary obligation under this MSA or a Service Order that is able to be corrected and You don't correct it within thirty (30) days after Call One notifies You of the breach of that obligation. If the non-monetary obligation is a violation of law or the Acceptable Use Policy, Call One may terminate this MSA immediately.
  - ii. You fail to meet a payment obligation (including making a required deposit), and You do not fully pay all such amounts within five (5) business days after notice from Call One.
  - iii. You become insolvent or become the subject of an insolvency proceeding. Insolvent or insolvency means becoming bankrupt or insolvent or liquidating Your assets, or commencing (or having commenced against You) a proceeding for bankruptcy, inability to pay your debts in the ordinary course, or liquidation of Your assets. If You become insolvent or file for insolvency, Call One may, at its option, terminate this MSA and all underlying Services, and/or require a deposit, advanced payment or other satisfactory assurances of performance, as well as other rights Call One has available to it. You agree that, for all purposes, including applicable provisions of the U.S. Bankruptcy Code, this MSA and Service Order Agreements constitute a single integrated agreement and that Your and Call One's obligations under this MSA and Service Orders are interrelated. If Call One terminates this MSA for any of the reasons above, You agree to pay all applicable ETCs, as described in Section 5.b. above.
- d. Upon Termination of this MSA or any of the Services provided under this MSA, You agree to pay all applicable charges incurred up to the date of termination, in addition to any applicable ETCs for early termination under Sections 5.b or 5.c.

## 6. INDEMNITY

- a. Mutual Indemnity. Each party (the "Indemnifying Party") agrees to defend, indemnify and hold harmless the other party (the "Indemnified Party") from and against any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any type, known or unknown, of any third party including, without limitation, all reasonable costs and expenses, and attorneys fees ("Claim") of any nature to the extent that such Claim arises out of the Indemnifying Party's negligence or willful misconduct, or that of its employees, agents or contracts, as it relates, directly or indirectly, to this MSA or the obligations of the Indemnifying Party under this MSA.



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- b. Your Additional Indemnity. You will defend, release, indemnify and hold harmless Call One from an against any Claim (a) by any user of the Services Call One provides You, including but not limited to Your customer, or employees, and (b) relating to the content that is transmitted by or contained in the Services, or any violation of law or regulation related to Your or third parties' use of the Services, including but not limited to, Claims relating to copyright law, export control laws, libel, slander, or invasion of privacy.
- c. Call One's and Your Indemnification obligations survive expiration or termination of this MSA.

**7. LIMITATION OF LIABILITY**

- a. UNDER NO CIRCUMSTANCES SHALL YOU, CALL ONE OR ANY OF OUR EMPLOYEES, AFFILIATES, CONTRACTORS, OR USERS BE LIABLE TO THE OTHER AND/OR THEIR EMPLOYEES, AFFILIATES, CONTRACTORS, OR USERS FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS AND/OR LOSS OF BUSINESS (EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). THESE CIRCUMSTANCES SPECIFICALLY INCLUDE: (A) CUSTOMER'S OR ANY THIRD-PARTY USERS' RELIANCE ON OR USE OF INFORMATION, SERVICES OR MERCHANDISE PROVIDED ON OR THROUGH THE SERVICE; AND (B) COMPUTER FAILURE, WORK STOPPAGE, MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION, OR TRANSMISSION, OR ANY OTHER FAILURE OF
- b. OTHER THAN CLAIMS ARISING FROM 1) A PARTY'S PAYMENT OBLIGATIONS, INCLUDING EARLY TERMINATION CHARGES; (2) A PARTY'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY'S LIABILITY HEREUNDER TO THE OTHER PARTY EXCEED THE AMOUNT OF SERVICE CHARGES PAID BY THE CUSTOMER DURING THE SIXTY (60) DAY PERIOD PRIOR TO THE ACCRUAL OF THE MOST RECENT CLAIM. IN NO EVENT SHALL EITHER PARTY ASSERT ANY CAUSE OF ACTION AGAINST THE OTHER MORE THAN ONE (1) YEAR AFTER SUCH CAUSE OF ACTION HAS ACCRUED.
- c. YOU AGREE THAT THE LIMITATIONS OF LIABILITY SET OUT IN THIS SECTION ARE FAIR AND REASONABLE IN THE CIRCUMSTANCES OF THE MSA AND THAT CALL ONE WOULD NOT HAVE ENTERED INTO THE MSA BUT FOR CUSTOMER'S MSA TO LIMIT CALL ONE'S LIABILITY AS PROVIDED FOR IN THIS SECTION.

**8. DISCLAIMER OF WARRANTY**

- a. EXCEPT AS EXPRESSLY PROVIDED BY THE APPLICABLE SLA, CALL ONE PROVIDES THE SERVICE ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NOR DOES CALL ONE WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ANY INFORMATION, SOFTWARE OR OTHER MATERIAL ACCESSIBLE ON THE SERVICE IS FREE OF VIRUSES, WORMS, TROJAN HORSES OR OTHER HARMFUL DATA.
- b. CALL ONE DOES NOT MAKE, AND DISCLAIMS, ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS WHATSOEVER (INCLUDING WARRANTIES OF TITLE OR NON-INFRINGEMENT, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) REGARDING ANY MERCHANDISE, INFORMATION OR SERVICE PURCHASED OR PROVIDED THROUGH OR BY CALL ONE.

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Chicago, IL 60606312.CALLONE  
callone.com**9. COMPLIANCE WITH LAW**

Your use of the Services and Call One's provision of the Services shall comply with all applicable laws, regulations, and rules. You agree to obtain, and maintain, all approvals, consents and authorizations necessary to conduct Your business and initiate or conduct any transmissions over any facilities covered by this MSA. Call One agrees to obtain and maintain all approvals, consents and authorizations necessary to conduct its business and to provide the Services covered by this MSA and the Service Orders.

**10. FORCE MAJEURE**

If the performance of the Your or Call One's respective obligations under this MSA shall be prevented or interfered with by reason of a Force Majeure (other than Customer's payment obligations for delivered Services), then that party shall not be liable to the other for its failure to perform such obligations and such failure shall not constitute a breach of this MSA. "Force Majeure" as used herein shall mean acts of God, strike or other labor dispute, cable cut, riot or civil disturbance, war or armed conflict, failure of common carrier or "carrier's carrier," interruption of power, municipal ordinance including any state or federal law, governmental order or regulation or order of any court of competent jurisdiction, or any other similar thing or occurrence not within the control of the party claiming excuse. Changes in economic, business or competitive conditions are not Force Majeure.

**11. NON-DISCLOSURE**

- a. If Call One and You have executed a Nondisclosure Agreement, or similar agreement, the parties agree that the terms of that agreement shall apply and remain in full effect throughout the term of this MSA. If no such agreement is in effect, Call One and You agree to maintain in strict confidence all technology, research and development, business affairs, pricing, trade secrets, and other proprietary information of the other party disclosed under this MSA. No obligation of confidentiality shall apply to disclosed information that is in the public domain (through no violation of this Section by the recipient) that the recipient: (i) already possesses at the time of disclosure without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without obligation or confidentiality from a third party. The parties' obligations under this Section shall survive expiration or termination of this MSA for three (3) years after expiration or termination of this MSA.
- b. If the recipient is required by law, rule, regulation or court order to disclose any confidential information, the recipient will promptly notify the disclosing party in writing prior to making any such disclosure in order to facilitate the disclosing party seeking a protective order or other appropriate remedy from the appropriate body. The recipient agrees to cooperate with the disclosing party in seeking such order or other remedy. The recipient further agrees that if the disclosing party is not successful in precluding the requesting legal body from requiring the disclosure of the confidential information, it will furnish only that portion of the confidential information which is legally required and will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the confidential information.
- c. Neither party shall use the other's name in publicity or press releases without obtaining the other's prior written approval.

**12. FORCE MAJEURE**

Neither this MSA nor any of Your rights and/or obligations under this MSA shall be assigned, and/or delegated, and/or transferred to another party by You without the express written consent of Call One (which shall not be unreasonably withheld, delayed or conditioned). Call One may assign and/or delegate this MSA to any of its related companies or any third-party purchaser.

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Chicago, IL 60606312.CALLONE  
callone.com**13. NON-WAIVER; AMENDMENT**

Except as otherwise specifically provided herein, the failure of a party to enforce any right under this MSA at any time shall not constitute a continuing waiver of any such right with respect to the remaining term of this MSA, or the waiver of any other right under this MSA. No modification of this MSA or any Service Order Agreement shall be binding upon the parties unless the modification is made in writing and signed by an authorized representative of the party against which enforcement is sought.

**14. NOTICE**

Except as otherwise specifically provided herein, any notices required or permitted to be given under this MSA shall be given in writing and shall be delivered (a) in person; (b) by certified mail, postage prepaid, return receipt requested; (c) by a commercial overnight courier that guarantees next day delivery and provides a receipt; or (d) by electronic mail to Customer at Customer's designated technical and/or billing contact, or to Call One at [notices@callone.com](mailto:notices@callone.com). It is solely Customer's responsibility to notify Call One of any changes to Customer's email address for such notice. Notice provided by personal delivery, certified mail, or commercial overnight courier is to be delivered to the addresses listed for each party in the signature area of this MSA, or to any such other address as either party may from time to time specify in writing to the other party. Notice shall be effective upon delivery (or refusal to accept delivery).

**15. JURISDICTION, FORUM, GOVERNING LAW, AND JURY WAIVER**

The MSA is made in Chicago, Cook County, Illinois. The MSA shall be interpreted and construed according to the laws of Illinois, excluding any such laws that might direct the application of the laws of another jurisdiction. The federal and state courts located in Cook County, Illinois shall be the only courts with jurisdiction to hear disputes under this MSA, and Customer consents to the jurisdiction of the federal and state courts located in Cook County, Illinois to hear such disputes. Call One and You each waive trial by jury in any civil actions or proceedings that are brought by either of the parties under this MSA.

**16. CUSTOMER CONSENT TO USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION (CPNI)**

Call One acknowledges that it has a duty, and Customer has a right, under federal and/or state law to protect the confidentiality of Customer's CPNI. Such CPNI includes information about the telecommunications Services purchased by You from Call One, account activity (for example, telephone numbers) and incurred charges. Call One may also share Customer information with its affiliates, agents and partners to offer any or all Services that Call One provides now or in the future. Call One Requires Your consent for it and its affiliates, agents, and partners to use this information to offer the services and products described above. By signing this MSA and taking no further action, You give Call One Your consent to use and disclose Your CPNI as described above. You may refuse CPNI consent by signing this MSA and then notifying Call One in writing of your decision to withhold consent.

**17. ATTORNEY'S FEES**

The parties agree that if either party to this MSA brings any civil action related in any manner to this MSA, the prevailing party in any such civil action shall recover all of its reasonable attorneys' fees and litigation expenses incurred from the non-prevailing party.



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Chicago, IL 60606

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**18. SEVERABILITY**

If any provision of this MSA is held to be invalid or unenforceable, the remainder of this MSA will remain in full force and effect, and such invalid or unenforceable provision will be deemed to be amended to the minimum extent necessary to render it valid and enforceable. If such provision cannot be so amended, the parties will promptly negotiate in good faith a replacement provision that will as closely as possible reflect the parties' original intent.

**19. SURVIVAL**

Those Sections of this MSA that by their nature should survive the termination or expiration of this MSA, will survive the termination or expiration of this MSA.

**20. ENTIRE MSA**

We each agree that this MSA and any Service Orders are the terms of our agreement with regard to the Service(s). We each agree that anything not reflected in this MSA and any Service Order(s) shall not affect the terms or interpretations of this MSA and any Service Order(s).

**21. COUNTERPARTS; FACSIMILE SIGNATURE**

The MSA may be executed in one or more counterparts, each of which will be deemed an original, and all of which when taken together will constitute one and the same instrument. The MSA may be executed by facsimile or digital signature, and any such facsimile or digital signature by any party hereto shall be deemed to be an original signature and shall be binding on such party to the same extent as if such facsimile or signature were an original signature.

**22. NO THIRD-PARTY BENEFICIARIES**

The MSA's benefits do not extend to any third party.

Village of Lake in the Hills  
**Company Name**

**Call One, Inc.**

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

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

Russ Ruzanski  
Printed Name

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



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## MASTER SERVICE AGREEMENT

This Master Service Agreement (“MSA”) is between Call One Inc., (“We” or “Call One”) and your company Village of Lake in the Hills (“You” or “Customer”), for the provision of telecommunications services (“Services”) from Call One to You. This MSA provides the terms and conditions under which those Services are provided to You.

In addition to this MSA, other terms and conditions apply to Call One’s provision of Services to You. Those other terms and conditions include:

- Call One’s applicable tariffs and Service Guide, located at <https://www.callone.com/regulatory-information/> which provide additional details about the provision of the Services.
- Call One’s Service Level Agreements (“SLAs”), located at <https://www.callone.com/resources/> which describe the applicable quality and performance standards for the Services.
- Call One’s Acceptable Use Policy (“AUP”), located at <https://www.callone.com/regulatory-information/>, under which You agree to use the Services in compliance with applicable laws, regulations, and standards.
  
- Any terms and conditions contained in a Service Order (described below).

By signing this MSA, You also agree to these other terms and conditions.

Together, the MSA, the Service Guide, the SLAs, the AUP, and the Service Order Agreement collectively contain the terms and conditions that apply between Call One and You, and are the agreement under which Call One provides the Services to You. Call One reserves the right to modify the Service Guide, SLAs and AUP at any time. We will give you at least thirty (30) days’ notice of any such modifications to Your email address on record. (Please provide us with an updated e-mail address should your e-mail change during the term of this MSA.) If there is a conflict between or among the MSA, the Service Guide, the SLAs, and the Service Order, the terms of the MSA take priority over the Service Guide and the Service Order; also, the MSA, the Service Guide and the Service Order take priority over the SLAs.

### 1. THE SERVICES

- a. You will order Services on Call One’s Service Order Agreement for each Service. Call One will review the Service Order and confirm whether it is able and willing to provide the Services to You. If Call One is able and willing to provide a Service to You, it will confirm the Service Order in writing.
- b. All Services are subject to availability as well as operational and systems limitations. Call One will either provide the Services using its own facilities and/or those of third-party service providers.
- c. Call One will deliver the Services to Your building or campus public network point of presence or point of demarcation. You are responsible for any extensions to the point of presence or point of demarcation. Call One is not responsible for the quality of transmission or signaling on the Your side of the network interface between You and Call One.
- d. You are also responsible for ensuring compatibility of the Services with Your equipment and services not provided by Call One. This includes, but is not limited to, ensuring that You have taken the appropriate security measures related to any equipment or services not provided by Call One.



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- e. Call One will notify you when a Service You have ordered is available. This date will be the Start of Service Date. You may test the Service to determine whether the Service is operating in accordance with the Service Guide(s) or SLA(s) applicable to that Service. You are required to provide Call One notice of any non-compliance, providing specific details of the non-compliance and the specific technical specification with which the Service does not comply, within two (2) business days of the date that Call One notifies You that the Service is available. If You do not provide this notice within that timeframe, You will be deemed to have accepted the Service.
- f. You may request moves, adds or changes (“MACs”) to certain Services. Call One will inform you if it accepts the request and inform you of the charges for such MACs.
- g. You may request a change to an accepted Service Order. However, Call One is not obligated to accept such a change. If Call One agrees to the change to an accepted Order, Call One will inform you of any charges or changes to terms and conditions resulting from the requested change. You agree to pay those charges and to those changes in terms and conditions.

**2. Term**

- a. The Term of this MSA begins on the date that You and Call One sign this MSA below, whichever is later, and continues for a period of three (3) years from that date. Upon the expiration of the initial Term, or any renewal Term, this MSA will automatically renew for one-year at the then applicable rates, unless Call One or You inform the other party, in writing, not less than thirty (30) days prior to the end of the initial Term or any renewal Term.
- b. The term for each Service (“Service Term”) shall be stated in the applicable Service Order Agreement. Each Service Term shall begin on the date that the Service is made available to You for use and You have accepted the Service, as provided in this MSA. Unless You or Call One inform the other party, in writing, not less than thirty (30) days prior to the end of the Initial Term or any renewal Term, the Service Term will automatically renew for one-year at the then applicable rates.
- c. If the Service Term for any Service extends beyond the current Term of this MSA, the Term of this MSA will automatically extend to the latest Term for that Service.

**3. BILLING/TAXES and ADDITIONAL FEES**

- a. You agree to pay, in full, all the applicable charges for the Services You order, including any charges for MACs. The charges do not include taxes, surcharges or fees, which are additional, and subject to change from time to time.
- b. If any federal, state or local taxes, fees, surcharges or other charges (“Additional Charges”) are required or permitted by governmental or regulatory authorities as a result of Call One’s provision of, our You use of, the Services, You agree to pay such Additional Charges and indemnify Call One from any liability or expense associated with those Additional Charges.
- c. To the extent not prohibited by applicable law or regulation, and in the event of a charge to any law, rule or other regulatory activity (“Regulatory Activity”) that affects one or more of the Services, Call One may at any time, upon written notice, include as Additional Charges amounts to reflect the impact of such Regulatory Activity.
- d. Charges for each Service begin from the Start of Service Date or acceptance of the Services, whichever happens first. Charges will be billed monthly. Recurring monthly charges will be billed one-month in advance; non-recurring charges will be billed in arrears.



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- e. All Services are subject to credit approval. We may require a deposit before providing Services to You. In addition, at any time there is a material and adverse change in Your financial condition, as We determine, in our sole reasonable discretion, We may require You to provide a deposit or an additional deposit to provide adequate assurance of your ability to perform under this MSA. Deposits are held as a guarantee of payment and is not a credit against any billed charges. If You breach this MSA, including by failing to pay charges when they are due, the deposit will become the property of Call One.
- f. If You file for bankruptcy or similar protection, You agree that You will consent (and not object) to any motion Call One files under the bankruptcy laws, including but not limited to under Section 362 of the Bankruptcy Code, seeking to apply the deposit to any outstanding claim and that You will not seek recovery of the deposit for any reason. You also agree that if You file for bankruptcy or similar protection, that Call One is a utility as that term is used in Section 366 of the Bankruptcy Code and You consent to the protections available under bankruptcy law to such entities.
- g. Call One will send You billing statements electronically. Should You choose to have a paper bill mailed to You, there is a \$10 per month charge, which may increase at Call One's discretion from time to time.
- h. Charges are due and payable in good, unrestricted and immediately available funds, in United States Dollars, within thirty (30) days of date Call One bills You. You will make payment at the place and in the manner specified on the billing statement.
- i. If You don't pay Your bill when due, Call One, in addition to any other remedies available to it, may do any or all of the following: (i) impose a late payment charge ("Late Fee"), which will be the lesser of one and one-half percent (1 ½%) per month or the highest rate legally permissible per month, on any past-due balance; (ii) place orders on hold and/or suspend one or more Services; (iii) request a deposit, and (iv) require an immediate wire transfer of any past due amount. You agree to reimburse Call One for reasonable attorney's fees and any other collection costs, including collection agency fees, if You do not pay Your bill when due or Your payment is not honored by Your financial institution.

#### 4. BILLING DISPUTES

- a. Other than disputes related to Service Outages, You may dispute a charge only if You believe, in good faith, that an amount has been included in your billing statement that is not owed under the terms of this MSA or a Service Order. Disputes related to Service Outages will be governed by the Service Guide.
- b. All such billing disputes must be submitted to Call One in writing within sixty (60) days of the date of the billing statement in which the charge first appeared. If You do not dispute a charge within that timeframe, the dispute will be deemed waived.
- c. If You dispute a charge, You agree to: (i) pay all undisputed charges in full when due; (ii) provide, by the due date, a written statement with reasonable detail and documentation supporting the disputed charges, and (iii) negotiate in good faith to resolve any billing disputes within thirty (30) days of the date the dispute was submitted.
- d. If We resolve the disputed charges in Your favor, We will credit the disputed charges on the following month's bill and remove any Late Fees related to the disputed charges. If the disputed charges are resolved in Call One's favor, You agree to pay the disputed charges and applicable Late Fees, within five (5) business days after Call One's written notice to You.



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## 5. TERMINATION

- a. Termination Before Start of Service Date for a Service or Services: If You terminate a Service (in whole or part) before the Start of Service Date, You agree to pay Call One all charges Call One incurs or will incur from underlying service providers, as well as costs Call One has incurred to provide the Service or Services.
- b. Termination After Start of Service Date for a Service or Services: If You terminate a Service (in whole or part) after the Start of Service Date, You agree to pay Call One an Early Termination Charge ("ETC"). The ETC includes: (1) all recurring and non-recurring charges for the terminated Service or Services through the end of the Service Term, plus (2) any additional charges Call One is assessed by the underlying service provider(s) as a result of the early termination, and (3) any waived or discounted recurring or non-recurring charges You received. Because the exact amount of Call One's damages if You terminate a Service early are impossible to determine, You and Call One agree that the ETC is a reasonable, liquidated amount for such termination, and not a penalty.
- c. Termination by Call One: Call One may terminate this MSA and any Service Orders if:
  - i. You fail to perform a non-monetary obligation under this MSA or a Service Order that is able to be corrected and You don't correct it within thirty (30) days after Call One notifies You of the breach of that obligation. If the non-monetary obligation is a violation of law or the Acceptable Use Policy, Call One may terminate this MSA immediately.
  - ii. You fail to meet a payment obligation (including making a required deposit), and You do not fully pay all such amounts within five (5) business days after notice from Call One.
  - iii. You become insolvent or become the subject of an insolvency proceeding. Insolvent or insolvency means becoming bankrupt or insolvent or liquidating Your assets, or commencing (or having commenced against You) a proceeding for bankruptcy, inability to pay your debts in the ordinary course, or liquidation of Your assets. If You become insolvent or file for insolvency, Call One may, at its option, terminate this MSA and all underlying Services, and/or require a deposit, advanced payment or other satisfactory assurances of performance, as well as other rights Call One has available to it. You agree that, for all purposes, including applicable provisions of the U.S. Bankruptcy Code, this MSA and Service Order Agreements constitute a single integrated agreement and that Your and Call One's obligations under this MSA and Service Orders are interrelated. If Call One terminates this MSA for any of the reasons above, You agree to pay all applicable ETCs, as described in Section 5.b. above.
- d. Upon Termination of this MSA or any of the Services provided under this MSA, You agree to pay all applicable charges incurred up to the date of termination, in addition to any applicable ETCs for early termination under Sections 5.b or 5.c.

## 6. INDEMNITY

- a. Mutual Indemnity. Each party (the "Indemnifying Party") agrees to defend, indemnify and hold harmless the other party (the "Indemnified Party") from and against any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any type, known or unknown, of any third party including, without limitation, all reasonable costs and expenses, and attorneys fees ("Claim") of any nature to the extent that such Claim arises out of the Indemnifying Party's negligence or willful misconduct, or that of its employees, agents or contracts, as it relates, directly or indirectly, to this MSA or the obligations of the Indemnifying Party under this MSA.



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- b. Your Additional Indemnity. You will defend, release, indemnify and hold harmless Call One from an against any Claim (a) by any user of the Services Call One provides You, including but not limited to Your customer, or employees, and (b) relating to the content that is transmitted by or contained in the Services, or any violation of law or regulation related to Your or third parties' use of the Services, including but not limited to, Claims relating to copyright law, export control laws, libel, slander, or invasion of privacy.
- c. Call One's and Your Indemnification obligations survive expiration or termination of this MSA.

**7. LIMITATION OF LIABILITY**

- a. UNDER NO CIRCUMSTANCES SHALL YOU, CALL ONE OR ANY OF OUR EMPLOYEES, AFFILIATES, CONTRACTORS, OR USERS BE LIABLE TO THE OTHER AND/OR THEIR EMPLOYEES, AFFILIATES, CONTRACTORS, OR USERS FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS AND/OR LOSS OF BUSINESS (EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). THESE CIRCUMSTANCES SPECIFICALLY INCLUDE: (A) CUSTOMER'S OR ANY THIRD-PARTY USERS' RELIANCE ON OR USE OF INFORMATION, SERVICES OR MERCHANDISE PROVIDED ON OR THROUGH THE SERVICE; AND (B) COMPUTER FAILURE, WORK STOPPAGE, MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES, ERRORS, DEFECTS, DELAYS IN OPERATION, OR TRANSMISSION, OR ANY OTHER FAILURE OF
- b. OTHER THAN CLAIMS ARISING FROM 1) A PARTY'S PAYMENT OBLIGATIONS, INCLUDING EARLY TERMINATION CHARGES; (2) A PARTY'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY'S LIABILITY HEREUNDER TO THE OTHER PARTY EXCEED THE AMOUNT OF SERVICE CHARGES PAID BY THE CUSTOMER DURING THE SIXTY (60) DAY PERIOD PRIOR TO THE ACCRUAL OF THE MOST RECENT CLAIM. IN NO EVENT SHALL EITHER PARTY ASSERT ANY CAUSE OF ACTION AGAINST THE OTHER MORE THAN ONE (1) YEAR AFTER SUCH CAUSE OF ACTION HAS ACCRUED.
- c. YOU AGREE THAT THE LIMITATIONS OF LIABILITY SET OUT IN THIS SECTION ARE FAIR AND REASONABLE IN THE CIRCUMSTANCES OF THE MSA AND THAT CALL ONE WOULD NOT HAVE ENTERED INTO THE MSA BUT FOR CUSTOMER'S MSA TO LIMIT CALL ONE'S LIABILITY AS PROVIDED FOR IN THIS SECTION.

**8. DISCLAIMER OF WARRANTY**

- a. EXCEPT AS EXPRESSLY PROVIDED BY THE APPLICABLE SLA, CALL ONE PROVIDES THE SERVICE ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NOR DOES CALL ONE WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ANY INFORMATION, SOFTWARE OR OTHER MATERIAL ACCESSIBLE ON THE SERVICE IS FREE OF VIRUSES, WORMS, TROJAN HORSES OR OTHER HARMFUL DATA.
- b. CALL ONE DOES NOT MAKE, AND DISCLAIMS, ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS WHATSOEVER (INCLUDING WARRANTIES OF TITLE OR NON-INFRINGEMENT, OR THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) REGARDING ANY MERCHANDISE, INFORMATION OR SERVICE PURCHASED OR PROVIDED THROUGH OR BY CALL ONE.

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Chicago, IL 60606312.CALLONE  
callone.com**9. COMPLIANCE WITH LAW**

Your use of the Services and Call One's provision of the Services shall comply with all applicable laws, regulations, and rules. You agree to obtain, and maintain, all approvals, consents and authorizations necessary to conduct Your business and initiate or conduct any transmissions over any facilities covered by this MSA. Call One agrees to obtain and maintain all approvals, consents and authorizations necessary to conduct its business and to provide the Services covered by this MSA and the Service Orders.

**10. FORCE MAJEURE**

If the performance of the Your or Call One's respective obligations under this MSA shall be prevented or interfered with by reason of a Force Majeure (other than Customer's payment obligations for delivered Services), then that party shall not be liable to the other for its failure to perform such obligations and such failure shall not constitute a breach of this MSA. "Force Majeure" as used herein shall mean acts of God, strike or other labor dispute, cable cut, riot or civil disturbance, war or armed conflict, failure of common carrier or "carrier's carrier," interruption of power, municipal ordinance including any state or federal law, governmental order or regulation or order of any court of competent jurisdiction, or any other similar thing or occurrence not within the control of the party claiming excuse. Changes in economic, business or competitive conditions are not Force Majeure.

**11. NON-DISCLOSURE**

- a. If Call One and You have executed a Nondisclosure Agreement, or similar agreement, the parties agree that the terms of that agreement shall apply and remain in full effect throughout the term of this MSA. If no such agreement is in effect, Call One and You agree to maintain in strict confidence all technology, research and development, business affairs, pricing, trade secrets, and other proprietary information of the other party disclosed under this MSA. No obligation of confidentiality shall apply to disclosed information that is in the public domain (through no violation of this Section by the recipient) that the recipient: (i) already possesses at the time of disclosure without obligation of confidentiality; (ii) develops independently; or (iii) rightfully receives without obligation or confidentiality from a third party. The parties' obligations under this Section shall survive expiration or termination of this MSA for three (3) years after expiration or termination of this MSA.
- b. If the recipient is required by law, rule, regulation or court order to disclose any confidential information, the recipient will promptly notify the disclosing party in writing prior to making any such disclosure in order to facilitate the disclosing party seeking a protective order or other appropriate remedy from the appropriate body. The recipient agrees to cooperate with the disclosing party in seeking such order or other remedy. The recipient further agrees that if the disclosing party is not successful in precluding the requesting legal body from requiring the disclosure of the confidential information, it will furnish only that portion of the confidential information which is legally required and will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the confidential information.
- c. Neither party shall use the other's name in publicity or press releases without obtaining the other's prior written approval.

**12. FORCE MAJEURE**

Neither this MSA nor any of Your rights and/or obligations under this MSA shall be assigned, and/or delegated, and/or transferred to another party by You without the express written consent of Call One (which shall not be unreasonably withheld, delayed or conditioned). Call One may assign and/or delegate this MSA to any of its related companies or any third-party purchaser.

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Chicago, IL 60606312.CALLONE  
callone.com**13. NON-WAIVER; AMENDMENT**

Except as otherwise specifically provided herein, the failure of a party to enforce any right under this MSA at any time shall not constitute a continuing waiver of any such right with respect to the remaining term of this MSA, or the waiver of any other right under this MSA. No modification of this MSA or any Service Order Agreement shall be binding upon the parties unless the modification is made in writing and signed by an authorized representative of the party against which enforcement is sought.

**14. NOTICE**

Except as otherwise specifically provided herein, any notices required or permitted to be given under this MSA shall be given in writing and shall be delivered (a) in person; (b) by certified mail, postage prepaid, return receipt requested; (c) by a commercial overnight courier that guarantees next day delivery and provides a receipt; or (d) by electronic mail to Customer at Customer's designated technical and/or billing contact, or to Call One at [notices@callone.com](mailto:notices@callone.com). It is solely Customer's responsibility to notify Call One of any changes to Customer's email address for such notice. Notice provided by personal delivery, certified mail, or commercial overnight courier is to be delivered to the addresses listed for each party in the signature area of this MSA, or to any such other address as either party may from time to time specify in writing to the other party. Notice shall be effective upon delivery (or refusal to accept delivery).

**15. JURISDICTION, FORUM, GOVERNING LAW, AND JURY WAIVER**

The MSA is made in Chicago, Cook County, Illinois. The MSA shall be interpreted and construed according to the laws of Illinois, excluding any such laws that might direct the application of the laws of another jurisdiction. The federal and state courts located in Cook County, Illinois shall be the only courts with jurisdiction to hear disputes under this MSA, and Customer consents to the jurisdiction of the federal and state courts located in Cook County, Illinois to hear such disputes. Call One and You each waive trial by jury in any civil actions or proceedings that are brought by either of the parties under this MSA.

**16. CUSTOMER CONSENT TO USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION (CPNI)**

Call One acknowledges that it has a duty, and Customer has a right, under federal and/or state law to protect the confidentiality of Customer's CPNI. Such CPNI includes information about the telecommunications Services purchased by You from Call One, account activity (for example, telephone numbers) and incurred charges. Call One may also share Customer information with its affiliates, agents and partners to offer any or all Services that Call One provides now or in the future. Call One Requires Your consent for it and its affiliates, agents, and partners to use this information to offer the services and products described above. By signing this MSA and taking no further action, You give Call One Your consent to use and disclose Your CPNI as described above. You may refuse CPNI consent by signing this MSA and then notifying Call One in writing of your decision to withhold consent.

**17. ATTORNEY'S FEES**

The parties agree that if either party to this MSA brings any civil action related in any manner to this MSA, the prevailing party in any such civil action shall recover all of its reasonable attorneys' fees and litigation expenses incurred from the non-prevailing party.



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**18. SEVERABILITY**

If any provision of this MSA is held to be invalid or unenforceable, the remainder of this MSA will remain in full force and effect, and such invalid or unenforceable provision will be deemed to be amended to the minimum extent necessary to render it valid and enforceable. If such provision cannot be so amended, the parties will promptly negotiate in good faith a replacement provision that will as closely as possible reflect the parties' original intent.

**19. SURVIVAL**

Those Sections of this MSA that by their nature should survive the termination or expiration of this MSA, will survive the termination or expiration of this MSA.

**20. ENTIRE MSA**

We each agree that this MSA and any Service Orders are the terms of our agreement with regard to the Service(s). We each agree that anything not reflected in this MSA and any Service Order(s) shall not affect the terms or interpretations of this MSA and any Service Order(s).

**21. COUNTERPARTS; FACSIMILE SIGNATURE**

The MSA may be executed in one or more counterparts, each of which will be deemed an original, and all of which when taken together will constitute one and the same instrument. The MSA may be executed by facsimile or digital signature, and any such facsimile or digital signature by any party hereto shall be deemed to be an original signature and shall be binding on such party to the same extent as if such facsimile or signature were an original signature.

**22. NO THIRD-PARTY BENEFICIARIES**

The MSA's benefits do not extend to any third party.

Village of Lake in the Hills  
**Company Name**

**Call One, Inc.**

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

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

Russ Ruzanski  
Printed Name

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## Service Order Agreement

This Service Order Agreement ("Service Order") authorizes Call One Inc., ("Call One") to provide the products and services to the customer identified immediately below ("Customer"). By approving this Service Order, Customer acknowledges and agrees to all terms and conditions in the Master Service Agreement (MSA) between Call One and Customer, the Service Guide (available at <https://www.callone.com/regulatory-information/>), Service Level Agreements (SLAs - available at <https://www.callone.com/resources/>), and Acceptable Use Policy (AUP - available at <https://www.callone.com/regulatory-information/>).

### Customer Information

Company Name : Village of Lake in the Hills  
 Street Address : 600 HARVEST GATE  
 Suite Number : \_\_\_\_\_  
 City, State : LAKE IN THE HILLS, IL,  
 Zip Code : 60156

Contact Name : Justin Piessens  
 Contact Phone : 847-960-7416  
 Contact E-Mail : jpiessens@lith.org  
 Contract Term (years) : 3

### Sales Executive Information

Sales Executive : Bill Mayer  
 Phone : 312-496-6695  
 E-Mail : wmayer@callone.com

### Billing Contact Information

Billing Contact Name : \_\_\_\_\_  
 Billing Address : \_\_\_\_\_  
 Billing Suite Number : \_\_\_\_\_  
 Billing City, State, Zip : \_\_\_\_\_  
 Billing Contact Phone : \_\_\_\_\_  
 Billing Contact E-Mail : \_\_\_\_\_

### 1115 CRYSTAL LAKE RD, LAKE IN THE HILLS, IL 60156

Broadband Services	QTY	Unit Price		Monthly
4G Wireless - 2GB Plan	1	\$90.00		\$90.00
Call One SIP 500	20	\$10.95		\$219.00
Voice Services	QTY	Unit Price		Monthly
DID	71	\$0.20		\$14.20
Managed Equipment	QTY	Unit Price		Monthly
Adtran 90X	1	\$45.00		\$45.00
Installation Services	QTY	Unit Price	Amount Waived	One-Time
LNP - Ported DID (Order Fee)	1	\$10.00	\$0.00	\$10.00
<b>Site Total</b>	<b>Monthly</b>	<b>\$368.20</b>	<b>One-Time</b>	<b>\$10.00</b>
<b>Order Totals</b>	<b>Monthly</b>	<b>\$368.20</b>	<b>One-Time</b>	<b>\$10.00</b>

By signing below, Customer acknowledges that it understands and accepts the quantities, products, services, and rates set forth in this Service Order and that the signatory represents that he/she is duly authorized to execute this Service Order on behalf of Customer.

\_\_\_\_\_  
Authorized Customer Signature                      Date

\_\_\_\_\_  
**Russ Ruzanski**  
Print name    Title.

\_\_\_\_\_  
CallOne authorized signature

\_\_\_\_\_  
Print name    Date.



## Service Order Agreement

This Service Order Agreement ("Service Order") authorizes Call One Inc., ("Call One") to provide the products and services to the customer identified immediately below ("Customer"). By approving this Service Order, Customer acknowledges and agrees to all terms and conditions in the Master Service Agreement (MSA) between Call One and Customer, the Service Guide (available at <https://www.callone.com/regulatory-information/>), Service Level Agreements (SLAs - available at <https://www.callone.com/resources/>), and Acceptable Use Policy (AUP - available at <https://www.callone.com/regulatory-information/>).

### Customer Information

Company Name : Village of Lake in the Hills  
 Street Address : 600 HARVEST GATE  
 Suite Number : \_\_\_\_\_  
 City, State : LAKE IN THE HILLS, IL,  
 Zip Code : 60156

Contact Name : Justin Piessens  
 Contact Phone : 847-960-7416  
 Contact E-Mail : jpiessens@lith.org  
 Contract Term (years) : 3

### Sales Executive Information

Sales Executive : Bill Mayer  
 Phone : 312-496-6695  
 E-Mail : wmayer@callone.com

### Billing Contact Information

Billing Contact Name : \_\_\_\_\_  
 Billing Address : \_\_\_\_\_  
 Billing Suite Number : \_\_\_\_\_  
 Billing City, State, Zip : \_\_\_\_\_  
 Billing Contact Phone : \_\_\_\_\_  
 Billing Contact E-Mail : \_\_\_\_\_

### 600 HARVEST GATE, LAKE IN THE HILLS, IL 60156

Broadband Services	QTY	Unit Price		Monthly	
4G Wireless - 2GB Plan	1	\$90.00		\$90.00	
Call One SIP 500	15	\$10.95		\$164.25	
Voice Services	QTY	Unit Price		Monthly	
DID	130	\$0.20		\$26.00	
Managed Equipment	QTY	Unit Price		Monthly	
Adtran 90X	1	\$45.00		\$45.00	
Installation Services	QTY	Unit Price	Amount Waived	One-Time	
LNP - Ported DID (Order Fee)	1	\$10.00	\$0.00	\$10.00	
<b>Site Total</b>		<b>Monthly</b>	\$325.25	<b>One-Time</b>	\$10.00
<b>Order Totals</b>		<b>Monthly</b>	\$325.25	<b>One-Time</b>	\$10.00

By signing below, Customer acknowledges that it understands and accepts the quantities, products, services, and rates set forth in this Service Order and that the signatory represents that he/she is duly authorized to execute this Service Order on behalf of Customer.

\_\_\_\_\_  
Authorized Customer Signature                      Date

\_\_\_\_\_  
**Russ Ruzanski**  
Print name    Title.

\_\_\_\_\_  
CallOne authorized signature

\_\_\_\_\_  
Print name    Date.



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Public Works

**SUBJECT:** Award a Contract for the SSA 51 Water Main Replacement Project

## EXECUTIVE SUMMARY

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### Background

In November of 2018, McHenry County consented to the Village of Lake in the Hills' establishment of a Special Service Area (SSA) in its incorporated jurisdiction in response to the Village's desire to replace its water system infrastructure that lies outside its municipal boundaries, south of the Algonquin Road and Pyott Road intersection.

In February of 2019, after conducting a competitive bid process, the Village hired HR Green to perform all of the engineering work associated with this project, including design engineering, permitting, survey work, releasing the bid for the construction portion of this project and construction management services in the amount of \$90,360.00.

At the August 22, 2019 Village Board of Trustees Meeting, after following all State of Illinois procedures pertaining to the formation of an SSA, including a 60-day review and objection period, the Village Board of Trustees voted to pass an Ordinance ratifying the establishment of an SSA, which has been named SSA 51.

### Construction Award

On October 14, 2019, staff opened sealed bids for the construction portion of this project. The five bids ranged from a low of \$1,469,347.00 from Mauro Sewer of Des Plaines, IL, to a high bid of \$2,155,519.00. Mauro has completed similar projects in surrounding communities and received favorable references. Mauro also recently completed the Village's most recent water main relocation project along Randall Road and Village staff were satisfied with their performance. Therefore, staff recommends award to Mauro Sewer in the amount of \$1,469,347.00.

### SSA 51 - Next Steps

Now that staff has received the award amount for the construction portion of the project, the Village will proceed with selling the bonds associated with the project as outlined below. The ten-percent contingency listed below in Table 1 is a standard consideration for a project of this scope as there are 41 unit costs associated with the work and the quantities listed in the bid document for these unit costs are engineer's estimates that will likely adjust as the construction work is performed in the field. The construction will commence at the beginning of 2020.

**Table 1 - SSA 51 Total Cost of Bond Issuance**

<b>Construction bid</b>	<b>\$ 1,469,347.00</b>
<b>Emergency interconnect paid by Village</b>	<b>\$ (68,000.00)</b>
<b>Net construction cost</b>	<b>\$ 1,401,347.00</b>
<b>Plus 10% contingency</b>	<b>\$ 1,541,481.70</b>
<b>Cost per each of 69 parcels</b>	<b>\$ 22,340.31</b>
<b>Village share of three incorporated parcels</b>	<b>\$ (67,020.94)</b>
<b>Water main replacement fee reimbursement</b>	<b>\$ (24,552.00)</b>
<b>Total subject to bond financing</b>	<b>\$ 1,449,908.76</b>
<b>Cost of issuance</b>	<b>\$ 41,928.00</b>
<b>Capitalized interest for first bond payment</b>	<b>\$ 30,000.00</b>
<b>Reimbursements to Village (engineering, legal, postage, etc.)</b>	<b>\$ 103,000.00</b>
<b>Total bond finance amount</b>	<b>\$ 1,624,836.76</b>
<b>Total to be paid for by Village in 2020</b>	<b>\$ (159,572.94)</b>

**FINANCIAL IMPACT**

---

The Village will pay for the emergency interconnection with Algonquin (which will be considered through an intergovernmental agreement), for the bond financing share of the three incorporated parcels affected by this project, and for the entire fifteen and a half years of water main replacement fees charged to the unincorporated parcels, for a total cost of \$159,572.94, which will be paid in the 2020 fiscal year.

**ATTACHMENT**

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1. Recommendation Letter
2. Bid results

**SUGGESTED MOTION**

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Motion to award the SSA 51 Water Main Replacement contract to Mauro Sewer of Des Plaines, IL, in the amount of \$1,469,347.00.



▷ 420 North Front Street | Suite 100 | McHenry, IL 60050  
Main 815.385.1778 + Fax 815.385.1781

▷ [HRGREEN.COM](http://HRGREEN.COM)

October 15, 2019

Mr. Dan Kaup (via email)  
Director of Public Works  
Village of Lake in the Hills  
9010 Haligus Road  
Lake in the Hills, Illinois 60156

**Re: SSA 51 Water Main Replacement Project – Recommendation for Award  
HR Green Job No. 181484**

Dear Mr. Kaup:

On October 14, 2019, bids were opened for the SSA 51 Water Main Replacement Project. A total of five (5) sealed envelopes were submitted at the correct time and location. All of the submitted bids contained the correct paperwork and all acknowledged all of the project addendums.

The five (5) bids ranged in cost from \$1,469,347.00 to \$2,155,519.00. The low bid was from Mauro Sewer Construction, Inc. (Mauro) of Des Plaines, Illinois in the amount of \$1,469,347.00. The Engineer's Opinion of Probable Cost was \$1,838,663.00. The bid tabulations have been included for reference.

Mauro has completed similar projects in surrounding communities and received favorable references. They also completed the Village's most recent water main relocation project along Randall Rd. Based upon their submitted bid and their qualifications, we recommend that the Village Board award the contract to Mauro Sewer Construction, Inc. in the amount of \$1,469,347.00.

If you have any questions regarding this recommendation, please call me at 815-759-8346.

Sincerely,

HR GREEN, INC.

A handwritten signature in black ink that reads "Chad J. Pieper".

Chad J. Pieper, P.E.  
Village Engineer

CJP/

Cc: Ryan McDillon, Village of LITH (via email)  
Peter D'Agostino, Village of LITH (via email)

Attachment



BID TABULATIONS  
**SSA 51 Water Main Replacement Project**  
 Village of Lake in the Hills

October 14, 2019  
 Job No. 181484  
 By: CJP

Item	Description	Unit	Quantity	Engineer's Opinion of Probable Costs		Mauro Sewer Construction		Copenhaver Construction		Bolder Contractors		Martam Construction		Joel Kennedy	
				Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
1	TREE REMOVAL (6 to 15 UNITS DIAMETER)	UNITS	160.00	\$63.00	\$ 10,080.00	\$ 26.00	\$ 4,160.00	\$ 25.00	\$ 4,000.00	\$ 20.00	\$ 3,200.00	\$ 25.00	\$ 4,000.00	\$ 15.00	\$ 2,400.00
2	TREE REMOVAL (OVER 15 UNITS DIAMETER)	UNITS	40.00	\$100.00	\$ 4,000.00	\$ 50.00	\$ 2,000.00	\$ 33.00	\$ 1,320.00	\$ 40.00	\$ 1,600.00	\$ 45.00	\$ 1,800.00	\$ 20.00	\$ 800.00
3	TRENCH BACKFILL	CU YD	2,350.00	\$42.00	\$ 98,700.00	\$ 29.00	\$ 68,150.00	\$ 5.00	\$ 11,750.00	\$ 20.00	\$ 47,000.00	\$ 41.00	\$ 96,350.00	\$ 10.00	\$ 23,500.00
4	FURNISH AND PLACING TOPSOIL, 8"	SQ YD	1,990.00	\$16.00	\$ 31,840.00	\$ 7.00	\$ 13,930.00	\$ 6.00	\$ 11,940.00	\$ 9.00	\$ 17,910.00	\$ 8.00	\$ 15,920.00	\$ 4.00	\$ 7,960.00
5	SEEDING, CLASS 1A	ACRE	0.40	\$18,000.00	\$ 7,200.00	\$ 9,000.00	\$ 3,600.00	\$ 6,000.00	\$ 2,400.00	\$ 40,000.00	\$ 16,000.00	\$ 10,000.00	\$ 4,000.00	\$ 8,000.00	\$ 3,200.00
6	NITROGEN FERTILIZER NUTRIENT	POUND	36.00	\$5.00	\$ 180.00	\$ 5.00	\$ 180.00	\$ 1.00	\$ 36.00	\$ 5.00	\$ 180.00	\$ 4.00	\$ 144.00	\$ 1.00	\$ 36.00
7	PHOSPHORUS FERTILIZER NUTRIENT	POUND	36.00	\$5.00	\$ 180.00	\$ 5.00	\$ 180.00	\$ 1.00	\$ 36.00	\$ 5.00	\$ 180.00	\$ 4.00	\$ 144.00	\$ 1.00	\$ 36.00
8	POTASSIUM FERTILIZER NUTRIENT	POUND	36.00	\$5.00	\$ 180.00	\$ 5.00	\$ 180.00	\$ 1.00	\$ 36.00	\$ 5.00	\$ 180.00	\$ 4.00	\$ 144.00	\$ 1.00	\$ 36.00
9	EROSION CONTROL BLANKET (EXCELSIOR)	SQ YD	1,990.00	\$4.50	\$ 8,955.00	\$ 12.00	\$ 23,880.00	\$ 2.00	\$ 3,980.00	\$ 4.00	\$ 7,960.00	\$ 3.60	\$ 7,164.00	\$ 2.00	\$ 3,980.00
10	PERIMETER EROSION BARRIER	FOOT	1,800.00	\$9.00	\$ 16,200.00	\$ 3.75	\$ 6,750.00	\$ 2.00	\$ 3,600.00	\$ 1.00	\$ 1,800.00	\$ 3.50	\$ 6,300.00	\$ 3.00	\$ 5,400.00
11	SUB-BASE GRANULAR MATERIAL, TYPE B, 8" (CA-6 CRUSHED)	SQ YD	1,393.00	\$20.00	\$ 27,860.00	\$ 10.00	\$ 13,930.00	\$ 12.00	\$ 16,716.00	\$ 11.00	\$ 15,323.00	\$ 11.00	\$ 15,323.00	\$ 14.00	\$ 19,502.00
12	SUB-BASE GRANULAR MATERIAL, TYPE B, 4" (CA-6 CRUSHED-DRIVEWAY LOCATIONS)	SQ YD	138.00	\$25.00	\$ 3,450.00	\$ 6.00	\$ 828.00	\$ 10.00	\$ 1,380.00	\$ 13.00	\$ 1,794.00	\$ 8.00	\$ 1,104.00	\$ 8.00	\$ 1,104.00
13	RAP AGGREGATE SHOULDER, TYPE B, 6"	SQ YD	233.00	\$15.00	\$ 3,495.00	\$ 15.00	\$ 3,495.00	\$ 18.00	\$ 4,194.00	\$ 15.00	\$ 3,495.00	\$ 23.00	\$ 5,359.00	\$ 30.00	\$ 6,990.00
14	AGGREGATE SURFACE COURSE, TYPE A, 8"	SQ YD	72.00	\$15.00	\$ 1,080.00	\$ 69.00	\$ 4,968.00	\$ 15.00	\$ 1,080.00	\$ 18.00	\$ 1,296.00	\$ 14.00	\$ 1,008.00	\$ 40.00	\$ 2,880.00
15	PAVEMENT REMOVAL (FULL DEPTH)	SQ YD	1,393.00	\$13.50	\$ 18,805.50	\$ 8.00	\$ 11,144.00	\$ 15.00	\$ 20,895.00	\$ 12.00	\$ 16,716.00	\$ 18.00	\$ 25,074.00	\$ 15.00	\$ 20,895.00
16	DRIVEWAY REMOVAL (FULL DEPTH)	SQ YD	138.00	\$12.50	\$ 1,725.00	\$ 5.00	\$ 690.00	\$ 16.00	\$ 2,208.00	\$ 15.00	\$ 2,070.00	\$ 18.00	\$ 2,484.00	\$ 20.00	\$ 2,760.00
17	EXISTING FIRE HYDRANT TO BE REMOVED	EACH	4.00	\$2,500.00	\$ 10,000.00	\$ 500.00	\$ 2,000.00	\$ 1,200.00	\$ 4,800.00	\$ 1,000.00	\$ 4,000.00	\$ 790.00	\$ 3,160.00	\$ 500.00	\$ 2,000.00
18	WATER MAIN TO BE ABANDONED (WITH CUT & CAP)	EACH	2.00	\$2,500.00	\$ 5,000.00	\$ 9,000.00	\$ 18,000.00	\$ 900.00	\$ 1,800.00	\$ 1,000.00	\$ 2,000.00	\$ 1,380.00	\$ 2,760.00	\$ 1,000.00	\$ 2,000.00
19	WATER MAIN 8"	FOOT	1,538.00	\$96.00	\$ 147,648.00	\$ 81.00	\$ 124,578.00	\$ 78.00	\$ 119,964.00	\$ 130.00	\$ 199,940.00	\$ 98.00	\$ 150,724.00	\$ 180.00	\$ 276,840.00
20	WATER MAIN 8", DIRECTIONAL DRILL	FOOT	720.00	\$195.00	\$ 140,400.00	\$ 133.00	\$ 95,760.00	\$ 120.00	\$ 86,400.00	\$ 165.00	\$ 118,800.00	\$ 144.00	\$ 103,680.00	\$ 180.00	\$ 129,600.00
21	WATER MAIN 6"	FOOT	3,063.00	\$90.00	\$ 275,670.00	\$ 72.00	\$ 220,536.00	\$ 74.00	\$ 226,662.00	\$ 125.00	\$ 382,875.00	\$ 86.00	\$ 263,418.00	\$ 160.00	\$ 490,080.00
22	WATER MAIN 6", DIRECTIONAL DRILL	FOOT	1,270.00	\$185.00	\$ 234,950.00	\$ 118.00	\$ 149,860.00	\$ 94.00	\$ 119,380.00	\$ 145.00	\$ 184,150.00	\$ 122.00	\$ 154,940.00	\$ 160.00	\$ 203,200.00
23	18" CASE BORE AND JACK	FOOT	110.00	\$580.00	\$ 63,800.00	\$ 550.00	\$ 60,500.00	\$ 1,027.00	\$ 112,970.00	\$ 900.00	\$ 99,000.00	\$ 536.00	\$ 58,960.00	\$ 950.00	\$ 104,500.00
24	18" CASE OPEN CUT	FOOT	25.00	\$282.00	\$ 7,050.00	\$ 140.00	\$ 3,500.00	\$ 170.00	\$ 4,250.00	\$ 125.00	\$ 3,125.00	\$ 139.00	\$ 3,475.00	\$ 120.00	\$ 3,000.00
25	WATER SERVICE LINE, 1" TYPE K COPPER	FOOT	3,020.00	\$32.00	\$ 96,640.00	\$ 21.00	\$ 63,420.00	\$ 30.00	\$ 90,600.00	\$ 4.00	\$ 12,080.00	\$ 44.00	\$ 132,880.00	\$ 40.00	\$ 120,800.00
26	FIRE HYDRANT WITH AUX. VALVE AND BOX	EACH	20.00	\$6,400.00	\$ 128,000.00	\$ 5,350.00	\$ 107,000.00	\$ 6,600.00	\$ 132,000.00	\$ 5,400.00	\$ 108,000.00	\$ 4,610.00	\$ 92,200.00	\$ 9,600.00	\$ 192,000.00
27	DOMESTIC WATER SERVICE BOXES (B-BOX WITH CURB STOP)	EACH	67.00	\$600.00	\$ 40,200.00	\$ 1,050.00	\$ 70,350.00	\$ 1,100.00	\$ 73,700.00	\$ 1,000.00	\$ 67,000.00	\$ 480.00	\$ 32,160.00	\$ 800.00	\$ 53,600.00
28	8" VALVE IN VALVE VAULT, 5' DIA. WITH T1F CL	EACH	8.00	\$5,800.00	\$ 46,400.00	\$ 4,350.00	\$ 34,800.00	\$ 5,500.00	\$ 44,000.00	\$ 5,000.00	\$ 40,000.00	\$ 6,110.00	\$ 48,880.00	\$ 7,000.00	\$ 56,000.00
29	6" VALVE IN VALVE VAULT, 5' DIA. WITH T1F CL	EACH	11.00	\$5,400.00	\$ 59,400.00	\$ 3,850.00	\$ 42,350.00	\$ 4,700.00	\$ 51,700.00	\$ 4,500.00	\$ 49,500.00	\$ 5,780.00	\$ 63,580.00	\$ 6,700.00	\$ 73,700.00
30	WATER SERVICE RECONNECTION	EACH	67.00	\$1,200.00	\$ 80,400.00	\$ 1,350.00	\$ 90,450.00	\$ 900.00	\$ 60,300.00	\$ 1,000.00	\$ 67,000.00	\$ 1,880.00	\$ 125,960.00	\$ 1,200.00	\$ 80,400.00
31	CONNECTION TO EXIST WATER MAIN	EACH	2.00	\$3,500.00	\$ 7,000.00	\$ 3,250.00	\$ 6,500.00	\$ 4,000.00	\$ 8,000.00	\$ 9,000.00	\$ 18,000.00	\$ 2,880.00	\$ 5,760.00	\$ 8,500.00	\$ 17,000.00
32	EXPLORATORY EXCAVATION	HOUR	24.00	\$600.00	\$ 14,400.00	\$ 200.00	\$ 4,800.00	\$ 300.00	\$ 7,200.00	\$ 230.00	\$ 5,520.00	\$ 297.00	\$ 7,128.00	\$ 450.00	\$ 10,800.00
33	TRAFFIC CONTROL AND PROTECTION	L.SUM	1.00	\$20,000.00	\$ 20,000.00	\$64,000.00	\$ 64,000.00	\$235,000.00	\$ 235,000.00	\$220,000.00	\$ 220,000.00	\$128,000.00	\$ 128,000.00	\$ 32,000.00	\$ 32,000.00
34	LANDSCAPE REMOVAL AND REPLACEMENT	L.SUM	1.00	\$6,515.50	\$ 6,515.50	\$22,000.00	\$ 22,000.00	\$ 15,000.00	\$ 15,000.00	\$ 5,000.00	\$ 5,000.00	\$ 12,600.00	\$ 12,600.00	\$ 5,000.00	\$ 5,000.00
35	EXISTING MAILBOX REMOVAL AND REPLACEMENT	EACH	10.00	\$250.00	\$ 2,500.00	\$ 200.00	\$ 2,000.00	\$ 200.00	\$ 2,000.00	\$ 200.00	\$ 2,000.00	\$ 260.00	\$ 2,600.00	\$ 250.00	\$ 2,500.00
36	REMOVE AND REINSTALL SIGNS	EACH	8.00	\$375.00	\$ 3,000.00	\$ 100.00	\$ 800.00	\$ 400.00	\$ 3,200.00	\$ 200.00	\$ 1,600.00	\$ 180.00	\$ 1,440.00	\$ 200.00	\$ 1,600.00
37	CONSTRUCTION SITE VIDEO TAPE	L.SUM	1.00	\$2,500.00	\$ 2,500.00	\$ 2,950.00	\$ 2,950.00	\$ 1,500.00	\$ 1,500.00	\$ 500.00	\$ 500.00	\$ 3,880.00	\$ 3,880.00	\$ 6,000.00	\$ 6,000.00
38	B6-12 CURB AND GUTTER REMOVE AND REPLACE	FOOT	20.00	\$80.00	\$ 1,600.00	\$ 125.00	\$ 2,500.00	\$ 80.00	\$ 1,600.00	\$ 50.00	\$ 1,000.00	\$ 82.00	\$ 1,640.00	\$ 60.00	\$ 1,200.00
39	HOT-MIX ASPHALT SURFACE COURSE, MIX "D", N50, 2.0" (ROADWAY AND DRIVEWAYS)	TON	172.00	\$195.00	\$ 33,540.00	\$ 159.00	\$ 27,348.00	\$ 165.00	\$ 28,380.00	\$ 170.00	\$ 29,240.00	\$ 145.00	\$ 24,940.00	\$ 195.00	\$ 33,540.00
40	HOT-MIX ASPHALT BINDER COURSE, IL-19.0, N50, 2.25" (ROADWAY)	TON	176.00	\$185.00	\$ 32,560.00	\$ 155.00	\$ 27,280.00	\$ 160.00	\$ 28,160.00	\$ 160.00	\$ 28,160.00	\$ 135.00	\$ 23,760.00	\$ 180.00	\$ 31,680.00
41	INTERCONNECT	L.SUM	1.00	\$145,559.00	\$ 145,559.00	\$68,000.00	\$ 68,000.00	\$ 50,500.00	\$ 50,500.00	\$ 45,000.00	\$ 45,000.00	\$ 96,300.00	\$ 96,300.00	\$125,000.00	\$ 125,000.00
				Total:	\$ 1,838,663.00	as-read	\$ 1,469,347.00		\$ 1,594,637.00		\$ 1,830,194.00		\$ 1,731,143.00		\$ 2,155,519.00
						as-corrected	n/a								



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Public Works

**SUBJECT:** Airport Ground Lease for Hangar PAP-41

## EXECUTIVE SUMMARY

---

The Lake in the Hills Airport Rules and Regulations require airport tenants to enter into applicable leases, licenses, or storage agreements for Village owned hangars. Daniel Shipner is requesting a new ground lease on Hangar PAP-41. This lease is for the period of November 1, 2019 to November 1, 2039. The lease includes an option to renew for four additional five-year terms.

Mr. Shipner has signed the appropriate lease form and already has acceptable proof of insurance on file for another hangar he owns. A background check was previously completed and no issues were found by the Lake in the Hills Police Department.

## FINANCIAL IMPACT

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The Airport Fund will receive \$2,390.04 annually from the ground lease and another \$264 from electrical fees, subject to annual increases approved by ordinance.

## ATTACHMENTS

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1. Proposed Ordinance
2. PAP-41 Ground Lease

## RECOMMENDED MOTION

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Motion to approve the Ordinance and authorize the Village President and Village Clerk to sign the ground lease for Hangar PAP-41 with Daniel Shipner of Palatine, IL.

VILLAGE OF LAKE IN THE HILLS

ORDINANCE NO. 2019-\_\_\_\_\_

**An Ordinance Authorizing the Approval of a Ground Lease  
between the Village of Lake in the Hills and Daniel Shipner  
for PAP-41**

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

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

SECTION 1: That the President is hereby authorized to enter into a Ground Lease between the Village and Daniel Shipner for PAP-41 at the Lake in the Hills Airport:

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 24th day of October, 2019 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Ray Bogdanowski	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
President Russ Ruzanski	_____	_____	_____	_____

APPROVED THIS 24TH DAY OF OCTOBER, 2019

\_\_\_\_\_  
Village President, Russ Ruzanski

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Cecilia Carman

Published: \_\_\_\_\_

VILLAGE OF LAKE IN THE HILLS  
LAKE IN THE HILLS AIRPORT GROUND LEASE

THIS GROUND LEASE (this “Lease”) made and entered into at Lake in the Hills, Illinois, this 24<sup>th</sup> day of October, 2019 by and between the Village of Lake in the Hills, an Illinois municipal corporation (the “Lessor”) and Daniel Shipner (the “Lessee”).

WITNESSETH:

WHEREAS, the Lessor does hereby let and lease to the Lessee the parcel of property depicted on Exhibit A attached to and by this reference incorporated into this Lease at the Lake in the Hills Airport (the “Airport”), which parcel of property is commonly known as:

**[PAP-41 ]**

Lot dimensions: 42’3” X 18’ by 16’5’ X 20’7” (The “Premises”).

ARTICLE 1: TERM; RENEWAL

1.01 This Lease shall commence on November 1, 2019, and shall continue for a period of 20 years and shall terminate November 1, 2039 (the “Initial Term”) unless sooner terminated as hereinafter provided.

1.02 The Lessee shall have the option to renew this Lease for four (4) additional terms of five years (the “Extension Terms”), which Extension Terms shall commence on the day immediately following the last day of the then existing Term, provided (i) that the Lessee notifies the Lessor in writing (the “Extension Notice”) at least 60 days prior to the expiration of the existing Term that the Lessee intends to renew this Lease for one of the Extension Terms; (ii) that the Lessee is not in default of any obligation or duty imposed upon it by this Lease; and (iii) that the Lessor may increase, modify, or otherwise alter, for the Extension Terms, the amount of rent paid by the Lessee. The Lessor shall notify the Lessee in writing of any rent increase (the “Rental Increase Notice”) within 30 days of receipt of the Extension Notice. In the event the Lessee determines that the rental increase is unreasonable, the Lessee shall have 10 days after Lessor’s delivery of the Rental Increase Notice to elect to terminate this Lease. In the event the Lessee elects to terminate this Lease pursuant to the terms of this Article 1.02, then the Lessee shall provide the Lessor with written notice (the “Termination Notice”) of its intention to do so no later than 10 days after the Lessor’s delivery of the Rental Increase Notice. In the event the Lessor does not receive the Termination Notice within the 10-day period of time, it shall be conclusively presumed that the Lessee has elected not to terminate this Lease

ARTICLE 2: USE

2.01 The Premises shall be used, occupied, and maintained by the Lessee for the sole purpose of supporting an Aircraft Hangar/Storage facility (the “Hangar”) for aircraft owned or leased by the Lessee and for lease for storage of other aircraft, and uses reasonably incidental thereto, and for no other purpose (the “Approved Uses”).

2.02 The Lessee shall not conduct any business activities or aviation-related activities other than the Approved Uses, unless the Lessee shall also have a separate and valid commercial activity agreement with the Lessor. The Lessee shall comply with (a) all applicable governmental laws, ordinances, codes, rules, and regulations and applicable orders and directions of public officers thereunder and (b) all requirements of carriers of insurance on the Premises respecting all matters of occupancy, condition, maintenance, and use of the Premises, whether any of the foregoing shall be directed to the Lessee or the Lessor, including but not limited to any environmental laws or regulations by any local, state, or federal government and the Airport rules and regulations.

2.03 The Lessee agrees to occupy the entire Premises and to properly maintain and operate the Approved Uses at all times during the term(s) of this Lease.

2.04 The Lessee shall be entitled to the non-exclusive use, in common with other users, of the public facilities of the Airport solely for the purpose of ingress and egress to and from the Premises. The Lessee shall not use the public areas for the transient or permanent tie-down of aircraft or for any purposes other than as expressly permitted by this Lease.

2.05 The Lessee shall, at the Lessee's own expense, comply with all present and hereinafter enacted environmental laws, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq., Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., Safe Drinking Water Act, 42 U.S.C. Section 300 et seq., the Clean Air Act, 42 U.S.C. Section 7401 et seq., and the regulations promulgated thereunder and any other laws, regulations, and ordinances (whether enacted by the local, state or federal governments) now in effect or hereinafter enacted, that deal with the regulation or protection of the environment and hazardous materials. The Lessee shall not cause or permit any hazardous material to be used, generated, manufactured, produced, or stored on, under, or about the Premises. The Lessee shall not keep on the Premises any inflammables, such as gasoline, kerosene, naphtha, or benzine or other volatile chemicals or compounds or explosives or any other articles of intrinsically dangerous nature, except such materials and equipment commonly related to airplane maintenance. The Lessee further shall indemnify, defend, and hold harmless the Lessor from and against any and all liability, loss, damage, expense, penalties, and legal and investigation fees or costs arising from or related to any claim or action for injury or liability brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment of the Premises.

### ARTICLE 3: RENT

3.01 The amount of rent payable to the Lessor (the "Rent") is set forth on the rent schedule ("the Rent Schedule") attached to and by this reference incorporated into this Lease as Exhibit B. The Rent, during the Initial Term and any Extension Term, is subject to an increased adjustment by the Lessor on an annual basis based on the following: the current year's Rent multiplied by the Consumer Price Index (the "CPI") for the Chicago Metropolitan Area, up to a maximum 10 percent increase over the current year's rent. The CPI to be used for the preceding calculation shall be the CPI available for the most recent 12 month period. The first month's Rent shall be paid upon the execution of this Lease and each month's Rent thereafter shall be paid in advance on or before the first day of a calendar month during the term(s) of this Lease.

Rent for any partial calendar month within the Term shall be prorated on a per diem basis assuming a 30-day month.

3.02 The Lessee agrees to pay all rent and any other amount owing hereunder on the due date thereof to the Lessor at its office at 600 Harvest Gate, Lake in the Hills, Illinois, or to such other person at such other address as the Lessor may from time to time designate in writing. The Lessee hereby agrees that the Lessee's obligation to pay such rent and other amounts shall be absolute and unconditional under all circumstances, including, without limitation, the following circumstances: (a) any setoff counter-claim, recoupment, defense, or other right that the Lessee may have against the Lessor, or anyone else for any reason whatsoever; (b) any damage to, loss, or destruction of the Premises or any interruption or cessation in the use or possession thereof by the Lessee for any reason whatsoever, unless directly caused by the negligent acts of Lessor; (c) any insolvency, bankruptcy, reorganization, or similar proceedings by or against the Lessee; and (d) any other event or circumstance whatsoever, whether or not similar to any of the foregoing. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statutes or otherwise, to terminate, cancel, quit, or surrender any portion of the Premises hereunder except in accordance with the expressed terms hereof. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise, except in the event of termination without the fault of Lessee or termination upon change of ownership in accordance with Article 12 of this Lease, or dis-affirmed by the Lessee, all remaining rent payments which would have become due and payable in accordance with the terms hereof had this Lease not been terminated or dis-affirmed in whole or part shall become immediately due and payable. Each rent or any other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

3.03 The Lessee shall also pay the Lessor a late charge upon payment of Rent after the tenth day of any month in the amount of 10 percent of the amount owed. Payment of a late charge to the Lessor shall in no way interfere with the Lessee's obligation to pay Rent on the first day of each month. Payment by the Lessee of a late charge shall not be deemed a waiver of or otherwise limit the Lessor's remedies under this Lease.

#### ARTICLE 4: LESSOR'S RIGHT TO RELOCATE LESSEE

4.01 The Lessee acknowledges that at any time during the term(s) of this Lease, the Lessor may need to relocate the Hangar to another comparable location at the Airport (the "Relocation"). In the event the Lessor determines in its sole and absolute discretion that Relocation is necessary, the Lessor shall provide the Lessee with 30 days written notice of its intention to relocate. The Hangar will be relocated to another location that, in the sole discretion of the Lessor, is comparable to the Premises, and the definition of the "Premises" shall be revised to reflect the new location. The Lessor will pay for the following costs of Relocation: preparation of the new site, relocation of the Hangar and hangar facilities onto the new site, and all costs directly associated with the Relocation. The Lessee shall have no right to reimbursement from the Lessor for any costs incurred by the Lessee as a result of the Relocation, except for reasonable costs incurred by the Lessee as a result of Lessor's Relocation actions.

4.02 The Lessor shall not be responsible for theft, loss, injury, damage, or destruction of the Hangar or of any aircraft or other property on the Premises during the Relocation. The Lessee hereby releases and discharges the Lessor for the loss of or damage to the Lessee's property, except for that loss or damage arising out of the Lessor's negligence during the Relocation.

#### ARTICLE 5: CONDITION OF PREMISES; REPAIR

5.01 The Lessee has inspected the Premises and accepts the Premises in an "as is" condition. The Lessee acknowledges that its decision to enter into this Lease was based on its own knowledge and analysis and not on any representations by the Lessor, and the Lessee waives any and all claims against the Lessor in connections therewith. At the termination of this Lease, the Lessee shall, at Lessee's sole expense, remove the Hangar, including any foundation, and restore the Premises to a natural state, including grading and grass seeding.

5.02 The Lessee agrees, at its sole cost and expense, to repair, replace, or reconstruct the Hangar and other improvements located on the Premises that are damaged or destroyed by fire or other casualty, or required to be repaired, removed, or reconstructed by any governmental or military authority. Such repair, replacement, or reconstruction shall be accomplished within such time as may be reasonable under the circumstances after allowing for delays caused by strikes, lockouts, acts of God, fire, extraordinary weather conditions, or any other cause or casualty beyond the reasonable control of Lessee (the "Reasonable Time Period"). The design and specifications of such repair, replacement, or reconstruction shall be as determined by Lessee; but such work shall restore the Premises to not less than its condition prior to said need for repair.

#### ARTICLE 6: COVENANTS

The Lessee agrees to all of the following covenants:

(a) The Lessee shall not commit, suffer, or allow to be committed or suffered any acts of waste on the Premises, or commit or permit to be committed any acts which will in any way constitute a public or private nuisance or an unlawful or immoral act. Only the Approved Uses shall be permitted.

(b) All maintenance to the Hangar or other improvements or any repair of damages to same from any cause shall be the sole responsibility of the Lessee and shall be made in the Reasonable Time Period and at the Lessee's expense (unless such damage was caused by the negligence of the Lessor) and same shall comply fully with all applicable laws, ordinances, and other government regulations, codes, and directions.

(c) The Lessee shall not erect or install any sign of any kind anywhere in or on the Premises without the specific prior written consent of the Lessor. In addition, the Lessee shall not use any broadcast or audio advertising media, including but not limited to loudspeakers, phonographs, or radio or television broadcasts, in a manner visible or audible outside of the Hangar.

(d) The Lessee shall not install any exterior lighting or plumbing fixtures, shades, or awnings or exterior decoration or paintings or build any enclosures or audio or television antenna, loudspeakers, sound amplifiers, or similar devices on the roof or exterior walls of the Hangar without the specific prior written consent of the Lessor.

(e) The Lessee shall store all trash and garbage within proper receptacles in the Hangar and around the Premises. The Lessee shall not burn any trash or garbage of any kind in or about the Premises.

## ARTICLE 7: REMEDIES

7.01 In the event of any default by the Lessee with respect to any of the events below and the Lessee's failure to cure said default within 10 days after written notice thereof by the Lessor, the Lessor may immediately terminate this Lease and/or the Lessee's right to possession hereunder, and pursue any other remedy available to the Lessor at law or in equity and including, without limitation, those remedies set forth at the end of this Article, upon the happening of one or more of the following events:

- (a) The making by the Lessee of an assignment for the benefit of the creditors without the written consent of the Village Administrator;
- (b) The operation or supervision of any business other than the Approved Uses conducted in the Premises by the Lessee, or by anyone else, except only with the prior specific written consent of the Lessor;
- (c) The levying of a writ of execution or attachment on or against the property of the Lessee;
- (d) The doing, or permitting to be done, by the Lessee of any act which creates a mechanic's lien or claim therefor against the Premises or any part of the Premises;
- (e) The failure of the Lessee to pay any Rent when due, which shall not be in lieu of any statutorily prescribed remedies for the Lessee's failure to pay Rent but shall be in addition thereto;
- (f) If the estate created hereby shall be taken in execution or by other process of law or if proceedings are instituted in a court of competent jurisdiction for the reorganization, liquidation, or voluntary or involuntary dissolution of the Lessee or composition for the benefit of a creditor or for its adjudication as a bankrupt or insolvent, or for the appointment of a receiver of the property of the Lessee for any purpose and said proceedings are not dismissed, and any receiver, trustee, or liquidator appointed therein discharged within 10 days after the institution of said proceedings;
- (g) Any failure of the Lessee to keep and perform fully any of its covenants under this Lease;

- (h) The abandonment of the Premises by the Lessee or the discontinuance by the Lessee of the proper maintenance and operation of the Approved Uses for a consecutive period of three months or longer;
- (i) If the Lessee is a corporation, the sale of any of the Lessee's stock pledged for any purpose, whether by virtue of execution or otherwise.

7.02 Upon the event of a default hereunder by the Lessee, the Lessor shall have the right to cure the default, at its option, by any means reasonably necessary. In such event, the Lessee shall reimburse the Lessor for all reasonable costs incurred by the Lessor in curing the default.

7.03 Upon the termination of this Lease or the Lessee's right to possession hereunder, the Lessor may re-enter the Premises using such force as may be necessary and in compliance with applicable law and remove all persons, fixtures, property and equipment therefrom and the Lessor shall not be liable for damages or otherwise by reason of re-entry or termination of possession of the term of this Lease. Upon termination of either the Lessee's right to possession or the Lease, the Lessor shall be entitled to recover immediately an amount equal to the minimum rent for the balance of the term less the amount of any minimum rental obtained from any other lessee for the balance of the term in the event the said premises are re-let. Upon and after entry into possession without termination of this Lease, the Lessor may, but need not, re-let the Premises or any part thereof for the account of the Lessee for such rent, for such time and upon such terms as the Lessor in its sole discretion shall determine.

#### ARTICLE 8: TAXES

The Premises is owned by the Lessor and is currently tax-exempt. Therefore, in the event the Lessee's operations on the Premises cause a tax to be assessed against, levied upon, or otherwise become payable in respect of the Premises or the use thereof, the Lessee shall pay all taxes relating to the Premises or to this Lease, including all real estate taxes, personal property taxes and leasehold taxes, unforeseen as well as foreseen, that are assessed against, levied upon and become payable in respect of the Premises or the use thereof during the term(s) of this Lease; provided, however, that in the event such taxes are imposed as a result of Lessor's actions under the Lease, then the Lessee shall not be responsible for said taxes. Such payment of taxes by Lessee shall be in addition to the payment of Rent.

#### ARTICLE 9: INSURANCE; INDEMNIFICATION

9.01 The Lessee shall, at Lessee's sole cost, during the entire term hereof, keep in full force and effect a policy of airport liability and property damage insurance with respect to the Hangar and the Premises or any other occupant of the Premises, in which the limits of public liability shall not be less than \$1 million per occurrence. The policy shall name the Lessor and its trustees, officers, employees, attorneys, legal representatives, and agents as additional insureds and shall contain a clause that the insurer will not cancel or change the insurance without first giving the Lessor 30 days prior written notice thereof. The insurance shall be with companies licensed to do business in the State of Illinois. The insurance shall be in a form reasonably acceptable to the Lessor and a copy of the policy and a certificate of insurance shall be delivered

to the Lessor prior to the commencement hereof. In the event the Lessee shall fail to procure said insurance, the Lessor may, but shall be under no obligation to, procure such insurance in which event the Lessee agrees to pay to the Lessor, as additional rent, the amount of premium therefore on the first day of the month following the month in which the Lessor notifies the Lessee of the amount of premium due hereunder.

9.02 The Lessee, shall at the Lessee's sole cost, during the entire term hereof, keep in full force and effect a policy for fire and property damage insurance with respect to the Hangar and all other Lessee property contained on the Premises, as well as all other improvements on the Premises, in such amount and form, and with such companies, as the Lessor may reasonably determine. The Lessee shall, from time to time, as requested by the Lessor, deliver certificates of such insurance verifying coverage to the Lessor.

9.03 Except only to the extent otherwise prohibited by law, the Lessee covenants and agrees to indemnify and hold harmless the Lessor and its trustees, officers, employees, attorneys, legal representatives, and agents from any and all losses, claims, damages, costs, or expenses, including attorney's fees, the Lessor may be required to pay as a result of acts and/or omissions of the Lessee or any agent of the Lessee.

#### ARTICLE 10: SUBORDINATION

The parties to this Lease desire that this Lease be prior in lien to all other documents, including mortgages, trust deeds, or other encumbrances that may hereafter be recorded against the Premises. Lessee agrees to subordinate any mortgage, trust deed, or other encumbrance that may hereafter be placed on the Premises, or to any advances to be made thereunder and to interest thereon and all renewals, replacements, and extensions thereof, to this Lease; and the Lessee agrees to execute any instrument or instruments which the Lessor may reasonably, at the Lessor's sole and complete discretion, require to effect such subordination, provided that the Lessee and its successors and assigns shall have the right to freely, peaceably, and quietly occupy and enjoy the full possession and use of said premises as long as the Lessee shall not be in default under this Lease, and subject to the Lessor's right to relocate the Lessee as set forth in Article 4 of this Lease. In the event of any mortgagee, trustee, or encumbrancer notifying the Lessee to that effect, this Lease shall be deemed prior in lien to said mortgage, trust deed, or encumbrance whether or not this Lease is dated prior to or subsequent to the date of said mortgage, trust deed, or encumbrance.

#### ARTICLE 11: IMPROVEMENTS; MECHANIC'S LIENS

11.01 This Section 11.01 is applicable if the Premises are unimproved as of the effective date of this Lease. During the term of this Lease, unless this Lease shall be sooner terminated in accordance with the terms hereof; the Lessee, at its sole cost and expense, shall construct or place on the Premises the Hangar and related improvements in accordance with the Lessee's plans and specifications as set forth in Exhibit C attached to and by this reference incorporated into this Lease (the "Plans"). The Hangar and related improvements shall be constructed in accordance with all applicable federal, state and local laws, codes, ordinances, and regulations and shall have the specific prior written approval of the Lessor.

11.02 All repairs, construction, modifications, alterations, or changes made by the Lessee to the Premises shall be done or contracted for only with the Lessor's specific prior written consent, which the Lessor may withhold for any reason that the Lessor deems sufficient. Notwithstanding anything to the contrary herein, no alterations to the Premises are allowed during the term(s) of this Lease except for the construction of the Hangar and related improvements. Any of the foregoing that the Lessee undertakes shall be done at the Lessee's sole cost and expense and none of the foregoing nor any other act shall be allowed or suffered which may create any mechanic's lien or claim for lien against the Premises. In the event any lien or claim for lien upon the Lessor's title or the Premises results from any act or neglect of the Lessee, and the Lessee fails to remove said lien or dismiss such claim for lien within 10 days after the Lessors notice to do so, the Lessor may, but need not, remove the lien or satisfy such claim for lien by paying the full amount thereof without any investigation or contest of the validity or amount thereof and the Lessee shall pay the Lessor promptly upon demand, and as additional rent, the amount paid out by the Lessor, including the Lessor's costs, expenses, and counsel fees.

#### ARTICLE 12: ASSIGNMENT OR SUBLETTING

The Lessee agrees not to assign, encumber, or in any manner transfer this Lease or any interest hereunder and not to permit the use or occupancy of the Premises, whether by license, concession or otherwise by anyone other than the Lessee without the specific prior written consent of the Lessor (which consent shall not be unreasonably denied); provided, however, that the Lessee may sublet the Premises for the remainder of the then existing Term with the prior written consent of the Lessor (which consent shall not be unreasonably denied) and subject to the terms of this Lease. Any assignment or subletting permitted hereunder shall not be deemed to relieve the Lessee of its obligation to pay rental and perform its other obligations hereunder. Consent by the Lessor of one assignment or one subletting or one use or occupancy of the Premises shall not constitute a waiver of the Lessor's rights under this Article as to any subsequent assignments, subletting, or use or occupancy. If the Lessee is a corporation or partnership, and if, during the term of this Lease, the ownership of the shares of stock or partnership interests which constitute control of the Lessee changes by reason of sale, gift, death, or otherwise, the Lessee shall provide the Lessor with written notice and confirmation of the new owner's intent to be bound by the terms of the Lease, along with evidence of the new owner's financial information to insure that the new owner is capable of performing the obligations set forth in this Lease. In the event the Lessor concludes, in the exercise of its discretion, that the new owner is not capable of performing the obligations under this Lease, the Lessor may at any time thereafter terminate this Lease by giving the Lessee written notice of such termination at least 30 days prior to the date of termination stated in the notice. Receipt of rent after such change of control shall not affect the Lessor's rights under the preceding sentence.

#### ARTICLE 13: UNTENANTABILITY

In the event that the Hangar shall be destroyed or so damaged by fire, explosion, windstorm, or other casualty as to be untenable, the Lessee shall within the Reasonable Time Period secure the Hangar and restore it in accordance with the terms of this Lease and rents due hereunder shall not be abated.

#### ARTICLE 14: SURRENDER OF PREMISES; HOLD OVER

14.01 At the expiration of the tenancy hereby created, whether by lapse of time or otherwise, or upon termination of the Lessee's right of possession, the Lessee shall immediately surrender possession of the Premises to the Lessor in good condition, and shall remove the Hangar and all other improvements therefrom. If such possession is not immediately surrendered, then the Lessor may immediately enter the Premises and possess itself thereof and remove all persons and effects therefrom using such force as may be necessary and in compliance with applicable law. If the Lessee shall fail or refuse to remove all of the Lessee's property from the Premises, then the Lessee shall be conclusively presumed to have abandoned the same, and title thereto shall thereupon pass to the Lessor without any cost either by set-off; credit, allowance, or otherwise, and the Lessor may at its option accept title to such property, or at the Lessee's expense may remove the same or any part thereof in any manner that the Lessor shall choose and store the same without incurring liability to the Lessee or any other person.

14.02 It is agreed and understood that any holding over by the Lessee of the Premises at the expiration or cancellation of this Lease shall operate and be construed as a tenancy from month to month at a rental of three times the current monthly rental, and in addition the Lessee shall be liable to the Lessor for all loss or damage on account of any holding over against the Lessor's will after the expiration or cancellation of this Lease, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by the Lessor from the Lessee after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after any judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Lease, or affect any such notice, demand, or suit or imply consent for any action for which the Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises and remove the structures.

#### ARTICLE 15: COSTS AND FEES

The Lessee shall pay upon demand all of the Lessor's costs, charges, and expenses, including fees of attorneys, agents, and others retained by the Lessor, incurred in enforcing any of the obligations of Lessee under this Lease or in any litigation, negotiation, or transaction in which the Lessor shall, without the Lessor's fault, become involved through or on account of this Lease. In the event it becomes necessary for either party hereto to file suit to enforce this Lease or any provision contained herein, the prevailing party in such suit shall be entitled to recover, in addition to all other remedies or damages provided for in this Lease, reasonable attorneys' fees and costs incurred in such suit at trial or on appeal or in connection with any bankruptcy or similar proceeding.

#### ARTICLE 16: SUCCESSORS AND ASSIGNS

The terms, covenants, and conditions hereof shall be binding upon, apply and inure to the benefit of the heirs, executors, administrators, successors in interest and assigns of; the parties hereto. No rights, however, shall inure to the benefit of any assignee or sub-lessee of the Lessee except only if such assignment or sublease has been specifically consented to by the Lessor in writing as provided herein.

## ARTICLE 17: REMEDIES CUMULATIVE

All rights and remedies of the Lessor enumerated in this Lease shall be cumulative and none shall exclude any other right or remedy allowed by law, and said rights and remedies may be exercised and enforced concurrently as often as occasion therefor arises.

## ARTICLE 18: ESTOPPEL CERTIFICATE

Each party agrees at any time and from time to time, upon not less than 20 days prior written request by the other, to execute, acknowledge, and deliver to the other a statement in writing certifying that this Lease is unmodified and in full force and effect and the date to which the rental and other charges have been paid in advance, if any, it being intended that any such statement delivered pursuant to this paragraph may be relied upon by any prospective purchaser of this leasehold or the fee, or mortgagee or assignee of any mortgage upon this leasehold or the fee of the Premises.

## ARTICLE 19: MISCELLANEOUS

19.01 The necessary grammatical changes required to make the provisions of this Lease apply to the past, present, and future and in the plural sense where appropriate and to corporations, associations, partnerships, or individuals, male or female, shall in all instances be assumed as though in each case fully expressed.

19.02 The laws of, but not the conflicts of law rules of, the State of Illinois shall govern the validity, performance, and enforcement of this Lease.

19.03 The headings of several articles contained herein are for convenience only and do not limit or construe the contents of the articles.

19.04 All of the covenants of this Lease are independent covenants. If any provisions of this Lease are found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, then the remainder of the Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

19.05 Notwithstanding any other provision to the contrary herein, either Lessor or Lessee may, in its sole discretion, terminate this Lease upon 30 day's written notice to the other party.

## ARTICLE 20: NOTICES

Any notices required or desired to be given under this Lease shall be in writing and (i) personally served, (ii) given by certified mail, return receipt requested, (iii) given by overnight express delivery, or (iv) given by facsimile transmission, with any such facsimile transmission confirmed by next business day overnight express delivery. Any notice shall be addressed to the party to receive it at the following address or at such other address as the party may from time to time direct in writing:

**To the Lessee at:**

Daniel Shipner  
541 Cunningham Dr.  
Palatine, IL 60074

**and to the Lessor at:**

Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, Illinois 60156  
Attention: Village Administrator

**with a copy to:**

Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, Illinois 60156  
Attention: Airport Manager

Express Delivery notices shall be deemed to be given upon receipt. Postal notices shall be deemed to be given three days after deposit with the United States Postal Service. Facsimile notices shall be deemed given upon the date of transmission, provided that compliance is made with the remaining obligations of this Article 20.

**ARTICLE 21: PRIOR AGREEMENTS**

This Lease replaces and supersedes any other written or oral prior agreement, arrangement, or understanding between the Lessee and the Lessor or its agent, which prior agreement(s) shall be considered null and void and of no further effect whatsoever as of the date hereof.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year above.

[LESSOR] VILLAGE OF LAKE IN THE HILLS

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

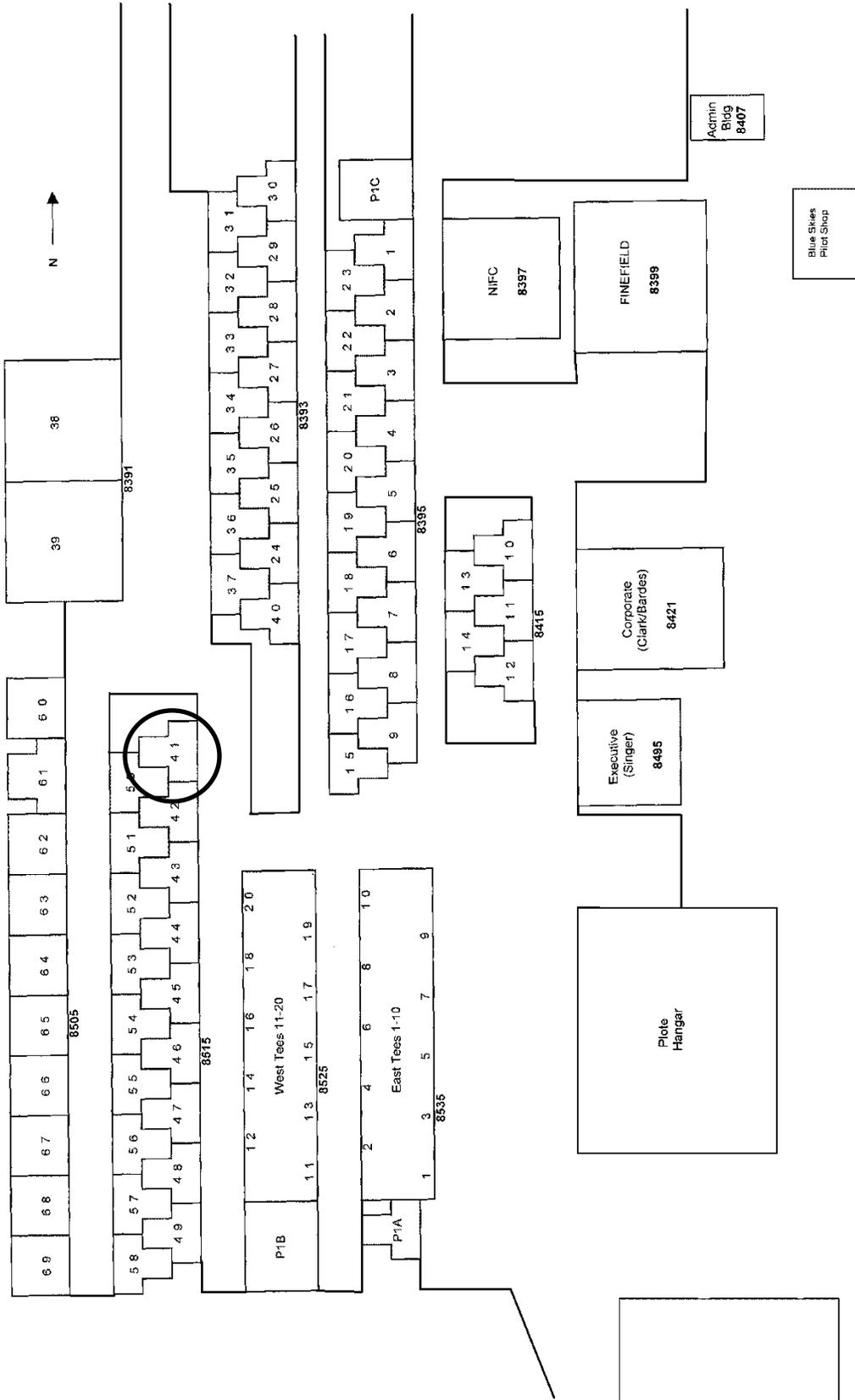
Attest: \_\_\_\_\_  
**Village Clerk**

[LESSEE] Daniel Shipner

By: \_\_\_\_\_  
**Daniel Shipner**

Title: \_\_\_\_\_

# EXHIBIT A PREMISES



**EXHIBIT B  
RENT SCHEDULE**

**Village Owned Facility Leases and Tie Downs**

<b>Description</b>	<b>Rate</b>	<b>Frequency</b>
Hard surface tie downs	\$90.00	Monthly
Grass tie downs	\$60.00	Monthly
East and West T-Hangar Building Leases	\$299.00	Monthly
Maintenance Hangar Building Lease	\$2,881.78	Monthly
8603 Pyott Road Building Lease	\$2,075.91	Monthly

<b>Description</b>	<b>Rate</b>	<b>Frequency</b>
Grass Tie Down	\$5.00*	Daily
Hard Surface Tie Down or Ramp Area	\$10.00*	Daily
T-Hangar	\$30.00	Daily

**Overnight Transient Storage**

\*\$5 or \$10 respectively of the overnight transient fees will be waived if the aircraft operator purchases at least 15 gallons of aviation fuel in conjunction with that overnight stay.

<b>Description</b>	<b>Rate</b>	<b>Frequency</b>
Square Hangars	\$12.42*	Cents per Month
T-Hangar Size A (39'3" x 14'8"; 16'6" x 14'7" approx..)	\$191.45	Monthly
T-Hangar Size B (42'3" x 18'; 16'5" x 20'7" approx..)	\$199.17	Monthly
T-Hangar Size C (46' x 21'; 19'6" x 23'8" approx..)	\$214.58	Monthly

**Land Leases**

\*Per square foot of land area occupied based on the outside perimeter of the structure (rounded to the nearest foot) unless otherwise specified in the lease.

**Private Hangar Electrical Service Fee  
Monthly Fee by Breaker Size and Configuration**

<b>Breaker Size (Amps)</b>	<b>Monthly Fee (USD)</b>	<b>Comments</b>
20	\$6	Single breaker serves 3 individual hangars
20	\$11	Single breaker serves 2 individual hangars
20	\$22	Fee per individual breaker
30	\$33	Fee per individual breaker
40	\$44	Fee per individual breaker
50	\$56	Fee per individual breaker
60	\$67	Fee per individual breaker

## **Disconnect/Reconnect – Electrical**

If a tenant makes a request to the Village to disconnect Village provided electrical service to a private hangar, the disconnection may be completed subject to review to ensure it is feasible to complete the request. If the request is approved the tenant will not be allowed to reconnect to the Village provided electrical service for a period of 12 months. The 12-month period shall start on the date the electrical is disconnected to the private hangar. After the 12-month period, the tenant can submit a request to reconnect to the Village provided electrical service. The Village will charge a fee of \$65.00 to reconnect the Village provided electrical service.

## **Non-Aeronautical Storage**

The following non-aeronautical storage lease rates shall be effective upon execution of a new lease:

<b>Area in Square Feet</b>	<b>Monthly Rental Rate</b>
10x10	\$33
10X30	\$75

## **Waiver to Late Fees**

If a late fee is assessed according to the lease, a request to waive the late fee may be considered by the Village Finance Department. The late fee may be waived in the event all of the following conditions are met:

1. A written request to waive the late fee must be presented to the Finance Department; and
2. The Finance Department must receive the written request to waive the late fee by the last business day of the month the payment was due and was not received until after the 10<sup>th</sup> of the same month; and
3. The tenant has displayed a good payment history during the preceding 12 months. A good payment history shall be defined as having a) no late fees posted to the account, and b) no late fee waiver requested for the account during the preceding 12 months and c) no returned payments associated with the account.

**EXHIBIT C  
PLANS**

Not applicable.



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Public Works

**SUBJECT:** **Commercial Activity Agreement with Blue Skies Flying Services, Inc.**

## EXECUTIVE SUMMARY

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The Lake in the Hills Airport Rules and Regulations require commercial activities which operate from the Lake in the Hills Airport to enter into an agreement with the Village. The agreement gives them access to the airport while establishing service standards, insurance requirements, and a commitment to observe the airport rules and regulations and minimum standards. Blue Skies' agreement is due for renewal in December. The new agreement will be in effect from December 31, 2019 through December 31, 2023. The attached agreement mirrors the existing agreement, with the exception of the new term.

## FINANCIAL IMPACT

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The Village receives \$750.46 on a monthly basis from Blue Skies Flying Services, Inc. in addition to flight instructor fees and hangar rent which are covered under a separate agreement.

## ATTACHMENTS

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1. Proposed Agreement

## RECOMMENDED MOTION

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The Board of Trustees authorize the Village President and Village Clerk to execute the Lake in the Hills Airport Agreement Authorizing Services (Commercial Activity Agreement) with Blue Skies Flying Services, Inc.

## **VILLAGE OF LAKE IN THE HILLS**

### **LAKE IN THE HILLS AIRPORT AGREEMENT AUTHORIZING SERVICES**

THIS AGREEMENT is entered into as of the 24th day of October, 2019 by and between the Village of Lake in the Hills, an Illinois municipal corporation (the “Village”) and Blue Skies Flying Services (the “Operator”);

Section 1. Term of Agreement. This Agreement shall be effective as of December 31, 2019 and shall automatically terminate after December 31, 2023 unless this agreement is terminated prior to that time under the provisions contained herein.

Section 2. Location of Operations. During the term of this Agreement, and by separate Lease, the Operator shall maintain the necessary office and operations space at the Lake in the Hills Airport (the “Airport”) in the location and facilities depicted on Exhibit A attached to and by this reference incorporated into this Agreement for the purpose of conducting the operations authorized herein, provided that during the term of this Agreement the Operator adheres to these Minimum Standards and the Village’s rules and regulations relating to Airport operations, as adopted by Village ordinance, and as may be amended from time to time with regard to its authorized activities.

Section 3. Permitted Activities.

(a) While this Agreement is in effect and the Operator is not in default, the Operator shall have the permission of the Village to engage in the following, but only the following, business activities at the Airport, as defined in the Minimum Standards:

*Aircraft flight training, aircraft rental, aircraft rides, aircraft storage, and aircraft maintenance.*

(b) It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide any aeronautical related services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the Village reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical or related nature.

Section 4. Validation of Activities. The operator shall be responsible for notifying the Village of changes in services, equipment, staffing and other items that increase or decrease fees paid to the Village. Failure of the operator to notify the Village of the same within 30 days of such changes shall constitute a breach of this agreement and shall be sufficient grounds to terminate this agreement. The Village may request additional information or conduct announced or unannounced onsite inspections of the operator’s facilities to validate the accuracy of the commercial activities.

Section 5. Village Services. The Village reserves the right, but shall not be obligated to the Operator, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, or to provide for the same to be performed by third parties, together with the right to direct and control all activities of the Operator with regard to the public landing areas and ramp areas of the Airport and the maintenance thereof.

Section 6. Public Portions of Airport. The Operator shall have use and have access to all public portions of the Airport for taxi, landing, and takeoff of aircraft and shall have use of roads and public automobile parking lots in the same manner and to the same extent as any member of the public. In addition to the Operator's hangar space, the Operator shall have priority use of the ramp area adjacent to and in front of its hangar for staging and conducting its commercial activity. The priority use area shall be of a size reasonably agreed upon by the Operator and the Village's representative. The Operator shall have use of this priority area for the purposes of parking aircraft, loading aircraft, and preparing aircraft prior to takeoff, but not for overnight parking of aircraft. The Operator shall not conduct any operations on public portions of the Airport unless written authorization is granted for such use by the Village. The Village reserves the right to further develop or improve the landing area of the Airport as it deems necessary, regardless of the desires or view of the Operator and without interference or hindrance there from. The Village reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent the Operator from erecting or permitting to be erected any building, other structure, or device on or adjacent to the Airport which, in the opinion of the Village, would limit the usefulness of the Airport or constitute a hazard to aircraft. In enforcing the foregoing rights, the Village further reserves the right to relocate the Operator's operations and facilities, at the sole cost of the Village.

Section 7. Payments to Village. Payments to the Village shall be due on or before the first day of each month. Operator shall pay to the Village fees for the right to conduct the permitted activities in accordance with the Commercial Activity Fees Schedule attached hereto as Exhibit B and by this reference incorporated into this Agreement. It is expressly understood and agreed to by the Operator that the above charges are not a tax separately payable by any customer of the Operator, and that the Operator is prohibited from designating or itemizing said charges, or any portion thereof, on any invoice or receipt for any customer.

Section 8. Delinquent Payments. Any payments required by this Agreement shall be considered delinquent after the 10<sup>th</sup> day of the month they are due and payable. A service charge of 10 percent per month from the date due and payable until paid shall be charged the Operator for such delinquencies. Any payments which are delinquent for more than 30 days shall constitute a default.

Section 9. Indemnity. The Operator shall keep and hold harmless the Village and its trustees, officers, employees, agents, and representatives from and against any and all claims, demands, suits, judgments, costs, and expenses asserted or claimed by any person or persons by reason of death or bodily injury to any person or persons, or loss or damage to any property, resulting in whole or in part from the business, activities or any operations of the Operator.

Section 10. Insurance. The Operator shall obtain and maintain continuously in effect at all times during this agreement, at the Operator's sole expense, insurance issued by an

insurance company licensed to do business in the State of Illinois for the following types and limits:

**A. Aircraft Liability (including passengers)**

1. Piston: \$1,000,000 Combined Single Limit, \$100,000 Passenger Bodily Injury, Per Occurrence
2. Turboprop: \$3,000,000 Combined Single Limit, Per Occurrence
3. Turbojet: \$5,000,000 Combined Single Limit, Per Occurrence

**B. General Liability**

1. Premises: \$1,000,000 Combined Single Limit Per Occurrence
2. Products/Completed Operations: \$1,000,000 Combined Single Limit Per Occurrence

**C. Hangar Keepers Liability:**

1. Required when Hangar Owner/Lessee has in their care, custody, and control, aircraft belonging to another individual or entity.
2. Piston: \$500,000 Per Aircraft, \$1,000,000 Per Occurrence
3. Turboprop: \$1,000,000 Per Aircraft, \$2,000,000 Per Occurrence
4. Turbojet \$3,000,000 Per Aircraft, \$5,000,000 Per Occurrence

**D. Workers Compensation:**

1. Part 1, As required by State Statute
2. Part 2, Employers Liability:
  - i. \$500,000 Per Accident
  - ii. \$500,000 Per Employee
  - iii. \$500,000 Policy Limit

**E. Commercial Operators Operating an Aircraft Fuel Dispensing Service:**

A Commercial Operator operating an Aircraft fuel dispensing service is required to carry the following types of insurance in the limits specified, in addition to the Minimum Insurance Requirements:

1. Pollution liability coverage to the extent reasonably available with a minimum limit of one million dollars (\$1,000,000) per occurrence and in the aggregate;

2. General commercial liability and products liability with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and in the aggregate.

**F. Additional Insured:**

All policies of insurance required herein, except for workers' compensation and employer's liability coverage, shall contain a cross liability endorsement and a severability of interest provision, and shall be expressly endorsed to name each of the following as a Co-Insured for any liability arising out of the Commercial Operator's or any of its subcontractor's operations at the Airport: **the Village of Lake in the Hills and its Board of Trustees, officers, appointees, employees, servants, attorneys, legal representatives, agents, and/or representatives.**

Each endorsement and subrogation waiver shall be evidenced by a Certificate of Insurance. It can't be terminated without 60 days written notice. The Certificate of Insurance shall list the following legal entity as the Certificate Holder:

Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, IL 60156

**In addition to providing the Village with the Certificate of Insurance, the Additional Endorsement Documentation naming the Village of Lake in the Hills and its Board of Trustees, officers, appointees, employees, servants, attorney, legal representatives, agents, and/or representatives shall be provided as proof of that the appropriate additional insured is named as specified herein.**

No deductible amount in excess of five thousand dollars (\$5,000.00) or self-insurance shall be used to satisfy the Commercial Operator's minimum insurance requirements hereunder without the prior written approval of the Village.

**G. Cancellation and Form**

Each policy of insurance required herein shall contain a provision that it may not be canceled before expiration of its term except upon sixty (60) days written notice to the Village and shall be issued by an insurance company licensed to do business in the State of Illinois. The Commercial Operator shall provide a copy of all policies of insurance the Commercial Operator is required to procure and maintain under the requirements herein to the Airport Manager.

**H. Changes and Additional Rights**

The limits set forth herein shall be increased at the Commercial Operator's expense, if additional amounts are required by any federal or state regulations or by the Village. If a Commercial Operator shall at any time fail to furnish, maintain or renew any of the insurance required herein, or shall fail to furnish certificate(s) of insurance and Additional Insured Endorsement(s) evidencing the insurance coverage required herein, the Village shall have the right, but not the obligation, to obtain such

insurance coverage, and all amounts so paid by the Village shall constitute an obligation on the part of the Commercial Operator becoming immediately due and payable. The Village's rights in this paragraph are in addition to any other remedies it may have.

All certificates of coverage displaying requirements (i.e. additional insured's waiver of subrogation, notice of cancellation) shall be issued directly from the insurance carrier.

The failure of the Operator to comply with the insurance provisions of this section shall be considered default by the Operator and sufficient grounds to terminate this Agreement.

Section 11. Fees, Licenses, and Taxes. The Operator shall pay all fees, licenses, and taxes on personal property use in the operation of its business.

Section 12. Service Standards. The Operator agrees:

- (a) To furnish good, prompt, and efficient services adequate to meet all reasonable demands for goods and services of the kinds it renders at the Airport; and
- (b) To furnish goods and services on a fair, equal, and non-discriminatory basis to all users thereof; and
- (c) To charge fair, reasonable, and non-discriminatory prices for all goods and services provided by the Operator hereunder, provided that the Operator shall be allowed to give reasonable and non-discriminatory discounts, rebates, or similar types of price reductions; and
- (d) That the facilities of the Operator for the purpose of providing goods and services at the Airport shall remain open for such periods during each day and such days during each week as may be necessary to meet reasonable demands for such goods and services.

Section 13. Non-Exclusive Use. This Agreement shall in no way convey the exclusive use of any part of the Airport, except those portions exclusively leased to, or provided to, the Operator and as specifically allowed herein, and shall not be construed as providing any special privilege for any public portion of the Airport, with the exception of priority use of the adjacent ramp area as provided above. The Village reserves the right to lease to other parties any other portion of the Airport for any purpose deemed suitable for the Airport by the Village.

Section 14. Assignment. The Operator shall not assign any rights provided in this Agreement without the specific prior written consent of the Village. Any such unauthorized assignment shall be void and shall be cause for immediate termination of this Agreement.

Section 15. Transfer of Stock or Ownership of Operator. The Operator understands and agrees that this Agreement is non-transferable and, during the term of this Agreement, any transfer of a controlling ownership interest in the Operator shall be cause for immediate termination of this Agreement.

Section 16. Agreements of Village with United States, State of Illinois, or Agencies.

The terms and conditions of this Agreement shall not be construed to prevent the Village from making any commitments it desires to the United States Government, or to the State of Illinois, or to any agency thereof, so as to qualify for the expenditure of federal or State funds at the Airport. This Agreement shall be subordinate to the provisions of any existing or future agreement between the Village, or its predecessors or successors, and the United States or the State of Illinois, relative to the operation or maintenance of the Airport, the execution of which has been made or may be required as a condition precedent to the expenditure of federal or State funds for the development of the Airport.

Section 17. Rules, Regulations, Minimum Standards, and Codes. The Operator agrees to comply with, and be subject to, all of the following:

- (a) The Airport Rules and Regulations and the Airport Minimum Standards adopted by the Village, as amended from time to time, regarding the management, use, and operation of the Airport; and
- (b) All applicable Federal, State, and Village building, zoning, and hazard codes; and
- (c) All applicable governmental rules, regulations, standards, and requirements relating to the storage and disposal of aviation fuel or any other toxic materials and contaminants. The Operator shall be solely responsible for obtaining and maintaining all necessary permits for storage and disposal and shall provide the Village with copies of such permits and evidence of compliance with the terms and conditions thereof. Improper storage or disposal of toxic materials or contaminants shall be grounds for termination of this Agreement. The Operator shall be responsible for the costs of correcting any contamination or damage to the leased premises and facilities and/or adjacent areas caused by it or its agents' improper storage, disposal, or use of any such materials, and such responsibility by the Operator shall survive the termination of this Agreement.

Section 18. Notices. Whenever any notice or payment is required by this Agreement to be made, given, or transmitted to the parties hereto, such notice or payment shall be deemed delivered if given in person or by registered or certified mail as follows:

If to the Village:

Village Administrator  
Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, Illinois 60156

If to the Operator:

Blue Skies Flying Service, Inc.  
8411 Pyott Road, Suite 106  
Lake in the Hills, IL 60156  
Attn: Richard M. Carzoli

Section 19. Waiver of Terms. The waiver by the Village to the Operator of any breach of any term, covenant, or condition herein contained shall not be deemed waiver of a subsequent breach.

Section 20. Construction. This Agreement shall be construed in accordance with the laws of, but not the conflict of laws rules of, the State of Illinois. This Agreement constitutes the entire Agreement between the parties, and it may not be altered, amended, or modified except by written agreement of all parties hereto. The Operator and the Village expressly consent to jurisdiction in the Circuit Court of the Twenty-second Judicial Circuit, McHenry County, Illinois.

Section 21. Termination.

- (a) The Village may terminate this agreement with respect to the Operator at any time if the Operator fails to comply with any other provisions of this Agreement.

The Village shall first notify the Operator in writing of the failure to comply. If the Operator does not correct the failure and fully comply within 30 days after delivery of said notice, then the Village may terminate this Agreement immediately by written notice of termination. Upon delivery of said termination notice, all rights of the Operator shall be canceled.

- (b) The Operator may terminate this Agreement at any time upon 90 days written notice to the Village. In the event of such termination, the Operator shall pay all charges due as of said termination date within 30 days thereafter.

Section 22. Additional Remedies of the Village. In addition to the provisions of Section 21 above, in the event of any failure of the Operator to comply with any term, condition, or covenant of this Agreement, the Village may seek further relief and additional remedies to the fullest extent permitted by law, including but not limited to monetary damages and injunctive relief.

IN WITNESS WHEREOF, the Village and Operator set their hands and seals as of the date first written above.

VILLAGE OF LAKE IN THE HILLS

BLUE SKIES FLYING SERVICES, INC

\_\_\_\_\_  
RUSS RUZANSKI  
VILLAGE PRESIDENT

\_\_\_\_\_  
By: RICHARD M. CARZOLI  
PRESIDENT

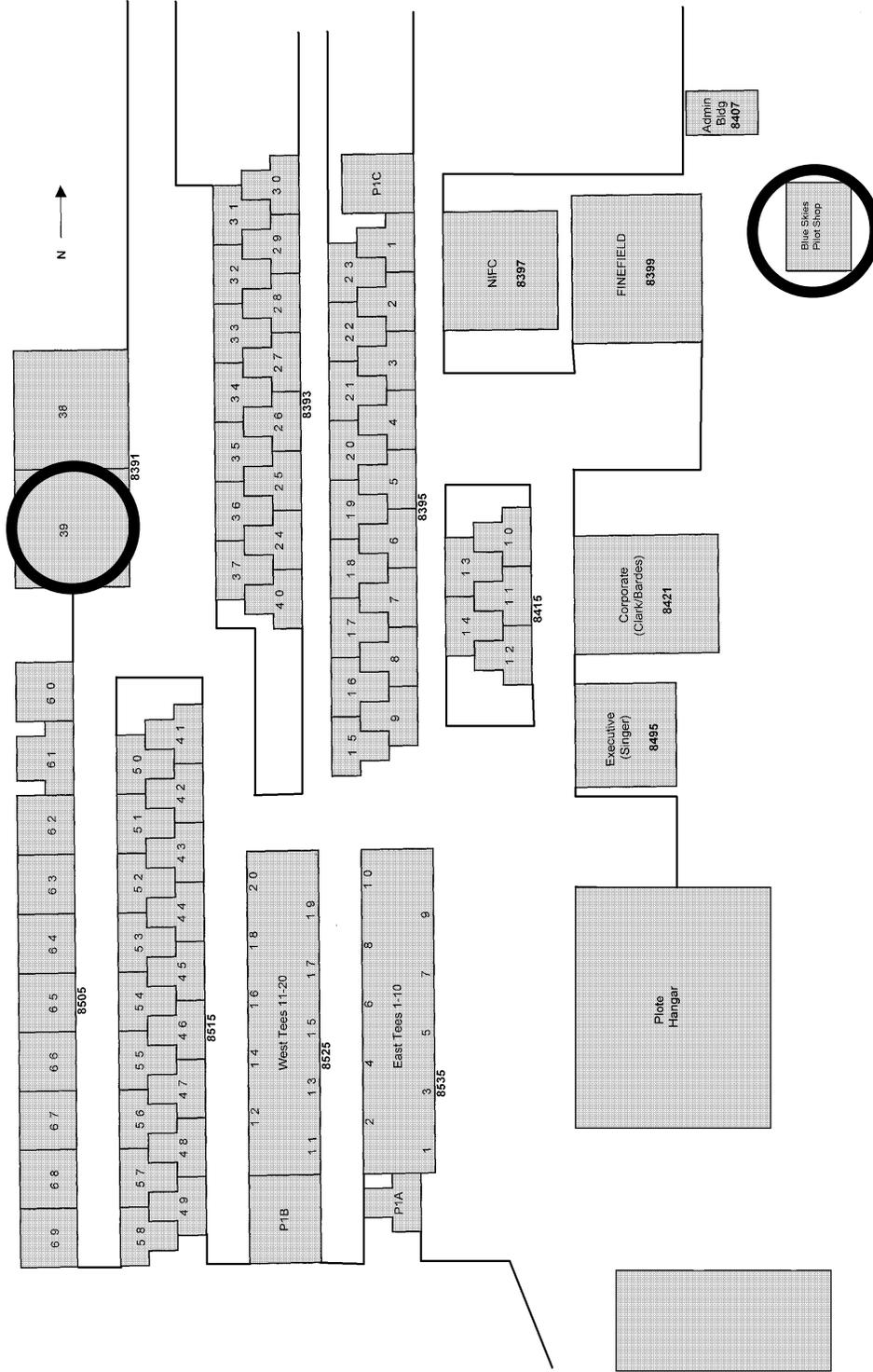
ATTEST:

ATTEST:

\_\_\_\_\_  
CECILIA CARMAN  
VILLAGE CLERK  
(Seal)

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

# Exhibit A



**Exhibit B**

**COMMERCIAL ACTIVITY FEE SCHEDULE**

Persons desiring to conduct one or more of the Activities set forth below shall pay the listed fees for each activity category to be engaged in:

<b>Category</b>	<b>Monthly Fee (unless noted)</b>
Aircraft Charter / Air Taxi Service	\$100.42 per aircraft per month
Flight Instruction / Aircraft Rental / Flying Clubs	\$51.83 per aircraft per month
Flight Instructors	\$95.03 per year
Aircraft Maintenance	\$124.17 per Airframe, Power Plant, or Avionics and Instrument Repair Mechanic (first two) PLUS \$32.40 for each additional mechanic per month
Aircraft Sales	\$300.00 per year
Aircraft Storage	\$18.36 per aircraft per month for all aircraft not owned by the hangar owner
Assistance to Home-Built Aircraft Owners	\$30.56 per aircraft per month
Hot Air Balloon Operators	0-15 operations per year: \$152.79 16-30 operations per year: \$400.00 31+ operations per year: \$150 for every 10 operations above 30
Mechanic for Assistance to Home-Built Aircraft Owners	\$95.03 per month (If mechanic is included as a mechanic within another commercial activity at this airport, then no fee is Required)



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Public Works

**SUBJECT:** Commercial Activity Agreement with Finefield Aviation, Inc.

## EXECUTIVE SUMMARY

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The Lake in the Hills Airport Rules and Regulations require commercial activities which operate from the Lake in the Hills Airport to enter into an agreement with the Village. The agreement gives them access to the airport while establishing service standards, insurance requirements, and a commitment to observe the airport rules and regulations and minimum standards. Finefield Aviation's agreement is due for renewal in December. The new agreement will be in effect from December 31, 2019 through December 31, 2023. The attached agreement mirrors the existing agreement, with the exception of the new term.

## FINANCIAL IMPACT

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The Village receives \$313.14 on a monthly basis from Finefield Aviation in addition to hangar rent which they pay through a separate agreement.

## ATTACHMENTS

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1. Proposed Agreement

## RECOMMENDED MOTION

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The Board of Trustees authorize the Village President and Village Clerk to execute the Lake in the Hills Airport Agreement Authorizing Services (Commercial Activity Agreement) with Finefield Aviation, Inc.

## **VILLAGE OF LAKE IN THE HILLS**

### **LAKE IN THE HILLS AIRPORT AGREEMENT AUTHORIZING SERVICES**

THIS AGREEMENT is entered into as of the 24th day of October, 2019 by and between the Village of Lake in the Hills, an Illinois municipal corporation (the “Village”) and Finefield Aviation, Inc. (the “Operator”);

Section 1. Term of Agreement. This Agreement shall be effective as of December 31, 2019 and shall automatically terminate after December 31, 2023 unless this agreement is terminated prior to that time under the provisions contained herein.

Section 2. Location of Operations. During the term of this Agreement, and by separate Lease, the Operator shall maintain the necessary office and operations space at the Lake in the Hills Airport (the “Airport”) in the location and facilities depicted on Exhibit A attached to and by this reference incorporated into this Agreement for the purpose of conducting the operations authorized herein, provided that during the term of this Agreement the Operator adheres to these Minimum Standards and the Village’s rules and regulations relating to Airport operations, as adopted by Village ordinance, and as may be amended from time to time with regard to its authorized activities.

Section 3. Permitted Activities.

(a) While this Agreement is in effect and the Operator is not in default, the Operator shall have the permission of the Village to engage in the following, but only the following, business activities at the Airport, as defined in the Minimum Standards:

*Aircraft maintenance*

(b) It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide any aeronautical related services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the Village reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical or related nature.

Section 4. Validation of Activities. The operator shall be responsible for notifying the Village of changes in services, equipment, staffing and other items that increase or decrease fees paid to the Village. Failure of the operator to notify the Village of the same within 30 days of such changes shall constitute a breach of this agreement and shall be sufficient grounds to terminate this agreement. The Village may request additional information or conduct announced or unannounced onsite inspections of the operator’s facilities to validate the accuracy of the commercial activities.

Section 5. Village Services. The Village reserves the right, but shall not be obligated to the Operator, to maintain and keep in repair the landing area of the Airport and all publicly

owned facilities of the Airport, or to provide for the same to be performed by third parties, together with the right to direct and control all activities of the Operator with regard to the public landing areas and ramp areas of the Airport and the maintenance thereof.

Section 6. Public Portions of Airport. The Operator shall have use and have access to all public portions of the Airport for taxi, landing, and takeoff of aircraft and shall have use of roads and public automobile parking lots in the same manner and to the same extent as any member of the public. In addition to the Operator's hangar space, the Operator shall have priority use of the ramp area adjacent to and in front of its hangar for staging and conducting its commercial activity. The priority use area shall be of a size reasonably agreed upon by the Operator and the Village's representative. The Operator shall have use of this priority area for the purposes of parking aircraft, loading aircraft, and preparing aircraft prior to takeoff, but not for overnight parking of aircraft. The Operator shall not conduct any operations on public portions of the Airport unless written authorization is granted for such use by the Village. The Village reserves the right to further develop or improve the landing area of the Airport as it deems necessary, regardless of the desires or view of the Operator and without interference or hindrance therefrom. The Village reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent the Operator from erecting or permitting to be erected any building, other structure, or device on or adjacent to the Airport which, in the opinion of the Village, would limit the usefulness of the Airport or constitute a hazard to aircraft. In enforcing the foregoing rights, the Village further reserves the right to relocate the Operator's operations and facilities, at the sole cost of the Village.

Section 7. Payments to Village. Payments to the Village shall be due on or before the first day of each month. Operator shall pay to the Village fees for the right to conduct the permitted activities in accordance with the Commercial Activity Fees Schedule attached hereto as Exhibit B and by this reference incorporated into this Agreement. It is expressly understood and agreed to by the Operator that the above charges are not a tax separately payable by any customer of the Operator, and that the Operator is prohibited from designating or itemizing said charges, or any portion thereof, on any invoice or receipt for any customer.

Section 8. Delinquent Payments. Any payments required by this Agreement shall be considered delinquent after the 10<sup>th</sup> day of the month they are due and payable. A service charge of 10 percent per month from the date due and payable until paid shall be charged the Operator for such delinquencies. Any payments which are delinquent for more than 30 days shall constitute a default.

Section 9. Indemnity. The Operator shall keep and hold harmless the Village and its trustees, officers, employees, agents, and representatives from and against any and all claims, demands, suits, judgments, costs, and expenses asserted or claimed by any person or persons by reason of death or bodily injury to any person or persons, or loss or damage to any property, resulting in whole or in part from the business, activities or any operations of the Operator.

Section 10. Insurance. The Operator shall obtain and maintain continuously in effect at all times during this agreement, at the Operator's sole expense, insurance issued by an insurance company licensed to do business in the State of Illinois for the following types and limits:

**A. Aircraft Liability (including passengers)**

1. Piston: \$1,000,000 Combined Single Limit, \$100,000 Passenger Bodily Injury, Per Occurrence
2. Turboprop: \$3,000,000 Combined Single Limit, Per Occurrence
3. Turbojet: \$5,000,000 Combined Single Limit, Per Occurrence

**B. General Liability**

1. Premises: \$1,000,000 Combined Single Limit Per Occurrence
2. Products/Completed Operations: \$1,000,000 Combined Single Limit Per Occurrence

**C. Hangar Keepers Liability:**

1. Required when Hangar Owner/Lessee has in their care, custody, and control, aircraft belonging to another individual or entity.
2. Piston: \$500,000 Per Aircraft, \$1,000,000 Per Occurrence
3. Turboprop: \$1,000,000 Per Aircraft, \$2,000,000 Per Occurrence
4. Turbojet \$3,000,000 Per Aircraft, \$5,000,000 Per Occurrence

**D. Workers Compensation:**

1. Part 1, As required by State Statute
2. Part 2, Employers Liability:
  - i. \$500,000 Per Accident
  - ii. \$500,000 Per Employee
  - iii. \$500,000 Policy Limit

**E. Commercial Operators Operating an Aircraft Fuel Dispensing Service:**

A Commercial Operator operating an Aircraft fuel dispensing service is required to carry the following types of insurance in the limits specified, in addition to the Minimum Insurance Requirements:

1. Pollution liability coverage to the extent reasonably available with a minimum limit of one million dollars (\$1,000,000) per occurrence and in the aggregate;
2. General commercial liability and products liability with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and in the aggregate.

F. Additional Insured:

All policies of insurance required herein, except for workers' compensation and employer's liability coverage, shall contain a cross liability endorsement and a severability of interest provision, and shall be expressly endorsed to name each of the following as a Co-Insured for any liability arising out of the Commercial Operator's or any of its subcontractor's operations at the Airport: **the Village of Lake in the Hills and its Board of Trustees, officers, appointees, employees, servants, attorneys, legal representatives, agents, and/or representatives.**

Each endorsement and subrogation waiver shall be evidenced by a Certificate of Insurance. It can't be terminated without 60 days written notice. The Certificate of Insurance shall list the following legal entity as the Certificate Holder:

Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, IL 60156

**In addition to providing the Village with the Certificate of Insurance, the Additional Endorsement Documentation naming the Village of Lake in the Hills and its Board of Trustees, officers, appointees, employees, servants, attorney, legal representatives, agents, and/or representatives shall be provided as proof of that the appropriate additional insured is named as specified herein.**

No deductible amount in excess of five thousand dollars (\$5,000.00) or self-insurance shall be used to satisfy the Commercial Operator's minimum insurance requirements hereunder without the prior written approval of the Village.

G. Cancellation and Form

Each policy of insurance required herein shall contain a provision that it may not be canceled before expiration of its term except upon sixty (60) days written notice to the Village and shall be issued by an insurance company licensed to do business in the State of Illinois. The Commercial Operator shall provide a copy of all policies of insurance the Commercial Operator is required to procure and maintain under the requirements herein to the Airport Manager.

H. Changes and Additional Rights

The limits set forth herein shall be increased at the Commercial Operator's expense, if additional amounts are required by any federal or state regulations or by the Village. If a Commercial Operator shall at any time fail to furnish, maintain or renew any of the insurance required herein, or shall fail to furnish certificate(s) of insurance and Additional Insured Endorsement(s) evidencing the insurance coverage required herein, the Village shall have the right, but not the obligation, to obtain such insurance coverage, and all amounts so paid by the Village shall constitute an obligation on the part of the Commercial Operator becoming immediately due and

payable. The Village's rights in this paragraph are in addition to any other remedies it may have.

All certificates of coverage displaying requirements (i.e. additional insured's waiver of subrogation, notice of cancellation) shall be issued directly from the insurance carrier.

The failure of the Operator to comply with the insurance provisions of this section shall be considered default by the Operator and sufficient grounds to terminate this Agreement.

Section 11. Fees, Licenses, and Taxes. The Operator shall pay all fees, licenses, and taxes on personal property use in the operation of its business.

Section 12. Service Standards. The Operator agrees:

- (a) To furnish good, prompt, and efficient services adequate to meet all reasonable demands for goods and services of the kinds it renders at the Airport; and
- (b) To furnish goods and services on a fair, equal, and non-discriminatory basis to all users thereof; and
- (c) To charge fair, reasonable, and non-discriminatory prices for all goods and services provided by the Operator hereunder, provided that the Operator shall be allowed to give reasonable and non-discriminatory discounts, rebates, or similar types of price reductions; and
- (d) That the facilities of the Operator for the purpose of providing goods and services at the Airport shall remain open for such periods during each day and such days during each week as may be necessary to meet reasonable demands for such goods and services.

Section 13. Non-Exclusive Use. This Agreement shall in no way convey the exclusive use of any part of the Airport, except those portions exclusively leased to, or provided to, the Operator and as specifically allowed herein, and shall not be construed as providing any special privilege for any public portion of the Airport, with the exception of priority use of the adjacent ramp area as provided above. The Village reserves the right to lease to other parties any other portion of the Airport for any purpose deemed suitable for the Airport by the Village.

Section 14. Assignment. The Operator shall not assign any rights provided in this Agreement without the specific prior written consent of the Village. Any such unauthorized assignment shall be void and shall be cause for immediate termination of this Agreement.

Section 15. Transfer of Stock or Ownership of Operator. The Operator understands and agrees that this Agreement is non-transferable and, during the term of this Agreement, any transfer of a controlling ownership interest in the Operator shall be cause for immediate termination of this Agreement.

Section 16. Agreements of Village with United States, State of Illinois, or Agencies.

The terms and conditions of this Agreement shall not be construed to prevent the Village from making any commitments it desires to the United States Government, or to the State of Illinois, or to any agency thereof, so as to qualify for the expenditure of federal or State funds at the Airport. This Agreement shall be subordinate to the provisions of any existing or future agreement between the Village, or its predecessors or successors, and the United States or the State of Illinois, relative to the operation or maintenance of the Airport, the execution of which has been made or may be required as a condition precedent to the expenditure of federal or State funds for the development of the Airport.

Section 17. Rules, Regulations, Minimum Standards, and Codes. The Operator agrees to comply with, and be subject to, all of the following:

- (a) The Airport Rules and Regulations and the Airport Minimum Standards adopted by the Village, as amended from time to time, regarding the management, use, and operation of the Airport; and
- (b) All applicable Federal, State, and Village building, zoning, and hazard codes; and
- (c) All applicable governmental rules, regulations, standards, and requirements relating to the storage and disposal of aviation fuel or any other toxic materials and contaminants. The Operator shall be solely responsible for obtaining and maintaining all necessary permits for storage and disposal and shall provide the Village with copies of such permits and evidence of compliance with the terms and conditions thereof. Improper storage or disposal of toxic materials or contaminants shall be grounds for termination of this Agreement. The Operator shall be responsible for the costs of correcting any contamination or damage to the leased premises and facilities and/or adjacent areas caused by it or its agents' improper storage, disposal, or use of any such materials, and such responsibility by the Operator shall survive the termination of this Agreement.

Section 18. Notices. Whenever any notice or payment is required by this Agreement to be made, given, or transmitted to the parties hereto, such notice or payment shall be deemed delivered if given in person or by registered or certified mail as follows:

If to the Village:

Village Administrator  
Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, Illinois 60156

If to the Operator:

Finefield Aviation, Inc.  
8399 Pyott Road  
Lake in the Hills, IL 60156

Section 19. Waiver of Terms. The waiver by the Village to the Operator of any breach of any term, covenant, or condition herein contained shall not be deemed waiver of a subsequent breach.

Section 20. Construction. This Agreement shall be construed in accordance with the laws of, but not the conflict of laws rules of, the State of Illinois. This Agreement constitutes the entire Agreement between the parties, and it may not be altered, amended, or modified except by written agreement of all parties hereto. The Operator and the Village expressly consent to jurisdiction in the Circuit Court of the Twenty-second Judicial Circuit, McHenry County, Illinois.

Section 21. Termination.

- (a) The Village may terminate this agreement with respect to the Operator at any time if the Operator fails to comply with any other provisions of this Agreement.

The Village shall first notify the Operator in writing of the failure to comply. If the Operator does not correct the failure and fully comply within 30 days after delivery of said notice, then the Village may terminate this Agreement immediately by written notice of termination. Upon delivery of said termination notice, all rights of the Operator shall be canceled.

- (b) The Operator may terminate this Agreement at any time upon 90 days written notice to the Village. In the event of such termination, the Operator shall pay all charges due as of said termination date within 30 days thereafter.

Section 22. Additional Remedies of the Village. In addition to the provisions of Section 21 above, in the event of any failure of the Operator to comply with any term, condition, or covenant of this Agreement, the Village may seek further relief and additional remedies to the fullest extent permitted by law, including but not limited to monetary damages and injunctive relief.

IN WITNESS WHEREOF, the Village and Operator set their hands and seals as of the date first written above.

VILLAGE OF LAKE IN THE HILLS

FINEFIELD AVIATION, INC.

\_\_\_\_\_  
RUSS RUZANSKI  
VILLAGE PRESIDENT

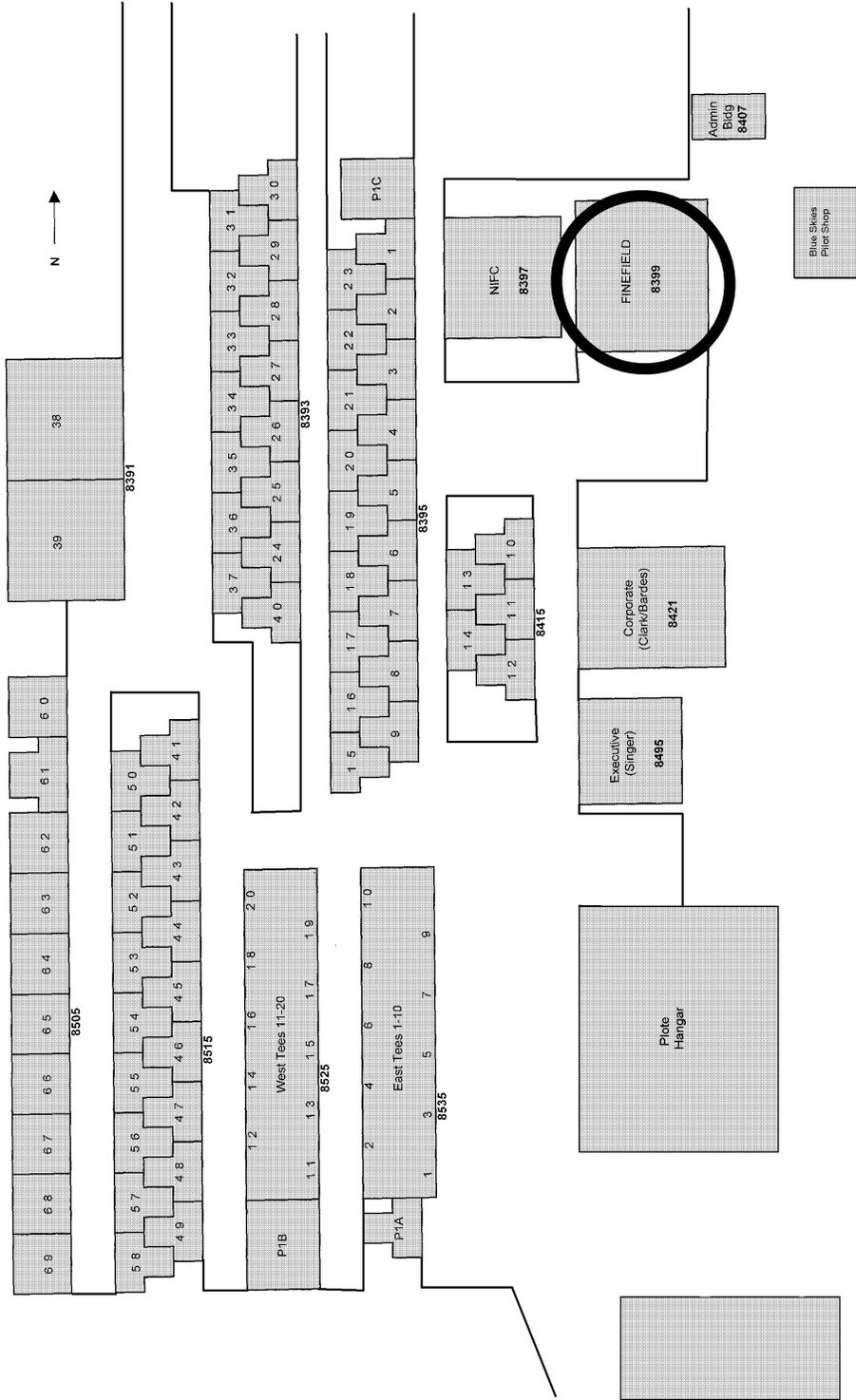
\_\_\_\_\_  
By: JIM FINEFIELD

ATTEST:

ATTEST:

\_\_\_\_\_  
CECILIA CARMAN  
VILLAGE CLERK  
(Seal)

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



## Exhibit B

### COMMERCIAL ACTIVITY FEE SCHEDULE

Persons desiring to conduct one or more of the Activities set forth below shall pay the listed fees for each activity category to be engaged in:

<b>Category</b>	<b>Monthly Fee (unless noted)</b>
Aircraft Charter / Air Taxi Service	\$100.42 per aircraft per month
Flight Instruction / Aircraft Rental / Flying Clubs	\$51.83 per aircraft per month
Flight Instructors	\$95.03 per year
Aircraft Maintenance	\$124.17 per Airframe, Power Plant, or Avionics and Instrument Repair Mechanic (first two) PLUS \$32.40 for each additional mechanic per month
Aircraft Sales	\$300.00 per year
Aircraft Storage	\$18.36 per aircraft per month for all aircraft not owned by the hangar owner
Assistance to Home-Built Aircraft Owners	\$30.56 per aircraft per month
Hot Air Balloon Operators	0-15 operations per year: \$152.79 16-30 operations per year: \$400.00 31+ operations per year: \$150 for every 10 operations above 30
Mechanic for Assistance to Home-Built Aircraft Owners	\$95.03 per month (If mechanic is included as a mechanic within another commercial activity at this airport, then no fee is Required)



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Public Works

**SUBJECT:** **Commercial Activity Agreement with Mobile Avionics**

## EXECUTIVE SUMMARY

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The Lake in the Hills Airport Rules and Regulations require commercial activities which operate from the Lake in the Hills Airport to enter into an agreement with the Village. The agreement gives them access to the airport while establishing service standards, insurance requirements, and a commitment to observe the airport rules and regulations and minimum standards. Mobile Avionics' agreement is due for renewal. The new agreement will be in effect from October 25, 2019 through October 25, 2023. The attached agreement mirrors the existing agreement, with the exception of the new term.

## FINANCIAL IMPACT

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The Village receives \$124.17 on a monthly basis from Mobile Avionics Technologies, Inc.

## ATTACHMENTS

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1. Proposed Agreement

## RECOMMENDED MOTION

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The Board of Trustees authorize the Village President and Village Clerk to execute the Lake in the Hills Airport Agreement Authorizing Services (Commercial Activity Agreement) with Mobile Avionics.

## **VILLAGE OF LAKE IN THE HILLS**

### **LAKE IN THE HILLS AIRPORT AGREEMENT AUTHORIZING SERVICES**

THIS AGREEMENT is entered into as of the 24th day of October, 2019 by and between the Village of Lake in the Hills, an Illinois municipal corporation (the “Village”) and Mobile Avionics Technologies (the “Operator”);

Section 1. Term of Agreement. This Agreement shall be effective as of October 25, 2019 and shall automatically terminate after October 25, 2023 unless this agreement is terminated prior to that time under the provisions contained herein.

Section 2. Location of Operations. During the term of this Agreement, and by separate Lease, the Operator shall maintain the necessary office and operations space at the Lake in the Hills Airport (the “Airport”) in the location and facilities depicted on Exhibit A attached to and by this reference incorporated into this Agreement for the purpose of conducting the operations authorized herein, provided that during the term of this Agreement the Operator adheres to these Minimum Standards and the Village’s rules and regulations relating to Airport operations, as adopted by Village ordinance, and as may be amended from time to time with regard to its authorized activities.

Section 3. Permitted Activities.

(a) While this Agreement is in effect and the Operator is not in default, the Operator shall have the permission of the Village to engage in the following, but only the following, business activities at the Airport, as defined in the Minimum Standards.

Aircraft maintenance: avionics installation and repair.

(b) It is hereby specifically understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right to provide any aeronautical related services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended, and the Village reserves the right to grant to others the privilege and right of conducting any one or all activities of an aeronautical or related nature.

Section 4. Validation of Activities. The operator shall be responsible for notifying the Village of changes in services, equipment, staffing and other items that increase or decrease fees paid to the Village. Failure of the operator to notify the Village of the same within 30 days of such changes shall constitute a breach of this agreement and shall be sufficient grounds to terminate this agreement. The Village may request additional information or conduct announced or unannounced onsite inspections of the operator’s facilities to validate the accuracy of the commercial activities.

Section 5. Village Services. The Village reserves the right, but shall not be obligated to the Operator, to maintain and keep in repair the landing area of the Airport and all publicly

owned facilities of the Airport, or to provide for the same to be performed by third parties, together with the right to direct and control all activities of the Operator with regard to the public landing areas and ramp areas of the Airport and the maintenance thereof.

Section 6. Public Portions of Airport. The Operator shall have use and have access to all public portions of the Airport for taxi, landing, and takeoff of aircraft and shall have use of roads and public automobile parking lots in the same manner and to the same extent as any member of the public. In addition to the Operator's hangar space, the Operator shall have priority use of the ramp area adjacent to and in front of its hangar for staging and conducting its commercial activity. The priority use area shall be of a size reasonably agreed upon by the Operator and the Village's representative. The Operator shall have use of this priority area for the purposes of parking aircraft, loading aircraft, and preparing aircraft prior to takeoff, but not for overnight parking of aircraft. The Operator shall not conduct any operations on public portions of the Airport unless written authorization is granted for such use by the Village. The Village reserves the right to further develop or improve the landing area of the Airport as it deems necessary, regardless of the desires or view of the Operator and without interference or hindrance therefrom. The Village reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent the Operator from erecting or permitting to be erected any building, other structure, or device on or adjacent to the Airport which, in the opinion of the Village, would limit the usefulness of the Airport or constitute a hazard to aircraft. In enforcing the foregoing rights, the Village further reserves the right to relocate the Operator's operations and facilities, at the sole cost of the Village.

Section 7. Payments to Village. Payments to the Village shall be due on or before the first day of each month. Operator shall pay to the Village fees for the right to conduct the permitted activities in accordance with the Commercial Activity Fees Schedule attached hereto as Exhibit B and by this reference incorporated into this Agreement. It is expressly understood and agreed to by the Operator that the above charges are not a tax separately payable by any customer of the Operator, and that the Operator is prohibited from designating or itemizing said charges, or any portion thereof, on any invoice or receipt for any customer.

Section 8. Delinquent Payments. Any payments required by this Agreement shall be considered delinquent after the 10<sup>th</sup> day of the month they are due and payable. A service charge of 10 percent per month from the date due and payable until paid shall be charged the Operator for such delinquencies. Any payments which are delinquent for more than 30 days shall constitute a default.

Section 9. Indemnity. The Operator shall keep and hold harmless the Village and its trustees, officers, employees, agents, and representatives from and against any and all claims, demands, suits, judgments, costs, and expenses asserted or claimed by any person or persons by reason of death or bodily injury to any person or persons, or loss or damage to any property, resulting in whole or in part from the business, activities or any operations of the Operator.

Section 10. Insurance. The Operator shall obtain and maintain continuously in effect at all times during this agreement, at the Operator's sole expense, insurance issued by an insurance company licensed to do business in the State of Illinois for the following types and limits:

**A. Aircraft Liability (including passengers)**

1. Piston: \$1,000,000 Combined Single Limit, \$100,000 Passenger Bodily Injury, Per Occurrence
2. Turboprop: \$3,000,000 Combined Single Limit, Per Occurrence
3. Turbojet: \$5,000,000 Combined Single Limit, Per Occurrence

**B. General Liability**

1. Premises: \$1,000,000 Combined Single Limit Per Occurrence
2. Products/Completed Operations: \$1,000,000 Combined Single Limit Per Occurrence

**C. Hangar Keepers Liability:**

1. Required when Hangar Owner/Lessee has in their care, custody, and control, aircraft belonging to another individual or entity.
2. Piston: \$500,000 Per Aircraft, \$1,000,000 Per Occurrence
3. Turboprop: \$1,000,000 Per Aircraft, \$2,000,000 Per Occurrence
4. Turbojet \$3,000,000 Per Aircraft, \$5,000,000 Per Occurrence

**D. Workers Compensation:**

1. Part 1, As required by State Statute
2. Part 2, Employers Liability:
  - i. \$500,000 Per Accident
  - ii. \$500,000 Per Employee
  - iii. \$500,000 Policy Limit

**E. Commercial Operators Operating an Aircraft Fuel Dispensing Service:**

A Commercial Operator operating an Aircraft fuel dispensing service is required to carry the following types of insurance in the limits specified, in addition to the Minimum Insurance Requirements:

1. Pollution liability coverage to the extent reasonably available with a minimum limit of one million dollars (\$1,000,000) per occurrence and in the aggregate;

2. General commercial liability and products liability with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and in the aggregate.

**F. Additional Insured:**

All policies of insurance required herein, except for workers' compensation and employer's liability coverage, shall contain a cross liability endorsement and a severability of interest provision, and shall be expressly endorsed to name each of the following as a Co-Insured for any liability arising out of the Commercial Operator's or any of its subcontractor's operations at the Airport: **the Village of Lake in the Hills and its Board of Trustees, officers, appointees, employees, servants, attorneys, legal representatives, agents, and/or representatives.**

Each endorsement and subrogation waiver shall be evidenced by a Certificate of Insurance. It can't be terminated without 60 days written notice. The Certificate of Insurance shall list the following legal entity as the Certificate Holder:

Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, IL 60156

**In addition to providing the Village with the Certificate of Insurance, the Additional Endorsement Documentation naming the Village of Lake in the Hills and its Board of Trustees, officers, appointees, employees, servants, attorney, legal representatives, agents, and/or representatives shall be provided as proof of that the appropriate additional insured is named as specified herein.**

No deductible amount in excess of five thousand dollars (\$5,000.00) or self-insurance shall be used to satisfy the Commercial Operator's minimum insurance requirements hereunder without the prior written approval of the Village.

**G. Cancellation and Form**

Each policy of insurance required herein shall contain a provision that it may not be canceled before expiration of its term except upon sixty (60) days written notice to the Village and shall be issued by an insurance company licensed to do business in the State of Illinois. The Commercial Operator shall provide a copy of all policies of insurance the Commercial Operator is required to procure and maintain under the requirements herein to the Airport Manager.

**H. Changes and Additional Rights**

The limits set forth herein shall be increased at the Commercial Operator's expense, if additional amounts are required by any federal or state regulations or by the Village. If a Commercial Operator shall at any time fail to furnish, maintain or renew any of the insurance required herein, or shall fail to furnish certificate(s) of insurance and Additional Insured Endorsement(s) evidencing the insurance coverage required herein, the Village shall have the right, but not the obligation, to obtain such

insurance coverage, and all amounts so paid by the Village shall constitute an obligation on the part of the Commercial Operator becoming immediately due and payable. The Village's rights in this paragraph are in addition to any other remedies it may have.

All certificates of coverage displaying requirements (i.e. additional insured's waiver of subrogation, notice of cancellation) shall be issued directly from the insurance carrier.

The failure of the Operator to comply with the insurance provisions of this section shall be considered default by the Operator and sufficient grounds to terminate this Agreement.

Section 11. Fees, Licenses, and Taxes. The Operator shall pay all fees, licenses, and taxes on personal property use in the operation of its business.

Section 12. Service Standards. The Operator agrees:

- (a) To furnish good, prompt, and efficient services adequate to meet all reasonable demands for goods and services of the kinds it renders at the Airport; and
- (b) To furnish goods and services on a fair, equal, and non-discriminatory basis to all users thereof; and
- (c) To charge fair, reasonable, and non-discriminatory prices for all goods and services provided by the Operator hereunder, provided that the Operator shall be allowed to give reasonable and non-discriminatory discounts, rebates, or similar types of price reductions; and
- (d) That the facilities of the Operator for the purpose of providing goods and services at the Airport shall remain open for such periods during each day and such days during each week as may be necessary to meet reasonable demands for such goods and services.

Section 13. Non-Exclusive Use. This Agreement shall in no way convey the exclusive use of any part of the Airport, except those portions exclusively leased to, or provided to, the Operator and as specifically allowed herein, and shall not be construed as providing any special privilege for any public portion of the Airport, with the exception of priority use of the adjacent ramp area as provided above. The Village reserves the right to lease to other parties any other portion of the Airport for any purpose deemed suitable for the Airport by the Village.

Section 14. Assignment. The Operator shall not assign any rights provided in this Agreement without the specific prior written consent of the Village. Any such unauthorized assignment shall be void and shall be cause for immediate termination of this Agreement.

Section 15. Transfer of Stock or Ownership of Operator. The Operator understands and agrees that this Agreement is non-transferable and, during the term of this Agreement, any transfer of a controlling ownership interest in the Operator shall be cause for immediate termination of this Agreement.

Section 16. Agreements of Village with United States, State of Illinois, or Agencies.

The terms and conditions of this Agreement shall not be construed to prevent the Village from making any commitments it desires to the United States Government, or to the State of Illinois, or to any agency thereof, so as to qualify for the expenditure of federal or State funds at the Airport. This Agreement shall be subordinate to the provisions of any existing or future agreement between the Village, or its predecessors or successors, and the United States or the State of Illinois, relative to the operation or maintenance of the Airport, the execution of which has been made or may be required as a condition precedent to the expenditure of federal or State funds for the development of the Airport.

Section 17. Rules, Regulations, Minimum Standards, and Codes. The Operator agrees to comply with, and be subject to, all of the following:

- (a) The Airport Rules and Regulations and the Airport Minimum Standards adopted by the Village, as amended from time to time, regarding the management, use, and operation of the Airport; and
- (b) All applicable Federal, State, and Village building, zoning, and hazard codes; and
- (c) All applicable governmental rules, regulations, standards, and requirements relating to the storage and disposal of aviation fuel or any other toxic materials and contaminants. The Operator shall be solely responsible for obtaining and maintaining all necessary permits for storage and disposal and shall provide the Village with copies of such permits and evidence of compliance with the terms and conditions thereof. Improper storage or disposal of toxic materials or contaminants shall be grounds for termination of this Agreement. The Operator shall be responsible for the costs of correcting any contamination or damage to the leased premises and facilities and/or adjacent areas caused by it or its agents' improper storage, disposal, or use of any such materials, and such responsibility by the Operator shall survive the termination of this Agreement.

Section 18. Notices. Whenever any notice or payment is required by this Agreement to be made, given, or transmitted to the parties hereto, such notice or payment shall be deemed delivered if given in person or by registered or certified mail as follows:

If to the Village:

Village Administrator  
Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, Illinois 60156

If to the Operator:

Mobile Avionics Technologies  
8585 Pyott Road  
Lake in the Hills, IL 60156

Section 19. Waiver of Terms. The waiver by the Village to the Operator of any breach of any term, covenant, or condition herein contained shall not be deemed waiver of a subsequent breach.

Section 20. Construction. This Agreement shall be construed in accordance with the laws of, but not the conflict of laws rules of, the State of Illinois. This Agreement constitutes the entire Agreement between the parties, and it may not be altered, amended, or modified except by written agreement of all parties hereto. The Operator and the Village expressly consent to jurisdiction in the Circuit Court of the Twenty-second Judicial Circuit, McHenry County, Illinois.

Section 21. Termination.

- (a) The Village may terminate this agreement with respect to the Operator at any time if the Operator fails to comply with any other provisions of this Agreement.

The Village shall first notify the Operator in writing of the failure to comply. If the Operator does not correct the failure and fully comply within 30 days after delivery of said notice, then the Village may terminate this Agreement immediately by written notice of termination. Upon delivery of said termination notice, all rights of the Operator shall be canceled.

- (b) The Operator may terminate this Agreement at any time upon 90 days written notice to the Village. In the event of such termination, the Operator shall pay all charges due as of said termination date within 30 days thereafter.

Section 22. Additional Remedies of the Village. In addition to the provisions of Section 21 above, in the event of any failure of the Operator to comply with any term, condition, or covenant of this Agreement, the Village may seek further relief and additional remedies to the fullest extent permitted by law, including but not limited to monetary damages and injunctive relief.

IN WITNESS WHEREOF, the Village and Operator set their hands and seals as of the date first written above.

VILLAGE OF LAKE IN THE HILLS

MOBILE AVIONICS TECHNOLOGIES,  
INC.

\_\_\_\_\_  
RUSS RUZANSKI  
VILLAGE PRESIDENT

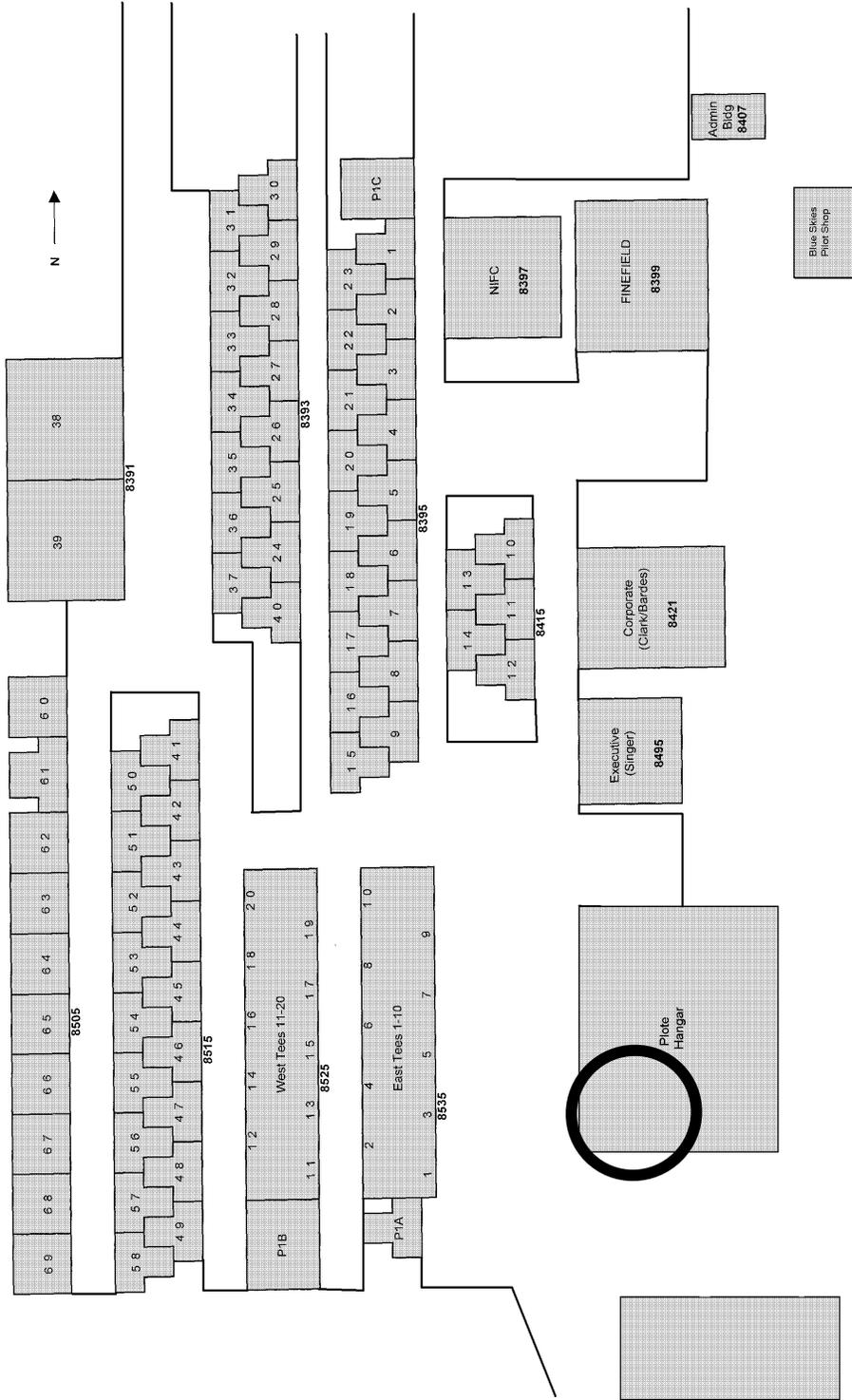
\_\_\_\_\_  
By: MATT SABAN

ATTEST:

ATTEST:

\_\_\_\_\_  
CECILIA CARMAN  
VILLAGE CLERK  
(Seal)

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



## Exhibit B

### COMMERCIAL ACTIVITY FEE SCHEDULE

Persons desiring to conduct one or more of the Activities set forth below shall pay the listed fees for each activity category to be engaged in:

<b>Category</b>	<b>Monthly Fee (unless noted)</b>
Aircraft Charter / Air Taxi Service	\$100.42 per aircraft per month
Flight Instruction / Aircraft Rental / Flying Clubs	\$51.83 per aircraft per month
Flight Instructors	\$95.03 per year
Aircraft Maintenance	\$124.17 per Airframe, Power Plant, or Avionics and Instrument Repair Mechanic (first two) PLUS \$32.40 for each additional mechanic per month
Aircraft Sales	\$300.00 per year
Aircraft Storage	\$18.36 per aircraft per month for all aircraft not owned by the hangar owner
Assistance to Home-Built Aircraft Owners	\$30.56 per aircraft per month
Hot Air Balloon Operators	0-15 operations per year: \$152.79 16-30 operations per year: \$400.00 31+ operations per year: \$150 for every 10 operations above 30
Mechanic for Assistance to Home-Built Aircraft Owners	\$95.03 per month (If mechanic is included as a mechanic within another commercial activity at this airport, then no fee is Required)



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Variations to Section 15.3-1C, Front Yards at 25 Roosevelt Street

## EXECUTIVE SUMMARY

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Patricia and Abel Perales request a variation to the Zoning Ordinance to allow construction of a six-foot, 30 percent open wooden fence in the front yard (side) extending approximately 33 feet east from front corner of the building. Because it is a reversed corner lot, the fence may extend up to ten feet from the property line but would abut the front yard of the home at 1523 Washington Street in violation of Section 15.3-1.C of the Zoning Ordinance. Compliance with the Zoning Ordinance would limit it to only 20 feet east from front corner of the building. The attached site plan shows the requested location for the fence in black and the permitted location for the fence in red.

The applicants desire the added space due to the limited space in the rear yard of the parcel. They intend to install the fence to protect their children and dogs from traffic and wildlife in the area. The home is adjacent to the McHenry County Conservation District Fen. Its location at the far end of the subdivision results in limited through traffic on the streets.

The Planning and Zoning Commission conducted public hearings for each variation on October 14, 2019. There were no public comments and Commissioners voted 4-0 to recommend approval of the variation as requested.

## FINANCIAL IMPACT

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None

## ATTACHMENTS

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1. Application
2. Staff Report
3. Plat
4. Site Plan
5. Photo
6. Ordinance

## RECOMMENDED MOTION

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Motion to approve an ordinance accepting a variation to Section 15.3-1C, Front Yards, allowing construction of a six-foot, 30 percent open wooden fence in the front yard (side) where the fence extends to the front yard of the adjacent lot at 25 Roosevelt Street on Parcel 19-20-101-014.



# Village of Lake in the Hills

## Development and Zoning Application

Date: 9-10-19

### Property Information

Common street address: 25 Roosevelt Street

PIN (Property Index Number): 19-20-101-014

Current Zoning: R2 Proposed Zoning: N/A

Current Use: Single Family Residential Proposed Use: N/A

Is the request consistent with the Comprehensive Plan? \_\_\_\_\_

Number of Acres: \_\_\_\_\_ If greater than 4 acres, 2 acres for government property or 5 acres for manufacturing zoned land, application shall be processed as a Planned Development as a Conditional Use. See definition of Planned Development and PD Section of Zoning Ordinance.

Legal description of the property (print or attach exhibit): \_\_\_\_\_

### Property Owner Information

Name(s): Abelinda and Dave Perales

Business/Firm Name (if applicable): \_\_\_\_\_

Address: 25 Roosevelt St/Rd

City/State/Zip: LITH IL 60156

Phone Number: 815-204-465-9684

Email: \_\_\_\_\_

### Applicant Information

Name(s): Patricia and Abel Perales

Business/Firm Name (if applicable): \_\_\_\_\_

Address: 25 Roosevelt St/Rd

City/State/Zip: LITH IL 60156

Phone Number: 815-814-7473

Email: paty1183@gmail.com



RECEIVED

SEP 10 2019

Village of Lake in the Hills

Appendix L – Variance Requirements

1. Please indicate the variation that is being sought, include section(s) and paragraph(s) of the Zoning Ordinance and any dimension(s) and a brief description of the proposed use, construction or development that prompted the request:

We are seeking variation for a 6" fence 30% open but we want to come further out then neighbors house, the reason so we can use most of our property and our children and dogs don't run into the street and we can protect them from wildlife and traffic. We don't have a backyard. On the home depot paperwork it shows about how far out we want to go. The fence will still remain more than 10 feet from the road and stay level to our house.

**Standards and Findings of Facts for a Variance per Section 23.7 of the Zoning Ordinance.**

The Planning and Zoning Commission may recommend and the Board of Trustees shall permit a variation of the provisions of this Zoning Code, as authorized in this Section, only if the evidence, in the judgement of the Village sustains each of the following three conditions:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located. **Explain how this standard is met.**

Primary purpose is to provide my family privacy and safety. We have lots of coyotes always in our yard and we fear for the safety of our children and dogs. Also because we put our dogs on leashes in the yard our dogs have been sprayed several times from snuck. We are also having another baby in November and need the safety for the baby.

Appendix L – Variance Requirements

2. The plight of the owner is due to unique circumstances. **Explain how this standard is met.**

Property is a corner lot and is exposed to car traffic, lots of people, coyotes and other wild life.

3. The variation, if granted, will not alter the essential character of the locality. **Explain how this standard is met.**

If our property was <sup>NOT</sup> a corner lot there would be no issue with fence request.

For the purpose of supplementing the above standards, the Village, in making this determination whenever there are practical difficulties or particular hardship, also shall take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

4. That the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out. **Explain how this standard is met.**

Without the variation our land is useless to my family. We have no privacy and there is always a risk to our children, new baby, and our dogs, due to traffic and wild life.

5. That the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification. **Explain how this standard is met.**

lots of traffic on Washington and Roosevelt need the fence for family and pets to be safe.

Appendix L – Variance Requirements

6. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property. **Explain how this standard is met.**

We are asking for the variation to protect our dogs and our upcoming baby when he plays in the yard so we can have peace of mind and not worry so much about the wildlife and the cars on the road

7. That the alleged difficulty or hardship has not been created by any person presently having interest in the property. **Explain how this standard is met.**

this is only for privacy, protection for our family and also the wildlife

8. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. **Explain how this standard is met.**

If approved this will not affect public welfare. It will keep our family safe, plus <sup>not</sup> affect others walking in the neighborhood with our dogs walking. It will not be detrimental to public welfare.

9. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood. **Explain how this standard is met.**

If approved fence will not impair light supply or air to adjacent properties or impair vision to any road traffic

DAVE DEAKES 9-9-19

Property Owner Signature

Date



Applicant Signature

9-9-19

Date

# REQUEST FOR PUBLIC HEARING AND COMMISION ACTION

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## PLANNING AND ZONING COMMISION

**MEETING DATE:** October 14, 2019  
**DEPARTMENT:** Community Services  
**SUBJECT:** Variation to Section 15.3-1C, Front Yards

## EXECUTIVE SUMMARY

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### General Information

*Requested Action:* Variation to Section 15.3-1C of the Zoning Ordinance to allow six-foot tall fence in the front yard (side) of the home. The proposed locations in these yards as well as the proposed height do not comply with the Zoning Code.

*Owner:* Abelinda and David Perales

*Applicant:* Patricia and Abel Perales

*Purpose:* Allow a six-foot high 30 percent open wooden fence in the front yard (side).

*Location and Size:* 25 Roosevelt Street / 0.21 acres

*Zoning and Land Use:*

Site:	R-2 One Family Dwelling District
North:	R-2 One Family Dwelling District
East:	R-2 One Family Dwelling District
South:	R-2 One Family Dwelling District
West:	R-2 One Family Dwelling District

### Background

The applicant requests variations to the Zoning Ordinance to allow construction of a six-foot, 30 percent open wooden fence in the front yard (side) extending approximately 33 feet east from front corner of the building. Because it is a reversed corner lot, the fence may extend up to ten feet from the property line but would abut the front yard of the home at 1523 Washington Street in violation of Section 15.3-1.C of the Zoning Ordinance. Compliance with the Zoning Ordinance would limit it to only 20 feet east from

front corner of the building. The attached site plan shows the requested location for the fence in black and the permitted location for the fence in red.

The applicants desire the added space due to the limited space in the rear yard of the parcel. They intend to install the fence to protect their children and dogs from traffic and wildlife in the area. The home is adjacent to the McHenry County Conservation District Fen. Its location at the far end of the subdivision results in limited through traffic on the streets.

The Community Services Director reviewed the property for approval under Section 15.3-1G, but the conditions did not meet the standard.

### **Standards and Findings of Fact for a Variation**

The Planning and Zoning Commission may recommend and the Board of Trustees shall permit a variation of the provisions of this Zoning Code, as authorized in this Section, only if the evidence, in the judgement of the Village sustains each of the following three conditions:

- A. **The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;**

The applicant indicates the fence is needed for privacy and security for their children and dogs.

- B. **The plight of the owner is due to unique circumstances; and**

The applicant indicates that this lot is a unique situation due to its location near the Fen and being a smaller corner lot.

- C. **The variation, if granted, will not alter the essential character of the locality.**

The applicant indicates this will not alter the essential character of the locality.

For the purpose of supplementing the above standards, the Village, in making this determination whenever there are practical difficulties or particular hardship, also shall take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

- D. **That the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out;**

The applicant indicates the hardship created is a lack of privacy and the need to provide separation from traffic for their children and dogs.

- E. **That the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification;**

The applicant indicates the location adjacent to the Fen and the amount of traffic on Roosevelt and Washington Streets creates a unique situation.

**F. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property;**

The applicant indicates the variation is not to make money from the property.

**G. That the alleged difficulty or hardship has not been created by any person presently having interest in the property;**

The applicant indicates he did not create the presence of the wildlife or traffic.

**H. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or**

The applicant indicates it will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

**I. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

The applicant indicates this condition will be met.

## **ATTACHMENTS**

---

1. Application
2. Site Plan
3. Plat and Fence Layout
4. Photo

## **RECOMMENDED ACTION**

---

Commission recommend approval to the Village Board for variations to Section 15.3-1C of the Zoning Ordinance at 25 Roosevelt Street on parcel 19-20-101-014 allowing construction of a six-foot, 30 percent open wooden fence in the front yard (side) where the fence extends to the front yard of the adjacent lot.

# Plat of Survey

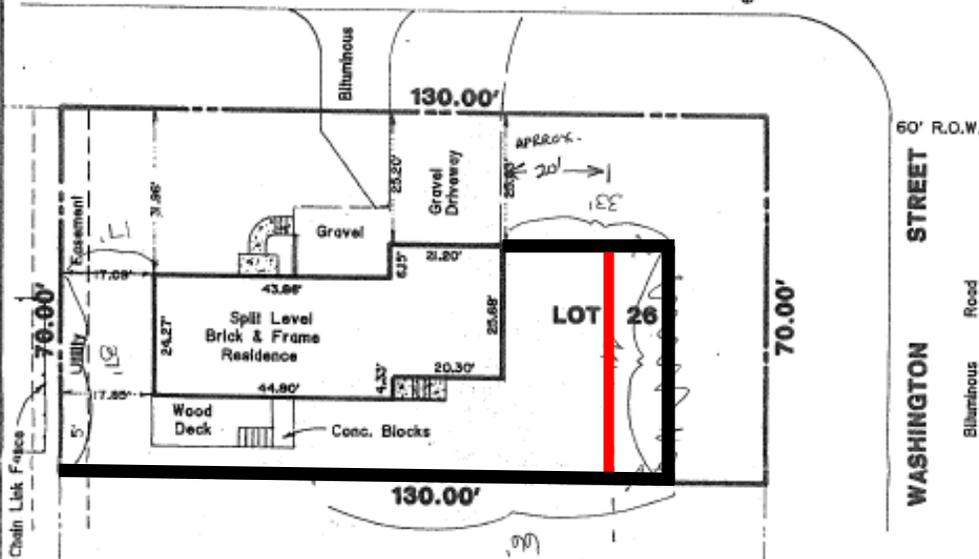


**ROOSEVELT STREET**

21' Illuminous Road

60' R.O.W.

Scale: 1" = 20'



FENCE CANNOT EXTEND  
BEYOND LINE OF  
ADJACENT BUILDING

Caution:  
The 1 1/2" Iron Pipes Found at all  
4 Corners Do Not represent the  
Corners of this property.

1. FOR BUILDING LINES, EASEMENTS AND OTHER RESTRICTIONS NOT SHOWN HEREON, REFER TO YOUR DEED, ABSTRACT CONTRACT AND LAND DEVELOPMENT ORDINANCES.
2. MORTGAGE REAL ESTATE SURVEY - DO NOT USE FOR CONSTRUCTION PURPOSES.
3. SCALING FROM REPRODUCTIONS IS NOT RECOMMENDED.
4. THE LEGAL DESCRIPTION SHOWN HEREON IS THAT PROVIDED TO THE SURVEYOR.

LOT 26 IN BLOCK 1 IN LAKE IN THE HILLS ESTATES UNIT 9, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 43 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 6, 1951 AS DOCUMENT NUMBER 245262 IN VOLUME 11 OF PLATS, PAGES 28 AND 29, IN MCHENRY COUNTY, ILLINOIS.

Ordered by Joe Klein Alt'y

Job no. 275-63

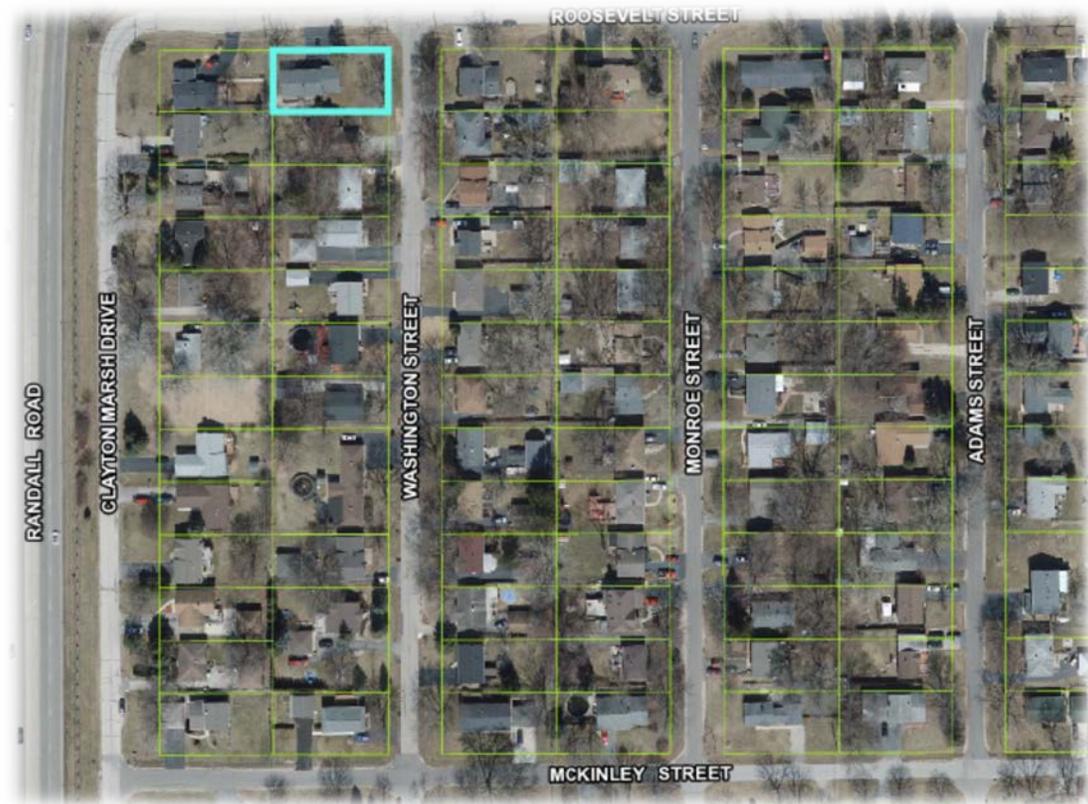
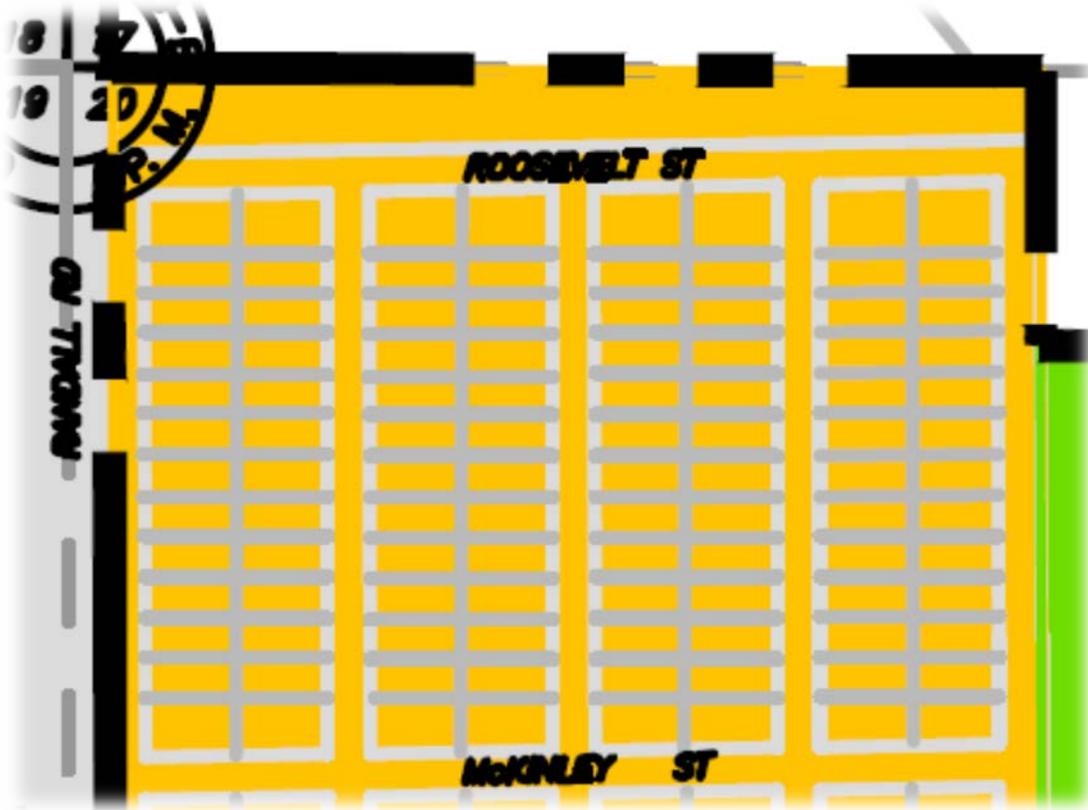
STATE OF ILLINOIS } SS  
COUNTY OF COOK }

I, KEITH E. LACY, A REGISTERED LAND SURVEYOR IN THE STATE OF ILLINOIS, DO HEREBY CERTIFY THAT A SURVEY HAS BEEN MADE UNDER MY SUPERVISION OF THE PROPERTY DESCRIBED HEREON, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION THEREOF.

DATE: 04-01-92

*Keith E. Lacy*  
KEITH E. LACY  
ILLINOIS LAND SURVEYOR  
NO. 1776

25 ROOSEVELT STREET, LAKE IN THE HILLS, ILLINOIS.





VILLAGE OF LAKE IN THE HILLS

ORDINANCE 2019 - \_\_\_\_

**An Ordinance granting a variation to Section 15.3-1C of the Zoning Ordinance to allow for placement of a six-foot high, 30 percent open wooden fence in the front yard (side) where the fence extends to the front yard of the adjacent lot at 25 Roosevelt Street on Parcel 19-20-101-014**

WHEREAS, the Village of Lake in the Hills, McHenry County, Illinois (the "Village"), is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, the Village of Lake in the Hills, applicant petitioned the Village of Lake in the Hills for a variation to Section 15.3-1C, Permitted Fencing, Front Yards, to allow for installation of a six-foot high, 30 percent open wooden fence in the front yard (side). The Subject Property is located at 25 Roosevelt Street, Lake in the Hills, IL 60156 with a PIN of 19-20-101-014; and

WHEREAS, Patricia and Abel Perales, applicants, and Abelinda and David Perales, owners, of the Subject Property located at 25 Roosevelt Street, Lake in the Hills, IL 60156 with a PIN of 19-20-101-014, petitioned the Village of Lake in the Hills for a variation to Section 13.3-1C ; and

WHEREAS, the Planning and Zoning Commission, after deliberation, has made a report and its recommendation relative to the variations for the subject property; and

WHEREAS, the President and Board of Trustees of the Village of Lake in the Hills have considered the report of the Planning and Zoning Commission and all of the evidence presented by the petitioner at the public hearing before the Commission; and

NOW, THEREFORE, Be It ordained by the President and Board of Trustees of the Village of Lake in the Hills, McHenry County, Illinois that:

SECTION 1: The Corporate Authorities find that the statements in the foregoing preamble are true.

SECTION 2: The findings and recommendations of the Planning and Zoning Commission on the question of granting a variation for the Subject Property at 25 Roosevelt Street are hereby accepted.

SECTION 3: A variation to Section 13.3-1C, Front Yards, of the Zoning Ordinance to allow a six-foot high, 30 percent open wooden fence in the front yard (side) of the residence on the Subject Property is hereby granted; and

SECTION 4: All other requirements set forth in the Zoning Ordinance of the Village of Lake in the Hills, as would be required by the Village as to any owner of property zoned in the same manner as the Subject Property shall be complied with.

SECTION 5: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgement shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall continue in full force and effect.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 24th day of October, 2019 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Ray Bogdanowski	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
President Russ Ruzanski	_____	_____	_____	_____

APPROVED THIS 24TH DAY OF OCTOBER, 2019

\_\_\_\_\_  
Village President, Russ Ruzanski

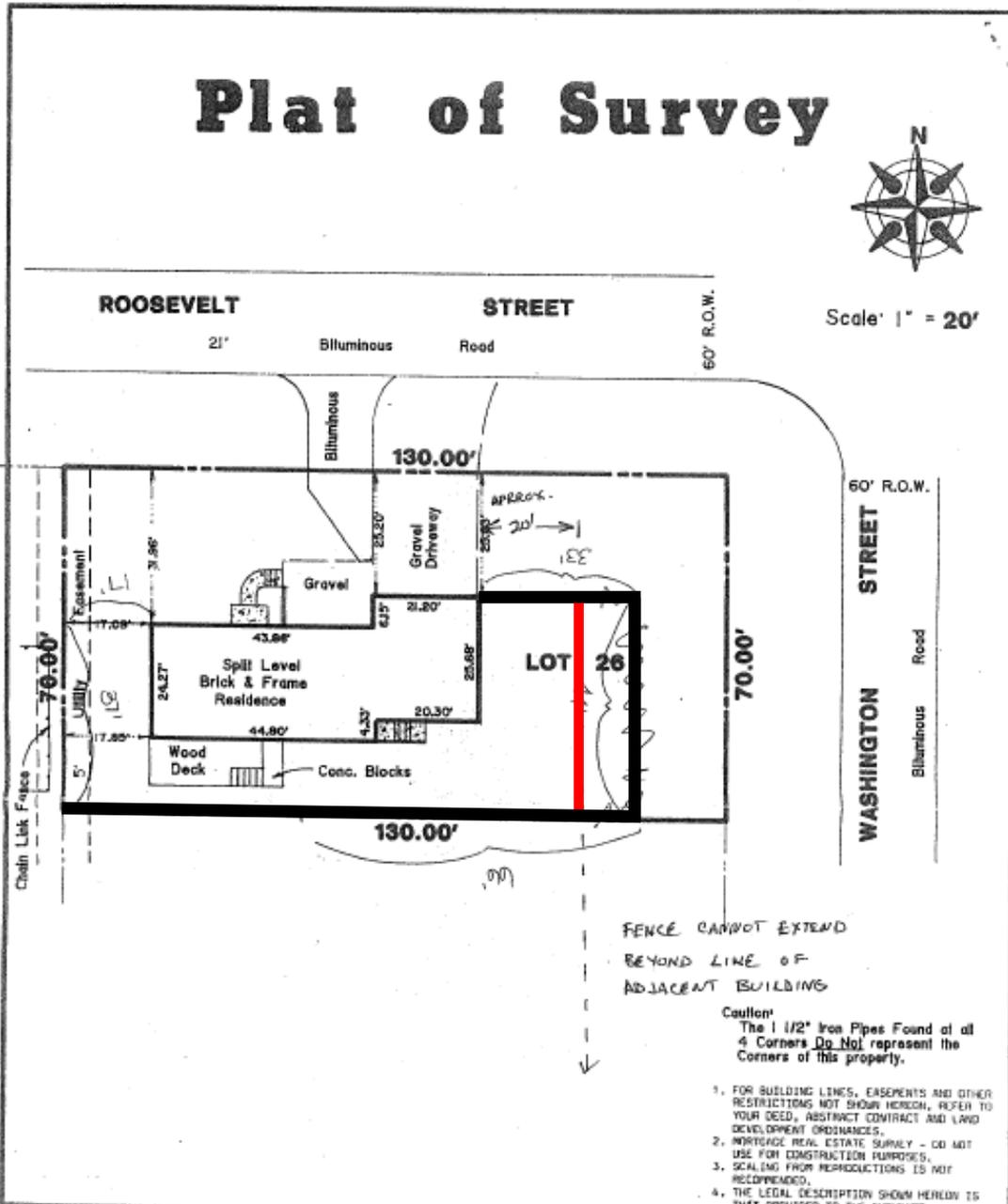
(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Cecilia Carman

Published: \_\_\_\_\_

**Exhibit A**  
**25 Roosevelt Street**  
**(Black line indicates the Approved Fence Line)**

# Plat of Survey



FENCE CANNOT EXTEND  
 BEYOND LINE OF  
 ADJACENT BUILDING

**Caution!**  
 The 1 1/2" Iron Pipes Found at all  
 4 Corners Do Not represent the  
 Corners of this property.

1. FOR BUILDING LINES, EASEMENTS AND OTHER RESTRICTIONS NOT SHOWN HEREON, REFER TO YOUR DEED, ABSTRACT CONTRACT AND LAND DEVELOPMENT ORDINANCES.
2. MORTGAGE REAL ESTATE SURVEY - DO NOT USE FOR CONSTRUCTION PURPOSES.
3. SCALING FROM REPRODUCTIONS IS NOT RECOMMENDED.
4. THE LEGAL DESCRIPTION SHOWN HEREON IS THAT PROVIDED TO THE SURVEYOR.

LOT 26 IN BLOCK 1 IN LAKE IN THE HILLS ESTATES UNIT 9, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 43 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 6, 1951 AS DOCUMENT NUMBER 245262 IN VOLUME 11 OF PLATS, PAGES 28 AND 29, IN MCHEMRY COUNTY, ILLINOIS.

Ordered by Joe Klein Alf'y  
 Job no. 275-63

STATE OF ILLINOIS )  
 COUNTY OF COOK ) SS

I, KEITH E. LACY, A REGISTERED LAND SURVEYOR IN THE STATE OF ILLINOIS, DO HEREBY CERTIFY THAT A SURVEY HAS BEEN MADE UNDER MY SUPERVISION OF THE PROPERTY DESCRIBED HEREON, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION THEREOF.

DATE: 04-01-92

*Keith E. Lacy*  
 KEITH E. LACY  
 ILLINOIS LAND SURVEYOR  
 NO. 1776

25 ROOSEVELT STREET, LAKE IN THE HILLS, ILLINOIS.



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Conditional Use for Automotive Service at 9256 Trinity Drive

## EXECUTIVE SUMMARY

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Ernest Hardcastle of Auto Focus, LLC established an automotive maintenance and repair facility at this location many years ago. While a conditional use permit was required at the time, the Village staff failed to identify the requirement. Staff identified the issue recently, and Mr. Hardcastle agreed to correct the oversight. The area is predominately business oriented. There are three other automotive service shops operating in this building and on adjacent lots. The use is compatible with the proposed future land use. The applicant primarily purchases vehicles for repair and resale. The fact that he has been operating at this location for many years without issues demonstrates that it is appropriate to grant the conditional use.

An automotive service requires a conditional use permit in the B-4 zoning district. Staff recommends the following conditions as part of approval of the conditional use:

- All automotive service work will be performed inside the building
- All new and used automotive parts will be stored inside the building.

The Planning & Zoning Commission conducted a public hearing on October 14, 2019. No comments were made by the public at the hearing. The Commission recommended approval by a vote of 4-0. The attached documents are presented for your consideration.

## FINANCIAL IMPACT

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None

## ATTACHMENTS

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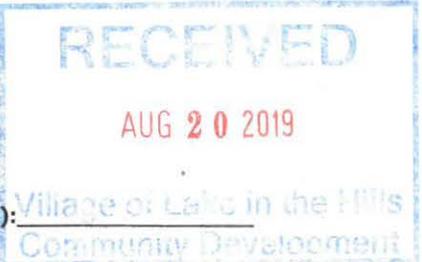
1. Application
2. Staff Report
3. Site Plan
4. Ordinance

## RECOMMENDED MOTION

---

Motion to approve an ordinance granting a Conditional Use for Automotive Service with additional conditions at 9256 Trinity Drive on Parcel 19-22-101-001.

2069321



**APPLICATION**

Date Filed (Staff Use Only):

**Property Information**

Common street address: 9256 Trinity dr. Lake in the hills, IL 60156

PIN (Property Index Number): 19-22-101-001

Current Zoning: B-4 Commercial Proposed Zoning: B-4 Commercial

Current Use: Automotive Service Proposed Use: Automotive Service

Is the request consistent with the Comprehensive Plan? Yes

Number of Acres: \_\_\_\_\_ **If greater than 4 acres, 2 acres for government property or 5 acres for manufacturing zoned land, application shall be processed as a Planned Development as a Conditional Use. See definition of Planned Development and PD Section of Zoning Ordinance.**

Legal description of the property (print or attach exhibit): \_\_\_\_\_

**Property Owner Information**

Name(s): DON WOLF

Business/Firm Name (if applicable): Wolf Realty

Address: 44 N Virginia St. #1A

City/State/Zip: Crystal Lake, IL 60014

Phone Number: 815-455-0661

Email: info@wolfrealtyinc.com

**Applicant Information**

Name(s): Ernest Hardcastle

Business/Firm Name (if applicable): AUTO FOCUS LLC

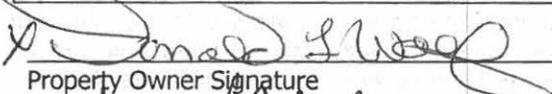
Address: 9256 Trinity dr.

City/State/Zip: Lake in the hills, IL 60156

Phone Number: 773-699-3900

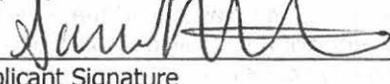
**Lake in the Hills Development and Zoning Application**  
**Page 2**

1	2	3	4	5	6
Request	Select Request with X	Required Fee ac = Acre	For Requirements See Appendix	Public Hearing Required See Appendix A2	Total Fee (enter Amount per Column 3)
Annexation		\$1,000/ac payable upon annexation	D	Yes	
Sketch Plan		\$0	E	No	
Tentative Plan		\$500 + \$10/ac	F	No	
Final Plat		\$500 + \$10/ac	G	No	
Plat of Vacation and/or Resubdivision Plat		\$500 + \$10/ac	H	No	
Conditional Use		\$500 + \$10/ac over 2 ac	I	Yes	
Rezoning		\$500 + \$10/ac over 2 ac	J	Yes	
Text Amendment		\$500	K	Yes	
Variance – Residential		\$100	L	Yes	
Variance – Non-Residential		0-2 ac = \$250 Over 2 ac = \$500	L	Yes	
Development Plan Review		\$500 + \$10/ac	M	No	
<b>Total Fees</b>					
<b>Additional Fees</b>					
Stormwater Permit Application Fee to be paid at time of permit issuance Minor = \$250 Intermediate or Major = \$1,000					
Reimbursement of Fees Required ( <b>Attach Appendix B</b> ) = \$2,000 + \$100/acre for every acre over 5 acres					

  
 Property Owner Signature

8/7/2009  
 Date

*If Owner/Applicant Is a School District please, complete and submit Appendix N*

  
 Applicant Signature

8/7/19  
 Date

*All required appendices and documentation shall be submitted with this application. Incomplete applications will not be processed.*

Appendix I  
Conditional Use

Conditional Use Applying For: Automotive Service

**Standards and Findings of Facts**  
**Per Section 24.6 of the Zoning Ordinance**

Before recommending any Conditional Use, the Planning and Zoning Commission and the Board of Trustees shall consider the following factors and how they are relevant to the specific conditional use being requested.

1. That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will it contribute to the general welfare of the neighborhood or community? **Explain how this standard is met.**

The company Auto Focus LLC will complement the surrounding businesses in our area  
since there are several automotive repair shops in this vicinity. The company will also  
provide consumers an alternate option for customers looking to get their vehicles fixed.

2. That the proposed use, under the circumstances of the particular case, will not be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity. **Explain how this standard is met.**

Auto Focus LLC agrees to comply with all health and safety regulations required for this  
type of business. Since there are similar operations to our proposed operation there should  
be no issues when it comes to the safety and welfare of others working in our general  
vicinity.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. **Explain how this standard is met.**

This operation will not in anyway change the surrounding area or character of the  
property in regards to normal and orderly development and improvements.

Appendix I  
Conditional Use

4. The extent to which the conditional use is harmonious and compatible with the goals and objectives of the Village's comprehensive planning documents. **Explain how this standard is met.**

The conditional use permit that Auto Focus LLC is requesting is compatible with the goals and objectives where it is located which is shown by the existing conditional uses others businesses are using in this area.

5. The amount of traffic congestion or hazards, if any, that may occur as a result of the conditional use, as well as the extent and adequacy of pedestrian and vehicular access and circulation. **Explain how this standard is met.**

Auto Focus LLC is confident that the proposal will not cause any traffic congestion pedestrian traffic, or hazards. This is because similar businesses in the vicinity do not have these issues.

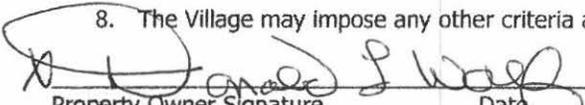
6. The extent that the conditional use can be adequately served by essential public facilities and services, and by private utilities. **Explain how this standard is met.**

The proposed operation will assure that all requirements are met, and can be served and serviced without any complications.

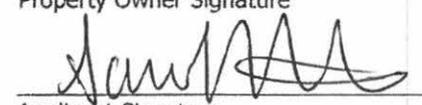
7. That the proposed use will comply with the regulations and conditions specified in this Zoning Code for such use, and with the stipulations and conditions made a part of the authorization granted by the Board of Trustees. **Explain how this standard is met.**

Auto Focus LLC will comply with all regulations and conditions that are specified in this zoning code.

8. The Village may impose any other criteria as identified in the Zoning Code.

  
Property Owner Signature

Date

  
Applicant Signature

Date

8/7/19



# REQUEST FOR PUBLIC HEARING AND COMMISSION ACTION

---

## PLANNING AND ZONING COMMISSION

**MEETING DATE:** October 14, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Conditional Use for Automotive Service at 9256 Trinity Drive

## EXECUTIVE SUMMARY

---

### General Information

*Requested Action:* Ernest Hardcastle of Auto Focus, LLC requests a conditional use permit to operate an automotive maintenance and repair facility at 9256 Trinity Drive.

*Owner:* Don Wolf

*Applicant:* Ernest Hardcastle of Auto Focus, LLC

*Purpose:* Perform general automotive maintenance and repair services.

*Location and Size:* 9256 Trinity Drive – approximately 4,900 sq. ft.

*Zoning and Land Use:*

Site:	B-4 Commercial Business
North:	M-1 Limited Manufacturing
East:	B-4 Commercial Business
South:	B-4 Commercial Business
West:	B-4 Commercial Business
Future Land Use:	Commercial

### Background

The applicant established an automotive maintenance and repair facility many years ago. While a conditional use permit was required at the time, the Village staff failed to identify the requirement. Staff identified the issue recently and Mr. Hardcastle agreed to correct our oversight. The area is predominately business oriented. There are three other automotive service shops operating in this building and on adjacent lots. The use is compatible with the proposed future land use. The applicant primarily purchases vehicles for repair and resale. The fact that he has been operating at this location for many years without issues demonstrates that it is appropriate to grant the conditional use.

An automotive service requires a conditional use permit in the B-4 zoning district. Staff recommends the following conditions as part of approval of the conditional use:

- All automotive service work will be performed inside the building
- All new and used automotive parts will be stored inside the building.

### **Standards and Findings of Fact for a Conditional Use**

The Planning and Zoning Commission may recommend and the Board of Trustees shall consider the following factors and how they are relevant to the specific conditional use requested:

- A. That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community;**

The applicant indicates their proposed operation will fit well with the other businesses and provide consumers another option in the same area.

- B. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity;**

The applicant indicates that since the proposed operation is similar to others in the area, it will not have any detrimental effect. The applicant states he will comply with all health and safety regulations.

- C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;**

The applicant indicates this will not alter the essential character of the locality.

- D. The extent to which the conditional use is harmonious and compatible with the goals and objectives of the Village's comprehensive planning documents;**

The conditional use is compatible with objectives of the business district where it is located as demonstrated by the existing conditional uses in the area.

- E. The amount of traffic congestion or hazards, if any, that may occur as a result of the conditional use, as well as the extent and adequacy of pedestrian and vehicular access and circulation;**

The applicant believes the proposal will not generate a significant increase in pedestrian or vehicular traffic.

- F. The extent that the conditional use can be adequately served by essential public facilities and services, and by private utilities;**

The applicant indicates this condition is met.

- G. That the proposed use will comply with the regulations and conditions specified in this Zoning Code for such use, and with the stipulations and conditions made a part of the authorization granted by the Board of Trustees;**

The applicant indicates this condition will be met.

#### **ATTACHMENTS**

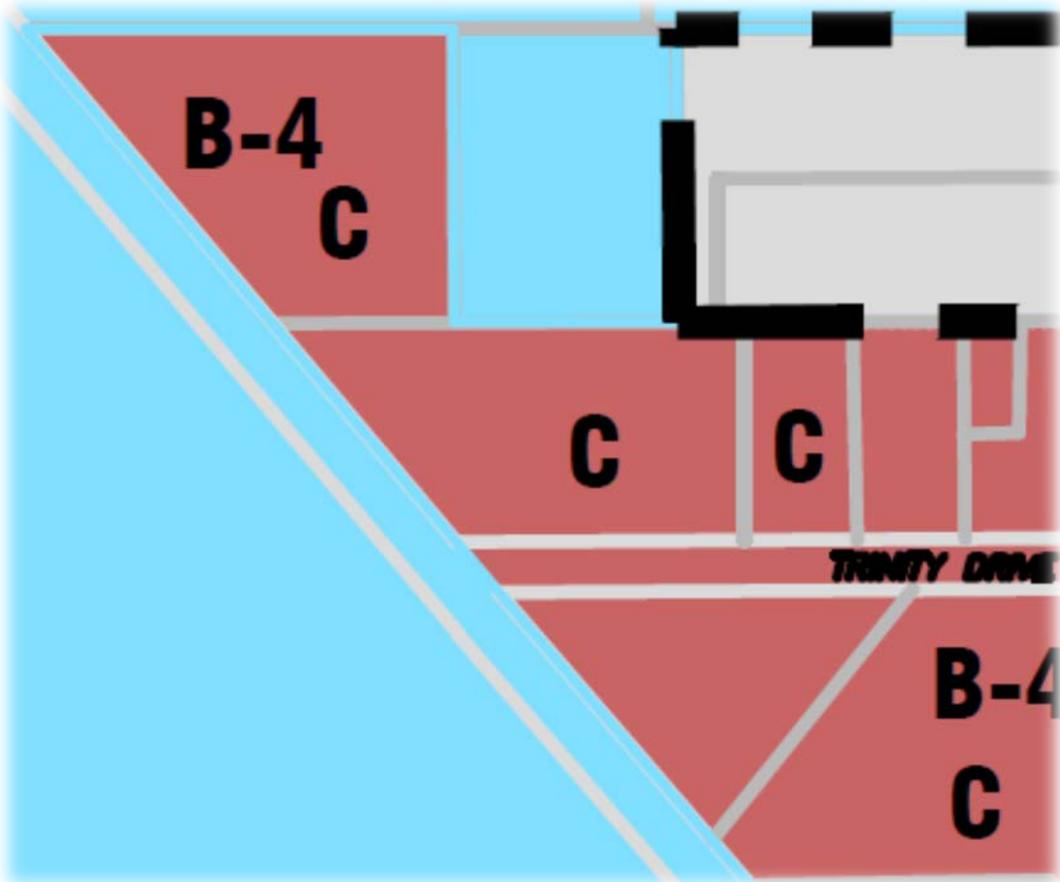
---

1. Application
2. Site Plan

#### **RECOMMENDED ACTION**

---

Commission recommend approval to the Village Board for a conditional use for automotive service with additional conditions as noted at 9256 Trinity Drive on Parcel 19-22-101-001 with the conditions stated.



VILLAGE OF LAKE IN THE HILLS

ORDINANCE NO. 2019-\_\_\_\_\_

**An Ordinance Granting a Conditional Use for an Automotive Service at 9256 Trinity Drive on Parcel 19-22-101-001**

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

WHEREAS, Ernest Hardcastle, applicant, of the Subject Property located at 256 Trinity Drive, with a PIN of 19-22-101-001 petitioned the Village of Lake in the Hills requesting an Conditional Use for an Automotive Service at 9256 Trinity Drive.

WHEREAS, a public hearing was held by the Village of Lake in the Hills Planning and Zoning Commission, after due notice in the manner provided by law; and

WHEREAS, the Planning and Zoning Commission, after deliberation, has made a report and its recommendation relative to the said requests for the subject property; and

WHEREAS, the President and Board of Trustees of the Village of Lake in the Hills have considered the report of the Planning and Zoning Commission and all of the evidence presented by the petitioner at the public hearing before the Commission; and

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

SECTION 1: The Corporate Authorities find that the statements in the foregoing preamble are true.

SECTION 2: The findings and recommendations of the Planning and Zoning Commission on the question of approving a Conditional Use for an Automotive Service are hereby accepted.

SECTION 3: Approval of the Conditional Use for an Automotive Service is hereby granted on the subject property. All plans shall comply with Village ordinances.

SECTION 4: Conditions. The approvals granted in this Ordinance are granted expressly and specifically subject to the following conditions:

1. All automotive service work will be performed inside the building.
2. All new and used automotive parts will be stored inside the building.

SECTION 5: All other requirements set forth in the Zoning Ordinance of the Village of Lake in the Hills, as would be required by the Village as to any owner of the property zoned in the same manner as the subject property shall be complied with.

SECTION 6: If any section, paragraph, subdivision, clause, sentence, or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgement shall not affect, impair, invalidate, or nullify the remainder thereof, which remainder shall continue in full force and effect.

SECTION 7: All ordinance or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8: This ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form (Which publication is hereby authorized) as provided by law.

Passed this 24<sup>th</sup> day of October, 2019 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Ray Bogdanowski	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
President Russ Ruzanski	_____	_____	_____	_____

APPROVED THIS 24TH DAY OF OCTOBER, 2019

\_\_\_\_\_  
Village President, Russ Ruzanski

(SEAL)

ATTEST:

\_\_\_\_\_  
Village Clerk, Cecilia Carman

Published:



# REQUEST FOR BOARD ACTION

---

**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Conditional Use for a Drive-Through at 290 North Randall Road

## EXECUTIVE SUMMARY

---

Frank Rodd of Plaza Lake in the Hills, LLC wishes to obtain a Conditional Use for a drive-through to be constructed on the north side of this multi-tenant facility. The owner feels that the space will be more marketable with a drive-through based on current market demands. He intends make the actual modification to the building after a tenant is accepted. The planned modification will not change current vehicular or pedestrian circulation on the parcel. A number of facilities in the B-3 District along Randall Road already have drive-throughs in operation.

A drive-through requires a conditional use permit in the B-3 zoning district. The proposed layout meets the requirements of the Zoning Ordinance for size, setback, and staging. In order to meet these requirements, two existing parking spaces would be eliminated. Despite this change, the facility continues to meet the minimum parking requirements based on current users. If more than 50 percent of the facility space were used for restaurant operations, the facility would not be in compliance with minimum parking requirements. Staff recommends the following conditions as part of approval of the conditional use:

- The conditional use is only permitted as long as not more than 50 percent of the space in this multi-tenant facility is used for restaurant purposes, as defined by the Zoning Ordinance.

The Planning & Zoning Commission conducted a public hearing on October 14, 2019. No comments were made by the public at the hearing. The Commission recommended approval by a vote of 3-1.

## FINANCIAL IMPACT

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None

## ATTACHMENTS

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1. Application
2. Staff Report
3. Site Plan
4. Photos
5. Rendering of Improvement
6. Ordinance

## RECOMMENDED MOTION

---

Motion to approve an ordinance granting a Conditional Use for a Drive-Through with added conditions at 290 North Randall Road on Parcel 19-30-227-083.

SEP 25 2019 2069622

APPLICATION

Date Filed (Staff Use Only): \_\_\_\_\_

Property Information

Common street address: 290 N. RANDALL RD, LAKE IN THE HILLS, IL 60156

PIN (Property Index Number): 19-30-227-083

Current Zoning: PUD Proposed Zoning: PUD

Current Use: B, A-3, m Proposed Use: B, A-3, m

Is the request consistent with the Comprehensive Plan? YES

Number of Acres: 1.13 If greater than 4 acres, 2 acres for government property or 5 acres for manufacturing zoned land, application shall be processed as a Planned Development as a Conditional Use. See definition of Planned Development and PD Section of Zoning Ordinance.

Legal description of the property (print or attach exhibit): \_\_\_\_\_

SEE LEGAL DESCRIPTION ATTACHMENT

Property Owner Information

Name(s): FRANK RODD

Business/Firm Name (if applicable): PLAZA LAKE IN THE HILLS LLC

Address: 1230 ROSECRAWNS AVE, STE 300

City/State/Zip: MANHATTAN BEACH, CA 90266

Phone Number: 310-383-4792

Email: roddfrank@gmail.com

Applicant Information

Name(s): THOMAS APPERSON

Business/Firm Name (if applicable): ALA ARCHITECTS + PLANNERS

Address: 2600 BEHAN RD

City/State/Zip: CRYSTAL LAKE, IL 60014

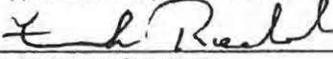
Phone Number: 815-788-9200

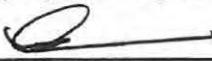
Email: toma@alaarchitects.com

**Application Request**

1	2	3	4	5	6
Request	Select Request with "X"	Required Fee ac = acre	For Requirements See Appendix	Public Hearing Required See Appendix A2	Total Fee (enter amount per column 3)
Annexation		\$1,000/ac payable upon annexation	D	Yes	
Sketch Plan		\$0	E	No	
Tentative Plan		\$500 + \$10/ac	F	No	
Final Plat		\$500 + \$10/ac	G	No	
Plat of Vacation and/or Resubdivision Plat		\$500 + \$10/ac	H	No	
<b>Conditional Use</b>					
Conditional Use		\$500 + \$10/ac over 2 ac	I	Yes	\$500
Rezoning		\$500 + \$10/ac over 2 ac	J	Yes	
Text Amendment		\$500	K	Yes	
Variance – Residential		\$100	L	Yes	
Variance – Non-Residential		0-2 ac = \$250 Over 2 ac = \$500	L	Yes	
Development Plan Review		\$500 + \$10/ac	M	No	
<b>Total Fees – add column 6 (Separate Check)</b>					<b>\$ 500</b>
<b>Additional Fees</b>					
Stormwater Permit Application Fee to be paid at time of permit issuance ( <b>Separate Check</b> ) Minor = \$250 Intermediate or Major = \$1,000					
Reimbursement of Fees Required <b>Appendix B</b> = \$2,000 + \$100/acre for every acre over 5 acres ( <b>Separate Check</b> )					

*If the Village provides a sign to publicize a public hearing related to this application, the applicant accepts responsibility to ensure the sign is returned within one week after completion of the hearing. The applicant further agrees that if the sign is not returned, they will compensate the Village \$75.00 to allow for a replacement of the lost sign and agrees the Village may withhold approval of their application until payment is received.*


9-20-2019
If Owner/Applicant is a School District please, fill out and submit  
 Property Owner Signature Date


9/20/19
Appendix N  
 Applicant Signature Date

*All required appendices and documentation shall be submitted with this application. Incomplete applications will not be processed.*

Legal Description

PARCEL ONE: LOT 8 IN THE MEADOWS COMMERCIAL SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 31, 2003 AS DOCUMENT NO. 2003R0013439, (EXCEPT THAT PORTION OF LOT 8 CONVEYED TO THE MCHENRY DEPARTMENT OF TRANSPORTATION MORE PARTICULARLY DESCRIBED AS FOLLOWS: THAT PART OF LOT 8 IN THE MEADOWS COMMERCIAL SUBDIVISION, BEING A RESUBDIVISION OF PART LOT 8 IN THE MEADOWS, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 23, 2001 AS DOCUMENT NUMBER 2001R0079191 AND PART OF LOT 2 IN GOVNOVS SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 20, 2001 AS DOCUMENT NUMBER 2001R0016624, IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID THE MEADOWS COMMERCIAL SUBDIVISION RECORDED JANUARY 31, 2003 AS DOCUMENT NUMBER 2003R0013439, IN MCHENRY COUNTY, ILLINOIS, BEARINGS AND DISTANCES ARE BASED ON THE ILLINOIS COORDINATE SYSTEM, NAD 83(2011) EAST ZONE, WITH A COMBINATION FACTOR OF 0.9999373735, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 8, THENCE ON AN ILLINOIS COORDINATE. SYSTEM NAD 83(2011) EAST ZONE BEARING OF SOUTH 89 DEGREES 36 MINUTES 04 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 8, A DISTANCE OF 18.57 FEET; THENCE NORTH 0 DEGREES 24 MINUTES 03 SECONDS WEST, A DISTANCE OF 194.87 FEET; THENCE NORTH 49 DEGREES 42 MINUTES 55 SECONDS WEST, A DISTANCE OF 38.28 FEET; THENCE SOUTH 89 DEGREES 36 MINUTES 04 SECONDS WEST, A DISTANCE OF 181.35 FEET TO THE NORTHWESTERLY LINE OF SAID LOT 8; THENCE NORTH 44 DEGREES 38 MINUTES 16 SECONDS EAST ALONG THE NORTHWESTERLY LINE OF SAID LOT 8, A DISTANCE OF 9.91 FEET TO THE NORTH LINE OF LOT 8; THENCE NORTH 89 DEGREES 36 MINUTES 04 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 8 DISTANCE OF 194.58 FEET TO THE NORTHEASTERLY LINE OF LOT 8; THENCE SOUTH 49 DEGREES 42 MINUTES 10 SECONDS EAST, ALONG THE NORTHEASTERLY LINE OF SAID LOT 8, A DISTANCE OF 36.11 FEET TO THE EAST LINE OF LOT 8; THENCE SOUTH 0 DEGREES 23 MINUTES 56 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 8, A DISTANCE OF 203.28 FEET TO THE POINT OF BEGINNING) ALL IN MCHENRY COUNTY, ILLINOIS.

19-30-2 BEFORE

SCALE 1.50





# REQUEST FOR PUBLIC HEARING AND COMMISSION ACTION

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## PLANNING AND ZONING COMMISSION

**MEETING DATE:** October 14, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Conditional Use for Drive-Through at 290 N Randall Road

## EXECUTIVE SUMMARY

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### General Information

*Requested Action:* Frank Rodd of Plaza Lake in the Hills, LLC requests a conditional use permit to operate a drive-through at 290 N Randall Road.

*Owner:* Frank Rodd of Plaza Lake in the Hills, LLC

*Applicant:* Thomas Apperson of ALA Architects and Planners

*Purpose:* Construct and operate a drive-through on the north side of the building to make the property more marketable.

*Location and Size:* 290 N Randall Road – approximately 6,600 sq. ft.

*Zoning and Land Use:*

Site:	B-3 General Business
North:	B-3 General Business
East:	B-3 General Business
South:	B-3 General Business
West:	B-3 General Business
Future Land Use:	Commercial

### Background

The applicant wishes to obtain a conditional use for a drive-through to be constructed on the north side of this multi-tenant facility. The owner feels that the space will be more marketable with a drive-through based on current market demands. The planned modification will not change current vehicular or pedestrian circulation on the parcel. A number of facilities in the B-3 District along Randall Road already have drive-throughs in operation.

A drive-through requires a conditional use permit in the B-3 zoning district. The proposed layout meets the requirements of the Zoning Ordinance for size, setback, and staging. In order to meet these requirements, two existing parking spaces would be eliminated. Despite this change, the facility continues to meet the minimum parking requirements based on current users. If more than 50 percent of the facility space were used for restaurant operations, the facility would not be in compliance with minimum parking requirements. Staff recommends the following conditions as part of approval of the conditional use:

- The conditional use is only permitted as long as not more than 50 percent of the space in this multi-tenant facility is used for restaurant purposes, as defined by the Zoning Ordinance.

### **Standards and Findings of Fact for a Conditional Use**

The Planning and Zoning Commission may recommend and the Board of Trustees shall consider the following factors and how they are relevant to the specific conditional use requested:

- A. That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community;**

The applicant indicates their proposed operation will enhance the ability to attract a new business to lease the space.

- B. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity;**

The applicant indicates that since the proposed operation is similar to others in the area, it will not have any detrimental effect. The applicant states he will comply with all Village regulations.

- C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;**

The applicant indicates this will not alter the essential character of the locality.

- D. The extent to which the conditional use is harmonious and compatible with the goals and objectives of the Village's comprehensive planning documents;**

The conditional use is compatible with objectives of the business district where it is located as demonstrated by the existing conditional uses in the area.

- E. The amount of traffic congestion or hazards, if any, that may occur as a result of the conditional use, as well as the extent and adequacy of pedestrian and vehicular access and circulation;**

The applicant believes the proposal will not disrupt current vehicular circulation nor create traffic congestion in the area. The applicant also feels pedestrian access is not impacted.

**F. The extent that the conditional use can be adequately served by essential public facilities and services, and by private utilities;**

The applicant indicates this action will not impact essential public facilities and services or private utilities.

**G. That the proposed use will comply with the regulations and conditions specified in this Zoning Code for such use, and with the stipulations and conditions made a part of the authorization granted by the Board of Trustees;**

The applicant indicates this condition will be met.

**ATTACHMENTS**

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1. Application
2. Site Plan
3. Layout Plan
4. Photos
5. Rendering of Proposed Improvement

**RECOMMENDED ACTION**

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Commission recommend approval to the Village Board for a conditional use for a drive-through with additional conditions as noted at 290 N Randall Road on Parcel 19-30-227-083.





# Plaza Lake in the Hills

Proposed Drive-thru

ALA  
ARCHITECTS & PLANNERS, INC.



*Lake in the Hills, Illinois*

VILLAGE OF LAKE IN THE HILLS

ORDINANCE NO. 2019-\_\_\_\_\_

**An Ordinance Granting a Conditional Use for a drive-through  
at 290 North Randall Road on Parcel 19-30-227-083**

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

WHEREAS, Frank Rodd, owner, of the Subject Property located at 290 North Randall Road, with a PIN of 19-30-227-083 petitioned the Village of Lake in the Hills requesting an Conditional Use for a drive-through 290 North Randall Road.

WHEREAS, a public hearing was held by the Village of Lake in the Hills Planning and Zoning Commission, after due notice in the manner provided by law; and

WHEREAS, the Planning and Zoning Commission, after deliberation, has made a report and its recommendation relative to the said requests for the subject property; and

WHEREAS, the President and Board of Trustees of the Village of Lake in the Hills have considered the report of the Planning and Zoning Commission and all of the evidence presented by the petitioner at the public hearing before the Commission; and

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

SECTION 1: The Corporate Authorities find that the statements in the foregoing preamble are true.

SECTION 2: The findings and recommendations of the Planning and Zoning Commission on the question of approving a Conditional Use for an drive-through are hereby accepted.

SECTION 3: Approval of the Conditional Use for an drive-through is hereby granted on the subject property. All plans shall comply with Village ordinances.

SECTION 4: Condition. The approval granted in this Ordinance is granted expressly and specifically subject to the following condition:

1. The drive-through is only permitted as long as not more than 50 percent of the space in this multi-tenant facility is used for restaurant purposes, as defined by the Zoning Ordinance.

SECTION 5: All other requirements set forth in the Zoning Ordinance of the Village of Lake in the Hills, as would be required by the Village as to any owner of the property zoned in the same manner as the subject property shall be complied with.

SECTION 6: If any section, paragraph, subdivision, clause, sentence, or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgement shall not affect, impair, invalidate, or nullify the remainder thereof, which remainder shall continue in full force and effect.

SECTION 7: All ordinance or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8: This ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form (Which publication is hereby authorized) as provided by law.

Passed this 24th day of October, 2019 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Ray Bogdanowski	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
President Russ Ruzanski	_____	_____	_____	_____

APPROVED THIS 24TH DAY OF OCTOBER, 2019

\_\_\_\_\_  
Village President, Russ Ruzanski

(SEAL)

ATTEST:

\_\_\_\_\_  
Village Clerk, Cecilia Carman

Published:



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Conditional Use for Outdoor Storage of Vehicles as a Principle Use and Variations to Section 9.4, Manufacturing Districts Bulk Chart, at 1511 Imhoff Drive

## EXECUTIVE SUMMARY

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Kyle Lindley of Prairie Enterprises, LLC wishes to obtain a conditional use for outdoor storage of recreational vehicles to be constructed on this site. The applicant feels there is a need for more recreational vehicle parking in this area. Prairie Enterprises, LLC currently operates the Big Stuff Self-Storage and Pyott Road Self-Storage facilities on nearby parcels.

Outdoor storage of vehicles as a principle use requires a conditional use permit in the M-1 zoning district. In addition to the two locations owned by this organization, numerous other operations in this subdivision involve outside storage of vehicles as a principal or accessory use. This parcel has remained vacant since the subdivision was approved in October of 1997 and has been the sole remaining undeveloped parcel in the subdivision since 2011.

The Planning & Zoning Commission conducted a public hearing for the Conditional Use on October 14, 2019. No comments were made by the public at the hearing. The Commission recommended approval by a vote of 4-0.

Prairie Enterprises, LLC also wishes to obtain variations to the Zoning Ordinance to allow construction of the outdoor parking. The variations are requested to maximize the use of the parcel due to the large vacant spaces required to safely maneuver large recreational vehicles. Without the variations, the applicant feels the project would not be economically viable.

Two variations are requested. First is a variation to the front yard setback. Section 9 requires a 30-foot setback from the property line along Imhoff Drive. The applicant proposes a 12-foot setback for the parking lot pavement. The majority of the pavement installed within the 30-foot setback is designed as roadway that will still leave the setback vacant most of the time. Four of the twelve 30-foot parking spaces will have a small portion of the parking within the 30-foot setback zone. Some of the properties in the subdivision meet this setback for pavement and others do not. It would not be out of character to allow this variation.

In addition to the pavement, the parking area will be fenced for security. The fence will be installed outside the pavement, no closer than 10 feet from the property line. Section 9 would not allow for this fence in the front yard setback. The fence is intended to be chain link to allow visibility into the parking area and would not block views as a more solid fence might. Many other parcels have chain link within this setback. The applicant was granted a variation for a chain link fence in the front yard setback in 2001 for their facility 1401 Industrial Drive, which is only 300 feet away.

The second variation is to allow storage of vehicles with 10 feet of a side lot line, which is not allowed by Section 9. The applicant proposes ending the paved surface 10 feet from the side lot line; however, this would allow a portion of a parked vehicle to extend into the 10-foot zone along the south edge of the property. This restriction is intended to prevent property owners from storing materials right up to the lot line creating an adverse impact on the neighboring property and making the neighborhood appear crowded. In this case, the south lot line abuts the detention basin for the subdivision. Since there will not be any vertical improvements to this lot, the concerns of appearance are minimized.

There is one concern with the proposed south edge of the parking area. There is a 10-foot wide sanitary sewer easement along the south lot line that would be inside the fence. While the easement would not be paved, it would be inside the proposed fence line. The applicant agrees that they will provide access to the easement as necessary. Additionally, there is a 12-foot public utility easement immediately north of the sanitary sewer easement. This easement would be under the paved surface. At this time there does not appear to be anything within this easement. The parcel immediately to the west has the same easement that is covered by a paved driveway. The applicant agrees that they will provide access and be responsible for pavement restoration should an authorized user need to perform any work within this easement.

The Planning & Zoning Commission conducted a public hearing for the variations on October 14, 2019. A written comment was read at the public hearing. The president of the property owners association raised a concern that all fire hydrants along Imhoff Drive be outside the fence and accessible to the Fire Department. She also raised concern that a fencing in utility easements should not restrict their use or access to them. The Commission added conditions to require access to the easements and the requirement for the property owner to restore fences and pavement. The Commission recommended approval by a vote of 4-0.

## **FINANCIAL IMPACT**

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None

## **ATTACHMENTS**

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1. Application
2. Staff Report
3. Site Plan
4. Ordinance

## **RECOMMENDED MOTION**

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Motion to approve an ordinance granting Conditional Use for Outdoor Storage of Vehicles as a Principle Use and Variations to Section 9.4, Manufacturing Districts Bulk Chart, with conditions for access to easements at 1511 Imhoff Drive on Parcel 19-21-127-005.

2-069611 - Variance

SEP 27 2019

**APPLICATION**

Date Filed (Staff Use Only): \_\_\_\_\_

**Property Information**

Common street address: 1511 FM HUFF Drive

PIN (Property Index Number): 19-21-127-005

Current Zoning: M1-C

Proposed Zoning: \_\_\_\_\_

Current Use: VA cont

Proposed Use: OUT DOOR STORAGE

RV/CARs  
BOATS/campers

Is the request consistent with the Comprehensive Plan? \_\_\_\_\_

Number of Acres: 1.25 **If greater than 4 acres, 2 acres for government property or 5 acres for manufacturing zoned land, application shall be processed as a Planned Development as a Conditional Use. See definition of Planned Development and PD Section of Zoning Ordinance.**

Legal description of the property (print or attach exhibit): \_\_\_\_\_

**Property Owner Information**

Name(s): MARK RIGGSBY

Business/Firm Name (if applicable): Riggsby construction

Address: 471 Jennings Dr.

City/State/Zip: Lake In The Hills

Phone Number: 847-516-9090

Email: \_\_\_\_\_

**Applicant Information**

Name(s): Proville Enterprises LLC

Business/Firm Name (if applicable): BIG STUFF storage

Address: 1401 Industrial Dr.

City/State/Zip: Lake In The Hills

Phone Number: 847-658-9505

Email: HWY 20 SELF STORAGE @ sbc global.net

Kyle Lindley @ out look.com

~~630-650-0137~~ cell

### Application Request

1	2	3	4	5	6
Request	Select Request with "X"	Required Fee ac = acre	For Requirements See Appendix	Public Hearing Required See Appendix A2	Total Fee (enter amount per column 3)
Annexation		\$1,000/ac payable upon annexation	D	Yes	
Sketch Plan		\$0	E	No	
Tentative Plan		\$500 + \$10/ac	F	No	
Final Plat		\$500 + \$10/ac	G	No	
Plat of Vacation and/or Resubdivision Plat		\$500 + \$10/ac	H	No	
Conditional Use		\$500 + \$10/ac over 2 ac	I	Yes	\$500
Rezoning		\$500 + \$10/ac over 2 ac	J	Yes	
Text Amendment		\$500	K	Yes	
Variance – Residential		\$100	L	Yes	
Variance – Non-Residential		0-2 ac = \$250 Over 2 ac = \$500	L	Yes	\$250
Development Plan Review		\$500 + \$10/ac	M	No	
<b>Total Fees – add column 6 (Separate Check)</b>					\$750
<b>Additional Fees</b>					
Stormwater Permit Application Fee to be paid at time of permit issuance <b>(Separate Check)</b> Minor = \$250 Intermediate or Major = \$1,000					
Reimbursement of Fees Required <b>Appendix B</b> = \$2,000 + \$100/acre for every acre over 5 acres <b>(Separate Check)</b>					

*If the Village provides a sign to publicize a public hearing related to this application, the applicant accepts responsibility to ensure the sign is returned within one week after completion of the hearing. The applicant further agrees that if the sign is not returned, they will compensate the Village \$75.00 to allow for a replacement of the lost sign and agrees the Village may withhold approval of their application until payment is received.*

9/26/19
 

 Date
 

 If Owner/Applicant Is a School District please, fill out and submit

9/26/19
 

 Date
 

 Appendix N

*All required appendices and documentation shall be submitted with this application. Incomplete applications will not be processed.*

2069639

OCT 04 2019

Appendix I  
Conditional Use

Conditional Use Applying For: outdoor storage of recreational vehicles

**Standards and Findings of Facts  
Per Section 24.6 of the Zoning Ordinance**

Before recommending any Conditional Use, the Planning and Zoning Commission and the Board of Trustees shall consider the following factors and how they are relevant to the specific conditional use being requested.

1. That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will it contribute to the general welfare of the neighborhood or community? **Explain how this standard is met.**

Applicant operates two outdoor storage facilities approximately 300 feet south of the subject property. In Applicant's opinion,  
 there is a need for additional storage facilities in the community, and the demand for such facilities is not presently  
 being satisfied within Lake in the Hills.

2. That the proposed use, under the circumstances of the particular case, will not be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity. **Explain how this standard is met.**

The property is located in an area where outdoor storage of commercial vehicles is common.  
 Properties to the north and east of the subject property have numerous vehicles stored thereon  
 as part of the primary use thereof. Applicant operates two additional outdoor storage facilities 300' to the south of  
 the subject property. The proposed use fits squarely with the existing surrounding uses.

3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. **Explain how this standard is met.**

The proposed use will be nearly indistinguishable from the existing uses of the surrounding properties.  
 However, the parking activities at the property will be neater and more orderly than the commercial vehicle parking  
 and storage at many of the surrounding properties.

Appendix I  
Conditional Use

4. The extent to which the conditional use is harmonious and compatible with the goals and objectives of the Village's comprehensive planning documents. **Explain how this standard is met.**

The proposed use is permissible in and complies with the uses permitted in the zoning district in which it is located.

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5. The amount of traffic congestion or hazards, if any, that may occur as a result of the conditional use, as well as the extent and adequacy of pedestrian and vehicular access and circulation. **Explain how this standard is met.**

Traffic and congestion will be less with the proposed use than if the property had employee vehicles coming and going daily to the property. Vehicular circulation has been designed by Applicant's engineers to minimize congestion on surrounding streets and within the facility itself.

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6. The extent that the conditional use can be adequately served by essential public facilities and services, and by private utilities. **Explain how this standard is met.**

The site is served by electric service for lighting. No other public facilities should be necessary.

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7. That the proposed use will comply with the regulations and conditions specified in this Zoning Code for such use, and with the stipulations and conditions made a part of the authorization granted by the Board of Trustees. **Explain how this standard is met.**

The proposed use complies with the zoning district in which the property is located. Applicant operates other facilities within the zoning district, the operation of which has been in full compliance with the ordinance, and without incident.

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8. The Village may impose any other criteria as identified in the Zoning Code.

Property Owner Signature

Date

10/3/19

Applicant Signature

Date

Kyle Lindy

10/13/19

Appendix L – Variance Requirements

6. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property. **Explain how this standard is met.**

If the strict letter of the ordinance is applied to this particular property, it will not accommodate an adequate number of vehicles to make the project economically viable.

7. That the alleged difficulty or hardship has not been created by any person presently having interest in the property. **Explain how this standard is met.**

The property was created in its present configuration by the plat of subdivision.

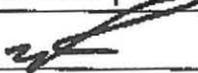
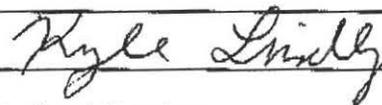
Applicant has not altered or otherwise resubdivided the property from its present configuration.

8. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. **Explain how this standard is met.**

The proposed use, with the requested variances, fits squarely with the other uses in the immediate vicinity of the property and is a more innocuous use than would otherwise be permitted as a matter of right in the zoning district.

9. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood. **Explain how this standard is met.**

No structures are proposed to be constructed at the property. Nothing at the property will exceed height limitations in the ordinance. The property will essentially be a fenced parking lot designed to readily allow for drive by police inspection and patrol.

	10/3/19		10/3/19
Property Owner Signature	Date	Applicant Signature	Date

Appendix L – Variance Requirements

1. Please indicate the variation that is being sought, include section(s) and paragraph(s) of the Zoning Ordinance and any dimension(s) and a brief description of the proposed use, construction or development that prompted the request:

The applicant proposes development of a parking lot for outdoor storage of recreational vehicles.

Section 9 of the Zoning Ordinance requires a 30 foot minimum setback in the front yard, along Imhoff Drive.

The current plan calls for pavement up to 12 feet from the front property line.

Additionally, a chain link fence would be placed outside the pavement and Section 15 does not allow fences in front yards.

The applicant was granted a variation in 2001 to place a chain link fence in the front yard of the parcel at 1401 Industrial Drive.

In 2004, a variation was granted to place a chain link fence in the front yard of the parcels at 1470 and 1480 Imhoff Drive.

Side yard fences would be placed along the property lines and the pavement is ten feet from the lot line, which is permitted.

The applicant desires to allow the vehicles to overhang the edge of the pavement. Section 9 does not allow for the

storage of vehicles within ten feet of a side yard lot line.

**Standards and Findings of Facts for a Variance per Section 23.7 of the Zoning Ordinance.**

The Planning and Zoning Commission may recommend and the Board of Trustees shall permit a variation of the provisions of this Zoning Code, as authorized in this Section, only if the evidence, in the judgement of the Village sustains each of the following three conditions:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located. **Explain how this standard is met.**

The shape and configuration of the property is such that the variances are needed to maximize the number of vehicles that can be parked at the property.

Without the requested variance, the property would not accommodate enough vehicles to make it economically viable.

Appendix L – Variance Requirements

2. The plight of the owner is due to unique circumstances. **Explain how this standard is met.**

The plight is due to the application of the ordinance relative to the shape and configuration of the parcel.

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3. The variation, if granted, will not alter the essential character of the locality. **Explain how this standard is met.**

The parcel is located in an area where outdoor storage of vehicles is common.

In addition to Applicant's other operations 300' south, other neighboring properties store substantial numbers of vehicles. Applicant's use will be much more orderly than that of other neighboring properties.

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For the purpose of supplementing the above standards, the Village, in making this determination whenever there are practical difficulties or particular hardship, also shall take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

4. That the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out. **Explain how this standard is met.**

The shape of the parcel requires the requested variances to make the proposed use economically viable.

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5. That the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification. **Explain how this standard is met.**

While similar variances have been granted to properties in the area, the requested variances are specific to the shape and configuration of the property.

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Appendix L – Variance Requirements

6. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property. **Explain how this standard is met.**

If the strict letter of the ordinance is applied to this particular property, it will not accommodate an adequate number of vehicles to make the project economically viable.

7. That the alleged difficulty or hardship has not been created by any person presently having interest in the property. **Explain how this standard is met.**

The property was created in its present configuration by the plat of subdivision.

Applicant has not altered or otherwise resubdivided the property from its present configuration.

8. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located. **Explain how this standard is met.**

The proposed use, with the requested variances, fits squarely with the other uses in the immediate vicinity of the property and is a more innocuous use than would otherwise be permitted as a matter of right in the zoning district.

9. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood. **Explain how this standard is met.**

No structures are proposed to be constructed at the property. Nothing at the property will exceed height limitations in the ordinance. The property will essentially be a fenced parking lot designed to readily allow for drive by police inspection and patrol.

Property Owner Signature

Date

Applicant Signature

Date



# REQUEST FOR PUBLIC HEARING AND COMMISSION ACTION

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## PLANNING AND ZONING COMMISSION

**MEETING DATE:** October 14, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Conditional Use for Outdoor Storage of Vehicles as a Principle Use at 1511 Imhoff Drive

## EXECUTIVE SUMMARY

---

### General Information

*Requested Action:* Prairie Enterprises, LLC requests a conditional use permit for outdoor storage of vehicles as a principle use at 1511 Imhoff Drive.

*Owner:* Mark Riggsby

*Applicant:* Kyle Lindley of Prairie Enterprises, LLC

*Purpose:* Construct and operate a recreational vehicle storage facility.

*Location and Size:* 1511 Imhoff Drive - approximately 1.25 acres

*Zoning and Land Use:*

Site:	M-1 Limited Manufacturing
North:	M-1 Limited Manufacturing
East:	M-1 Limited Manufacturing
South:	M-1 Limited Manufacturing
West:	M-1 Limited Manufacturing
Future Land Use:	Commercial

### Background

The applicant wishes to obtain a conditional use for outdoor storage of recreational vehicles to be constructed on this site. The owner feels there is a need for more recreational vehicle parking in this area. Prairie Enterprises, LLC currently operates the Big Stuff Self-Storage and Pyott Road Self-Storage facilities on nearby parcels.

Outdoor storage of vehicles as a principle use requires a conditional use permit in the M-1 zoning district. In addition to the two locations owned by this organization, numerous other operations in this subdivision involve outside storage of vehicles as a principal or accessory use. This parcel has remained vacant since the subdivision was approved in October of 1997 and has been the sole remaining undeveloped parcel in the subdivision since 2011.

### **Standards and Findings of Fact for a Conditional Use**

The Planning and Zoning Commission may recommend and the Board of Trustees shall consider the following factors and how they are relevant to the specific conditional use requested:

- A. That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community;**

The applicant indicates their proposed operation will meet a consumer demand that is not presently being met.

- B. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity;**

The applicant indicates that since the proposed operation is similar to others in the area, it will not have any detrimental effect.

- C. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;**

The applicant indicates this will not alter the essential character of the locality.

- D. The extent to which the conditional use is harmonious and compatible with the goals and objectives of the Village's comprehensive planning documents;**

The conditional use is compatible with objectives of the district where it is located as demonstrated by the existing conditional uses in the area.

- E. The amount of traffic congestion or hazards, if any, that may occur as a result of the conditional use, as well as the extent and adequacy of pedestrian and vehicular access and circulation;**

The applicant believes the proposal will not disrupt current vehicular circulation nor create traffic congestion in the area. The applicant also feels pedestrian access is not impacted.

- F. The extent that the conditional use can be adequately served by essential public facilities and services, and by private utilities;**

The applicant indicates this action will not impact essential public facilities and services nor private utilities.

- G. That the proposed use will comply with the regulations and conditions specified in this Zoning Code for such use, and with the stipulations and conditions made a part of the authorization granted by the Board of Trustees;**

The applicant indicates this condition will be met.

#### **ATTACHMENTS**

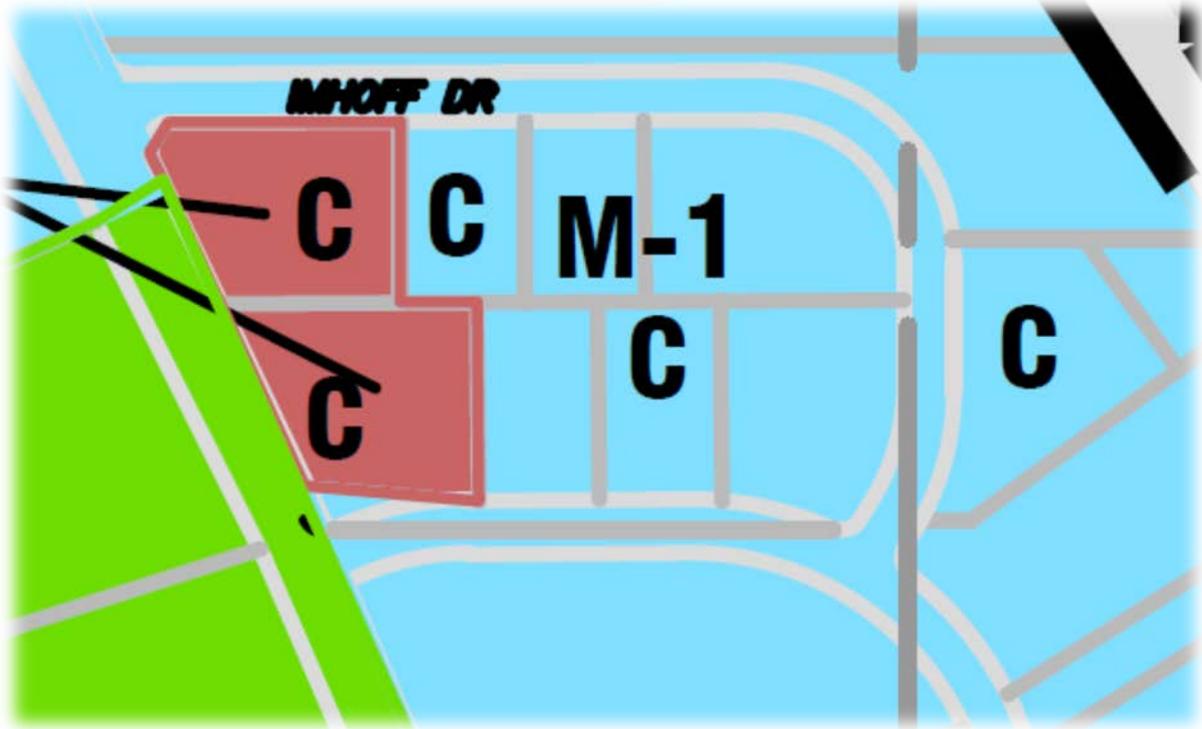
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1. Application
2. Site Plan
3. Layout Plan
4. Photo

#### **RECOMMENDED ACTION**

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Commission recommend approval to the Village Board for a conditional use for outdoor storage of vehicles as a principle use at 1511 Imhoff Drive on Parcel 19-21-127-005.







VILLAGE OF LAKE IN THE HILLS

ORDINANCE 2019 - \_\_\_\_

**An Ordinance Granting a Conditional Use for Outdoor Storage of Vehicles as a Principle Use and Approval of Variations to Section 9.4, Manufacturing Districts Bulk Chart, at 1511 Imhoff Drive on Parcel 19-21-127-005**

WHEREAS, the Village of Lake in the Hills, McHenry County, Illinois (the "Village"), is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, Mark Riggsby, property owner, and Kyle Lindley of Prairie Enterprises, LLC, applicant, of the Subject Property located at 1511 Imhoff Drive, Lake in the Hills, IL 60156 legally described with a PIN of 19-21-127-005, petitioned the Village of Lake in the Hills for a Conditional Use in the M-1 Zoning District for Outdoor Storage of Vehicles as a Principle Use and approval of Variations to Section 9.4, Manufacturing Districts Bulk Chart, on that parcel at 1511 Imhoff Drive to allow pavement up to 12 feet from the front yard property line, fence up to 10 feet from the front yard property line, a portion of four parking slots within the front yard setback, and vehicles to overhang the pavement within 10 feet of the south property line.

WHEREAS, a public hearing was held by the Village of Lake in the Hills Planning and Zoning Commission, after due notice in the manner provided by law; and

WHEREAS, the Planning and Zoning Commission, after deliberation, has made a report and its recommendation relative to the variation for the Subject Property; and

WHEREAS, the President and Board of Trustees of the Village of Lake in the Hills have considered the report of the Planning and Zoning Commission and all of the evidence presented by the petitioner at the public hearing before the Commission; and

NOW, THEREFORE, Be It Ordained by the President and Board of Trustees of the Village of Lake in the Hills, McHenry County, Illinois that:

SECTION 1: The Corporate Authorities find that the statements in the foregoing preamble are true.

SECTION 2: The findings and recommendations of the Planning and Zoning Commission on Granting a Conditional Use in the M-1 Zoning District for Outdoor Storage of Vehicles as a Principle Use and approval of Variations to Section 9.4, Manufacturing Districts Bulk Chart, at the Subject Property are hereby accepted.

SECTION 3: Approval of the Conditional Use in the M-1 Zoning District for Outdoor Storage of Vehicles as a Principle Use and approval of Variations to Section 9.4, Manufacturing Districts Bulk Chart, at the Subject Property is hereby granted on the Subject Property.

SECTION 4: Condition. The approvals granted in this Ordinance are granted expressly and specifically subject to the following condition:

1. Fire hydrants must be housed outside the fence line with a minimum of a three-foot clearance.
2. Access to all easements located within the fenced area shall be made reasonably available to all authorized easements users.
3. Property owner is responsible to perform restoration to fence and pavement disturbed to authorized easement users in performance of work within any approved easements.

SECTION 5: All other requirements set forth in the Zoning Ordinance of the Village of Lake in the Hills, as would be required by the Village as to any owner of property zoned in the same manner as the Subject Property shall be complied with.

SECTION 6: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgement shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall continue in full force and effect.

SECTION 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 24th day of October, 2019 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Ray Bogdanowski	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diana Murphy	_____	_____	_____	_____
President Russ Ruzanski	_____	_____	_____	_____

APPROVED THIS 24TH DAY OF OCTOBER, 2019

\_\_\_\_\_  
Village President, Russ Ruzanski

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Cecilia Carman

Published: \_\_\_\_\_



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** October 22, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Text Amendments to Section 3, Definitions, Section 11, Permitted and Conditional Use Chart, and Sections 30 through 33 of the Zoning Ordinance Related to Cannabis Business Establishments

## EXECUTIVE SUMMARY

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Staff prepared a Zoning Ordinance amendment related to regulation of cannabis businesses in response to the State of Illinois approval of the Cannabis Regulation and Tax Act that takes effect January 1, 2020. The general content of the text amendment was discussed with the Village Board on September 24, 2019 before going to a public hearing before the Planning and Zoning Commission on October 14, 2019.

The current Zoning Ordinance contains regulations related to Medical Cannabis Businesses that require the following changes.

- Section 3, Definitions - remove existing definitions for Cannabis Cultivation Center and Cannabis Dispensing Organization that only apply to the Compassionate Use of Medical Cannabis Pilot Program Act.
- Section 11, Permitted and Conditional Use Chart - remove existing references to Cannabis Cultivation Center and Cannabis Dispensing Organization that only apply to the Compassionate Use of Medical Cannabis Pilot Program Act.

Add new material to the Zoning Ordinance based on the following.

- Section 3, Definitions - add definitions for Cannabis Business Establishments to include all cannabis related businesses in the new Cannabis Regulation and Tax Act.
- Section 11, Permitted and Conditional Use Chart - add permitted use for cannabis business establishments in the A-1, B-3, B-4, M-1, M-2, and AD-2 districts.
- Create a new Section 30, Cannabis Business Establishments, and renumber the existing Sections 30 through 33.
- The new Section 30 contains specific restrictions on cannabis business establishments.
  - All cannabis business establishments are required to comply with the state laws as amended.
  - Parking requirements are defined using standards existing in the current Zoning Ordinance.
  - Retail cannabis business establishments (dispensaries) cannot be within 300 feet of a residence, school, or public park.
  - Non-retail cannabis business establishments cannot be within 100 feet of a residence, school or public park.

- o An established cannabis business establishment cannot lose its permitted status due to another business choosing to locate within the required setback distances.

The focus of these changes is to allow reasonable location of dispensing establishments in the Village's most robust business districts and generally allows cannabis businesses within the industrial and agricultural districts. Setbacks are established to help ensure cannabis related businesses maintain a reasonable separation from residences, schools, and public parks. These regulations are intended to allow the Village to be in a position to effectively compete with other municipalities for these types of businesses and the tax revenue gained by their presence.

A public hearing on this text amendment was held on October 14, 2019. During the hearing, two people appeared before the Commission. One stated she was against allowing any cannabis related business to operate in the Village because she felt it was a dangerous drug. She raised concerns that the setbacks proposed were not sufficient to prevent children from being exposed to the presence of cannabis and potentially tempted to want to become a consumer. The second person stated he was an authorized medical cannabis user and felt that the Village was doing the right thing to allow cannabis sales. He explained that the use of cannabis had helped him get off stronger drugs and live a less painful life. Three posts from the Village's social media site were read. One said the Village should not allow cannabis sales and two said the Village should allow cannabis sales.

Commissioners voted 4-0 to recommend approval of the proposed changes.

## **FINANCIAL IMPACT**

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None

## **ATTACHMENTS**

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1. Staff Report to Planning & Zoning Commission
2. Ordinance

## **RECOMMENDED MOTION**

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Motion to approve an ordinance to amend Section 3, Definitions, Section 11, Permitted and Conditional Use Chart, Sections 30 through 33 and add a new Section 30, Cannabis Business Establishments, to the Zoning Ordinance.



# REQUEST FOR PUBLIC HEARING AND COMMISSION ACTION

---

## PLANNING AND ZONING COMMISSION

**MEETING DATE:** October 14, 2019

**DEPARTMENT:** Community Services

**SUBJECT:** Zoning Text Amendments to Sections 3, 11, and 30 through 33 Related to Cannabis Business Establishments

## EXECUTIVE SUMMARY

---

Staff prepared a Zoning Ordinance amendment related to regulation of cannabis businesses. This is in response to the State of Illinois approval of the Cannabis Regulation and Tax Act that takes effect January 1, 2020. The Village has the ability to establish zoning regulations that do not conflict with the Act. The general content of the text amendment was discussed with the Village Board on September 24, 2019. They approved staff to prepare a text amendment for the Planning and Zoning Commission to consider and adjust as necessary.

The current Zoning Ordinance contains regulations related to Medical Cannabis Businesses that would the following require changes.

- Section 3, Definitions - remove existing definitions for Cannabis Cultivation Center and Cannabis Dispensing Organization that only apply to the Compassionate Use of Medical Cannabis Pilot Program Act.
- Section 11, Permitted and Conditional Use Chart - remove existing references to Cannabis Cultivation Center and Cannabis Dispensing Organization that only apply to the Compassionate Use of Medical Cannabis Pilot Program Act.

Add new material to the Zoning Ordinance based on the following.

- Section 3, Definitions - add definitions for Cannabis Business Establishments to include all cannabis related businesses in the new Cannabis Regulation and Tax Act.
- Section 11, Permitted and Conditional Use Chart - add permitted use for cannabis business establishments in the A-1, B-3, B-4, M-1, M-2, and AD-2 districts.
- Create a new Section 30, Cannabis Business Establishments, and renumber the existing Sections 30 through 33.
- The new Section 30 contains specific restrictions on cannabis business establishments.
  - All cannabis business establishments are required to comply with the state laws as amended.
  - Parking requirements are defined using standards existing in the current Zoning Ordinance.
  - Retail cannabis business establishments (dispensaries) cannot be within 300 feet of a residence, school, or public park.
  - Non-retail cannabis business establishments cannot be within 100 feet of a residence, school or public park.

- An established cannabis business establishment cannot lose its permitted status due to another business choosing to locate within the required setback distances.

The focus of these changes is to allow reasonable location of dispensing establishments in the Village's most robust business districts and generally allows cannabis businesses within the industrial and agricultural districts. Setbacks are established to help ensure cannabis related businesses maintain a reasonable separation from residences, schools, and public parks. These regulations are intended to allow the Village to be in a position to effectively compete with other municipalities for these types of businesses and the tax revenue gained by their presence.

The amendments do not address the following issues already covered in the Cannabis Regulation and Tax Act.

- Buildings shall comply with zoning and building codes.
- Lighting and security cameras shall be kept in good working order.
- Building shall be free from infestations.
- Dispensary operations are only allowed between 6:00 a.m. and 10:00 p.m.
- Dispensary operations shall not operate a drive-through window or allow use of cannabis vending machines.
- Dispensaries shall not be located within 1,500 feet of another dispensary.
- Craft growers shall not be located within 1,500 feet of another craft grower or cultivation center.
- Cultivation and infusion only in an enclosed, locked facility.
- Craft grower or infuser may not be located in an area zoned for residential use.
- Infusers, craft growers, and dispensaries may be co-located.

For your consideration, attached are the proposed changes.

## **ATTACHMENTS**

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1. Proposed Changes to Section 3, Definitions
2. Proposed Changes to Section 11, Permitted and Conditional Use Chart
3. Proposed New Section 30, Cannabis Business Establishments

## **RECOMMENDED ACTION**

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Commission recommend approval to the Village Board to amend Sections 3, 11, 30 through 33, and add a new Section 30, Cannabis Business Establishments, to the Zoning Ordinance.

VILLAGE OF LAKE IN THE HILLS

ORDINANCE NO. 2019-\_\_\_\_\_

**An Ordinance Granting a Text Amendment to  
The Zoning Ordinance of the Village of Lake in the Hills**

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

WHEREAS, a representative of the Village of Lake in the Hills petitioned the Village to consider text amendments to Section 3, "Definitions", Section 11, "Permitted and Conditional Use Chart", and the addition of a new Section 30, "Cannabis Business Establishments"; and

WHEREAS, a public hearing was held by the Village of Lake in the Hills Planning and Zoning Commission, after due notice in the manner provided by law; and

WHEREAS, the Planning and Zoning Commission, after deliberation has made a report and made its recommendation relative to the text amendment; and

WHEREAS, the President and Board of Trustees have considered the report and recommendation of the Planning and Zoning Commission and all of the evidence presented by the petitioner at the public hearing before the Planning and Zoning Commission;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Lake in the Hills, McHenry County, Illinois, that:

SECTION 1: The Corporate Authorities find that the statements in the foregoing preamble are true.

SECTION 2: The recommendation of the Planning and Zoning Commission on the question of approving the text amendment to the Zoning Ordinance is hereby accepted.

SECTION 3: That the Table of Contents, Section 3 "Definitions", Section 11, "Permitted and Conditional Use Chart" shall be amended, and create a new Section 30, "Cannabis Business Establishments" to the Zoning Ordinance, along with renumbering Sections 30 through Section 33, to read as follows:

VILLAGE OF LAKE IN THE HILLS ZONING CODE  
2002 EDIION

Section	Title
<u>30</u>	<u>Cannabis Business Establishments</u>
<del>30</del> <u>1</u>	Fees
<del>31</del> <u>2</u>	Interpretations; Conflicts
<del>32</del> <u>3</u>	Violations; Penalty
<del>33</del> <u>4</u>	Validity

VILLAGE OF LAKE IN THE HILLS ZONING CODE  
TABLE OF CONTENTS

Section 30	<u>Cannabis Business Establishments</u>
	<u>30.1 Purpose</u>
	<u>30.2 Definitions</u>
	<u>30.3 General Standards</u>
	<u>30.4 Location Restrictions</u>
	<u>30.5 Preservation of Permitted Use</u>

Section <del>30</del>	<u>31</u>	Fees
Section <del>31</del>	<u>32</u>	Interpretations; Conflicts
Section <del>32</del>	<u>33</u>	Violations; Penalty
Section <del>33</del>	<u>34</u>	Validity

SECTION 3

DEFINITIONS

~~**Cannabis Cultivation Center:** a facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. All Cannabis Cultivation Centers shall comply with the Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122) and all rules and regulations adopted in accordance thereto.~~

~~**Cannabis Dispensing Organization:** a facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. All Medical Cannabis Dispensary Establishments shall comply with the Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 098-0122) and all rules and regulations adopted in accordance thereto.~~

~~**Cannabis Business Establishment:** A cannabis craft grower, cannabis cultivation center, cannabis dispensing organization, cannabis infuser organization, cannabis processing~~

organization, cannabis testing facility, or cannabis transporting organization.

**Cannabis Craft Grower:** A facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership.

**Cannabis Cultivation Center:** A facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments.

**Cannabis Dispensing Organization or Cannabis Dispensary:** A facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies to purchasers.

**Cannabis Infuser Organization or Cannabis Infuser:** A facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product.

**Cannabis Processing Organization or Cannabis Processor:** A facility operated by an organization or business that is licensed by the Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product.

**Cannabis Testing Facility:** An entity registered by the Department of Agriculture to test cannabis for potency and contaminants.

**Cannabis Transporting Organization or Cannabis Transporter:** An organization or business that is licensed by the Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program

**SECTION 11**

**PERMITTED AND CONDITIONAL USE CHART**

**P - Permitted Use**  
**C - Conditional Use**

A 1	RE 5	RE 2	RE 1	R 1 A & B	R 2	R 3	R 4	USE	B 1	B 2	B 3	B 4	B 5	M 1	M 2	O S	I B	A D 1	A D 2
P								Cannabis Craft Grower						P	P				
P								Cannabis Cultivation Center						P	P				
								Cannabis Dispensing Organization			P	P		P	P				P
P								Cannabis Infuser Organization			P	P		P	P				P
P								Cannabis Processing Organization						P	P				
P								Cannabis Testing Facility						P	P				
								Cannabis Transporting Organization						P	P				
								<del>Cannabis Cultivation Center</del>						<del>C</del>	<del>C</del>				
								<del>Cannabis Dispensing Organization</del>				<del>C</del>		<del>C</del>					<del>C</del>

**SECTION 30**  
**CANNABIS BUSINESS ESTABLISHMENTS**

**30.1 PURPOSE:**

The purpose of this section is to provide regulations regarding all types of recognized cannabis business activities permitted by state law, which include without limitation, craft growing, cultivation, dispensing, infusing, processing, testing, and transportation within the corporate limits of the Village, which are in addition to all other requirements of the Village’s Municipal Code and Zoning Ordinance.

**30.2 DEFINITIONS:**

30.2-1 School: For purposes of this section, school shall mean any public or non-public entity providing educational services equivalent to grades kindergarten through twelfth grades for multiple students and recognized by the Illinois State Board of Education in the Directory of Educational Entities. It shall not include home schooling, preschool, day care, or tutoring programs.

30.2-2 Public Park: For purposes of this section, public park shall mean public lands designed to serve one or more recreational needs of the area population.

**30.3 GENERAL STANDARDS:**

30.3-1 All operations of a cannabis business establishment shall comply with all requirements of the Cannabis Regulation and Tax Act (PA 101-0027) or the Compassionate Use of Medical Cannabis Pilot Program Act

(PA 98-122) according to the licensing of the business and as it may be amended from time to time. In the event that the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Pilot Program Act is amended, the more restrictive of the state or local regulations shall apply.

30.3-2 For purposes of determining required parking, cannabis business establishments shall be classified as "Retail / Service Establishment" for activities having on-site retail operations and as "Industrial Use" for activities without on-site retail sales operations.

#### **30.4 LOCATION RESTRICTIONS:**

30.4-1 A cannabis business establishment having on-site retail sales shall be no closer than 300 feet to any residence, school, or public park, irrespective of municipal boundaries. The setback distance shall be the horizontal distance measured in a straight line, without regard to intervening structures, from the principal entry door of each facility except for public parks. The setback distance for public parks shall be the horizontal distance measured in a straight line, without regard to intervening structures, from the principal entry door of the cannabis business establishment to the nearest property line of the public park where the public may enter the park from a non-park parcel.

30.4-2 A cannabis business establishment not having on-site retail sales shall be no closer than 100 feet to any residence, school, or public park, irrespective of municipal boundaries. The setback distance shall be the horizontal distance measured in a straight line, without regard to intervening structures, from the nearest regularly used personnel or vehicle door to the nearest property line of the residence, school, or public park. If both uses are on the same parcel, the setback distance shall be measured between the nearest regularly used personnel or vehicle doors as determined by the Community Services Director.

30.4-3 The setback distances specified in this section may be reduced by half under a conditional use permit according to Section 24 of this Zoning Ordinance. The granting authority must make a finding that the proposed cannabis business establishment is not detrimental to the safety, morals, or general welfare of persons residing or working within the normal setback distances specified in this section.

#### **30.5 PRESERVATION OF PERMITTED USE:**

30.5-1 The addition of a new property use near the existing, approved cannabis business establishment, after establishment of the cannabis business establishment at a specific location, which places the cannabis business establishment in violation of this section shall not adversely impact the zoning of the cannabis business establishment's permitted zoning status. This shall not create, confer, or convey any nonconforming right to the

cannabis business establishment. Any lapse in licensing eliminates the right to operate outside of full compliance with this section.

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

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

SECTION 6: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 24th day of October 2019 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Ray Bogdanowski	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
President Russ Ruzanski	_____	_____	_____	_____

APPROVED THIS 24<sup>th</sup> DAY OF OCTOBER, 2019

\_\_\_\_\_  
Village President, Russ Ruzanski

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Cecilia Carmen

Published: