



Agenda
Village of Glen Ellyn
Special Meeting
Tuesday, February 18, 2020
7:00 PM

Glen Ellyn Civic Center, Galligan Board Room

Village Board Meeting Procedures Statement

Visitors are most welcome to attend all meetings of the Village Board and can find copies of the Agenda on their chairs or online at www.glenellyn.org prior to the meeting. Meetings are taped and also televised on WideOpenWest Channel 6, AT&T Channel 99, and Comcast Cable Services Channel 10. Any individual with a disability requiring a reasonable accommodation in order to participate in a meeting should contact The Village of Glen Ellyn ADA Coordinator, 630-469-5000, at least five (5) business days in advance of the next scheduled meeting. All matters on the Agenda may be discussed, amended, and acted upon.

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Village Recognition: (Village Clerk)

1. Village Clerk Chereskin will read a proclamation in recognition of the League of Women Voters 100 year anniversary.

E. Easement Agreements (Presented by Assistant Village Manager Holmer) (Trustee Pryde)

1. Ordinance No. 6762, An Ordinance Authorizing the Adoption of Easements at 413, 417 and 419/421 N. Main Street and 538 and 542 Hillside Avenue Necessary for the Civic Center Parking Garage, Contingent Upon Attorney Review.

F. Other Business

G. Adjournment



Glen Ellyn Village Board
535 Duane Street
Glen Ellyn, IL 60137

Meeting: 02/18/20 07:00 PM
Department: Glen Ellyn Village Board
Department Head: William Holmer
Category: Ordinance
Prepared By: William Holmer

SCHEDULED

ORDINANCE (ID # 4367)

DOC ID: 4367

Ordinance No. 6762, An Ordinance Authorizing the Adoption of Easements at 413, 417 and 419/421 N. Main Street and 538 and 542 Hillside Avenue Necessary for the Civic Center Parking Garage, Contingent Upon Attorney Review.

dBACKGROUND

In 2018, staff, with direction from the Village Board, began the process toward the building of a parking garage behind the Civic Center. The Board later approved a design-build firm; and, with much input, the project was designed. On January 27, 2020, the Village Board approved the Parking garage project and Guaranteed Maximum Price (GMP).

During the design phase, the need for several easements was identified and staff began discussions with adjacent property owners related to the necessary easements. In total, easements are needed with seven property owners which are related to the project. Some of the easements are temporary construction easements while others are permanent easements due to the fact that the Village will maintain the improvements after construction. Easement agreements with the owners of the following properties are necessary:

- 413 N. Main Street (apartment building) - *draft agreement attached/pending*
- 417 N. Main Street (Busy Bee/Ellyn's Beauty Shop) - *Complete and included for adoption by the Village Board*
- 419/421 N. Main Street (Nobel House/Sushi Ukai) - *Complete and included for adoption by the Village Board*
- 427 N. Main Street (former Katy's) - verbal agreement, *easement pending*
- 538 Hillside Avenue (residence) - *Complete and included for adoption by the Village Board*
- 542 Hillside Avenue (residence) - *Complete and included for adoption by the Village Board*
- 424 Forest Avenue (First United Methodist) - verbal agreement, *easement pending*

To date, the agreements with 417 and 419/421 N. Main Street and 538 and 542 Hillside Avenue are complete and signed by the owners of the respective properties. The owners of 413 N. Main Street have signed a Letter of Intent and are reviewing the agreement. Contingent upon Attorney review, staff expects the agreement to be signed this week.

Discussions and negotiations regarding the remaining easements continue to progress and it is anticipated agreements will be reached in the near future.

RECOMMENDATION

Staff requests the Board move for approval and signature on the completed easements as presented, subject to attorney review.

Strategic Issue I: Infrastructure. Invest in infrastructure to meet key needs, including downtown access, Village facilities, storm water issues and technology improvement. **Village Goal:** Evaluate parking garage alternatives as well as economic development partnerships that would increase parking in the downtown by October 2019. Village Board provided further direction to design and construct a parking garage behind the Civic Center by July 2020.

Attachments

- Public improvement and release agreement from ownership of 413 N. Main Street, including signed LOI
- Signed easement from ownership of 417 N. Main Street
- Signed easement from ownership of 419/421 N. Main Street
- Signed public improvement and release agreement from ownership of 538 Hillside Avenue
- Signed public improvement and release agreement from ownership of 542 Hillside Avenue

Ordinance (ID # 4367)

Meeting of February 18, 2020



Village of Glen Ellyn

Ordinance No. 6762

Ordinance No. 6762, An Ordinance Authorizing the Adoption of Easements at 413, 417 and 419/421 N. Main Street and 538 and 542 Hillside Avenue Necessary for the Civic Center Parking Garage

**Adopted by the
President and the Board of Trustees
Of the Village of Glen Ellyn
DuPage County, Illinois
This _____ Day of _____, 20__.**

Published in pamphlet form by the authority
of the President and Board of Trustees of the
Village of Glen Ellyn, DuPage County, Illinois,
this _____ day of _____, 20__.

PREPARED BY AND MAIL TO:

VILLAGE OF GLEN ELLYN
ATTN: VILLAGE CLERK
535 DUANE STREET
GLEN ELLYN, IL 60137

Ordinance (ID # 4367)

Meeting of February 18, 2020

Ordinance No. 6762**Ordinance No. 6762, An Ordinance Authorizing the Adoption of Easements at 413, 417 and 419/421 N. Main Street and 538 and 542 Hillside Avenue Necessary for the Civic Center Parking Garage**

WHEREAS, the Village of Glen Ellyn, a home rule municipality, seeks to construct certain infrastructure and improvements, including, without limitation, a multi-story parking garage, on the property commonly known as 535 Duane Street, Glen Ellyn, Illinois (Subject Property) for the benefit of the Glen Ellyn community; and

WHEREAS, in order to accomplish this goal, the Village needs to enter into Permanent Easements and Temporary Construction Easements with the owners of certain parcels of property adjoining the Civic Center parking lot; and

WHEREAS, the Village requires the temporary use of parts of various Owners' property to facilitate and support construction of the Improvements, and the various Owners' wishes to partner with the Village on the construction of certain infrastructure and access improvements on and around the Owners' Property; and

WHEREAS, certain utilities currently serving the Owners' Property are located on the Subject Property, and those utilities must be relocated to allow the Improvements' construction; and

WHEREAS, the Corporate Authorities find the entry by the Village into certain permanent and construction easements is in the best interest of the community and that, among other things, these easements will allow the Village to construct a parking garage to provide additional public

parking to the community;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GLEN ELLYN, DUPAGE COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION ONE: The Public Improvement and Release Agreements, Easements and associated documents contained in the following attachments are hereby approved and adopted by the Village of Glen Ellyn:

Attachment A: 413 N. Main Street P.I.N. 05-11-328-008

Attachment B: 417 N. Main Street P.I.N. 05-11-368-006

Attachment C: 419/421 N. Main Street P.I.N. 05-11-328-006 and 05-11-328-005

Attachment D: 538 Hillside Avenue P.I.N. 05-11-328-019

Attachment E: 542 Hillside Avenue P.I.N. 05-11-328-020

SECTION TWO: The Village President and Village Clerk are hereby authorized to execute the Public Improvement and Release Agreements, Easements and associated documents attached hereto and are made part of this Ordinance as Attachments “A”, “B”, “C”, “D” and “E” on behalf of the Village of Glen Ellyn.

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

PASSED by the President and Board of Trustees of the Village of Glen Ellyn, Illinois this _____ day of _____.

Ordinance (ID # 4367)

Meeting of February 18, 2020

Ayes		Diane McGinley		Steve Thompson		Mark Senak
		Craig Pryde		Bill Enright		Gary Fasules
		Kelli Christiansen				
Nays		Diane McGinley		Steve Thompson		Mark Senak
		Craig Pryde		Bill Enright		Gary Fasules
		Kelli Christiansen				
Absent		Diane McGinley		Steve Thompson		Mark Senak
		Craig Pryde		Bill Enright		Gary Fasules
		Kelli Christiansen				

Approved by the Village President of the Village of Glen Ellyn, Illinois this _____ day of _____.

Village President

Attest:

Village Clerk

AFFIX VILLAGE SEAL

(Published in pamphlet form and posted on the _____ day of _____, 20____.)

Ordinance (ID # 4367)

Meeting of February 18, 2020

ATTACHMENTS:

- Attachment A: Public Improvement and Release Agreement 413 N. Main Street (PDF)
- Attachment B: Easement Agreement 417 N. Main Street (PDF)
- Attachment C: Easement Agreement 419/421 N. Main Street (PDF)
- Attachment D: Public Improvement and Release Agreement 538 Hillside Avenue (PDF)
- Attachment E: Public Improvement and Release Agreement 542 Hillside Avenue (PDF)

PUBLIC IMPROVEMENT AND RELEASE AGREEMENT

This Public Improvement and Release Agreement (“Agreement”) is made and entered into this ____ day of _____, 2020 (“Effective Date”), by and between 413 Main Street, LLC, an Illinois limited liability company (“Owner”), and the Village of Glen Ellyn, an Illinois home rule municipal corporation (“Village”) (the Owner and Developer are collectively the “Parties,” and individually a “Party”).

WHEREAS, the Village plans to construct certain infrastructure and improvements, including, without limitation, a multi-story parking structure (collectively, the “Improvements”), on the property commonly known as 535 Duane Street, Glen Ellyn, Illinois (“Subject Property”); and

WHEREAS, the Village is currently pursuing planned development and other zoning and entitlement approval necessary to construct the Improvements on the Subject Property (collectively, the “Zoning Relief”); and

WHEREAS, the Owner owns the property commonly known as 413 N. Main Street, Glen Ellyn, Illinois (“Owner’s Property”), which is located immediately adjacent to and south of the Subject Property; and

WHEREAS, the Village requires the temporary use of parts of the Owner’s Property to facilitate and support construction of the Improvements, and the Owner wishes to partner with the Village on the construction of certain infrastructure and access improvements on and around the Owner’s Property; and

WHEREAS, certain utilities currently serving the Owner’s Property are located on the Subject Property, and those utilities must be relocated to allow the Improvements’ construction; and

WHEREAS, the Parties wish to enter into this Agreement to establish the Parties' rights, obligations, and duties and to facilitate the Improvements' timely construction; and

WHEREAS, the Village is authorized under the provisions of the Illinois Municipal Code to make grants to commercial enterprises that are deemed necessary or desirable for the promotion of economic development within the Village, 65 ILCS 5/8-1-2.5;

NOW THEREFORE, in consideration of the promises, covenants, obligations and payments contained herein, the adequacy and sufficiency of which are hereby acknowledged, IT IS HEREBY AGREED AS FOLLOWS:

1. Incorporation. The foregoing recitals are adopted and incorporated as though fully set forth herein.

2. Temporary Construction License. Within 10 days of the Effective Date, the Owner shall deliver to the Village a fully executed temporary construction license and easement agreement in the form set forth on Exhibit 1 ("Construction License"). Upon Owner's delivery of this Public Improvement and Release Agreement and the Construction License, and following Village Board approval, the Village shall deliver payment to the Owner in the amount of One Hundred Thousand Dollars (\$100,000.00), under the terms of the Letter of Intent executed by the parties, a copy of which is attached hereto as Exhibit 2, incorporated herein, and made a part of this Agreement. Owner shall timely execute any and all documents required by the Village for the transfer of easement rights set forth in Section 3, below. On or before May 28, 2020, the Village shall deliver payment to the Owner in the amount of Two Hundred Thousand Dollars (\$2200,000.00), subject to the terms of the Letter of Intent and Section 6, below.

3. Easement and Property Rights Released.

a. Owner agrees to and hereby releases, waives, and terminates all rights Owner possesses regarding and relating to the ingress / egress easement recorded against the Subject Property with the DuPage County Recorder as Document Numbers 230796 and 248346;

b. Owner agrees to and hereby transfers and conveys to the Village all right, title, and interest the Owner possesses in the easement for the purpose of installing, maintaining, repairing, and replacing sanitary sewer and storm service as stated in the Grant of Easement and Partial Release of Easement dated February 14, 2001 and recorded with the DuPage County Recorder on June 24, 2002, as Document Number R2002-162431, and as stated in the Trustee's Deed dated March 31, 2005 recorded with the DuPage County Recorder on April 5, 2005 as Document Number R2005-069195.

c. Within 10 days of receiving the Village's request, the Owner agrees to execute all documents the Village deems necessary, in the Village Manager's sole discretion, to effectuate the release, waiver, termination, transfer, and conveyance of the easement and property rights set forth in this Section 3, and the Parties agree to use their best efforts effectuate the intent and terms of this Section 3.

4. Owner Obligations

b. Sanitary Sewer Improvements. By no later than March 2, 2020 ("Sanitary Deadline"), the Owner shall: 1) excavate, disconnect, remove, and dispose of the sanitary sewer that currently bisects the Subject Property in the location generally depicted in Exhibit 3; 2) connect the Owner's Property to the sanitary sewer located in the Main Street right of way; and 3) construct a lift system on the Owner's Property to ensure proper drainage of sanitary waste from the Owner's Property, including, without limitation, waste collected by floor drains and

washtubs, to the sanitary sewer located in the Main Street right of way (collectively, “Sanitary Improvements”). Owner shall be solely responsible for preparing and submitting to the Village a plan compliant with all Village codes, rules, and regulations (collectively, the “Code”) to construct the Sanitary Improvements.

c. Storm Sewer Improvements. The Village will provide a connection and connect downspouts to the storm sewer on the north side of 413 Main.

d. Domestic Water Improvements. The Village will construct, at the Village’s sole cost, a 2” water service line extending from the water main located in the Main Street right of way to a point approximately 5 feet west of the building foundation located on the Owner’s Property (“Domestic Line”). The Domestic Line will connect with the existing 2” service line located in the Main Street right of way. The Village will undertake the Domestic Line work as a part of and in accordance with the schedule for the Village’s CBD Streetscape and Utility Project. If the Owner notifies the Village in writing on or before _____, ___, 20__ that a larger Domestic Line may be necessary to serve the Owner’s Property due to improvements to the Owner’s Property that the Owner will complete within 6 months of the date of the Owner’s notice to the Village, and the Village has not already constructed the Domestic Line, the Parties agree to meet to discuss the appropriate service size line before the Village commences construction of the Domestic Line.

e. Garbage Collection. The Parties agree to cooperatively evaluate potential locations on the Subject Property for a shared refuse area serving the Owner’s Property, and the Village agrees to evaluate potential efficiencies for shared refuse collection, including discussing potential arrangements with the Village’s refuse service provider.

5. Access and Parking.

a. Access. The Village will dedicate a new access easement to the Owner that will provide pedestrian ingress/egress from the Owner's Property through 423 N. Main Street., as generally depicted on Exhibit 4 attached.

b. Parking. Upon: 1) the Village completing construction of the multi-story parking structure on the Subject Property; and 2) Owner receiving a certificate of occupancy from the Village for 10 or more new residential dwelling units located on the Owner's Property in compliance with all Village building and zoning codes and Ordinances, the Village agrees to provide for purchase up to 12 parking permits, no more than one per new unit, in the multi-story parking structure for use by the dwelling units' occupants. Owner may purchase the permits for a price as set forth in the Letter of Intent, Section 6, and the permits will allow the permit holders 24-hour access to the parking structure.

6. Consideration and Payment Plan 413 Main Street, LLC, by and through its registered agent, Paul Svigos, acknowledges and agrees that, 413 Main Street, LLC, would not be entitled to receive the monies specified in this Agreement except for the execution of this Agreement and Release, and further acknowledge and agree that the above sums constitute all monies payable to them for the release of any claims recited herein.

7. Waiver and General Release.: Owner, its past, present, and future officers, directors, managers, employees, trustees, attorneys, successors in interest, stockholders, owners, subsidiaries, parent companies, affiliates, insurers, partners, heirs, agents, representatives, and assigns (collectively, the "Owner Parties"), hereby irrevocably release and forever discharge the Village, its past, present, and future elected and appointed officials, officers, directors,

employees, agents, attorneys, representatives, volunteers, and assigns (collectively, the “Village Parties”), from any and all past or present claims, demands, obligations, third-party actions, counterclaims, damages, losses, liens, expenses, actions, lawsuits, or compensation of any nature, whether based in tort, statute, constitution, condemnation, contract, indemnity, or contribution, known or unknown, that now exist or which may hereafter accrue on account of or in any way growing out of or related to the Improvements, the Zoning Relief, the Subject Property, this Agreement, or the Construction Easement, including, without limitation, any substantive or procedural due process claims relating to the same, and including claims for attorneys’ fees, costs, or litigation expenses relating to the same. Owner, on behalf of itself and the Owner Parties, acknowledges and agrees that this Agreement resolves and subsumes any and all claims based upon any conduct by the Village Parties, including, but not limited to, claims which might be contained in a lawsuit. The Owner expressly waives and assumes the risk of any and all claims for damages or other relief pertaining to this Agreement, the Improvements, the Zoning Relief, the Subject Property, or the Construction Easement which exist as of this date, but of which the Owner does not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect the Owner’s decision to enter into this Agreement. The Owner assumes the risk that the facts or law may be other than what he believes. This waiver and general release does not apply to possible future claims for damages which may arise due to construction of the garage.

8. Capacity and No Transfer. The Parties represent and warrant that no other person or entity has, or has had, any interest in the claims, demands, obligations, matters, or causes or action referred to in this Agreement; that the Parties have the sole right, exclusive authority, and legal capacity to execute this Agreement and grant the releases, discharges and

agreements contained herein, give and receive the sums specified in the Agreement, and bind the Parties, persons, positions and entities specified herein; that the Parties have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Agreement; and that the Parties will not assign or transfer any rights, duties, or obligations under this Agreement without the prior written consent of both Parties.

9. Additional Documents: The Parties agree to cooperate fully and execute any and all documents, and to take all additional actions, which may be necessary or appropriate to give full force and effect to the terms of this Agreement.

10. Entire Agreement:

a. This Agreement contains the entire agreement between the Parties with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the Parties' executors, administrators, bankruptcy trustees, representatives, heirs, successors in interest, subsidiaries, parent companies, affiliates, successors and assigns.

b. Nothing herein, express or implied, is intended to or shall confer upon any person, entity, company, or organization that is not a Party, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be amended by a written agreement signed by the Parties.

11. Severability: The terms and provisions of this Agreement shall be deemed severable, so that if any term or provision is deemed to be invalid or unenforceable, such term or provision shall be deemed deleted or modified so as to permit the remaining portions of this Agreement to be valid and enforceable to the full extent permitted by applicable law.

12. Default. The Parties agree that should any of the Village Parties or any of the Owner Parties fail to abide by the terms of this Agreement, nothing in this Agreement shall

prevent either Party from seeking to enforce the terms of this Agreement, including seeking injunctive relief as necessary to ensure the Parties' compliance with this Agreement's terms.

13. Governing Law: This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois, and the venue for all disputes arising out of, under or related to the terms of this Agreement shall be the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

14. Acknowledgment: Owner hereby acknowledges and recites that he executes this Agreement knowingly and voluntarily; that there is valid consideration for this Agreement, that he has been advised to consult with and has consulted fully with counsel regarding the terms of this Agreement, that he has had a reasonable amount of time to consider the Agreement's terms, and that he has read and fully understands the terms of the Agreement; that he is legally competent to execute this Agreement; and that he accepts full responsibility therefore.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated next to their respective signatures:

Date: _____

413 Main Street, LLC

By:

Its:

Witness: _____

Date: _____

Village of Glen Ellyn

By:

Its:

Attest: _____

Exhibits:

- 1) Construction license and easement agreement
- 2) Letter of Intent
- 3) Map depicting location of sanitary sewer bisecting Subject Property

CONSTRUCTION LICENSE AND ACCESS AGREEMENT

This Construction License and Access Agreement (“**Agreement**”) is made as of _____, 2020, by and between 413 MAIN STREET, LLC. (“**Owner**”), and M. A. MORTENSON COMPANY, a Minnesota corporation (“**Mortenson Construction**”)

RECITALS

A. Owner owns land located at 413 N. Main Street, Glen Ellyn IL 60137 (the “**Owner Property**”).

B. Mortenson Construction is performing work in the area of the Owner Property for the Village of Glen Ellyn (“**Village**”) and has requested that Owner grant to Mortenson Construction the right to use the area of the Owner Property depicted on Exhibit A attached hereto (the “**Access Area**”) for the purposes of performing the work described on Exhibit B attached hereto and Mortenson Construction’s other work for the Village in the area of the Owner Property (collectively, the “**Work**”) during the period of time described in this Agreement.

C. Owner is willing to grant Mortenson Construction the rights described herein for the purposes of installing and accessing the Work.

D. Mortenson Construction is willing to accept the Agreement herein granted on the terms and conditions hereinafter stated.

THEREFORE, in consideration of the covenants and agreements hereafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortenson Construction and Owner hereby agree as follows:

1. Grant. Owner hereby grants to Mortenson Construction the exclusive and irrevocable right and agreement to use the Access Area on the Owner Property to perform and install the Work, including without limitation the storing of construction materials and equipment, laydown and pickup of construction materials, dumpster storage and use, truck access to the Access Area for purposes of performing the Work, and such other uses as may be reasonably ancillary thereto for the Construction Period (defined below), as it may be extended as set forth herein.

2. Term. The term of this Agreement, also known as the Construction Period, will begin on the date that Mortenson Construction commences Work on the Owner Property, and continue for a period of 730 days thereafter (the “**Initial Construction Period**”). Upon written notice by Mortenson Construction, the Construction Period will be extended by up to four thirty (30) day periods (each, an “**Extension Period**”).

3. Use of the Owner Property. This Agreement is granted to Mortenson Construction for the purposes stated above. Mortenson Construction will not be entitled to use the Access Area for any other purpose or for any other reason. Prior to the expiration of the Construction Period, Mortenson Construction will remove all property, debris, and trash from the Owner Property. Mortenson Construction will not bring to or upon, or cause to be brought to or upon, the Access Area any hazardous wastes or substances as defined by federal and state law, except in compliance with applicable law.

4. Insurance. Mortenson Construction will maintain comprehensive general liability, professional liability, and employer's liability for bodily injury and property damage liability, covering all of the operations of Mortenson Construction, with limits of liability which will not be less than Two Million Dollars (\$2,000,000) combined single limit per occurrence or One Million Dollars (\$1,000,000) bodily injury per occurrence and One Million Dollars (\$1,000,000) property damage per occurrence. Owner will be named as an additional insured under such policies.

5. Miscellaneous.

a. Notices. All notices, demands, acceptances and approval required hereunder will be in writing and served either by overnight delivery by a reputable express delivery carrier or by personal delivery, to the address shown below, until notification of a change of address:

Owner's Address: 413 Main Street, LLC

Mortenson Construction's
address:

300 Park Blvd.
Suite 100
Itasca, IL 60143
Attn: Andy Stapleton

Notices, properly addressed and mailed will be deemed delivered on the earlier of actual receipt or the first business day following such mailing.

b. Entire Agreement. This instrument constitutes the entire agreement between the parties respecting this Agreement. This Agreement cannot be amended except in writing executed by both parties hereto.

c. Binding Effect. This Agreement will inure to the benefit of and bind the respective successors, heirs, personal representatives and permitted assigns of the parties hereto.

d. Counterparts. This Agreement may be signed in two or more counterparts, each of which will be an original and all of which will constitute one and the same instrument.

e. Governing Law. This Agreement is governed by the laws of the State of Illinois.

f. No Joint Venture. Nothing herein will be construed to create a joint venture between the parties hereto

g. Authority. Owner represents, warrants and covenants that (i) it has full power and authority to grant the Agreement provided for herein, and that no consent of any third party, is required in connection herewith and (ii) the individual executing this Agreement on behalf of Owner has the full power and authority to do so. Mortenson Construction represents and warrants that (i) it has the full power and authority to enter into this Agreement and perform its obligations hereunder without the necessity of the approval or consent of any third party and (ii) the individual executing this Agreement on behalf of Mortenson Construction has the full power and authority to do so.

[Signature Pages Follow]

**SIGNATURE PAGE
TO
CONSTRUCTION ACCESS AGREEMENT
BETWEEN
CJI MAIN STREET PROPERTY LLC AND
M. A. MORTENSON COMPANY**

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

MORTENSON CONSTRUCTION:

M. A. MORTENSON COMPANY,
a Minnesota corporation

By: _____

Its: _____

OWNER:

413 Main Street, LLC

By: _____

Its: _____

EXHIBIT A

DEPICTION OF ACCESS AREA

Inset Plat of Easement

EXHIBIT B**DESCRIPTION OF WORK ON OWNER'S PROPERTY**

1. Removal of existing concrete pavement.
2. Placement of of new permeable pavement. Permeable pavement to be brick pavers over 1" sand setting bed and 4" sub base
3. Removal of overhead electrical and communication lines.
4. Installation of new underground electrical and communication services in conduit from the utility pedestal to building electrical panel. Wiring for AT&T, Comcast, and WOW to be by utility communication companies.
5. .



February 14, 2020, 2020

Village President
Diane McGinley

Trustees
Kelli Christiansen
Bill Enright
Gary Fasules
Craig Pryde
Mark Senak
Steve Thompson

Village Manager
Mark T. Franz

Village Attorney
Gregory S. Mathews

Civic Center
535 Duane Street
Glen Ellyn, IL 60137

Administration
630-469-5000

Finance
630-547-5235

Community Development
630-547-5250

Police
65 South Park Boulevard
Glen Ellyn, IL 60137
630-469-1187

Public Works
30 South Lambert Road
Glen Ellyn, IL 60137
630-469-6756

The Village Links
485 Winchell Way
Glen Ellyn, IL 60137
630-469-8180

www.glenellyn.org
www.villagelinksgolf.com

Mr. Paul Svigos, Principal
413 Main Street, LLC.
1 West Dundee Road, Suite 200
Buffalo Grove, IL 60089

SUBJECT: The Letter of Intent
..... Glen Ellyn Civic Center Parking Garage / 413 Main Street

THIS IS A NON-BINDING LETTER OF INTENT, NOT A FORMAL AGREEMENT OR CONTRACT. TERMS ARE SUBJECT TO FURTHER NEGOTIATION, THE PARTIES' EXECUTION OF DEFINITIVE FINAL AGREEMENT(S) AND FORMAL VILLAGE BOARD APPROVAL.

Dear Mr. Svigos:

The purpose of this Non-Binding Letter of Intent ("Letter of Intent") is to record the discussions and tentative agreements that have been made between both parties over the last several weeks pertaining to the pending construction of the Glen Ellyn Civic Center Parking Garage to be constructed adjacent to your property. Upon the agreement and execution of this Letter of Intent by both parties, it will be used as the foundation to develop a Public Improvement and Release Agreement and Temporary Construction Easement for signature by both parties.

The detailed points of this Letter of Intent, include the following:...

1. The Diminution of Value due to the adjusted setback and The Diminution of Value due to the release of the Permanent Access Easement, approval of a Public Improvement and Release Agreement, and Temporary Construction Easement to allow construction to begin on the downtown Parking Garage......
= \$ 300,000 Cash.

NV

-
- A. Village acknowledges that 413 Main Building has only entered into discussions with Village on the basis of obtaining a zoning change or special use for the construction of residential apartments in the former Masonic Hall portion of the building as per the attached plans....
 - B. It is expected but not required that the funds are to be used for efforts to improve the 413 property.
 - C. Village agrees to assist in creating an additional address in sequence with the street. There is one number available (in addition to 413) in sequence which would need to be applied for all of the uses of your building.....

2. The Landscaping, Hardscape & Lighting Plan between the Parking Deck and the 413 Main Building. The Village has elected to incorporate a similar landscaping plan around the entire Parking Deck Area

- A. Village agrees to maintain continuity of material and finishes in-between the 413 Building and Parking Garage. The materials will cover the entire area between the two structures..
- B. Village agrees to provide and install the same permeable pavers being used at the 423 Main Street plaza and around the parking garage, as per attached Village renderings, for the entire area between the parking garage and the 413 Building and not concrete as shown on attached rendering. Village agrees to install pavers around any installed fences, landscaping or features installed by 413 Building Owner to help ensure a consistent appearance.
- C. Village will provide the same lighting and light fixtures used throughout the parking garage and the 423 N. Main Plaza area to adequately and tastefully illuminate the area between the parking garage and 413 Building... Village agrees to use a minimum light spillage from the parking garage and walkways onto the 413 Main Building. Village agrees to remove, bury, and or relocate any and all overhead utilities in between the 413 Building and parking garage.....
- D. Village agrees to provide 413 Building Owner and their consultants with copies (CAD Format) of all necessary buildings plans including but not limited to Civil Engineering Plans and any other Engineering Plans....

NV

3. The garbage plan for the 413 Building. The Village will work with you to determine a logical location accessible to the 413 Main Building on Village property [and convenient for the residents] for garbage collection. Further, the Village is open to discussions regarding creating a separate arrangement with the Village Contract Hauler for the 413 Main Building.

- A. Village will allow garbage collection to occur in a vacated parking space inside the parking garage in the event residents and neighbors are not properly disposing of their garbage. Residential waste, restaurant grease and waste containers from the former Soukups Building will be located no less than 50 feet from the 413 Building property line at the northeast corner of the 417 and 419 building property lines unless screened.
- B. Village agrees to enforce garbage violations directly with the responsible party (responsible party does not default to building owner), this shall include both commercial and residential tenants.

4. The Proposed Access Easement. The Village will dedicate a new access easement which will provide ingress/egress access from the 413 Main Building to Main Street.

- A. Village agrees to provide a non-exclusive use easement for the walkways around the parking garage.
- B. Village agrees to provide an access door to the parking garage's west side to encourage use of the 413 Building Pedway.
- C. Village agrees to provide an easement to 413 Building for the purpose of the rear porch to exit and land on Village property to allow egress.
- D. Village agrees that Owner may install a gate for the area between the north wall of the 413 building and the south wall of the parking garage.

5. Your request for dedicated parking permits in the parking garage. The Village is amenable to working with you and your new residential tenants for use of the parking garage during traditional non-business hours. Further, the Village is willing to offer up to 12 parking permits to be available to the 413 Main new residential tenants on a full-time basis for net new apartment units. The cost for these parking spaces to your new residential tenants will be \$700 per permit annually and are subject to future rate increases of no more than 10% per 5 year term along with other Village permit rates.

NV

6. Your request for the Village to properly connect the downspout for the 413 Main building to the new storm sewer system. The Village will provide a connection and connect downspouts to the storm sewer along the north side of the building which will collect runoff from the downspouts. It will be necessary for the 413 Main LLC to ensure all storm water drains inside the basement are run outside of the north wall to coordinate with the Village connection to the storm sewer. Village will indemnify 413 Building from any damage caused by water run-off during construction.

6. 7. The rerouted sanitary sewer system and the new sanitary connections for the 413 Main building. [This Task is on the Critical Path and shall be completed by April 1, 2020. Village agrees to grant 413 Main Building a reasonable time extension in the event that 413 encounters unforeseen conditions and is diligently working towards the completion and resolution the sanitary reroute.]

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- A. The Village will provide an upgraded connection and repair the broken storm line to the Main Street sanitary sewer contemporaneously with your construction or reimburse owner for this expense. (when will this be completed and since there is a 6" line running from 413 Building to the main in the street we may not need the larger line.)
- B. It will be necessary for the parties to work collaboratively regarding the scheduling of this improvement.
- C. The Owner of the 413 Main Building will re-route any plumbing in the 413 Main Building Internal Sanitary Sewer that is discharging into the east sanitary line and redirect to the existing 6" Main Street Sanitary Sewer Service.
- D. The Owner of the 413 Main Building will be required to develop a lift system in the basement to correctly drain the floor drains, washtub, etc. to the existing 6" Main Street Sanitary Sewer Service.
- E. The Owner of the 413 Main Building will be required to submit a plan to the Village for approval of how these internal sanitary sewer service improvements will be implemented.

7. 8. The Village will repair the broken downspout connection for the 413 Main Building under the Main Street Sidewalk. The Village will incorporate this repair into the Streetscape and Utility Improvement Project but notes it is not anticipated to commence until 2021 or reimburse for this work in conjunction with the sanitary sewer improvements.

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8. 9. The Village will provide a new water service line from the garage to 413 Main.

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The Village will provide a new water service line for your building as part of the CBD Streetscape and Utility project. The line would be installed on the Main Street side of the property from the Village's water main to a point approximately five feet outside the building foundation. The line would be connected to your building's existing water service line (2-inch copper) at that location. Please understand that with new water quality concerns, the line would only be increased in size if you had definitive near-term needs necessitating larger service line; i.e. such as for a fire sprinkler system.

9. 10. Village will take all necessary steps to minimize sound intrusion from the mechanical systems on the southwest corner. Village agrees that this *will* include the installation of acoustic sound louvers, insulation within ducts and extension of ductwork.

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10. 11. Payment Plan.

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The Village proposes to pay Mr. Svigos the total cash offer below as per follows.

- 33% to be paid to Svigos upon the execution of the Public Improvement and Release Agreement.
- 67% to be paid to Svigos within 30 days of the completion of the sanitary sewer relocation to Main St.
- These payments will consist of a Village check made out to Svigos Asset Management, Inc. "413 Main Street, LLC", as stated on your title.

We look forward to your execution of this Letter of Intent and Public Improvement and Release Agreement before "End of Business" on Friday, February 14, 2020.

NV

Agreed upon by:



Paul Svigos Nick Vittore "Authorized Signatory" Date 2/14/20
413 Main Street, LLC

Mark Franz Date
Village of Glen Ellyn

CC: William Holmer, Village of Glen Ellyn
Nick Vittore, 413 Main LLC

**PREPARED BY:
VILLAGE OF GLEN ELLYN
535 DUANE STREET
GLEN ELLYN, ILLINOIS 60137**

(Recorder's use only)

GRANT OF PERMANENT EASEMENT AGREEMENT

THIS GRANT OF EASEMENT is by and between the Village of Glen Ellyn, an Illinois home rule municipal corporation (the "Village") and CJI Main Street Property LLC, DuPage County, Illinois (the "Owner").

For and in consideration of the sum of Ten Dollars (\$10.00) and any other good and valuable consideration, receipt of which is hereby acknowledged, subject to the provisions contained in this Agreement, and in consideration of the mutual covenants and agreements set forth herein, Owner grants the Village a permanent easement, and the Village grants the Owner a license, as follows:

Section 1. Background. Owner is the owner of certain real estate situated at 417 N. Main Street, Glen Ellyn, Illinois, County of DuPage, State of Illinois, which real estate is legally described in Exhibit A (the "Subject Property"). Owner and Village have determined that it is in their respective best interests to enter into this Agreement in order to provide the Village with a sufficient interest in the Subject Property, constituted by an easement agreement, to fulfill the purposes described herein, and for the Village to grant to the owner a license to utilize the subject municipal property for customer access and deliveries.

Section 2. Grant of Permanent Easement. Subject to the provisions contained in this Agreement, Owner hereby grants, conveys, warrants, and dedicates a permanent non-exclusive easement to the Village and to its successors and assigns, in, at, upon, across,

over, under, and through that portion of the Subject Property legally described and depicted on Exhibit B (the "Easement Premises") attached and incorporated into this Agreement, for the purpose of installing, constructing, inspecting, operating, removing, repairing, cleaning, and maintaining the alley, and any appurtenances thereto, together with all reasonable rights of ingress and egress over, along, across, and upon the Subject Property necessary for the exercise of the rights granted herein.

Section 3. Access. Except in the event of an emergency, the Village shall provide Owner with at least seven calendar day's prior written notice of the dates and times it intends to perform any work associated with this Agreement. In addition, the Village shall be responsible for (i) ensuring that any work it conducts associated with this Agreement does not infringe on or interrupt Owner activities and (ii) taking all appropriate safety measures, including fencing all construction areas, to ensure that Owner, Staff, patrons, and other users are not at an increased risk for injury as a result of any work associated with the easement granted by this Agreement.

Section 4. Alley. Following the exercise by the Village of any easement rights granted by this Agreement, the Village shall be permanently responsible to install, maintain, repair and perform snow removal for the Easement Premises.

Section 5. Reserved Rights. Owner retains the right to use the Easement Premises in any manner that will not prevent or interfere in any way with the exercise by the Village of the rights granted herein; provided, however that Owner shall not permanently or temporarily improve or obstruct the Easement Premises or cause any improvements or obstructions to be constructed on the Easement Premises and shall be responsible for garbage and cleanliness as primary user of the improved premises, so as not to impair the exercise by the Village of the

rights granted herein without the express prior written consent of the Village.

Village shall not permanently or temporarily improve or obstruct the Easement Premises or cause any improvements or obstructions to be constructed on the Easement Premises and shall be responsible so as not to impair the exercise by the Owner of the rights granted herein without the express prior written consent of the Owner.

Section 6. Additional Easements. Owner shall have the right to grant other non-exclusive easements over, along, across or upon the Easement Premises; provided, however, that any such other easements shall be subject to this Agreement granted hereby; and provided further, that the Village shall have first consented in writing to the terms, nature, and location of any such other easements.

Section 7. Covenants Running with the Land. The easements and rights granted in this Agreement, the restrictions imposed by this Agreement, and the agreements and covenants contained in this Agreement shall be easements, licenses, rights, restrictions, agreements and covenants running with the land, shall be recorded against the Subject Property and shall be binding upon and inure to the benefit of the Owner and the Village and their respective heirs, executors, administrators, successors, assigns, agents, licensees, invitees, and representatives, including, without limitation, all subsequent owners of the Subject Property, or any portion thereof, and all persons claiming under them. If any of the easements, licenses, rights, restrictions, agreements, or covenants created by this Agreement would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such easements, rights, restrictions, agreements or covenants shall continue only until 21 years after the death of the last survivor

of the current Governor of the State of Illinois.

Section 8. Assignment of Rights. The Owner agrees that the Village may assign its rights or delegate its duties under this Agreement to any assignee: (a) who is reasonably competent to exercise the rights granted herein and the obligations imposed herein; and (b) who makes adequate assurances to the Owner that any activity performed pursuant to such assignment or delegation shall be conducted in a good and workmanlike manner.

Section 9. Indemnity. The Village shall hold harmless, release, and indemnify Owner, its tenants and their employees, agents, successors, and assigns, from all claims, causes of action, suits, damages, injuries to property and persons, including loss of life, demands, liability, loss, liens, penalties, fines, interest, costs and expenses (including, without limitation, reasonable attorneys' fees and litigation costs incurred by the Owner in connection therewith), which are in any manner related to the Village's and its officials, employees, agents, successors, and assigns, acts or omissions related to the easement granted by this Agreement and the work associated with such easement.

Section 10. Insurance. Prior to commencing any work associated with this Agreement, the Village shall obtain and provide to Owner evidence of liability insurance, with limits and coverage acceptable to Owner naming Owner, its tenants, employees, agents, successors, and assigns as additional insureds, and covering Owner, and all of its tenants, employees, agents, successors, and assigns from liability arising from the activities of the Village in connection with work associated with this Agreement. Such certificate of insurance shall provide that the insurance may not be cancelled or non-renewed without at least a 30-day advance written notice to Owner.

Section 11. No Lien. The Village shall not permit any lien to stand against Owner

property related to the easement granted in this Agreement or any improvements thereon for any labor or materials in connection with work performed under this Agreement. In the event of any such lien attaching to the subject property or any improvements thereon, the Village shall immediately have such lien released.

Section 12. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person shall be made, or be valid, against Owner or the Village.

Section 13. Amendment. This Agreement may be modified, amended or annulled only by the written agreement of the Owner and the Village.

Section 14. Exhibits. Exhibits A and B attached to this Agreement are incorporated herein and made a part hereof by this reference.

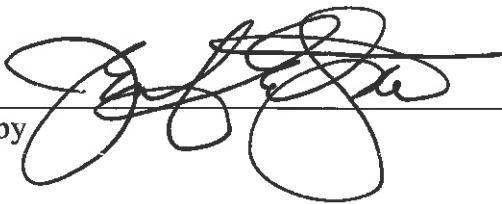
Section 15. Effective Date. This Agreement shall be deemed dated and become effective on the date the last of the parties signs as set forth below the signature of their duly authorized representatives.

IN WITNESS WHEREOF, the parties have signed and executed this Agreement on this ____ date of _____, 2020.

Village of Glen Ellyn

CJI Main Street Property LLC

Village President, Diane McGinley

by _____

Village Clerk

Secretary

Date

2-13-2020

Date

STATE OF ILLINOIS)
)SS
 COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Diane McGinley, President and John Chereskin, Village Clerk of the Village of Glen Ellyn, Illinois, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act for the uses and purposes herein set forth.

Given under my hand an official seal, this _____ day of _____, 2020.

AFFIX SEAL

 Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
)SS
 COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Jennifer Etheridge of the Glen Ellyn, DuPage County, Illinois, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act for the uses and purposes herein set forth.

Given under my hand an official seal, this 13 day of February, 2020.

AFFIX SEAL

Lindsey Kaminsky

 Notary Public

My Commission Expires: 03/07/2020

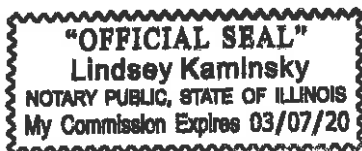


EXHIBIT A

The Subject Property – Legal Description

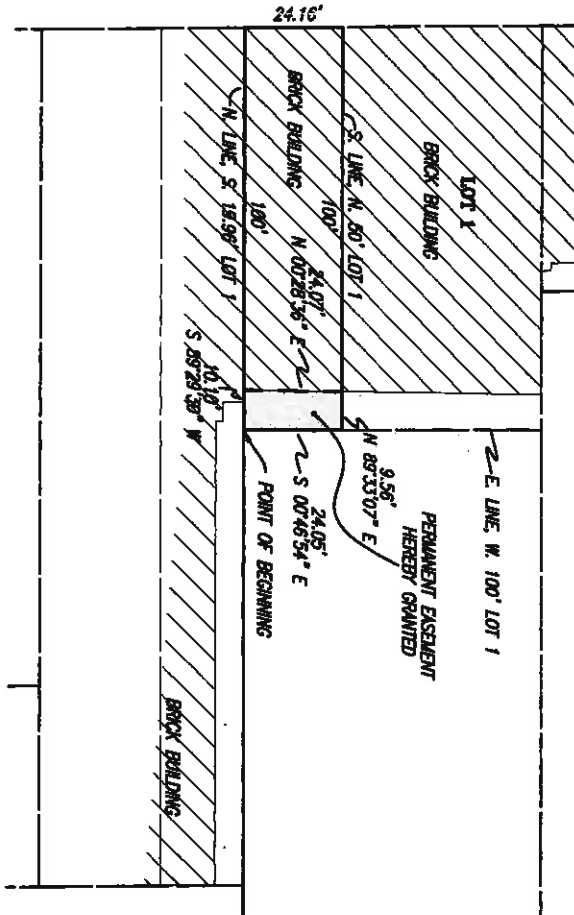
THE WEST 100.00 FEET OF LOT 1 (EXCEPT THE NORTH 50.00 FEET AND EXCEPT THE SOUTH 19.96 FEET THEREOF) OF THE SUBDIVISION OF LOT 6 IN BLOCK 12 IN ASSESSMENT DIVISION OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 7, 1906 IN BOOK 6 OF PLATS, PAGE 20 AS DOCUMENT 87151 IN DUPAGE COUNTY, ILLINOIS.

Legal Description

417 N. MAIN STREET - PERMANENT EASEMENT

PLAT OF EASEMENT

THAT PART OF THE WEST 100 FEET OF LOT 1 (EXCEPT THE NORTH 10.90 FEET THEREOF) OF THE SUBDIVISION OF LOT 6 IN BLOCK 12 IN ASSASSINMENT DIVISION OF SECTION 11, TOWNSHIP 35 NORTH, RANGE 20 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 27, 1904, AS DISCLOSED BY THE FOLLOWING: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 100 FEET OF SUD LOT 10 AND THE NORTH LINE OF THE SOUTH 10.90 FEET OF SUD LOT 10, 10.90 FEET TO THE EAST FACE OF A BRICK BUILDING, THENCE NORTH 80 DEGREES 35 MINUTES 33 SECONDS EAST, ON SUD EAST LINE, 24.05 FEET TO THE POINT OF BEGINNING, IN DUFARE COUNTY, ILLINOIS.



Scale: 1" = 30'

- 1) THE DURATION SHOW HEREON ARE FEET AND DECIMAL POINTS THEREOF;
- 2) ANY INCREMENT IN MEASUREMENT ASSIGNED UNDER THE CANNOT BE REPORTED TO THE SURVEYOR FOR EXPLANATION OR CORRECTION.
- 3) FOR BUILDING LINE, AND OTHER RESTRICTIONS NOT SHOWN HEREON REFER TO YOUR SETTING, DEED, CONTRACTS AND ZONING ORDINANCES.
- 4) NOT ALL THE ARITHMETICAL SUMMATION FOR THE PURPOSES OF THIS SURVEY.
- 5) THE SUBJECT PLOT, SHOW HEREON IS PER WARRANTY DEED RECORDED AUGUST 18, 2015 AS DOC. NO. K2015-091767.

State of Illinois) ss
County of Will)

4, Eric C. Cox, an Illinois Land Surveyor, do hereby certify that the legal description shown herein is a true and correct representation thereof.

Dated this 7th day of November, 2019

Eric C. Cox
Illinois Professional Land Surveyor No. 035-3604
Renewal Date: November 30, 2020

DIZ Industrial Surveying, Inc. Professional Design Firm 184002815

CHRGD: EDC	REASON	BY	DATE
			X1\PROACTIS\MO\9R0U\1990\7005\10P0\7005CONS EASE DWG

DATE: 07/02/19	DATE	SHEET 1 OF 1 DRAWING NUMBER 7005EASE
PROJECT NUMBER		
1950-7005		

DLZ
INDUSTRIAL SURVEYING, INC.
1600 N. AVENUE, SUITE B, JOLIET, IL 60431
573-0700 (ILL) 724-0640 FAX (ILL) 724-0649

**M.A. MORTENSON COMPANY
GLEN ELLYN PARKING GARAGE
417 N MAIN ST
PLAT OF EASEMENT**

DATE: 07/02/19	DATE	SHEET 1 OF 1 DRAWING NUMBER 7005EASE
PROJECT NUMBER		
1950-7005		

EXHIBIT B

CONSTRUCTION LICENSE AND ACCESS AGREEMENT

This Construction License and Access Agreement (“**Agreement**”) is made as of January 27, 2020, by and between CJI MAIN STREET PROPERTY LLC (“**Owner**”), and M. A. MORTENSON COMPANY, a Minnesota corporation (“**Mortenson Construction**”).

RECITALS

A. Owner owns land located at 417 N. Main Street, Glen Ellyn IL 60137 (the “**Owner Property**”).

B. Mortenson Construction is performing work in the area of the Owner Property for the Village of Glen Ellyn (“**Village**”) and has requested that Owner grant to Mortenson Construction the right to use the area of the Owner Property depicted on Exhibit A attached hereto (the “**Access Area**”) for the purposes of performing the work described on Exhibit B attached hereto and Mortenson Construction’s other work for the Village in the area of the Owner Property (collectively, the “**Work**”) during the period of time described in this Agreement.

C. Owner is willing to grant Mortenson Construction the rights described herein for the purposes of installing and accessing the Work.

D. Mortenson Construction is willing to accept the Agreement herein granted on the terms and conditions hereinafter stated.

THEREFORE, in consideration of the covenants and agreements hereafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortenson Construction and Owner hereby agree as follows:

1. Grant. Owner hereby grants to Mortenson Construction the exclusive and irrevocable right and agreement to use the Access Area on the Owner Property to perform and install the Work, including without limitation the storing of construction materials and equipment, laydown and pickup of construction materials, dumpster storage and use, truck access to the Access Area for purposes of performing the Work, and such other uses as may be reasonably ancillary thereto for the Construction Period (defined below), as it may be extended as set forth herein.

2. Term. The term of this Agreement, also known as the Construction Period, will begin on the date that Mortenson Construction commences Work on the Owner Property, and continue for a period of 730 days thereafter (the “**Initial Construction Period**”). Upon written notice by Mortenson Construction, the Construction Period will be extended by up to four thirty (30) day periods (each, an “**Extension Period**”).

3. Use of the Owner Property. This Agreement is granted to Mortenson Construction for the purposes stated above. Mortenson Construction will not be entitled to use the Access Area for any other purpose or for any other reason. Prior to the expiration of the Construction Period, Mortenson Construction will remove all property, debris, and trash from the Owner Property. Mortenson Construction will not bring to or upon, or cause to be brought to or upon, the Access Area any hazardous wastes or substances as defined by federal and state law, except in compliance with applicable law.

4. Insurance. Mortenson Construction will maintain comprehensive general liability, professional liability, and employer's liability for bodily injury and property damage liability, covering all of the operations of Mortenson Construction, with limits of liability which will not be less than Two Million Dollars (\$2,000,000) combined single limit per occurrence or One Million Dollars (\$1,000,000) bodily injury per occurrence and One Million Dollars (\$1,000,000) property damage per occurrence. Owner will be named as an additional insured under such policies.

5. Miscellaneous.

a. Notices. All notices, demands, acceptances and approval required hereunder will be in writing and served either by overnight delivery by a reputable express delivery carrier or by personal delivery, to the address shown below, until notification of a change of address:

Owner's Address: CJI Main Street Property LLC
1800 Paddock Ct.
Naperville, IL 60565

Mortenson Construction's
address:

300 Park Blvd.
Suite 100
Itasca, IL 60143
Attn: Andy Stapleton

Notices, properly addressed and mailed will be deemed delivered on the earlier of actual receipt or the first business day following such mailing.

b. Entire Agreement. This instrument constitutes the entire agreement between the parties respecting this Agreement. This Agreement cannot be amended except in writing executed by both parties hereto.

c. Binding Effect. This Agreement will inure to the benefit of and bind the respective successors, heirs, personal representatives and permitted assigns of the parties hereto.

d. Counterparts. This Agreement may be signed in two or more counterparts, each of which will be an original and all of which will constitute one and the same instrument.

e. Governing Law. This Agreement is governed by the laws of the State of Illinois.

f. No Joint Venture. Nothing herein will be construed to create a joint venture between the parties hereto

g. Authority. Owner represents, warrants and covenants that (i) it has full power and authority to grant the Agreement provided for herein, and that no consent of any third party, is required in connection herewith and (ii) the individual executing this Agreement on behalf of Owner has the full power and authority to do so. Mortenson Construction represents and warrants that (i) it has the full power and authority to enter into this Agreement and perform its obligations hereunder without the necessity of the approval or consent of any third party and (ii) the individual executing this Agreement on behalf of Mortenson Construction has the full power and authority to do so.

[Signature Pages Follow]

**SIGNATURE PAGE
TO
CONSTRUCTION ACCESS AGREEMENT
BETWEEN
CJI MAIN STREET PROPERTY LLC AND
M. A. MORTENSON COMPANY**

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

MORTENSON CONSTRUCTION:

M. A. MORTENSON COMPANY,
a Minnesota corporation

By: _____
Its: _____

OWNER:

CJI Main St. Property, LLC

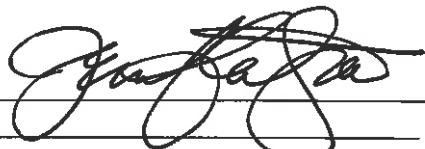
By:  _____
Its: _____
CO-OWNER

EXHIBIT A
DEPICTION OF ACCESS AREA

Inset Plat of Easement

P.L.N. 05-11-328-006

Legal Description

417 N. MAIN STREET - TEMPORARY CONSTRUCTION EASEMENT

PLAT OF EASEMENT

THAT PART OF THE WEST 100 FEET OF LOT 1 (EXCEPT THE NORTH 90.00 FEET THEREOF) OF THE SUBDIVISION OF LOT 6 IN BLOCK 12 IN ASSESSMENT DIVISION OF SECTION 11, TOWNSHIP 20 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 7, 1908 AS DOCUMENT NO. 87511; DESCRIBED AS FOLLOWS, BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 100 FEET OF SAID LOT AND THE NORTH LINE OF THE SOUTH 18.00 FEET OF SAID LOT; THENCE SOUTH 80 DEGREES 28 MINUTES 30 SECONDS WEST, ON THE NORTH LINE OF THE SOUTH 18.00 FEET OF SAID LOT, 10.10 FEET TO THE EAST FACE OF A BRICK BUILDING, THENCE NORTH 00 DEGREES 38 MINUTES 30 SECONDS EAST, ON SAID EAST FACE OF BRICK BUILDING, 24.07 FEET TO THE SOUTH LINE OF THE NORTH 80 FEET OF SAID LOT; THENCE NORTH 80 DEGREES 33 MINUTES 07 SECONDS EAST, ON SAID SOUTH LINE, 8.80 FEET TO THE EAST LINE OF THE WEST 100 FEET OF SAID LOT; THENCE SOUTH 00 DEGREES 46 MINUTES 54 SECONDS EAST, ON SAID EAST LINE, 24.00 FEET TO THE POINT OF BEGINNING, IN BUFFALO COUNTY, ILLINOIS.

SAID EASEMENT CONTAINING 237 SQUARE FEET OR 0.005 ACRES MORE OR LESS.

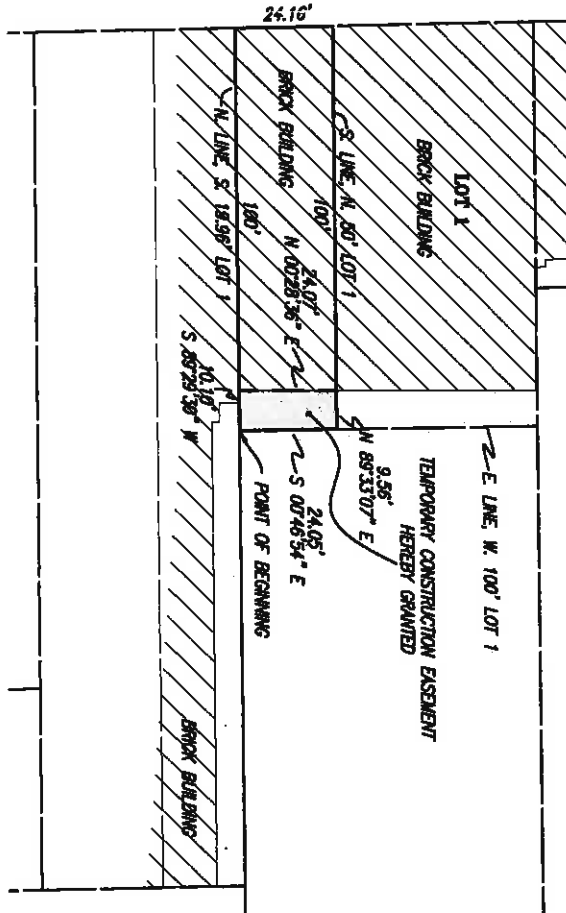


EXHIBIT A

- NOTES:**
- 1) THE DIMENSIONS SHOWN HEREON ARE FEET AND DECIMAL POINTS THEREOF.
 - 2) ANY IMPROVEMENT IN MEASUREMENT RECORDED UPON THE GROUND SHOULD BE PROMPTLY REPORTED TO THE SURVEYOR FOR EXPLANATION OR CORRECTION.
 - 3) FOR BUILDING LINE AND OTHER RESTRICTIONS NOT SHOWN HEREON REFER TO YOUR RECORDS, DEED, CONTRACTS AND ZONING ORDINANCES.
 - 4) NOT ALL SITE IMPROVEMENTS SHOWN FOR THE PURPOSES OF THIS SURVEY.
 - 5) THE SUBJECT PARCEL SHOWN HEREON IS PER WHARFNEY DEED RECORDED AUGUST 18, 2015 AS DOC. NO. 182015-081707.



GLEN ELLYN
M.A. MORTENSON COMPANY
GLEN ELLYN PARKING GARAGE
417 N MAIN ST
PLAT OF EASEMENT

DATE	BY	DATE	BY	DATE	BY
DESIGNED -	APPROVED -	REVISION			
DATE 07/02/19	DATE 07/02/19				
SCALE 1" = 30'	SCALE 1" = 30'				
PROJECT NUMBER 1950-7005	PROJECT NUMBER 1950-7005				

State of Illinois)
County of Will) SS
I, Eric C. Cox, an Illinois Land Surveyor, do hereby certify that the legal description shown hereon is a true and correct representation thereof.
Dated this 2nd day of July, 2019
Eric C. Cox
Illinois Professional Land Surveyor No. 035-3804
Renewed Date: November 30, 2020
DLZ Industrial Surveying, Inc. Professional Design Firm 184002815
3601
PROFESSIONAL
LAND
SURVEYOR
STATE OF
ILLINOIS

EXHIBIT B**DESCRIPTION OF WORK ON OWNER'S PROPERTY**

1. Removal of 232 SF +/- of existing concrete pavement.
2. Placement of 237 SF +/- of new permeable pavement. Permeable pavement to be brick pavers over 1" sand setting bed and 4" sub base
3. Removal of overhead electrical and communication lines.
4. Installation of new underground electrical and communication services in conduit from the utility pedestal to building electrical panel. Wiring for AT&T, Comcast, and WOW to be by utility communication companies.
5. Installation of fence around existing air conditioning unit.

**PREPARED BY:
VILLAGE OF GLEN ELLYN
535 DUANE STREET
GLEN ELLYN, ILLINOIS 60137**

(Recorder's use only)

GRANT OF PERMANENT EASEMENT AGREEMENT

THIS GRANT OF EASEMENT is by and between the Village of Glen Ellyn, an Illinois home rule municipal corporation (the "Village") and Sharone Lavi, DuPage County, Illinois (the "Owner").

For and in consideration of the sum of Ten Dollars (\$10.00) and any other good and valuable consideration, receipt of which is hereby acknowledged, subject to the provisions contained in this Agreement, and in consideration of the mutual covenants and agreements set forth herein, Owner grants the Village a permanent easement, and the Village grants the Owner a license, as follows:

Section 1. Background. Owner is the owner of certain real estate situated at 419 and 421 N. Main Street, Glen Ellyn, Illinois, County of DuPage, State of Illinois, which real estate is legally described in Exhibit A (the "Subject Property"). Owner Sharone Lavi and Village have determined that it is in their respective best interests to enter into this Agreement in order to provide the Village with a sufficient interest in the Subject Property, constituted by an easement agreement, to fulfill the purposes described herein, and for the Village to grant to the owner a license to utilize the subject municipal property for customer access and deliveries.

Section 2. Grant of Permanent Easement. Subject to the provisions contained in this Agreement, Owner Sharone Lavi hereby grants, conveys, warrants, and

dedicates a permanent non-exclusive easement to the Village and to its successors and assigns, in, at, upon, across, over, under, and through that portion of the Subject Property legally described and depicted on Exhibit B (the "Easement Premises") attached and incorporated into this Agreement, for the purpose of installing, constructing, inspecting, operating, removing, repairing, cleaning, and maintaining the alley, and any appurtenances thereto, together with all reasonable rights of ingress and egress over, along, across, and upon the Subject Property necessary for the exercise of the rights granted herein.

Section 3. Access. Except in the event of an emergency, the Village shall provide Owner S h a r o n e L a v i with at least seven calendar day's prior written notice of the dates and times it intends to perform any work associated with this Agreement. In addition, the Village shall be responsible for (i) ensuring that any work it conducts associated with this Agreement does not infringe on or interrupt Owner activities and (ii) taking all appropriate safety measures, including fencing all construction areas, to ensure that Owner, Staff, patrons, and other users are not at an increased risk for injury as a result of any work associated with the easement granted by this Agreement.

Section 4. Alley. Following the exercise by the Village of any easement rights granted by this Agreement, the Village shall be permanently responsible to install, maintain, repair and perform snow removal for the Easement P remises.

Section 5. Reserved Rights. Owner S h a r o n e L a v i retains the right to use the Easement Premises in any manner that will not prevent or interfere in any way with the exercise by the Village of the rights granted herein; provided, however that Owner S h a r o n e L a v i shall not permanently or temporarily improve or obstruct the Easement Premises or cause any improvements or obstructions to be constructed on the Easement

Premises and shall be responsible for garbage and cleanliness as primary user of the improved premises, so as not to impair the exercise by the Village of the rights granted herein without the express prior written consent of the Village.

Village shall not permanently or temporarily improve or obstruct the Easement Premises or cause any improvements or obstructions to be constructed on the Easement Premises and shall be responsible so as not to impair the exercise by the Owner of the rights granted herein without the express prior written consent of the Owner.

Section 6. Additional Easements. Owner S h a r o n e L a v i shall have the right to grant other non-exclusive easements over, along, across or upon the Easement Premises; provided, however, that any such other easements shall be subject to this Agreement granted hereby; and provided further, that the Village shall have first consented in writing to the terms, nature, and location of any such other easements.

Section 7. Covenants Running with the Land. The easements and rights granted in this Agreement, the restrictions imposed by this Agreement, and the agreements and covenants contained in this Agreement shall be easements, licenses, rights, restrictions, agreements and covenants running with the land, shall be recorded against the Subject Property and shall be binding upon and inure to the benefit of the Owner and the Village and their respective heirs, executors, administrators, successors, assigns, agents, licensees, invitees, and representatives, including, without limitation, all subsequent owners of the Subject Property, or any portion thereof, and all persons claiming under them. If any of the easements, licenses, rights, restrictions, agreements, or covenants created by this Agreement would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other

statutory or common law rules imposing time limits, then such easements, rights, restrictions, agreements or covenants shall continue only until 21 years after the death of the last survivor of the current Governor of the State of Illinois.

Section 8. Assignment of Rights. The Owner agrees that the Village may assign its rights or delegate its duties under this Agreement to any assignee: (a) who is reasonably competent to exercise the rights granted herein and the obligations imposed herein; and (b) who makes adequate assurances to the Owner that any activity performed pursuant to such assignment or delegation shall be conducted in a good and workmanlike manner.

Section 9. Indemnity. The Village shall hold harmless, release, and indemnify Owner, Sharone Lavi its tenants and their employees, agents, successors, and assigns, from all claims, causes of action, suits, damages, injuries to property and persons, including loss of life, demands, liability, loss, liens, penalties, fines, interest, costs and expenses (including, without limitation, reasonable attorneys' fees and litigation costs incurred by the Owner in connection therewith), which are in any manner related to the Village's and its officials, employees, agents, successors, and assigns, acts or omissions related to the easement granted by this Agreement and the work associated with such easement.

Section 10. Insurance. Prior to commencing any work associated with this Agreement, the Village shall obtain and provide to Owner evidence of liability insurance, with limits and coverage acceptable to Owner naming Owner, its tenants, employees, agents, successors, and assigns as additional insureds, and covering Owner, and all of its tenants, employees, agents, successors, and assigns from liability arising from the activities of the Village in connection with work associated with this Agreement. Such certificate of

insurance shall provide that the insurance may not be cancelled or non-renewed without at least a 30-day advance written notice to Owner.

Section 11. No Lien. The Village shall not permit any lien to stand against Owner property related to the easement granted in this Agreement or any improvements thereon for any labor or materials in connection with work performed under this Agreement. In the event of any such lien attaching to the subject property or any improvements thereon, the Village shall immediately have such lien released.

Section 12. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person shall be made, or be valid, against Owner or the Village.

Section 13. Amendment. This Agreement may be modified, amended or annulled only by the written agreement of the Owner and the Village.

Section 14. Exhibits. Exhibits A and B attached to this Agreement are incorporated herein and made a part hereof by this reference.

Section 15. Effective Date. This Agreement shall be deemed dated and become effective on the date the last of the parties signs as set forth below the signature of their duly authorized representatives.

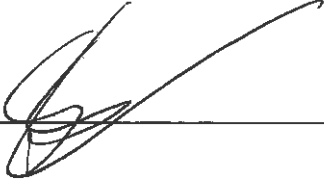
[Signature page to follow]

IN WITNESS WHEREOF, the parties have signed and executed this Agreement on this _____ date of _____, 2020.

Village of Glen Ellyn

Sharone Lavi

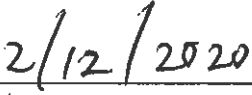
Village President, Diane McGinley

by  _____

Village Clerk

Secretary

Date

 _____
Date

STATE OF ILLINOIS)
)SS
 COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Diane McGinley, President and John Chereskin, Village Clerk of the Village of Glen Ellyn, Illinois, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act for the uses and purposes herein set forth.

Given under my hand an official seal, this _____ day of _____, 2020

AFFIX SEAL

 Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
)SS
 COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Sharone Lavi of the Glen Ellyn, DuPage County, Illinois, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act for the uses and purposes herein set forth.

Given under my hand an official seal, this 12 day of February, 2020.

AFFIX SEAL

Lindsey Kamlnsky
 Notary Public

My Commission Expires: 03/07/2020

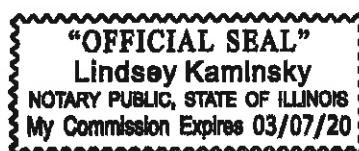


EXHIBIT A

Subject Property – Legal Descriptions

419 N. Main St., Glen Ellyn, IL

THE NORTH 50 FEET OF THE WEST 100 FEET OF LOT 1 IN SUBDIVISION OF LOT 6 IN BLOCK 12 IN ASSESSMENT DIVISION OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 7, 1906 AS DOCUMENT NUMBER 87151, IN DUPAGE COUNTY, ILLINOIS.

421 N. Main St., Glen Ellyn, IL

LOT 6 IN BLOCK 12 IN COUNTY CLERK'S FIFTH ASSESSMENT DIVISION, IN SECTION 111 TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 3, 1906 AS DOCUMENT NUMBER 88055, IN DUPAGE COUNTY, ILLINOIS.

P.I.N. 05-11-328-004
05-11-328-005

Legal Description**421 N. MAIN STREET - PARCEL 1**

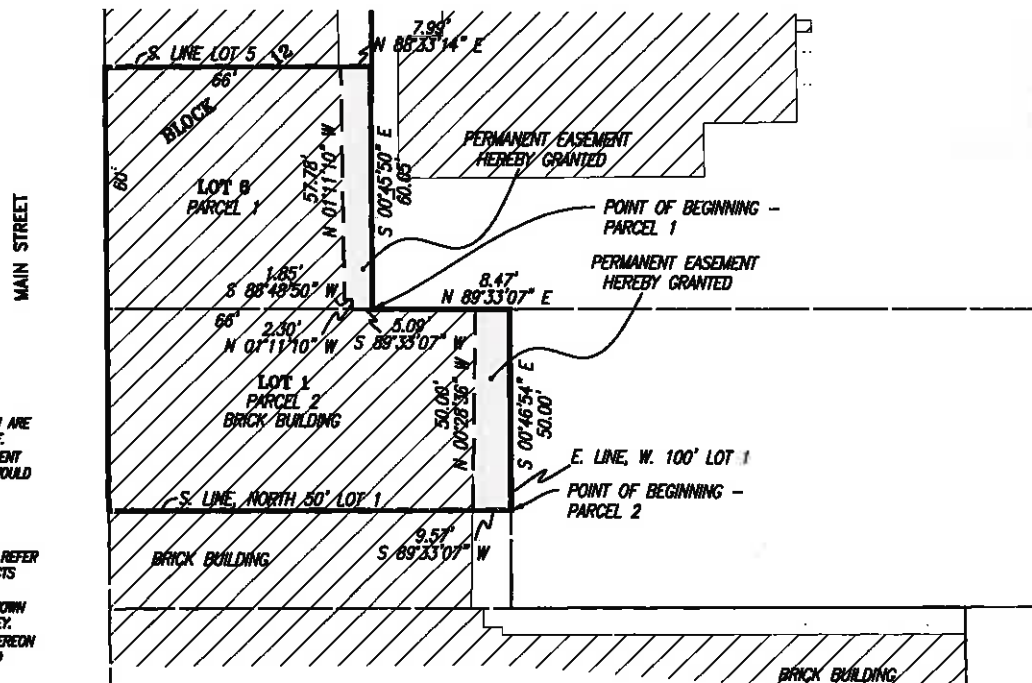
THAT PART OF LOT 6 IN BLOCK 12 IN COUNTY CLERK'S FIFTH ASSESSMENT DIVISION, IN SECTION 11, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 3, 1906, AS DOCUMENT NO. 88055; DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE SOUTH 89 DEGREES 33 MINUTES 07 SECONDS WEST, ON THE SOUTH LINE OF SAID LOT, 5.08 FEET TO THE FACE OF A BRICK BUILDING; THENCE NORTH 01 DEGREES 11 MINUTES 10 SECONDS WEST, ON SAID BRICK BUILDING FACE, 2.30 FEET TO A CORNER IN SAID BRICK BUILDING FACE; THENCE SOUTH 89 DEGREES 48 MINUTES 50 SECONDS WEST, ON SAID BRICK BUILDING FACE, 1.85 FEET TO A CORNER IN SAID BRICK BUILDING FACE; THENCE NORTH 01 DEGREES 11 MINUTES 10 SECONDS WEST, ON SAID BRICK BUILDING FACE AND THE NORTHERLY EXTENSION THEREOF, 57.78 FEET TO THE NORTH LINE OF SAID LOT 6; THENCE NORTH 88 DEGREES 33 MINUTES 14 SECONDS EAST, ON SAID NORTH LINE, 7.99 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE SOUTH 00 DEGREES 45 MINUTES 50 SECONDS EAST, ON THE EAST LINE OF SAID LOT, 60.05 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

SAID EASEMENT CONTAINING 426 SQUARE FOOT OR 0.010 ACRES MORE OR LESS.

419 N. MAIN STREET - PARCEL 2

THAT PART OF THE NORTH 50 FEET OF THE WEST 100 FEET OF LOT 1 IN SUBDIVISION OF LOT 6 IN BLOCK 12 IN ASSESSMENT DIVISION OF SECTION 11, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 7, 1906 AS DOCUMENT NO. 87151, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 100 FEET OF SAID LOT WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID LOT; THENCE SOUTH 89 DEGREES 33 MINUTES 07 SECONDS WEST, ON THE SOUTH LINE OF THE NORTH 50 FEET OF SAID LOT; 9.57 FEET TO THE BRICK BUILDING FACE; THENCE NORTH 00 DEGREES 28 MINUTES 38 SECONDS WEST, ON SAID BRICK BUILDING FACE, 50.00 FEET TO THE NORTH LINE OF SAID LOT; THENCE NORTH 89 DEGREES 33 MINUTES 07 SECONDS EAST, ON THE NORTH LINE OF SAID LOT, 8.47 FEET TO THE EAST LINE OF THE WEST 100 FEET OF SAID LOT; THENCE SOUTH 00 DEGREES 46 MINUTES 54 SECONDS EAST, ON SAID EAST LINE, 50.00 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

SAID EASEMENT CONTAINING 451 SQUARE FOOT OR 0.010 ACRES MORE OR LESS.

**NOTES:**

- 1) THE DIMENSIONS SHOWN HEREON ARE FEET AND DECIMAL POINTS THEREOF.
- 2) ANY DISCREPANCY IN MEASUREMENT DISCOVERED UPON THE GROUND SHOULD BE PROMPTLY REPORTED TO THE SURVEYOR FOR EXPLANATION OR CORRECTION.
- 3) FOR BUILDING LINE AND OTHER RESTRICTIONS NOT SHOWN HEREON REFER TO YOUR ABSTRACT, DEED, CONTRACTS AND ZONING ORDINANCES.
- 4) NOT ALL SITE IMPROVEMENTS SHOWN FOR THE PURPOSES OF THIS SURVEY.
- 5) THE SUBJECT PARCEL SHOWN HEREON IS PER QUIT CLAIM DEED RECORDED JANUARY 28, 2019 AS DOC. NO. R2019-008391.

State of Illinois }
County of Will } SS

I, Eric C. Cox, an Illinois Land Surveyor, do hereby certify that the legal description shown hereon is a true and correct representation thereof.

Dated this 7th day of November, 2019

Eric C. Cox
Illinois Professional Land Surveyor No. 035-3604
Renewal Date: November 30, 2020
DLZ Industrial Surveying, Inc. Professional Design Firm 184002815



DLZ
INDUSTRIAL SURVEYING, INC.
80 WILSON ROAD, UNIT D, JOLIET, IL 60431
TELEPHONE (815) 728-8848 FAX (815) 728-8848

GLEN ELLYN

VILLAGE OF GLEN ELLYN
GLEN ELLYN PARKING GARAGE
419-421 N MAIN ST
PLAT OF EASEMENT

ILLINOIS

DRAWN: CSH	CHK'D: EDC	No.	REVISION	BY	DATE
DESIGNED: -	APPROV'D: EDC				
DATE: 07/02/19					
SCALE: 1" = 30'					
PROJECT NUMBER					
1950-7005					

SHEET 1
OF 1
DRAWING NUMBER
7005EASE

CONSTRUCTION LICENSE AND ACCESS AGREEMENT

This Construction License and Access Agreement (“**Agreement**”) is made as of January 27, 2020, by and between SHARONE LAVI (“**Owner**”), and M. A. MORTENSON COMPANY, a Minnesota corporation (“**Mortenson Construction**”).

RECITALS

A. Owner owns land located at 419 N. Main Street, Glen Ellyn IL 60137 and 421 N. Main Street, Glen Ellyn, IL 60137 (the “**Owner Property**”).

B. Mortenson Construction is performing work in the area of the Owner Property for the Village of Glen Ellyn (“**Village**”) and has requested that Owner grant to Mortenson Construction the right to use the area of the Owner Property depicted on Exhibit A attached hereto (the “**Access Area**”) for the purposes of performing the work described on Exhibit B attached hereto and Mortenson Construction’s other work for the Village in the area of the Owner Property (collectively, the “**Work**”) during the period of time described in this Agreement.

C. Owner is willing to grant Mortenson Construction the rights described herein for the purposes of installing and accessing the Work.

D. Mortenson Construction is willing to accept the Agreement herein granted on the terms and conditions hereinafter stated.

THEREFORE, in consideration of the covenants and agreements hereafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortenson Construction and Owner hereby agree as follows:

1. Grant. Owner hereby grants to Mortenson Construction the exclusive and irrevocable right and agreement to use the Access Area on the Owner Property to perform and install the Work, including without limitation the storing of construction materials and equipment, laydown and pickup of construction materials, dumpster storage and use, truck access to the Access Area for purposes of performing the Work, and such other uses as may be reasonably ancillary thereto for the Construction Period (defined below), as it may be extended as set forth herein.

2. Term. The term of this Agreement, also known as the Construction Period, will begin on the date that Mortenson Construction commences Work on the Owner Property, and continue for a period of 730 days thereafter (the “**Initial Construction Period**”). Upon written notice by Mortenson Construction, the Construction Period will be extended by up to four thirty (30) day periods (each, an “**Extension Period**”).

3. Use of the Owner Property. This Agreement is granted to Mortenson Construction for the purposes stated above. Mortenson Construction will not be entitled to use the Access Area for any other purpose or for any other reason. Prior to the expiration of the Construction Period, Mortenson Construction will remove all property, debris, and trash from the Owner Property. Mortenson Construction will not bring to or upon, or cause to be brought to or upon, the Access Area any hazardous wastes or substances as defined by federal and state law, except in compliance with applicable law.

4. Insurance. Mortenson Construction will maintain comprehensive general liability, professional liability, and employer's liability for bodily injury and property damage liability, covering all of the operations of Mortenson Construction, with limits of liability which will not be less than Two Million Dollars (\$2,000,000) combined single limit per occurrence or One Million Dollars (\$1,000,000) bodily injury per occurrence and One Million Dollars (\$1,000,000) property damage per occurrence. Owner will be named as an additional insured under such policies.

5. Miscellaneous.

a. Notices. All notices, demands, acceptances and approval required hereunder will be in writing and served either by overnight delivery by a reputable express delivery carrier or by personal delivery, to the address shown below, until notification of a change of address:

Owner's Address: 5070 N. Kimberly Ave No C.
Chicago, IL 60630
Attn: Ariel Darmoni

Mortenson Construction's
address:

300 Park Blvd.
Suite 100
Itasca, IL 60143
Attn: Andy Stapleton

Notices, properly addressed and mailed will be deemed delivered on the earlier of actual receipt or the first business day following such mailing.

b. Entire Agreement. This instrument constitutes the entire agreement between the parties respecting this Agreement. This Agreement cannot be amended except in writing executed by both parties hereto.

c. Binding Effect. This Agreement will inure to the benefit of and bind the respective successors, heirs, personal representatives and permitted assigns of the parties hereto.

d. Counterparts. This Agreement may be signed in two or more counterparts, each of which will be an original and all of which will constitute one and the same instrument.

e. Governing Law. This Agreement is governed by the laws of the State of Illinois.

f. No Joint Venture. Nothing herein will be construed to create a joint venture between the parties hereto

g. Authority. Owner represents, warrants and covenants that (i) it has full power and authority to grant the Agreement provided for herein, and that no consent of any third party, is required in connection herewith and (ii) the individual executing this Agreement on behalf of Owner has the full power and authority to do so. Mortenson Construction represents and warrants that (i) it has the full power and authority to enter into this Agreement and perform its obligations hereunder without the necessity of the approval or consent of any third party and (ii) the individual executing this Agreement on behalf of Mortenson Construction has the full power and authority to do so.

[Signature Pages Follow]

SIGNATURE PAGE
TO
CONSTRUCTION ACCESS AGREEMENT
BETWEEN
SHARONE LAVI AND
M. A. MORTENSON COMPANY

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

MORTENSON CONSTRUCTION:

M. A. MORTENSON COMPANY,
a Minnesota corporation

By: _____
Its: _____

OWNER:

Sharone Lavi

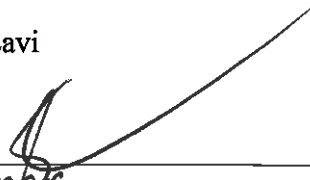
By:  _____
Its: Owner _____

EXHIBIT A
DEPICTION OF ACCESS AREA

Inset Plat of Easement

P.L.N. 05-11-328-004
05-11-328-005

PLAT OF EASEMENT

Legal Description
421 N. MAIN STREET - PARCEL 1

THAT PART OF LOT 6 IN BLOCK 12 IN COUNTY CLAY'S 5TH ASSESSMENT DIVISION, IN SECTION 11, TOWNSHIP 30 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 3, 1906, AS DOCUMENT NO. 87151, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 6, THENCE SOUTH 89 DEGREES 33 MINUTES 07 SECONDS WEST, ON THE SOUTH LINE OF SAID LOT, 5.00 FEET TO THE FACE OF A BRICK BUILDING, THENCE NORTH 01 DEGREES 11 MINUTES 10 SECONDS WEST, ON SAID BRICK BUILDING FACE, 2.50 FEET TO A CORNER IN SAID BRICK BUILDING FACE, THENCE SOUTH 89 DEGREES 33 MINUTES 07 SECONDS WEST, ON THE NORTH LINE OF SAID LOT, 9.57 FEET TO THE BRICK BUILDING FACE, THENCE NORTH 01 DEGREES 11 MINUTES 10 SECONDS WEST, ON THE NORTH LINE OF SAID LOT, 6.47 FEET TO THE EAST LINE OF THE WEST 100 FEET OF SAID LOT, THENCE SOUTH 00 DEGREES 14 MINUTES 10 SECONDS EAST, ON SAID NORTH LINE, 7.89 FEET TO THE NORTHEAST CORNER OF SAID LOT 6, THENCE SOUTH 00 DEGREES 14 MINUTES 10 SECONDS EAST, ON THE EAST LINE OF SAID LOT, 80.00 FEET TO THE POINT OF BEGINNING, IN DAPNE COUNTY, ILLINOIS.

SAD EASEMENT CONTAINING 420 SQUARE FEET OR 0.010 ACRES MORE OR LESS.

419 N. MAIN STREET - PARCEL 2

THAT PART OF THE NORTH 50 FEET OF THE WEST 100 FEET OF LOT 1 IN SUBDIVISION OF LOT 6 IN BLOCK 12 IN ASSESSMENT DIVISION OF SECTION 11, TOWNSHIP 30 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 1, 1906, AS DOCUMENT NO. 87151, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 100 FEET OF SAID LOT WITH THE SOUTH LINE OF THE NORTH 50 FEET OF SAID LOT, THENCE SOUTH 89 DEGREES 33 MINUTES 07 SECONDS WEST, ON THE SOUTH LINE OF THE NORTH 50 FEET OF SAID LOT, 9.57 FEET TO THE BRICK BUILDING FACE, THENCE NORTH 01 DEGREES 11 MINUTES 10 SECONDS WEST, ON SAID BRICK BUILDING FACE, 2.50 FEET TO THE NORTH LINE OF SAID LOT, THENCE NORTH 01 DEGREES 11 MINUTES 10 SECONDS WEST, ON THE NORTH LINE OF SAID LOT, 6.47 FEET TO THE EAST LINE OF THE WEST 100 FEET OF SAID LOT, THENCE SOUTH 00 DEGREES 14 MINUTES 10 SECONDS EAST, ON SAID EAST LINE, 80.00 FEET TO THE POINT OF BEGINNING, IN DAPNE COUNTY, ILLINOIS.

SAD EASEMENT CONTAINING 401 SQUARE FEET OR 0.010 ACRES MORE OR LESS.

- NOTES:**
- 1) THE DIMENSIONS SHOWN HEREIN ARE FEET AND DECIMAL POINTS THEREOF.
 - 2) ANY DISCREPANCY IN MEASUREMENT DISCLOSED UPON THE GROUND SHOULD BE PROMPTLY REPORTED TO THE SURVEYOR FOR EXPLANATION OR CORRECTION.
 - 3) FOR BUILDING LINE AND OTHER RESTRICTIONS NOT SHOWN HEREIN REFER TO YOUR ABSTRACT, DEED, CONTRACTS AND ZONING ORDINANCES.
 - 4) NOT ALL SITE IMPROVEMENTS SHOWN FOR THE PARCELS OF THIS SURVEY.
 - 5) THE SURVEY PANEL SHOWN HEREIN IS PER CITY CLAM USED REQUIRED JANUARY 28, 2019 AS DOC. NO. 18019-004391.

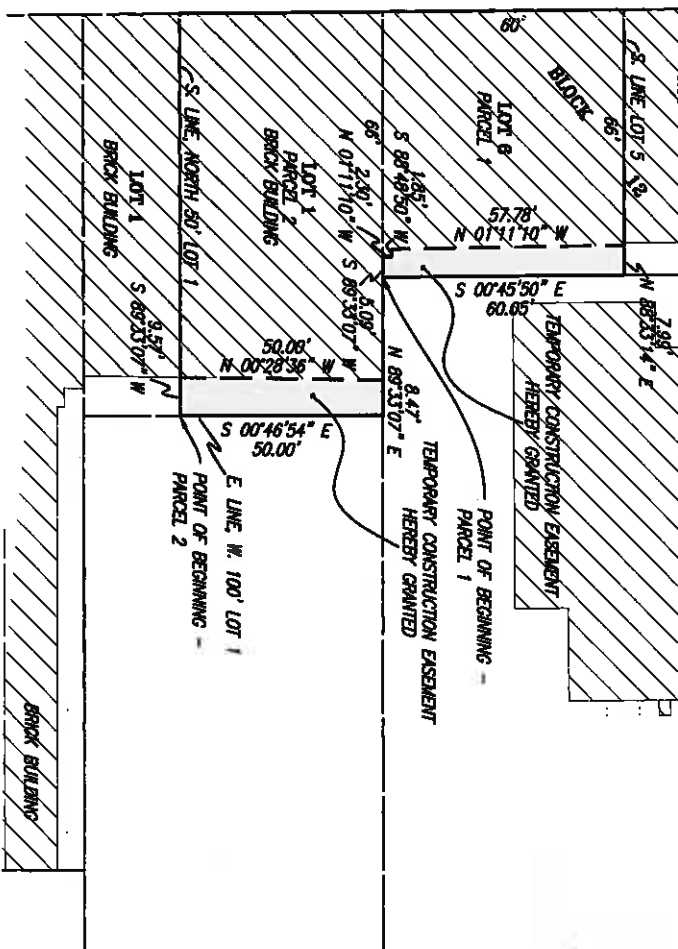


EXHIBIT A

DLZ INDUSTRIAL SURVEYING, INC. 1000 N. WILSON AVE., SUITE 100, CHICAGO, IL 60642 (773) 335-0000 FAX (773) 782-9040		GLEN ELLYN VILLAGE OF GLEN ELLYN 419-421 N. MAIN ST PLAT OF EASEMENT		ILLINOIS DESIGNER: E.C. COX DATE: 07/20/20 SCALE: 1" = 30' PROJECT NUMBER: 1950-7005		REVISION BY: DATE:		SHEET 1 OF 1 DRAWING NUMBER: 7005EASE	
--	--	---	--	--	--	-----------------------	--	---	--

State of Illinois)
County of Will) SS
I, Eric C. Cox, on Illinois Land Surveyor, do hereby certify that the legal description shown herein is a true and correct representation thereof.
Dated this 2nd day of July, 2019

Eric C. Cox
Illinois Professional Land Surveyor No. 035-3604
Reviewed Date November 30, 2020
DLZ Industrial Surveying, Inc. Professional Design Firm 184002815

Professional Land Surveyor
Eric C. Cox
No. 035-3604
Illinois

EXHIBIT B**DESCRIPTION OF WORK ON OWNER'S PROPERTY****Description of work on Parcel 1**

1. Removal of 175 SF +/- of existing concrete pavement and one deciduous tree.
2. Placement of 420 SF +/- of permeable pavement. Permeable pavement to be brick pavers over 1" sand setting bed and 4" sub base.
3. Replacment of concrete curb around existing area well.
4. Removal of overhead electrical and communication lines.
5. Installation of new underground electrical and communication services in conduit from the utility pedestal to building electrical panel. Wiring for AT&T, Comcast, and WOW to be by utility communication companies.

Description of work on Parcel 2

1. Removal of 425 SF +/- of existing concrete pavement.
2. Removal of existing concrete stoop.
3. Placement of 443 SF +/- of new permeable pavement. Permeable pavement to be brick pavers over 1" sand setting bed and 4" sub base.
4. Removal of overhead electrical and communication lines.
5. Installation of new underground electrical and communication services in conduit from the utility pedestal to building electrical panel. Wiring for AT&T, Comcast, and WOW to be by utility communication companies.

PUBLIC IMPROVEMENT AND RELEASE AGREEMENT

This Public Improvement and Release Agreement ("Agreement") is made and entered into this ____ day of _____, 2020 ("Effective Date"), by and between Gregory and Donna Rhodes, on behalf of themselves, their heirs, agents, representatives and assigns, and the Village of Glen Ellyn, an Illinois home rule municipal corporation ("Village") (the Owner and Developer are collectively the "Parties," and individually a "Party").

WHEREAS, the Village plans to construct certain infrastructure and improvements, including, without limitation, a multi-story parking structure (collectively, the "Improvements"), on the property commonly known as 535 Duane Street, Glen Ellyn, Illinois ("Subject Property"); and

WHEREAS, the Village has approved a planned development and other zoning and entitlement approval necessary to construct the Improvements on the Subject Property (collectively, the "Zoning Relief"); and

WHEREAS, the Owner owns the property commonly known as 538 Hillside Ave., Glen Ellyn, Illinois ("Owner's Property"), which is located immediately adjacent to and south of the Subject Property; and

WHEREAS, the Village requires the temporary use of parts of the Owner's Property to facilitate and support construction of the Improvements, and recognizes that the planned Improvements will impact the value of the Owner's Property; and

WHEREAS, the Village and the Owner have negotiated in good faith with one another such that the Owner and the Village have reached an agreement whereby the Village and/or its assigns shall be granted temporary access to Owner's Property to allow construction of the Improvements and related infrastructure and the Owner has further agreed to forego any legal rights they may have to object to the Village's Improvements, and the Village has agreed on the necessary compensation to be paid to Owner for purposes of such agreement; and

WHEREAS, the Parties wish to enter into this Agreement to establish the Parties' rights, obligations, and duties and to facilitate the Improvements' timely construction; and

NOW THEREFORE, in consideration of the promises, covenants, obligations and payments contained herein, the adequacy and sufficiency of which are hereby acknowledged, IT IS HEREBY AGREED AS FOLLOWS:

1. Incorporation. The foregoing recitals are adopted and incorporated as though fully set forth herein.

2. Temporary Construction License. Within 5 days of the Effective Date, the Owner shall deliver to the Village a fully executed temporary construction license and easement agreement in the form set forth on Exhibit 1 ("Construction License"). Upon Owner's delivery of the Construction License, the Village shall deliver payment to the Owner in the amount of Twenty-one Thousand Six hundred Dollars (\$21,600.00).

3. Satisfaction of Letter of Intent. On or before April 26, 2020, the Village further will deliver payment to Owner, the amount of Sixty-four Thousand Eight Hundred Dollars (\$64,800) in full satisfaction of the payment to be made as set forth in the Parties Letter of Intent, attached hereto and made a part hereof as Exhibit 2. In the event construction of the parking garage is delayed due to litigation filed within 90 days of the January 27, 2020 decision, then payment of the remaining \$64,600.00 will similarly be delayed. Owner's right to payment, and the Village's obligation to pay, shall not be terminated. In the event a court renders a final judgment in favor of the Village, the Village shall make payment of the remaining \$64,600.00 within thirty days. In the event a court renders a judgment declaring

the approval of a Planned Unit Development for construction of the parking garage null and void and enters a permanent injunction prohibiting the construction of the parking garage, the Village will be released from its obligation to pay any further monies. The terms of the Letter of Intent, executed by the parties, a copy of which is attached hereto, is incorporated herein, and made a part of this Agreement. Additionally, the Village agrees to grant the Owner an access easement to extend their fence lines to the wall of the parking garage and utilize and maintain the space created.

4. Waiver and General Release.: In exchange for the terms agreed to in the Letter of Intent and the payment schedule set forth herein, Owner on behalf of themselves, their heirs, agents, representatives and assigns, hereby irrevocably release and forever discharge the Village, its past, present, and future elected and appointed officials, officers, directors, employees, agents, attorneys, representatives, volunteers, and assigns (collectively, the "Village Parties"), from any and all past or present claims, demands, obligations, third-party actions, counterclaims, damages, losses, liens, expenses, actions, lawsuits, or compensation of any nature, whether based in tort, statute, constitution, contract, condemnation, indemnity, or contribution, known or unknown, that now exist or which may hereafter accrue on account of or in any way growing out of or related to the Improvements, the Zoning Relief, the Subject Property, or the Construction Easement, including, without limitation, any substantive or procedural due process claims relating to the same, and including claims for attorneys' fees, costs, or litigation expenses relating to the same. Owner, on behalf of itself and the Owner Parties, acknowledges and agrees that this Agreement resolves and subsumes any and all claims based upon any conduct by the Village Parties, including, but not limited to, claims which might be contained in a lawsuit.

5. Consideration: The Owner acknowledges and agrees that they would not be entitled to receive the monies specified in this Agreement except for approval and construction of the Improvements and further acknowledge and agree that the above sums constitute all monies payable to them for the release of any claims recited herein.

6. No Admission: It is expressly understood and agreed that the above payments are for the purpose of settling and compromising the Owner's claims relative to the Improvements which are disputed. It is understood and agreed that this Agreement and Release fulfills the terms set forth in the Letter of Intent executed by the Parties and attached hereto as Exhibit 2 .. This settlement agreement does not constitute any admission of fault, responsibility or liability on the part of VILLAGE OF GLEN ELLYN, and that all fault, responsibility or liability on the part of the VILLAGE OF GLEN ELLYN, is expressly denied.

7. Capacity and No Transfer. The Parties represent and warrant that no other person or entity has, or has had, any interest in the claims, demands, obligations, matters, or causes or action referred to in this Agreement; that the Parties have the sole right, exclusive authority, and legal capacity to execute this Agreement and grant the releases, discharges and agreements contained herein, give and receive the sums specified in the Agreement, and bind the Parties, persons, positions and entities specified herein; that the Parties have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Agreement; and that the Parties will not assign or transfer any rights, duties, or obligations under this Agreement without the prior written consent of both Parties.

8. Additional Documents: The Parties agree to cooperate fully and execute any and all documents, and to take all additional actions, which may be necessary or appropriate to give full force and effect to the terms of this Agreement.

9. Entire Agreement:

a. This Agreement contains the entire agreement between the Parties with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the Parties' executors, administrators, bankruptcy trustees, representatives, heirs, successors in interest, subsidiaries, parent companies, affiliates, successors and assigns.

b. Nothing herein, express or implied, is intended to or shall confer upon any person, entity, company, or organization that is not a Party, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be amended by a written agreement signed by the Parties.

10. Severability: The terms and provisions of this Agreement shall be deemed severable, so that if any term or provision is deemed to be invalid or unenforceable, such term or provision shall be deemed deleted or modified so as to permit the remaining portions of this Agreement to be valid and enforceable to the full extent permitted by applicable law.

11. Default. The Parties agree that should any of the Village Parties or any of the Owner Parties fail to abide by the terms of this Agreement, nothing in this Agreement shall prevent either Party from seeking to enforce the terms of this Agreement, including seeking injunctive relief as necessary to ensure the Parties' compliance with this Agreement's terms.

12. Governing Law: This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois, and the venue for all disputes arising out of, under or related to the terms of this Agreement shall be the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

13. Acknowledgment: Owner hereby acknowledges and recites that they each execute this Agreement knowingly and voluntarily; that there is valid consideration for this Agreement, that they both have been advised to consult with and have consulted fully with counsel regarding the terms of this Agreement, that they have had a reasonable amount of time to consider the Agreement's terms, and that they have read and fully understand the terms of the Agreement; that they are legally competent to execute this Agreement; and that they accept full responsibility therefore.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated next to their respective signatures:

WHEREFORE, Gregory and Donna Rhodes have affixed their signatures below.

Date:

2/17/2020

G.M. Rhodes
Gregory Rhodes

Witness:

Lundy Kundy

Date:

2/17/2020

Donna Rhodes
Donna Rhodes

Witness:

Lundy Kundy

Date:

Mark Franz, Village Manager

Witness: _____

Exhibit:

- 1) Construction license and easement agreement
- 2) Letter of Intent

CONSTRUCTION LICENSE AND ACCESS AGREEMENT

This Construction License and Access Agreement ("**Agreement**") is made as of February ____, 2020, by and between GREGORY AND DONNA RHODES ("**Owner**"), and M. A. MORTENSON COMPANY, a Minnesota corporation ("**Mortenson Construction**")

RECITALS

A. Owner owns land located at 538 Hillside, Glen Ellyn IL 60137 (the "**Owner Property**").

B. Mortenson Construction is performing work in the area of the Owner Property for the Village of Glen Ellyn ("**Village**") and has requested that Owner grant to Mortenson Construction the right to use the area of the Owner Property depicted on Exhibit A attached hereto (the "**Access Area**") for the purposes of performing the work described on Exhibit B attached hereto and Mortenson Construction's other work for the Village in the area of the Owner Property (collectively, the "**Work**") during the period of time described in this Agreement.

C. Owner is willing to grant Mortenson Construction the rights described herein for the purposes of installing and accessing the Work.

D. Mortenson Construction is willing to accept the Agreement herein granted on the terms and conditions hereinafter stated.

THEREFORE, in consideration of the covenants and agreements hereafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortenson Construction and Owner hereby agree as follows:

1. Grant. Owner hereby grants to Mortenson Construction the exclusive and irrevocable right and agreement to use the Access Area on the Owner Property to perform and install the Work, including without limitation the storing of construction materials and equipment, laydown and pickup of construction materials, dumpster storage and use truck access from Village property to the Access Area for purposes of performing the Work, and such other uses as may be reasonably ancillary thereto for the Construction Period (defined below)-

2. Term. The term of this Agreement, also known as the Construction Period, will begin on the date that Mortenson Construction commences Work on the Owner Property, and continue for a period of 730 days thereafter.

3. Use of the Owner Property. This Agreement is granted to Mortenson Construction for the purposes stated above. Mortenson Construction will not be entitled to use the Access

Area for any other purpose or for any other reason. Prior to the expiration of the Construction Period, Mortenson Construction will remove all property, debris, and trash from the Owner Property. Mortenson Construction will not bring to or upon, or cause to be brought to or upon, the Access Area any hazardous wastes or substances as defined by federal and state law, except in compliance with applicable law.

4. Insurance. Mortenson Construction will maintain comprehensive general liability, professional liability, and employer's liability for bodily injury and property damage liability, covering all of the operations of Mortenson Construction, with limits of liability which will not be less than Two Million Dollars (\$2,000,000) combined single limit per occurrence or One Million Dollars (\$1,000,000) bodily injury per occurrence and One Million Dollars (\$1,000,000) property damage per occurrence. Owner will be named as an additional insured under such policies.

5. Miscellaneous.

a. Notices. All notices, demands, acceptances and approval required hereunder will be in writing and served either by overnight delivery by a reputable express delivery carrier or by personal delivery, to the address shown below, until notification of a change of address:

Owner's Address: 538 Hillside Ave.
Glen Ellyn, IL 60137
Attn: Gregory and Donna Rhodes

Mortenson Construction's
Address:
300 Park Blvd.
Suite 100
Itasca, IL 60143
Attn: Andy Stapleton

Notices, properly addressed and mailed will be deemed delivered on the earlier of actual receipt or the first business day following such mailing.

b. Entire Agreement. This instrument constitutes the entire agreement between the parties respecting this Agreement. This Agreement cannot be amended except in writing executed by both parties hereto.

c. Binding Effect. This Agreement will inure to the benefit of and bind the respective successors, heirs, personal representatives and permitted assigns of the parties hereto.

d. Counterparts. This Agreement may be signed in two or more counterparts, each of which will be an original and all of which will constitute one and the same instrument.

e. Governing Law. This Agreement is governed by the laws of the State of Illinois.

f. No Joint Venture. Nothing herein will be construed to create a joint venture between the parties hereto

g. Authority. Owner represents, warrants and covenants that (i) it has full power and authority to grant the Agreement provided for herein, and that no consent of any third party, is required in connection herewith and (ii) the individual executing this Agreement on behalf of Owner has the full power and authority to do so. Mortenson Construction represents and warrants that (i) it has the full power and authority to enter into this Agreement and perform its obligations hereunder without the necessity of the approval or consent of any third party and (ii) the individual executing this Agreement on behalf of Mortenson Construction has the full power and authority to do so.

[Signature Pages Follow]

EXHIBIT B

DESCRIPTION OF WORK ON OWNER'S PROPERTY

1. Removal of overhead electrical and communication lines.

P.L.N. 05-11-328-019

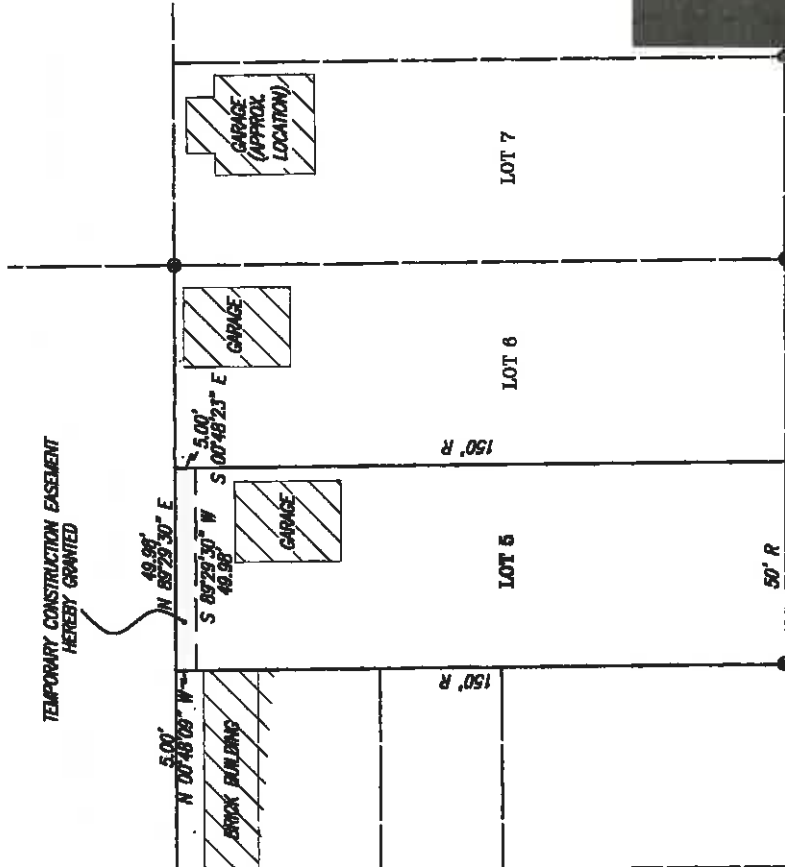
PLAT OF EASEMENT

Legal Description

538 HILLSIDE AVE - TEMPORARY CONSTRUCTION EASEMENT

THE NORTH 5 FEET OF LOT 5 IN THE SUBDIVISION OF LOT 6 IN BLOCK 12 IN ASSESSMENT DIVISION OF SECTION 11, TOWNSHIP 30 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 7, 1900 AS DOCUMENT NO. 87161, IN DEWEE COUNTY, ILLINOIS.

Said EASEMENT CONTAINING 250 SQUARE FEET OR 0.006 ACRES MORE OR LESS.



NOTES

- 1) THE DIMENSIONS SHOWN HEREON ARE FEET AND DECIMAL POINTS THEREOF.
- 2) ANY DISCREPANCY IN MEASUREMENT DISCOVERED UPON THE GROUND SHOULD BE PROMPTLY REPORTED TO THE SURVEYOR FOR EXPLANATION OR CORRECTION.
- 3) FOR BUILDING LINE AND OTHER RESTRICTIONS NOT SHOWN HEREON REFER TO YOUR ABSTRACT, DEED, CONTRACTS AND ZONING ORDINANCES.
- 4) NOT ALL SITE IMPROVEMENTS SHOWN FOR THE PURPOSES OF THIS SURVEY.
- 5) THE SUBJECT PARCEL IS PER MINORITY DEED RECORDED FEBRUARY 17, 1900 AS DOCUMENT NO. 100-018603.

that the legal description



4022015

VILLAGE OF GLEN ELLYN
GLEN ELLYN PARKING GARAGE
538 HILLSIDE AVE
PLAT OF EASEMENT

DLZ
INDUSTRIAL SURVEYING, INC.
1001 N. ALTA AVE., SUITE 100
CHICAGO, ILL. 60642
PHONE: (312) 252-2222 FAX: (312) 252-2222

1950-7005

SHEET 1
OF 1
DRAWING NUMBER
7005EASE

**SIGNATURE PAGE
TO
CONSTRUCTION ACCESS AGREEMENT
BETWEEN
GREGORY AND DONNA RHODES AND
M. A. MORTENSON COMPANY**

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

MORTENSON CONSTRUCTION:

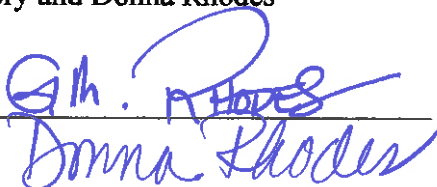
**M. A. MORTENSON COMPANY,
a Minnesota corporation**

By: _____
Its: _____

OWNER:

Gregory and Donna Rhodes

By: _____


Donna Rhodes

engineering solutions team

4708 Main Street; Suite 202 | Lisle, IL 60532
 630-796-2064 | www.engineeringsolutionsteam.net



Mr. Mark
 Gregory
 535 Duane
 Hillside
 Glen Ellyn, IL 60137

Franz,
 and Donna Rhodes
 Street
 Avenue

Village

January 24, 2020
 Manager

538

Glen Ellyn, IL 60137

SUBJECT: The Letter of Intent
 Glen Ellyn Civic Center Parking Garage / 538 Hillside Avenue

THIS IS A LETTER OF INTENT, NOT A FORMAL AGREEMENT OR CONTRACT. TERMS ARE
 SUBJECT TO FORMAL VILLAGE BOARD APPROVAL

Dear Mr. Franz and Mr. and Mrs. Rhodes:

The purpose of this Letter of Intent is to record the discussions and tentative agreements that have been made between both parties over the last several weeks pertaining to the pending construction of the Glen Ellyn Civic Center Parking Garage to be constructed adjacent to your property. Upon the agreement and execution of this Letter of Intent by both parties; the Village Attorney will then utilize this Letter of Intent as foundation to develop a Public Improvement and Release Agreement and Temporary Construction Easement for signature by both parties.

The detailed points of this Letter of Intent, include the following:

1.

The Diminution
 of Value due to
 the adjusted
 setback:

Based on your last request, the Village agrees to pay you

\$60,000.00

2.

The Construction Easement:

Based on our discussions and our recent field meeting, the Village agrees to pay you
\$5,000 for a 2 year construction easement

Per Agreement at the January 8 meeting; the Rhodes have offered to pay back the Village of Glen Ellyn for \$2,500.00 when the construction project is completed on their property within 1 year.

3. The Fence Reimbursement:

Because the VGE will be responsible to remove and dispose of the existing fence and subgrade fence remnants and there is no intent to replace the fence; the Village offers to pay you **\$2,400.00**

4. Professional Fees.



Based on all our previous discussions, the Village agrees to reimburse you for the **\$4,000.00**

5. The Landscaping Allowance.

Based on all our previous discussion, the Village agrees to pay you **\$15,000.00**

6. The Retaining Wall Restoration.

Based on all our agreement at the field meeting of January 8, 2020; the current retaining wall will remain in place.

7. Settlement Survey.

The Village will provide a settlement survey of the Rhodes property before construction, immediately after construction and 1 year and 2 years after construction. Survey copies will be provided to the Rhodes.

8. The Locust Tree.

The Village Contractor [at their expense] will remove the locust tree on the Rhodes Property, stump and surface roots and all tree removal debris. The tree removal voids will be backfilled with topsoil.

9. Possible Project Damages.

The Village will be responsible to repair damages caused by this project. The Village, or its contractor, will be responsible to repair project incurred damages within 30 days of notice.

10. Project Contact.

Assistant Village Manager Bill Holmer will be your contact person regarding the project.

11. Project Insurance.

The Village will name you as additional insured on its insurance policy for this project, and you will receive your certificate of insurance.

12. Permanent Structure Preventing Trespass.

The Village will be responsible to place a permanent fence with gate between the northeast corner of the 413 N. Main Building and the parking garage.

13. Payment Plan.

The Payment Plan is set forth in the Public Improvement and Release Agreement.

In conclusion; the Village offers to pay you for the Public Improvement and Release Agreement and Temporary Construction Easement associated with this project in the amount of:

Total Cash Offer = \$ 86,400.



Once the parties sign off on this Letter of Intent, the Village will create a formal Public Improvement and Release Agreement and Temporary Construction Easement and allow time for your review.

We look forward to your execution of this Letter of Intent before "End of Business" on Monday, January 27, 2020.

Thank you and respectfully,

Edward J Kalina

Edward J Kalina, Negotiator

Agreed upon by:

Mark Franz
Village of Glen Ellyn

Date

Mark Rhodes 2/17/2020

Mark Rhodes
538 Hillside Avenue

Date

Donna Rhodes 2/17/2020

Donna Rhodes
538 Hillside Avenue

Date

CC: William Holmer, Village of Glen Ellyn

PUBLIC IMPROVEMENT AND RELEASE AGREEMENT

This Public Improvement and Release Agreement (“Agreement”) is made and entered into this ____ day of _____, 2020 (“Effective Date”), by and between Todd and Anna Kreissler (“Owner”), on behalf of themselves, their heirs, agents, representatives and assigns, and the Village of Glen Ellyn, an Illinois home rule municipal corporation (“Village”) (the Owner and Developer are collectively the “Parties,” and individually a “Party”).

WHEREAS, the Village plans to construct certain infrastructure and improvements, including, without limitation, a multi-story parking structure (collectively, the “Improvements”), on the property commonly known as 535 Duane Street, Glen Ellyn, Illinois (“Subject Property”); and

WHEREAS, the Village is currently pursuing planned development and other zoning and entitlement approval necessary to construct the Improvements on the Subject Property (collectively, the “Zoning Relief”); and

WHEREAS, the Owner owns the property commonly known as 542 Hillside Ave., Glen Ellyn, Illinois (“Owner’s Property”), which is located immediately adjacent to and south of the Subject Property; and

WHEREAS, the Village requires the temporary use of parts of the Owner’s Property to facilitate and support construction of the Improvements, and recognizes that the planned Improvements will impact the value of Owner’s property; and

WHEREAS, the Village and the Owner have negotiated in good faith with one another such that the Owner and the Village have reached an agreement whereby the Village and/or its assigns shall be granted temporary access to Owner’s Property to allow construction of the Improvements and related infrastructure and the Owner has further agreed to forego any legal

rights they may have to object to the Village's Improvements, and the Village has agreed on the necessary compensation to be paid to Owner for purposes of such agreement; and

WHEREAS, certain utilities currently serving the Owner's Property are located on the Subject Property, and those utilities must be relocated to allow the Improvements' construction; and

WHEREAS, the Parties wish to enter into this Agreement to establish the Parties' rights, obligations, and duties and to facilitate the Improvements' timely construction; and

NOW THEREFORE, in consideration of the promises, covenants, obligations and payments contained herein, the adequacy and sufficiency of which are hereby acknowledged, IT IS HEREBY AGREED AS FOLLOWS:

1. Incorporation. The foregoing recitals are adopted and incorporated as though fully set forth herein.

2. Temporary Construction License. Within 5 days of the Effective Date, the Owner shall deliver to the Village a fully executed temporary Construction License and Access Agreement in the form set forth on Exhibit 1 ("Construction License"). Upon Owner's delivery of the Construction License, the Village shall deliver payment to the Owner in the amount of Thirty Thousand Six Hundred and Twenty-five Dollars (\$30,625.00).

3. Satisfaction of Letter of Intent. On or before April 26, 2020, the Village further will deliver payment to Owner, the amount of Ninety-one Thousand Eight Hundred Seventy-five Dollars (\$91,875.00) in full satisfaction of the payment to be made as set forth in the Parties Letter of Intent, attached hereto and made a part hereof as Exhibit 2. In the event construction of the parking garage is delayed due to litigation filed within 90 days of the January 27, 2020 decision, then payment of the remaining \$91,875.00 will similarly be delayed. Owner's right to

payment, and the Village's obligation to pay, shall not be terminated. In the event a court renders a final judgment in favor of the Village, the Village shall make payment of the remaining \$91,875 within thirty days. In the event a court renders a judgment declaring the approval of a Planned Unit Development for construction of the parking garage null and void and enters a permanent injunction prohibiting the construction of the parking garage, the Village will be released from its obligation to pay any further monies. The terms of the Letter of Intent, executed by the parties, a copy of which is attached hereto, is incorporated herein, and made a part of this Agreement. Additionally, the Village agrees to grant the Owner an access easement to extend their fence lines to the wall of the parking garage and utilize and maintain the space created.

4. Waiver and General Release.: In exchange for the terms agreed to in the Letter of Intent and the payment schedule set forth herein, Owner on behalf of themselves, their heirs, agents, representatives and assigns, hereby irrevocably release and forever discharge the Village, its past, present, and future elected and appointed officials, officers, directors, employees, agents, attorneys, representatives, volunteers, and assigns (collectively, the "Village Parties"), from any and all past or present claims, demands, obligations, third-party actions, counterclaims, damages, losses, liens, expenses, actions, lawsuits, or compensation of any nature, whether based in tort, statute, constitution, contract, condemnation, indemnity, or contribution, known or unknown, that now exist or which may hereafter accrue on account of or in any way growing out of or related to the Improvements, the Zoning Relief, the Subject Property, this Agreement, or the Construction License, including, without limitation, any substantive or procedural due process claims relating to the same, and including claims for attorneys' fees, costs, or litigation expenses relating to the same. Owner, on behalf of itself and the Owner Parties, acknowledges and agrees

that this Agreement resolves and subsumes any and all claims based upon any conduct by the Village Parties, including, but not limited to, claims which might be contained in a lawsuit.

5. Consideration: The Owner acknowledges and agrees that they would not be entitled to receive the monies specified in this Agreement except for approval and construction of the Improvements, and further acknowledge and agree that the above sums constitute all monies payable to them for the release of any claims recited herein.

6. No Admission: It is expressly understood and agreed that the above payments are for the purpose of settling and compromising the Owners' claims relative to the Improvements which are disputed. It is understood and agreed that this Agreement and Release fulfills the terms set forth in the Letter of Intent executed by the Parties and attached hereto as Exhibit II. This settlement agreement does not constitute any admission of fault, responsibility or liability on the part of VILLAGE OF GLEN ELLYN, and that all fault, responsibility or liability on the part of the VILLAGE OF GLEN ELLYN, is expressly denied.

7. Capacity and No Transfer. The Parties represent and warrant that no other person or entity has, or has had, any interest in the claims, demands, obligations, matters, or causes or action referred to in this Agreement; that the Parties have the sole right, exclusive authority, and legal capacity to execute this Agreement and grant the releases, discharges and agreements contained herein, give and receive the sums specified in the Agreement, and bind the Parties, persons, positions and entities specified herein; that the Parties have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Agreement; and that the Parties will not assign or transfer any rights, duties, or obligations under this Agreement without the prior written consent of both Parties.

7. **Additional Documents:** The Parties agree to cooperate fully and execute any and all documents, and to take all additional actions, which may be necessary or appropriate to give full force and effect to the terms of this Agreement.

8. **Entire Agreement:**

a. This Agreement contains the entire agreement between the Parties with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the Parties' executors, administrators, bankruptcy trustees, representatives, heirs, successors in interest, subsidiaries, parent companies, affiliates, successors and assigns.

b. Nothing herein, express or implied, is intended to or shall confer upon any person, entity, company, or organization that is not a Party, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be amended by a written agreement signed by the Parties.

9. **Severability:** The terms and provisions of this Agreement shall be deemed severable, so that if any term or provision is deemed to be invalid or unenforceable, such term or provision shall be deemed deleted or modified so as to permit the remaining portions of this Agreement to be valid and enforceable to the full extent permitted by applicable law.

10. **Default.** The Parties agree that should any of the Village Parties or any of the Owner Parties fail to abide by the terms of this Agreement, nothing in this Agreement shall prevent either Party from seeking to enforce the terms of this Agreement, including seeking injunctive relief as necessary to ensure the Parties' compliance with this Agreement's terms.

11. **Governing Law:** This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois, and the venue for all disputes arising out of,

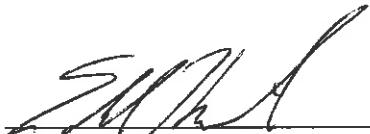
under or related to the terms of this Agreement shall be the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois.

12. Acknowledgment: Owner hereby acknowledges and recites that he executes this Agreement knowingly and voluntarily; that there is valid consideration for this Agreement, that they have been advised to consult with and has consulted fully with counsel regarding the terms of this Agreement, that they have had a reasonable amount of time to consider the Agreement's terms, and that they have read and fully understand the terms of the Agreement; that they are legally competent to execute this Agreement; and that he accepts full responsibility therefore.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated next to their respective signatures:

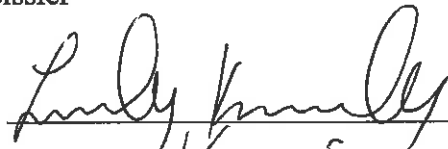
WHEREFORE, Todd and Anna Kreissler and the Village have affixed their signatures below.

Date: 2/17/20

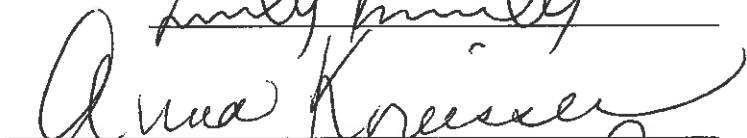


Todd Kreissler

Witness:



Date: 2/17/20



Anna Kreissler

Witness:



Date: _____

Mark Franz, Village Manager

Witness: _____

Exhibits:

- 1) Construction License and Access Agreement
- 2) Letter of intent

CONSTRUCTION LICENSE AND ACCESS AGREEMENT

This Construction License and Access Agreement (“**Agreement**”) is made as of February _____, 2020, by and between TODD AND ANNA KREISSLER (“**Owner**”), and M. A. MORTENSON COMPANY, a Minnesota corporation (“**Mortenson Construction**”)

RECITALS

A. Owner owns land located at 542 Hillside, Glen Ellyn IL 60137 (the “**Owner Property**”).

B. Mortenson Construction is performing work in the area of the Owner Property for the Village of Glen Ellyn (“**Village**”) and has requested that Owner grant to Mortenson Construction the right to use the area of the Owner Property depicted on Exhibit A attached hereto (the “**Access Area**”) for the purposes of performing the work described on Exhibit B attached hereto and Mortenson Construction’s other work for the Village in the area of the Owner Property (collectively, the “**Work**”) during the period of time described in this Agreement.

C. Owner is willing to grant Mortenson Construction the rights described herein for the purposes of installing and accessing the Work.

D. Mortenson Construction is willing to accept the Agreement herein granted on the terms and conditions hereinafter stated.

THEREFORE, in consideration of the covenants and agreements hereafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortenson Construction and Owner hereby agree as follows:

1. Grant. Owner hereby grants to Mortenson Construction the exclusive and irrevocable right and agreement to use the Access Area on the Owner Property to perform and install the Work, including without limitation the storing of construction materials and equipment, laydown and pickup of construction materials, dumpster storage and use truck access from Village property to the Access Area for purposes of performing the Work, and such other uses as may be reasonably ancillary thereto for the Construction Period (defined below), as it may be extended as set forth herein.

2. Term. The term of this Agreement, also known as the Construction Period, will begin on the date that Mortenson Construction commences Work on the Owner Property, and continue for a period of 730 days thereafter.

3. Use of the Owner Property. This Agreement is granted to Mortenson Construction for the purposes stated above. Mortenson Construction will not be entitled to use the Access Area for any other purpose or for any other reason. Prior to the expiration of the Construction Period, Mortenson Construction will remove all property, debris, and trash from the Owner Property. Mortenson Construction will not bring to or upon, or cause to be brought to or upon, the Access Area any hazardous wastes or substances as defined by federal and state law, except in compliance with applicable law.

4. Insurance. Mortenson Construction will maintain comprehensive general liability, professional liability, and employer's liability for bodily injury and property damage liability, covering all of the operations of Mortenson Construction, with limits of liability which will not be less than Two Million Dollars (\$2,000,000) combined single limit per occurrence or One Million Dollars (\$1,000,000) bodily injury per occurrence and One Million Dollars (\$1,000,000) property damage per occurrence. Owner will be named as an additional insured under such policies.

5. Miscellaneous.

a. Notices. All notices, demands, acceptances and approval required hereunder will be in writing and served either by overnight delivery by a reputable express delivery carrier or by personal delivery, to the address shown below, until notification of a change of address:

Owner's Address: 542 Hillside Ave.
Glen Ellyn, IL 60137
Attn: Todd and Anna Kreissler

Mortenson Construction's
address:
300 Park Blvd.
Suite 100
Itasca, IL 60143
Attn: Andy Stapleton

Notices, properly addressed and mailed will be deemed delivered on the earlier of actual receipt or the first business day following such mailing.

b. Entire Agreement. This instrument constitutes the entire agreement between the parties respecting this Agreement. This Agreement cannot be amended except in writing executed by both parties hereto.

c. Binding Effect. This Agreement will inure to the benefit of and bind the respective successors, heirs, personal representatives and permitted assigns of the parties hereto.

d. Counterparts. This Agreement may be signed in two or more counterparts, each of which will be an original and all of which will constitute one and the same instrument.

e. Governing Law. This Agreement is governed by the laws of the State of Illinois.

f. No Joint Venture. Nothing herein will be construed to create a joint venture between the parties hereto

g. Authority. Owner represents, warrants and covenants that (i) it has full power and authority to grant the Agreement provided for herein, and that no consent of any third party, is required in connection herewith and (ii) the individual executing this Agreement on behalf of Owner has the full power and authority to do so. Mortenson Construction represents and warrants that (i) it has the full power and authority to enter into this Agreement and perform its obligations hereunder without the necessity of the approval or consent of any third party and (ii) the individual executing this Agreement on behalf of Mortenson Construction has the full power and authority to do so.

[Signature Pages Follow]

**SIGNATURE PAGE
TO
CONSTRUCTION ACCESS AGREEMENT
BETWEEN
TODD AND ANNA KREISSLER AND
M. A. MORTENSON COMPANY**

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

MORTENSON CONSTRUCTION:

M. A. MORTENSON COMPANY,
a Minnesota corporation

By: _____
Its: _____

OWNER:

Todd and Anna Kreissler

By: *Anna Kreissler*
Its: *Owners*

7/17/20

EXHIBIT A
DEPICTION OF ACCESS AREA

Inset Plat of Easement

EXHIBIT B

DESCRIPTION OF WORK ON OWNER'S PROPERTY

1. Removal of overhead electrical and communication lines.
2. Installation of conduits along existing utility pole into underground ductbank.



4708 Main Street; Suite 202 | Lisle, IL 60532
630-796-2064 | www.engineeringsolutionsteam.net

January 24, 2020

Mr. Mark Franz, Village Manager
535 Duane Street
Glen Ellyn, IL 60137

Todd and Anna Kreissler
542 Hillside Avenue
Glen Ellyn, IL 60137

SUBJECT: The Letter of Intent
Glen Ellyn Civic Center Parking Garage / 542 Hillside Avenue

THIS IS A LETTER OF INTENT, NOT A FORMAL AGREEMENT OR CONTRACT. TERMS ARE
SUBJECT TO FORMAL VILLAGE BOARD APPROVAL

Dear Mr. Franz and Mr. and Mrs. Kreissler:

The purpose of this Letter of Intent is to record the discussions and tentative agreements that have been made between both parties over the last several weeks pertaining to the pending construction of the Glen Ellyn Civic Center Parking Garage to be constructed adjacent to your property. Upon the agreement and execution of this Letter of Intent by both parties; the Village Attorney will then utilize this Letter of Intent as foundation to develop a Public Improvement and Release Agreement and Temporary Construction Easement for signature by both parties.

The detailed points of this Letter of Intent, include the following:

1. *The Diminution of Value due to the adjusted setback:*

Based on our recent discussions and documentations, the Village offers to reimburse you for **\$103,500.00**

2. *The Construction Easement:*

Based on our discussions and our recent field meeting, the Village agrees to reimburse you for **\$5,000 for a 2 year construction easement**

Per Agreement at the January 8 meeting; the Kreisslers have offered to reimburse the Village of Glen Ellyn for \$2,500.00 when the construction project is completed on their property within 1 year.

3. *Professional Fees.*

Based on all our previous discussions, the Village agrees to reimburse for **\$4,000.00**



4. The Landscaping Allowance.

Based on all our previous discussion, the Village agrees to reimburse you for **\$10,000.00**

5. The Retaining Wall Restoration.

Based on all our agreement at the field meeting of January 8, 2020; the current retaining wall will remain in place.

6. Settlement Survey.

The Village will provide a settlement survey of the Kreissler property before construction, immediately after construction and 1 year and 2 years after construction. Survey copies will be provided to the Kreisslers, within 30-days after completion of the field survey.

7. Possible Project Damages.

The Village will be responsible to repair damage to your property caused by this project.

8. Project Contact.

Assistant Village Manager Bill Holmer will be your direct contact regarding this project.

9. Project Insurance.

The Village will name you as additional insured on its insurance policy for this project, and you will receive your certificate of insurance.

10. Permanent Structure Preventing Trespass.

The Village will be responsible to place a permanent fence between the northeast corner of the Kreissler garage and the southeast corner of the parking garage.

11. Protection from Light Pollution.

The parking garage lighting will be designed and constructed so that the top-level lighting will not cast additional lumens onto the Kreissler property and house.



12. Parking garage top floor height.

Based on the discussions at our last meeting, the parking garage top level parapet wall will be completed with railing as described in Team clarification memo dated January 17, 2020. on the top of the said parapet wall.

13. Removal of Obstacles of Construction.

The Village and its Contractor will be responsible to remove the Kreissler fence and the three [3] trees located at the north side of the Kreissler property. The fence and the trees will be removed at the beginning of the project.

14. Landscaping and Grading.

The Village and its Contractor will be responsible to ensure that proper grading is constructed to allow positive drainage of stormwater to flow west-to-east and off the Kreissler property.

15. Payment Plan.

The Payment Plan is set forth in the Public Improvement and Release Agreement.

In conclusion; the Village offers to compensate you for the construction easement associated with this project in the amount of:

Total Cash Offer = \$ 122,500.00



Once the parties sign off on this Letter of Intent, the Village will create a formal Public Improvement and Release Agreement, and Temporary Construction Easement and allow time for your review.

We look forward to your execution of this Letter of Intent before "End of Business" on Monday, January 27, 2020.

Thank you and respectfully,

Edward J Kalina

Edward J Kalina, Negotiator

Agreed upon by:

Mark Franz Date
Village of Glen Ellyn

Todd Kreissler 2/17/20
Todd Kreissler Date
542 Hillside Avenue

Anna Kreissler 2/17/20
Anna Kreissler Date
542 Hillside Avenue

CC: William Holmer, Village of Glen Ellyn