



WHERE HISTORY & PROGRESS MEET

FINANCE COMMITTEE

**THURSDAY, AUGUST 22, 2019
6:00 P.M. – COMMITTEE ROOM A**

AGENDA

1. Call to Order, Roll Call, and Establishment of a Quorum
2. Approval of Minutes
 - A. Finance Committee Meeting Minutes of May 7, 2019
3. Public Participation / Presentations
 - A. 2018 Audit
4. Selection of Committee Chairman and Vice Chairman
5. Items for Consent
 - A. Resolution No. 19-R-0035 – Partial Property Tax Abatement – Alton Industry Ltd. Group and Innovation Partners LLC
 - B. Resolution No. 19-R-0036 – Economic Incentive Agreement – Alton Industry Ltd. Group and Innovation Partners LLC
 - C. Resolution No. 19-R-0037 – Sales Tax Sharing Agreement – Ditch Witch Midwest
6. Items for Discussion
 - A. Residential Solid Waste Collection Contract
 - B. Ordinance No. 19-O-0029 – Dead, Diseased or Dying Trees on Public Lands
7. Unfinished Business
8. New Business
9. Reports from Staff
10. Executive Session (if needed)
11. Adjournment

MINUTES

FINANCE COMMITTEE

May 7, 2019

1. Call to Order, Roll Call, and Establishment of a Quorum

The meeting was called to order at 6:00 P.M. Roll call found Aldermen Chassee, Dimas, Ferguson, Ligino-Kubinski, Sheahan, Stout and Swiatek present.

Staff in attendance: City Administrator Michael Guttman, Administrative Services Director Linda Martin, and Assistant Administrative Services Director Nikki Giles.

2. Approval of Minutes

A. Finance Committee Meeting of March 14, 2019.

Vice Chairman Chassee moved and Alderman Swiatek seconded a motion to approve. The minutes were approved as presented by voice vote.

3. Public Participation / Presentations - None

4. Selection of Vice Chairman

This item moved to the next meeting also including the selection of Chairman.

5. Items for Consent

A. Ordinance No. 19-O-0019 – Second Quarter Budget Amendment

Alderman Stout moved and Alderman Swiatek seconded a motion to approve Consent Item A. Voting Aye: Aldermen Chassee, Dimas, Ferguson, Ligino-Kubinski, Swiatek, Sheahan and Stout. Voting Nay: 0. Motion Carried

B. Ordinance No. 19-O-0018 – Water and Sewer Rates

Vice Chairman Chassee requested this item be removed for discussion. She would like to clarify the number of households that are caught up on water billing. City Administrator Guttman said that 65% of households are currently caught up. This rate increase will only apply to those households that are caught up for bills issued on or after August 1, 2019. The 35% that are still catching up will not see the rate increase until they are caught up in billing with a usage date of August 1, 2019. Residents that final their water bills (for sale of property or by request) will then be billed at the new rates as of August 1, 2019.

The new rate information will be communicated on the water bills and residents will be directed to our website for further information.

Alderman Ligino-Kubinski moved and Alderman Stout seconded a motion to approve Consent Item B. Voting Aye: Aldermen Chassee, Dimas, Ferguson, Ligino-Kubinski, Swiatek, Sheahan and Stout. Voting Nay: 0. Motion Carried

6. Items for Discussion

A. Residential Hauling Contract

City Administrator Guttman reminded the committee that the contract with Groot will expire at the end of this year. He is looking for direction from the Finance Committee to either negotiate with the two local haulers in town or to go out to bid, and here are the options:

- a. Renegotiate with Groot (easiest option). The city has lost some customer service since they have moved out of West Chicago. Groot has changed some of their route times which has led to resident frustration. Alderman Chassee also noted that her neighbors have complained that they are leaving the cans in the street as well as driving while emptying the cans which can cause the garbage to fly out.
- b. Negotiate with the other hauler in West Chicago which is Lake Shore Recycling. They have submitted their pre-application to be a host hauler and their host fees are better. There will be a one year lag in receiving those host fees of approximately \$25,000 which will be a loss to the general fund revenues during the first year.
- c. The last option is to go out to bid and give some other companies the chance to work with us.

The Aldermen present would like City Administrator Guttman to negotiate with both Groot and Lake Shore Recycling.

Alderman Chassee would also like to see the option of metered cans. Only Lakeshore Recycling offers this option.

City Administrator Guttman will report back to the committee.

7. Unfinished Business - None

8. New Business - None

9. Reports from Staff – None

10. Executive Session (if needed) – None

11. Adjournment

Alderman Ferguson moved and Alderman Ligino-Kubinski seconded a motion to adjourn. The motion was approved by voice vote and the meeting adjourned at 6:19 P.M.

Respectfully submitted,
Jacki Stern

CITY OF WEST CHICAGO

FINANCE COMMITTEE AGENDA ITEM SUMMARY

ITEM TITLE:

Alton Industry Ltd. Group and Innovation Partners LLC

Resolution No. 19-R-0035 – Partial Property Tax Abatement

Resolution No. 19-R-0036 – Economic Incentives

AGENDA ITEM NUMBER: 5.A & B.

FILE NUMBER: _____

COMMITTEE AGENDA DATE: 8/22/19

COUNCIL AGENDA DATE: 9/3/19

STAFF REVIEW:

SIGNATURE _____

APPROVED BY CITY ADMINISTRATOR:

SIGNATURE _____

ITEM SUMMARY:

In 2015, the Finance Committee endorsed a package of incentives to attract larger businesses to our community, which included a partial property tax abatement, partial rebates of utility taxes and a partial waiver of building permit fees.

Alton Industry Ltd. Group is looking to construct a 140,000-160,000 square foot building on between 10-23 acres in the DuPage Business Center and move its office/warehousing operation from Batavia, Illinois.

The incentives tentatively agreed to by the parties include the following: (1) a 50% property tax abatement for 10 years, up to \$4,000,000 by District 33, District 94, the Fire Protection District, the Library District, the DuPage Airport Authority and the City; and (2) a waiver of 50% of the building permit fees by the City (excluding the sewer capacity charge and third party fees paid for by the City).

In return for the incentives, the building would need to remain operational for 15 years, or else there are clawback provisions that would result in portions of the incentives being repaid, the amount determined by the number of years the building was occupied.

These are the same incentives given to Suncast, Norix and Ball Horticultural, but in those, there was an incentive for a utility tax rebate of there was a manufacturing component.

ACTIONS PROPOSED:

Staff recommends approval of Resolutions No. 19-R-0035 and 19-R-0036.

COMMITTEE RECOMMENDATION:



April 23, 2019

Mr. Michael Guttman
City Administrator
City of West Chicago
475 Main Street
West Chicago, IL 60185

Dear Mr. Guttman,

This letter is an addendum to our letter dated March 21, 2019.

Alton Industries ("Alton") is a global leader for wet dry vacuum cleaners & air compressors. Alton has been in business for over 15 years and offers DeWalt, Stanley, Briggs & Stratton, Porter Cable, and Stealth brand products. Alton Industries has been dedicated to building performance-driven, and reliable products in the power tool industry. Alton's sister company located in China manufactures component parts which are then shipped to Alton for distribution. Alton's U.S. office is located in Batavia, IL, houses the US headquarters, distribution and customer service team.

Alton has outgrown its current Batavia facility due to increased customer demand. In order to make room for additional capacity, Alton is exploring several build-to suit real estate options. Alton is exploring relocating injection molding production from Alton's sister company in China to the new US site. As such, the new site would house distribution and warehousing activities. The project would include construction of a new 150K SF facility with \$9M in estimated costs and 25 new jobs to West Chicago. The initial operations (Phase 1) would include logistic and distribution operations. A proposed Phase 2 would include manufacturing operations currently located in China and could result in an additional 15 jobs and \$2 million in investment. Phase 2 is projected to begin in 2022-2023.

Alton is in the process of searching for a site to best accommodate operations. Locations under consideration include: Batavia, DuPage Business Park in West Chicago, and Salem, WI. The proposed DuPage Business Park location is 24 acres and includes portions of parcels 04-07-102-016 and 04-07-300-019. The subject site is outlined in green on the attached map. The 24 acres includes land for Phase 1 buildout (150K SF building) and a potential Phase 2 buildout (75k SF building). The Phase 1 building of 150K SF includes approximately 50K SF of excess capacity above current.

We respectfully request a property tax abatement of 50% for a ten-year term and permit fee reductions to bring this project to fruition in West Chicago.

The value of the abatement is estimated to be \$1,110,432 over a ten-year period. The net taxes to the districts are estimated to be \$1,535,760 over a ten-year period. The estimates assume new building initially valued at \$7M in addition to existing land value and 2% assessment escalations due to the quadrennial reassessments.

1031 N. Raddant Road
Batavia, IL 60510
630-389-1030

www.altonindustries.com



The current estimate of City permitting fees is approximately \$42,000. Alton is requesting a waiver of 50% which is approximately \$22,000.

This is a competitive project. Alton is currently considering multiple location options for its expansion. Alton is investigating Batavia, West Chicago, and Salem, WI for this project. Alton is investigating the all-in costs of operating at each location. We have received a preliminary property tax abatement offer from Batavia for the proposed Batavia property. The Batavia property also represents a lower property tax costs than the West Chicago site without property tax abatement. The Salem, WI site represents significant cost savings in labor, real estate, income taxes, and incentives. This project requires board approval, and West Chicago's partnership and participation would help achieve approval.

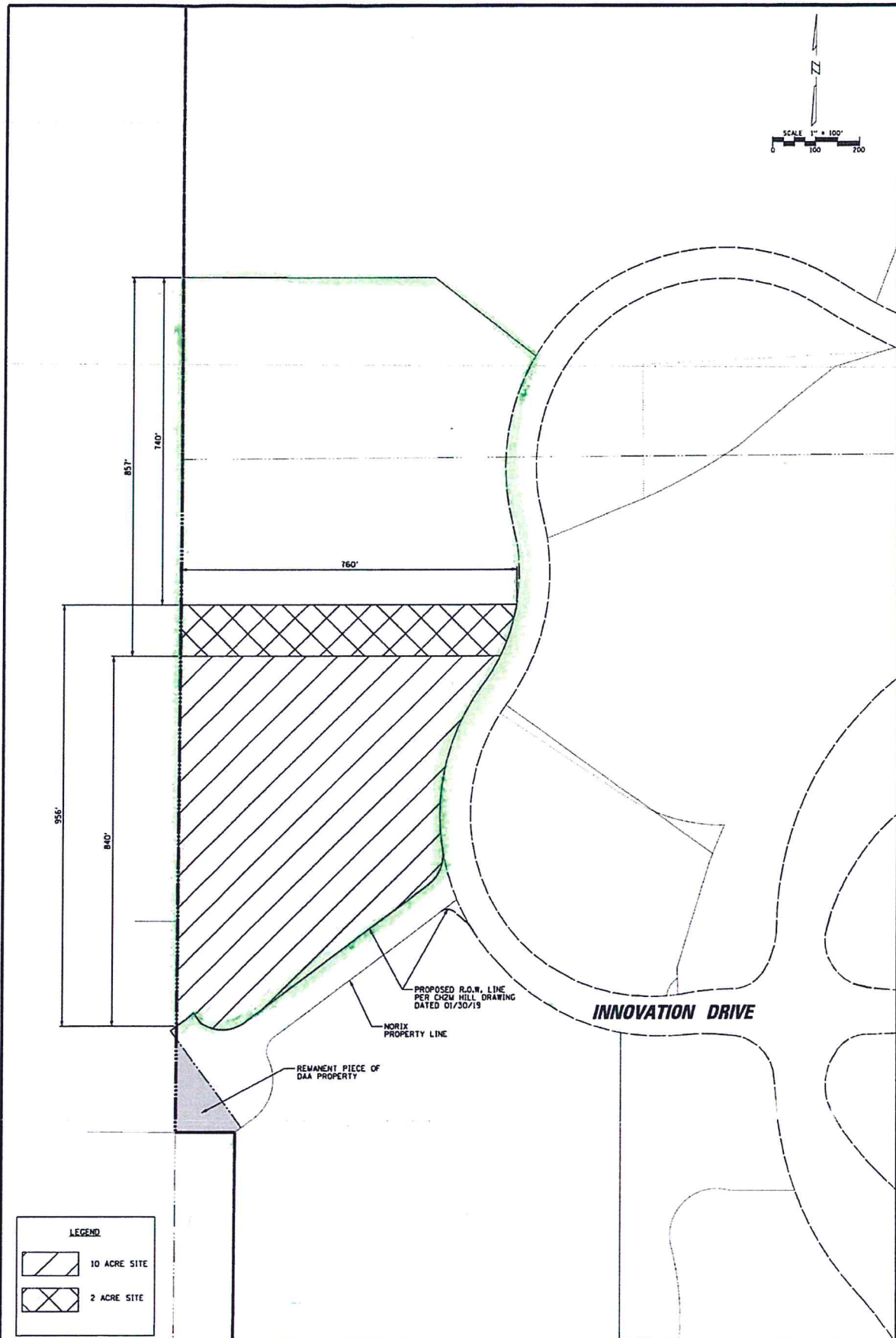
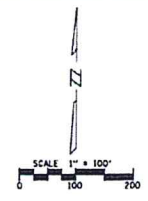
Thank you for your consideration of this request. We are hopeful West Chicago and the other taxing districts' support will enable Alton to build this new facility in West Chicago.

A handwritten signature in black ink, appearing to read "Michael Roach", with a stylized, cursive-like flourish at the end.

Michael Roach

General Manager

Executive Vice President-Global Sales and Marketing



\\WESTPAC001\p001\Drawings\180267.dwg, 2/15/19

	CLIENT:	TITLE:	PROJ. NO. 180267
	DUPAGE AIRPORT AUTHORITY 2700 INTERNATIONAL DRIVE WEST CHICAGO, IL 60185	PROPOSED 10 ACRE & 12 ACRE PARCEL	DATE: 2/15/19
			SHEET 1 OF 1
CHRISTOPHER B. BURKE ENGINEERING, LTD. 9575 W. Higgins Road, Suite 800 Rosemont, Illinois 60018 (847) 823-0500		DESIGNED BY: JMB CHECKED BY: JMB FILED BY: JMB	SCALE: 1"=100' PLOT DATE: 2/15/2019 CAD USER: jofrenza DTD BY: jofrenza

Alton Industries
Tax Estimates
Preliminary & Confidential

10-Year Average Anticipated Taxes		Annual Anticipated Taxes Post Abatement	
Before Abatem	\$ 264,619	\$	285,894
Value of Abate	\$ (111,043)		
Net of Abatem	\$ 153,576		

Annual Summary	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	Total
Anticipated Taxes Before Abatement	\$ 244,008	\$ 244,008	\$ 244,008	\$ 244,008	\$ 264,122	\$ 264,122	\$ 264,122	\$ 264,122	\$ 285,894	\$ 285,894	\$ 285,894	\$ 2,646,192
Less: Abatement	\$(102,394)	\$(102,394)	\$(102,394)	\$(102,394)	\$(110,834)	\$(110,834)	\$(110,834)	\$(110,834)	\$(119,971)	\$(119,971)	\$(119,971)	\$(1,110,432)
Taxes Net of Abatement	\$ 141,614	\$ 141,614	\$ 141,614	\$ 141,614	\$ 153,287	\$ 153,287	\$ 153,287	\$ 153,287	\$ 165,923	\$ 165,923	\$ 165,923	\$ 1,535,760

Alton Industries
Tax Estimates
Preliminary & Confidential

		RY					RY					RY					
LAND VALUE		2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	Total				
Tax Rate	10.419%	10.42%	10.42%	10.42%	10.42%	10.42%	10.42%	10.42%	10.42%	10.42%	10.42%	10.42%					
Land EAV	\$ 8,175	\$ 8,849	\$ 8,849	\$ 8,849	\$ 8,849	\$ 9,579	\$ 9,579	\$ 9,579	\$ 9,579	\$ 10,368	\$ 10,368	\$ 10,368					
INCREMENTAL VALUE																	
Building FMV		\$ 7,000,000	\$ 7,000,000	\$ 7,000,000	\$ 7,577,025	\$ 7,577,025	\$ 7,577,025	\$ 7,577,025	\$ 7,577,025	\$ 8,201,616	\$ 8,201,616	\$ 8,201,616					
Assessment Ratio		33.33%	33.33%	33.33%	33.33%	33.33%	33.33%	33.33%	33.33%	33.33%	33.33%	33.33%					
Equalization Factor		1	1	1	1	1	1	1	1	1	1	1					
EAV		\$ 2,333,100	\$ 2,333,100	\$ 2,333,100	\$ 2,525,422	\$ 2,525,422	\$ 2,525,422	\$ 2,525,422	\$ 2,525,422	\$ 2,733,599	\$ 2,733,599	\$ 2,733,599					
Incremental Taxes Due to Development		\$ 243,086	\$ 243,086	\$ 243,086	\$ 263,124	\$ 263,124	\$ 263,124	\$ 263,124	\$ 263,124	\$ 284,814	\$ 284,814	\$ 284,814	\$ 2,636,193				
		50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%					
ABATED TAXES																	
GRADE SCHOOL DIST 33	4.753%	\$ 55,440	\$ 55,440	\$ 55,440	\$ 60,010	\$ 60,010	\$ 60,010	\$ 60,010	\$ 60,010	\$ 64,957	\$ 64,957	\$ 64,957					
HIGH SCHOOL DIST 94	2.303%	\$ 26,866	\$ 26,866	\$ 26,866	\$ 29,080	\$ 29,080	\$ 29,080	\$ 29,080	\$ 29,080	\$ 31,477	\$ 31,477	\$ 31,477					
WEST CHGO FIRE DIST	0.875%	\$ 10,204	\$ 10,204	\$ 10,204	\$ 11,045	\$ 11,045	\$ 11,045	\$ 11,045	\$ 11,045	\$ 11,955	\$ 11,955	\$ 11,955					
CITY OF WEST CHICAGO	0.544%	\$ 6,347	\$ 6,347	\$ 6,347	\$ 6,870	\$ 6,870	\$ 6,870	\$ 6,870	\$ 6,870	\$ 7,437	\$ 7,437	\$ 7,437					
WEST CHGO LIBR DIST	0.486%	\$ 3,343	\$ 3,343	\$ 3,343	\$ 3,619	\$ 3,619	\$ 3,619	\$ 3,619	\$ 3,619	\$ 3,917	\$ 3,917	\$ 3,917					
DU PAGE AIRPORT AUTH	0.019%	\$ 194	\$ 194	\$ 194	\$ 210	\$ 210	\$ 210	\$ 210	\$ 210	\$ 227	\$ 227	\$ 227					
	8.980%	\$ 102,394	\$ 102,394	\$ 102,394	\$ 110,834	\$ 110,834	\$ 110,834	\$ 110,834	\$ 110,834	\$ 119,971	\$ 119,971	\$ 119,971	\$ 1,110,432				
TOTAL TAX COLLECTED (Land + Building)		\$ -	\$ 141,614	\$ 141,614	\$ 141,614	\$ 153,287	\$ 153,287	\$ 153,287	\$ 153,287	\$ 165,923	\$ 165,923	\$ 165,923	\$ 1,535,760				
NET NEW TAXES																	
GRADE SCHOOL DIST 33		\$ 55,440	\$ 55,440	\$ 55,440	\$ 60,010	\$ 60,010	\$ 60,010	\$ 60,010	\$ 60,010	\$ 64,957	\$ 64,957	\$ 64,957					
HIGH SCHOOL DIST 94		\$ 26,866	\$ 26,866	\$ 26,866	\$ 29,080	\$ 29,080	\$ 29,080	\$ 29,080	\$ 29,080	\$ 31,477	\$ 31,477	\$ 31,477					
WEST CHGO FIRE DIST		\$ 10,204	\$ 10,204	\$ 10,204	\$ 11,045	\$ 11,045	\$ 11,045	\$ 11,045	\$ 11,045	\$ 11,955	\$ 11,955	\$ 11,955					
CITY OF WEST CHICAGO		\$ 6,347	\$ 6,347	\$ 6,347	\$ 6,870	\$ 6,870	\$ 6,870	\$ 6,870	\$ 6,870	\$ 7,437	\$ 7,437	\$ 7,437					
WEST CHGO LIBR DIST		\$ 3,343	\$ 3,343	\$ 3,343	\$ 3,619	\$ 3,619	\$ 3,619	\$ 3,619	\$ 3,619	\$ 3,917	\$ 3,917	\$ 3,917					
DU PAGE AIRPORT AUTH		\$ 194	\$ 194	\$ 194	\$ 210	\$ 210	\$ 210	\$ 210	\$ 210	\$ 227	\$ 227	\$ 227					
Total		\$ 102,394	\$ 102,394	\$ 102,394	\$ 110,834	\$ 110,834	\$ 110,834	\$ 110,834	\$ 110,834	\$ 119,971	\$ 119,971	\$ 119,971	\$ 1,110,432				

Alton Industries
Tax Estimates
Preliminary & Confidential
Assumptions

Assessment Ratio 33.33%
 Growth Rate 2%

	2017 EAV	Acres
04-07-300-019	\$ 12,260	37.68
04-07-102-016	\$ 17,808	50.59
	<u>\$ 30,068</u>	<u>88.27</u>
Proposed Site	\$ 8,175	24.00 ⁽¹⁾

Price per SF	3.8
SF/Acre	43,560
Land Price	\$ 165,528
Acres	24
Land Price	<u>\$3,972,672</u>

Bldg. SF	150,000
Tax PSF	1.6
Tax	<u>\$ 240,000</u>

Estimated FMV \$7,000,000

Rate Source: 2017 tax bill

(1) Land to be acquired includes portions of two parcels. EAV is pro-rated based on acreage.



March 21, 2019

Mr. Michael Guttman
City Administrator
City of West Chicago
475 Main Street
West Chicago, IL 60185

Dear Mr. Guttman,

Alton Industries ("Alton") is a global leader for wet dry vacuum cleaners & air compressors. Alton has been in business for over 15 years and offers DeWalt, Stanley, Briggs & Stratton, Porter Cable, and Stealth brand products. Alton Industries has been dedicated to building performance-driven, and reliable products in the power tool industry. Alton's sister company located in China manufactures component parts which are then shipped to Alton for distribution. Alton's U.S. office is located in Batavia, IL, houses the US headquarters, distribution and customer service team.

Alton has outgrown its current Batavia facility due to increased customer demand. In order to make room for additional capacity, Alton is exploring several build-to suit real estate options. Alton is exploring relocating injection molding production from Alton's sister company in China to the new US site. As such, the new site would house distribution and warehousing activities. The project would include construction of a new 150K SF facility with \$9M in estimated costs and 25 new jobs to West Chicago.

Alton is in the process of searching for a site to best accommodate operations. Locations under consideration include: Batavia, DuPage Business Park in West Chicago, and Salem, WI.

We respectfully request a property tax abatement, permit fee reductions, and utility tax reductions in order to bring this project to fruition in West Chicago.

This is a competitive project. Alton is currently considering multiple location options for its expansion. Alton is investigating Batavia, West Chicago, and Salem, WI for this project. Alton is investigating the all-in costs of operating at each location. We have received a preliminary property tax abatement offer from Batavia for the proposed Batavia property. The Batavia property also represents a lower property tax costs than the West Chicago site without property tax abatement. The Salem, WI site represents significant cost savings in labor, real estate, income taxes, and incentives. This project requires board approval, and West Chicago's partnership and participation would help achieve approval.

Thank you for your consideration of this request. We are hopeful West Chicago and the other taxing districts' support will enable Alton to build this new facility in West Chicago.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Roach".

Michael Roach

Executive Vice President-Global Sales and Marketing

General Manager-Americas
1031 N. Raddant Road

Batavia, IL 60510

630-389-1030

www.altonindustries.com

RESOLUTION NO. 19-R-0035

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WEST CHICAGO, DUPAGE AIRPORT AUTHORITY, WEST CHICAGO LIBRARY DISTRICT, WEST CHICAGO FIRE PROTECTION DISTRICT, WEST CHICAGO ELEMENTARY DISTRICT 33, COMMUNITY HIGH SCHOOL DISTRICT 94, INNOVATION PARTNERS LLC AND ALTON INDUSTRY LTD. GROUP IN REGARD TO A PROPERTY TAX ABATEMENT RELATIVE TO THE DEVELOPMENT OF THE ALTON INDUSTRY PROPERTY

BE IT RESOLVED by the City Council of the City of West Chicago, in regular session assembled, that the Mayor is hereby authorized to execute an Intergovernmental Agreement Between the City of West Chicago, DuPage Airport Authority, West Chicago Library District, West Chicago Fire Protection District, West Chicago Elementary School District 33, Community High School District 94, Innovation Partners LLC and Alton Industry Ltd. Group in regard to a Property Tax Abatement Relative to the Development of the Norix Property, a copy of which, in substantially the same form, is attached hereto and incorporated herein as Exhibit "A".

APPROVED this 3rd day of September, 2019

AYES: _____

NAYES: _____

ABSTAIN: _____

ABSENT: _____

Mayor Ruben Pineda

ATTEST:

City Clerk Nancy M. Smith

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WEST CHICAGO,
DUPAGE AIRPORT AUTHORITY, WEST CHICAGO LIBRARY DISTRICT, WEST
CHICAGO FIRE PROTECTION DISTRICT, WEST CHICAGO ELEMENTARY
SCHOOL DISTRICT 33, COMMUNITY HIGH SCHOOL DISTRICT 94, INNOVATON
PARTNERS, LLC AND ALTON INDUSTRY LTD. GROUP IN REGARD TO A
PROPERTY TAX ABATEMENT RELATIVE TO THE DEVELOPMENT OF THE
ALTON INDUSTRY PROPERTY**

This INTERGOVERNMENTAL AGREEMENT ("Agreement") is entered into this _____ day of _____, 2019 ("Effective Date"), by and between the CITY OF WEST CHICAGO, an Illinois home rule municipal corporation ("CITY"), the DUPAGE AIRPORT AUTHORITY, an Illinois airport authority ("AIRPORT"), the WEST CHICAGO LIBRARY DISTRICT, an Illinois library district ("LIBRARY"), the WEST CHICAGO FIRE PROTECTION DISTRICT, an Illinois fire protection district ("FIRE PROTECTION DISTRICT"), the WEST CHICAGO ELEMENTARY SCHOOL DISTRICT 33, an Illinois school district ("ELEMENTARY SCHOOL DISTRICT"), the COMMUNITY HIGH SCHOOL DISTRICT 94, an Illinois school district ("HIGH SCHOOL DISTRICT"), and Innovation Partners, LLC, a limited liability company ("LANDLORD") and Alton Industry Ltd. Group a corporation (which, together with LANDLORD, is the "DEVELOPER"). The CITY, the AIRPORT, the LIBRARY, the FIRE PROTECTION DISTRICT, the ELEMENTARY SCHOOL DISTRICT, the HIGH SCHOOL DISTRICT, and the DEVELOPER are sometimes individually referred to herein as a "Party" and collectively referred to as the "Parties."

WITNESSETH

WHEREAS, DEVELOPER is under contract to acquire vacant land on Innovation Parkway in West Chicago, Illinois, with said property being legally described on EXHIBIT A-1, attached hereto and made part hereof, and depicted on EXHIBIT A-2, attached

hereto and made part hereof ("Subject Property"); and

WHEREAS, the DEVELOPER desires to acquire and develop the Subject Property with a distribution and warehouse building of approximately one hundred forty thousand (140,000) to one hundred sixty thousand (160,000) square feet on no less than ten (10) acres and up to approximately twenty-five (25) acres, as preliminarily depicted and further described in EXHIBIT B-1 and EXHIBIT B-2, respectively, attached hereto and made a part hereof ("Project"); and

WHEREAS, the DEVELOPER desires to own, develop and operate the Project on the Subject Property; and

WHEREAS, in order to induce the DEVELOPER to proceed with the Project, the CITY, the AIRPORT, the LIBRARY, the FIRE PROTECTION DISTRICT, the ELEMENTARY SCHOOL DISTRICT, and the HIGH SCHOOL DISTRICT (collectively the "UNITS OF GOVERNMENT") agree to provide the DEVELOPER with a partial real estate tax abatement in regard to certain of the real estate taxes assessed by the UNITS OF GOVERNMENT against the Subject Property ("Tax Abatement"); and

WHEREAS, the Tax Abatement will provide a real estate tax abatement from the UNITS OF GOVERNMENT to the DEVELOPER pursuant to 35 ILCS 200/18-165 ("Abatement Law"); and

WHEREAS, the UNITS OF GOVERNMENT have agreed to provide the Tax Abatement to the DEVELOPER, pursuant to the terms and conditions as set forth in this Agreement, provided the DEVELOPER agrees to refrain from taking any actions, either directly or indirectly, to lower the equalized assessed valuation of the Subject Property, including the Project located thereon, for a period of fifteen (15) years after the Project

commences operation, below those equalized assessed valuations as set forth on EXHIBIT C, attached hereto and made part hereof ("Anticipated Assessed Values"); and

WHEREAS, the DEVELOPER is in agreement with the restriction set forth above, relative to refraining from taking any actions, either directly or indirectly, to lower the equalized assessed valuation of the Subject Property below the Anticipated Assessed Values for the Subject Property; and

WHEREAS, by providing the Tax Abatement, in exchange for the DEVELOPER agreeing to refrain from taking any actions, either directly or indirectly, to lower the equalized assessed valuation of the Subject Property below the Anticipated Assessed Values for the Subject Property, the UNITS OF GOVERNMENT will induce the DEVELOPER to cause the Project to be constructed and operated, which the UNITS OF GOVERNMENT anticipate will provide future financial benefits for the UNITS OF GOVERNMENT; and

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution, 5 ILCS 220/1 *et seq.* and the CITY'S home rule powers provide the authority for this Agreement; and

WHEREAS, it is in the best interests of the Parties to enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements contained herein, the Parties hereto agree as follows:

1. **INCORPORATION OF PREAMBLES.** The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. **DEVELOPER CONDITIONS.** The DEVELOPER'S right to receive the Tax Abatement under this Agreement is expressly conditioned upon the satisfaction by the DEVELOPER of the following conditions:

- A. DEVELOPER shall acquire title to the Subject Property on or before October 31, 2019;
- B. Construct and operate the Project on the Subject Property substantially in accordance with the preliminarily site plan and Project description in EXHIBITS B-1 and B-2, and as EXHIBITS B-1 and B-2 may be updated from time to time by the agreement of the DEVELOPER and the CITY, with any updates thereto being appended as revised EXHIBITS B-1 and B-2 without the need to further amend this Agreement;
- C. Obtain certificates of occupancy, or final approvals, for the Project from all governmental entities having jurisdiction over the design and construction of the Project, on or before December 31, 2021. The date the DEVELOPER receives the last of the final certificates of occupancy or final approvals for the Project from all governmental entities having jurisdiction over the design and construction of the Project shall be the "Commencement Date." The DEVELOPER shall notify each of the UNITS OF GOVERNMENT of the Commencement Date within fourteen (14) days after the Commencement Date has occurred;
- D. Comply with the real estate tax obligations set forth in Section 4. below; and
- E. Notwithstanding any provision in this Agreement to the contrary, if the DEVELOPER fails to meet any of its obligations in Sections 2.A., 2.B., or 2.C. of this Agreement, the Agreement shall be terminated and be null and void.

3. REAL ESTATE TAX ABATEMENT.

- A. Subject to the DEVELOPER, on the Subject Property, being in full compliance with Section 2. above, and Section 4.A. below, the UNITS OF GOVERNMENT shall provide the DEVELOPER with the Tax Abatement pursuant to the Abatement Law, relative to the real estate taxes assessed against the Subject Property, including the Project located thereon, with said Tax Abatement being:
 - 1. For a maximum of ten (10) years, beginning with the real estate taxes levied on the Subject Property, including the Project located thereon, for the full calendar year after the calendar year in which the Commencement Date occurs, which real estate taxes are payable in the year thereafter, even if the full amount referenced in Subsection

3.A.2. below has not been abated;

2. Limited to a total cumulative amount from the UNITS OF GOVERNMENT combined of Four Million and No/100 Dollars (\$4,000,000.00), even if the Tax Abatement has not occurred for the full ten (10) year period referenced in Subsection 3.A.1. above;
3. Limited to Fifty Percent (50%) of the real estate taxes to be received by the UNITS OF GOVERNMENT from the Subject Property, including the Project located thereon, exclusive of real estate taxes received to satisfy any debt service tax levy of general applicability to all property within any one or more of the respective UNITS OF GOVERNMENT, in any given year; and
4. Limited by excluding amounts levied by each of the UNITS OF GOVERNMENT for debt service, and as limited by the Abatement Law, and any amendments thereto after the Effective Date.

Within sixty (60) days of the Commencement Date, each of the UNITS OF GOVERNMENT shall adopt the ordinance, or resolution, attached hereto as EXHIBIT D and made a part hereof ("Abatement Ordinance / Resolution"), and send a certified copy of the Abatement Ordinance / Resolution to the DuPage County Clerk ("Clerk"), with such changes to the Abatement Ordinance / Resolution being made to tailor the Abatement Ordinance / Resolution to the specific ordinance, or resolution, form requirements of each of the UNITS OF GOVERNMENT, and after updating the current P.I.N.s and legal description(s) for the Subject Property, including the Project located thereon, if any. The Parties acknowledge that under the Abatement Law, the Clerk administers the Tax Abatement. The Parties acknowledge that as of the Effective Date, the process for administering the Tax Abatement as is described in EXHIBIT E, attached hereto and made a part hereof, and that the process described in EXHIBIT E may change after the

Effective Date. If the process for administering the Tax Abatement as described in EXHIBIT E is changed after the Effective Date, the Parties shall update EXHIBIT E to reflect the new process, which update may occur upon agreement of the chief administrative officers of each of the UNITS OF GOVERNMENT and the DEVELOPER. The Parties shall cooperate with one another, and the Clerk, in administering the Tax Abatement. Upon a reasonable request of the Clerk, or any other Party, the Parties shall timely respond to requests for information and documents related to the Tax Abatement, and the Parties shall take all reasonable steps in a timely manner needed to administer the Tax Abatement consistent with the terms of this Agreement.

- B. During the term of this Agreement, if the DEVELOPER ceases operating the Project on the Subject Property, or if the DEVELOPER breaches any of its obligations under Section 4.A., the UNITS OF GOVERNMENT shall provide written notice of such cessation (a "Default Notice") to the DEVELOPER. If the DEVELOPER does not recommence operation of the Project within thirty (30) days of the DEVELOPER's receipt of a Default Notice, or if the DEVELOPER does not cure the breach of its obligations under Section 4.A. within thirty (30) days of the DEVELOPER's receipt of a Default Notice, then the UNITS OF GOVERNMENT may elect, by written notice to the DEVELOPER delivered following such thirty (30) day period, to terminate this Agreement (hereinafter, a "Termination"), whereupon the

DEVELOPER shall reimburse the UNITS OF GOVERNMENT the Tax Abatement as follows:

1. If a Termination occurs within five (5) years from the Commencement Date, the DEVELOPER shall pay each of the UNITS OF GOVERNMENT its *pro rata* amount of Seventy Five Percent (75%) of the Tax Abatement realized by the DEVELOPER; or
2. If a Termination occurs after five (5) years from the Commencement Date, the DEVELOPER shall pay each of the UNITS OF GOVERNMENT its *pro rata* amount of Fifty Percent (50%) of the Tax Abatement realized by the DEVELOPER.

The DEVELOPER's reimbursement obligations herein shall survive, and be binding upon the DEVELOPER, regardless of the termination or expiration of this Agreement, until fifteen (15) years after the Commencement Date.

The DEVELOPER shall reimburse the UNITS OF GOVERNMENT within thirty (30) days of a written demand from the UNITS OF GOVERNMENT for such reimbursement.

4. REAL ESTATE TAX OBLIGATIONS OF THE DEVELOPER.

- A. The DEVELOPER agrees to pay, or cause to be paid, all general and special real estate taxes levied against its respective interest in the Subject Property, including the Project located thereon, on or prior to the date same is due, and said real estate taxes shall not become delinquent. The DEVELOPER shall deliver evidence of payment of such real estate taxes to the UNITS OF GOVERNMENT upon request.
- B. The DEVELOPER agrees:
 - (1) to not, and to not permit or allow any of its affiliates or employees, to challenge, contest, or seek a reduction in, or assert tax-exempt status in relation to, the real estate taxes assessed against the Subject Property, including the Project located thereon, below the Anticipated Assessed Values, as shown on EXHIBIT C;
 - (2) to prohibit any third party obligated to pay the real estate taxes, in whole or in part, assessed against the Subject Property, including

the Project located thereon, or any portion thereof, from challenging, contesting, seeking a reduction in or asserting tax-exempt status in relation to the real estate taxes assessed against the Subject Property, including the Project located thereon, below the Anticipated Assessed Values, as shown on EXHIBIT C; and

- (3) to not file, participate in, or allow any of its affiliates or employees to file or participate in a tax rate objection, contest or other challenge to the taxes and/or levies of the taxing districts authorized by law to levy property taxes against the Subject Property, including the Project located thereon, below the Anticipated Assessed Values, as shown on EXHIBIT C.

C. The sole remedy to each of the UNITS OF GOVERNMENT, in the event of a breach by DEVELOPER of its obligations in Subsection 4.B. above, shall be for the DEVELOPER to pay to each of the UNITS OF GOVERNMENT, on an annual basis, the difference between (1) the actual real estate taxes payable with respect to the Subject Property, including the Project located thereon, resulting from any such successful challenge, contest, or reduction of or exemption from real estate taxes assessed against the Subject Property, including the Project located thereon, below the Anticipated Assessed Values, as shown on EXHIBIT C, and (2) the lesser of (a) the amount of real estate taxes that would have been due and owing on the Subject Property, including the Project located thereon, for such year, after the Tax Abatement for such year, had such successful challenge contest, or reduction of or exemption from real estate taxes assessed against the Subject Property not occurred, and (b) the amount of real estate taxes that would have been due and owing on the Anticipated Assessed Values for such year, after the Tax Abatement for such year (said deficiency shall herein be referred to as the "Tax Deficiency") plus interest thereon at the prime rate charged by BMO Harris Bank, N.A. (or its successor) plus Three Percent (3%) per annum for the period beginning on the date the real estate taxes are received by each of the UNITS OF GOVERNMENT for any given year and ending on the date the Tax Deficiency is paid to each of the UNITS OF GOVERNMENT, which shall be due within thirty (30) days of written notice from any one (1) of the UNITS OF GOVERNMENT.

D. The DEVELOPER agrees to not pursue, permit or allow any of its affiliates or employees to agree to, pursue or permit the disconnection or detachment of the Subject Property from any of the UNITS OF GOVERNMENT.

5. GENERAL CONDITIONS/REQUIREMENTS.

- A. This Agreement is entered into for the benefit of each of the Parties, solely, and not for the benefit of any third party.
- B. Nothing contained in this Agreement shall constitute a waiver of any privileges, defenses or immunities which the UNITS OF GOVERNMENT may have under the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101, *et seq.*, with respect to any claim brought by a third party.
- C. The obligations of the DEVELOPER shall constitute covenants running with the land legally described in Exhibit A-1 and shall be binding on successors and assigns of the DEVELOPER and shall bind all owners of the Subject Property, including the Project located thereon, or any portion thereof.
- D. This Agreement shall be recorded on title to the Subject Property at the expense of the DEVELOPER upon taking effect.
- E. Upon a breach of this Agreement by DEVELOPER, any of the UNITS OF GOVERNMENT may repeal their respective Abatement Ordinance / Resolution, and any Party, by an action or proceeding solely in equity brought in the 18th Judicial Circuit Court, in DuPage County, Illinois, and may secure the specific performance of the covenants and agreements herein contained, for failure of performance.
- F. In the event of a default by any of the Parties, the defaulting Party, as adjudicated by a court of competent jurisdiction, shall pay to the non-defaulting Party / Parties, upon demand, all of the non-defaulting Party's / Parties' reasonable costs, charges and expenses, including, but not limited to, the costs of accountants, consultants, attorneys and others retained by the non-defaulting Party / Parties for the purpose of enforcing any of the obligations of the defaulting Party under this Agreement.
- G. The failure of any Party to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, by any other Party, shall not constitute or be construed as a waiver or relinquishment of any Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
- H. If the performance by any Party hereunder is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances shall only include acts of God, war, strikes or similar acts of *force majeure*), the time for such performance shall be extended by the amount of time of such delay.
- I. This Agreement shall remain in full force and effect for fifteen (15) years

after the Commencement Date.

- J. In the event that any UNIT OF GOVERNMENT's authority under the Abatement Law to carry out its obligation in this Agreement is repealed, becomes null and void or otherwise becomes invalid, then (i) such UNIT OF GOVERNMENT's obligations hereunder shall cease and no further obligations of any sort shall be required of the UNIT OF GOVERNMENT, and (ii) the DEVELOPER's obligations to such UNIT OF GOVERNMENT hereunder (including, without limitation, DEVELOPER's obligations to such UNIT OF GOVERNMENT under Section 3.B.) shall cease as of the date on which any such UNIT OF GOVERNMENT's authority under the Abatement Law to carry out its obligation in this Agreement is repealed, becomes null and void or otherwise becomes invalid. The DEVELOPER shall have no recourse against the affected UNIT OF GOVERNMENT(s) in such event and such affected UNIT(s) OF GOVERNMENT shall have no recourse against the DEVELOPER.
- K. No amendment to, or modification of, this Agreement shall be effective unless and until it is in writing and approved by the authorized representative of the DEVELOPER and by each of the UNITS OF GOVERNMENT's corporate authorities, and executed and delivered by the authorized representatives of each Party.
- L. If, during the term of this Agreement, any lawsuits or other proceedings are filed or initiated against any Party before any court, commission, board, bureau, agency, unit of government or sub-unit thereof, arbitrator, or other instrumentality, that may materially affect or inhibit the ability of any Party to perform its obligations under, or otherwise to comply with, this Agreement ("Litigation"), the Party against which the Litigation is filed or initiated shall promptly deliver a copy of the complaint or charge related thereto to the other Parties and shall thereafter keep the other Parties fully informed concerning all aspects of the Litigation. Each Party shall, to the extent necessary, cooperate with the other Parties in this event. The Parties each agree to use their respective best efforts to defend the validity of this Agreement and the Abatement Ordinances / Resolutions adopted pursuant to this Agreement, including every portion thereof and every approval given, and every action taken, pursuant thereto.
- M. The DEVELOPER shall and hereby agrees to defend, hold harmless and indemnify the UNITS OF GOVERNMENT, and their respective elected officials, appointed officials, employees, agents and attorneys (collectively the "UNITS OF GOVERNMENT Affiliates") from and against any and all third-party claims, demands, suits, damages, liabilities, losses, expenses, and judgments against any UNITS OF GOVERNMENT Affiliates resulting from the DEVELOPER's breach of its obligations hereunder. The obligation of the DEVELOPER in this regard shall include, but shall not be limited, to

all costs and expenses, including reasonable attorneys' fees, incurred by the UNITS OF GOVERNMENT Affiliates in responding to, defending against, or settling any such claims, demands, suits, damages, liabilities, losses, expenses or judgments. The DEVELOPER covenants that it will reimburse the UNITS OF GOVERNMENT Affiliates, or pay over to the UNITS OF GOVERNMENT Affiliates, all sums of money the UNITS OF GOVERNMENT Affiliates pays, or becomes liable to pay to any such third party, by reason of any of the foregoing; provided, however, that the DEVELOPER's liability under this Section 5.M. shall be limited to the total amount of Tax Abatement that the DEVELOPER has been received pursuant to this Agreement as of the date of any such claim, demand, suit, damage, liability, loss, expense, or judgment. In any suit or proceeding brought hereunder, the UNITS OF GOVERNMENT Affiliates shall have the right to appoint counsel of their own choosing to represent it, the reasonable costs and expenses of which shall be paid by the DEVELOPER.

- N. The DEVELOPER shall maintain the Subject Property, and operate the Project, in compliance with all Federal, State, County, and UNITS OF GOVERNMENT laws, ordinances, resolutions, rules and regulations.

6. **NOTICES.** Notice or other writings which any Party is required to, or may wish to, serve upon any other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the CITY:

City of West Chicago
475 Main Street
West Chicago, Illinois 60185
Attn Mayor

With copies to:

City of West Chicago
475 Main Street
West Chicago, Illinois 60185
Attn: City Administrator

Bond, Dickson & Associates
400 Knoll Street
Wheaton, Illinois 60187
Attn: Patrick Bond

B. If to the LIBRARY:

West Chicago Library District
118 West Washington Street
West Chicago, Illinois 60185
Attn: President

With copies to:

West Chicago Library District
118 West Washington Street
West Chicago, Illinois 60185
Attn: Executive Director

Peregrine, Stime, Newman,
Ritzman, & Bruckner, Ltd.
221 East Illinois Street
Wheaton, Illinois 60187

Attn: Mark Ritzman

C. If to the ELEMENTARY SCHOOL DISTRICT:

West Chicago Elementary
School District 33
312 East Forest Avenue
West Chicago, Illinois 60185
Attn: President

With copies to:

West Chicago Elementary
School District 33
312 East Forest Avenue
West Chicago, Illinois 60185
Attn: Superintendent

Robbins Schwartz
55 W. Monroe Street, Suite 800
Chicago, Illinois 60603
Attn: Kenneth M. Florey

D. If to the HIGH SCHOOL DISTRICT:

Community High School
District 94
157 West Washington Street
West Chicago, Illinois 60185
Attn: President

With copies to:

Community High School
District 94
157 West Washington Street
West Chicago, Illinois 60185
Attn: Superintendent

Hauser, Izzo, Petrarca, Gleason
& Stillman, LLC
19730 Governors Hwy, Suite 10
Flossmor, Illinois 60422
Attn: John Izzo

E. If to the DUPAGE AIRPORT AUTHORITY:

DuPage Airport Authority
2700 International Drive, Suite 200
West Chicago, Illinois 60185
Attn: Chairman

With copies to

DuPage Airport Authority
2700 International Drive, Suite 200
West Chicago, Illinois 60185
Attn: Executive Director

Schirott, Luetkehans & Garner, LLC
105 E. Irving Park Rd.
Itasca, Illinois 60143
Attn: Phillip A. Luetkehans

F. If to the DEVELOPER:

1031 North Raddant Road
Batavia, Illinois 60510
Attn: Michael Roach

With a copy to:

Huck Bouma PC
1755 South Naperville Road, Suite 200
Wheaton, Illinois 60189
Attn: Attn: Jonathan J. Fox

G. If to the FIRE PROTECTION DISTRICT:

West Chicago Fire Protection District
200 Freemont Street
West Chicago, Illinois 60185
Attn: President

With copies to:

West Chicago Fire Protection District
200 Freemont Street
West Chicago, Illinois 60185
Attn: Fire Chief

Ottosen Britz Kelly Cooper Gilbert
& DiNolfo, Ltd.
1804 N. Naper Boulevard #350
Naperville, Illinois 60563
Attn: Joseph Miller

or to such other address, or additional individuals/entities, as any Party may from time to time designate in a written notice to the other Parties. Service by personal delivery shall be deemed given when delivery occurs, and service by certified or registered mail shall be deemed given three (3) days after depositing same in the mail.

7. **COUNTERPARTS.** This Agreement may be executed simultaneously in up to seven (7) counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.
8. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this

Agreement which are not fully expressed herein.

9. **EFFECTIVE DATE.** This Agreement shall be deemed dated and become effective on the date the last of the Parties executes this Agreement as set forth below, which date shall be filled in on page 1 hereof.

IN WITNESS WHEREOF, the CITY, pursuant to authority granted by the adoption of a Motion/Resolution by its City Council, has caused this Agreement to be executed by its Mayor and attested by its Clerk; the AIRPORT, pursuant to authority granted by the adoption of a Motion/Resolution by its Board of Commissioners, has caused this Agreement to be signed by its Chairman and attested by its Secretary; the LIBRARY, pursuant to the authority granted by the adoption of a Motion/Resolution by its Board of Trustees, has caused this Agreement to be signed by its President and attested by its Secretary; the FIRE PROTECTION DISTRICT, pursuant to the authority granted by the adoption of a Motion/Resolution by its Board of Trustees, has caused this Agreement to be signed by its President and attested by its Secretary; the ELEMENTARY SCHOOL DISTRICT, pursuant to the authority granted by the adoption of a Motion/Resolution by its Board of Education, has caused this Agreement to be signed by its President and attested by its Secretary; the HIGH SCHOOL DISTRICT, pursuant to the authority granted by the adoption of a Motion/Resolution by its Board of Education, has caused this Agreement to be signed by its President and attested by its Secretary; LANDLORD, pursuant to proper authority granted in accordance with its organizational documents, has caused this Agreement to be executed by its _____ and attested by its _____; and DEVELOPER, pursuant to proper authority granted in accordance with its organizational documents, has caused this Agreement to be executed by its

_____ and attested by its _____.

CITY OF WEST CHICAGO

By: _____
_____, Mayor

ATTEST:

_____, City Clerk

Dated: _____

**WEST CHICAGO PUBLIC LIBRARY
DISTRICT**

By: _____
_____, President

ATTEST:

_____, Secretary

Dated: _____

**WEST CHICAGO ELEMENTARY
SCHOOL DISTRICT 33**

By: _____
_____, President

ATTEST:

_____, Secretary

Dated: _____

DUPAGE AIRPORT AUTHORITY

By: _____
_____, Chairman

ATTEST:

_____, Secretary

Dated: _____

**WEST CHICAGO COMMUNITY HIGH
SCHOOL DISTRICT 94**

By: _____
_____, President

ATTEST:

_____, Secretary

Dated: _____

By: _____, _____

ATTEST:

_____, _____

Dated: _____

**WEST CHICAGO FIRE PROTECTION
DISTRICT**

By: _____
_____, Chairman

ATTEST:

_____, Secretary

Dated: _____

By: _____
_____, _____

ATTEST:

_____, _____

Dated: _____

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be the Mayor and City Clerk of the City of West Chicago, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such Mayor and City Clerk, respectively, appeared before me this day in person and severally acknowledged that, as such Mayor and City Clerk, they signed and delivered the signed instrument, pursuant to authority given by the City of West Chicago, as their free and voluntary act, and as the free and voluntary act and deed of said City of West Chicago, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be the President and Secretary of the West Chicago Public Library District, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, respectively, appeared before me this day in person and severally acknowledged that, as such President and Secretary, they signed and delivered the signed instrument, pursuant to authority given by the West Chicago Public Library District, as their free and voluntary act, and as the free and voluntary act and deed of said West Chicago Public Library District, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be the President and Secretary of the West Chicago Fire Protection District, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, respectively, appeared before me this day in person and severally acknowledged that, as such President and Secretary, they signed and delivered the signed instrument, pursuant to authority given by the West Chicago Fire Protection District, as their free and voluntary act, and as the free and voluntary act and deed of said West Chicago Fire Protection District, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be the President and Secretary of the West Chicago Elementary School District 33, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, respectively, appeared before me this day in person and severally acknowledged that, as such President and Secretary, they signed and delivered the signed instrument, pursuant to authority given by the West Chicago Elementary School District 33, as their free and voluntary act, and as the free and voluntary act and deed of said West Chicago Elementary School District 33, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be the President and Secretary of the West Community High School District 94, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary, respectively, appeared before me this day in person and severally acknowledged that, as such President and Secretary, they signed and delivered the signed instrument, pursuant to authority given by the West Chicago Community High School District 94, as their free and voluntary act, and as the free and voluntary act and deed of said West Chicago Community High School District 94, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be the Chairman and Secretary of the DuPage Airport Authority, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such Chairman and Secretary, respectively, appeared before me this day in person and severally acknowledged that, as such Chairman and Secretary, they signed and delivered the signed instrument, pursuant to authority given by the DuPage Airport Authority, as their free and voluntary act, and as the free and voluntary act and deed of said DuPage Airport Authority, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF _____)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be the _____ and _____ of _____, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ and _____, respectively, appeared before me this day in person and severally acknowledged that, as such _____ and _____, they signed and delivered the signed instrument, pursuant to authority given by _____, as their free and voluntary act, and as the free and voluntary act and deed of _____, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2019.

Notary Public

My Commission Expires: _____

STATE OF _____)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be the _____ and _____ of _____, and also known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ and _____, respectively, appeared before me this day in person and severally acknowledged that, as such _____ and _____, they signed and delivered the signed instrument, pursuant to authority given by _____, as their free and voluntary act, and as the free and voluntary act and deed of _____, for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal, this _____ day of _____, 2019.

Notary Public

My Commission Expires: _____

EXHIBIT A-1

Legal Description of Subject Property

(attached)

Innovation Partners Parcel

Legal Description

THAT PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER, PER MONUMENT RECORD R2003-137779; THENCE NORTH 00 DEGREES 02 MINUTES 50 SECONDS EAST ALONG THE WEST LINE OF SAID QUARTER SECTION (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM EAST ZONE NAD-83) 410.53 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 10 SECONDS EAST PERPENDICULAR TO SAID WEST LINE 568.72 FEET; THENCE SOUTH 52 DEGREES 24 MINUTES 55 SECONDS EAST 291.25 FEET TO A POINT ON THE WESTERLY LINE OF INNOVATION DRIVE DEDICATED PER DOCUMENT R2007-131936; THENCE ALONG THE WESTERLY LINE OF SAID INNOVATION DRIVE FOR THE NEXT (4) COURSES; (1) THENCE SOUTHERLY 393.47 FEET ALONG THE ARC OF A NON-TANGENT CIRCLE TO THE LEFT HAVING A RADIUS OF 495.08 FEET AND WHOSE CHORD BEARS SOUTH 07 DEGREES 31 MINUTES 56 SECONDS WEST 383.20 FEET TO A POINT OF REVERSE CURVATURE; (2) THENCE SOUTHERLY 382.73 FEET ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT HAVING A RADIUS OF 424.92 FEET AND WHOSE CHORD BEARS SOUTH 10 DEGREES 34 MINUTES 03 SECONDS WEST 369.92 FEET TO A POINT OF REVERSE CURVATURE; (3) THENCE SOUTHERLY 404.58 FEET ALONG THE ARC OF A TANGENT CIRCLE TO THE LEFT HAVING A RADIUS OF 495.08 FEET AND WHOSE CHORD BEARS SOUTH 12 DEGREES 57 MINUTES 38 SECONDS WEST 393.41 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY LINE OF PROPOSED INGENUITY WAY; THENCE ALONG THE NORTHERLY LINE OF SAID INGENUITY WAY FOR THE NEXT (5) COURSES (1) THENCE SOUTHWESTERLY 83.21 FEET ALONG THE ARC OF A NON-TANGENT CIRCLE TO THE RIGHT HAVING A RADIUS OF 75.00 FEET AND WHOSE CHORD BEARS SOUTH 25 DEGREES 57 MINUTES 23 SECONDS WEST 79.00 FEET TO A POINT; (2) THENCE SOUTH 52 DEGREES 49 MINUTES 33 SECONDS WEST 514.54 FEET TO A POINT OF CURVATURE; (3) THENCE WESTERLY 108.62 FEET ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT HAVING A RADIUS OF 85.00 FEET AND WHOSE CHORD BEARS SOUTH 89 DEGREES 26 MINUTES 04 SECONDS WEST 101.38 FEET TO A POINT; (4) THENCE NORTH 36 DEGREES 19 MINUTES 24 SECONDS WEST NON-TANGENT TO THE LAST COURSE, 26.17 FEET; (5) THENCE SOUTH 53 DEGREES 40 MINUTES 36 SECONDS WEST PERPENDICULAR TO THE LAST COURSE, 48.88 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 00 DEGREES 19 MINUTES 26 SECONDS EAST ALONG SAID WEST LINE 1,285.35 FEET, TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS. CONTAINING 24.509 ACRES OR 1,067,592 SQUARE FEET MORE OR LESS.

[LEGAL DESCRIPTION]

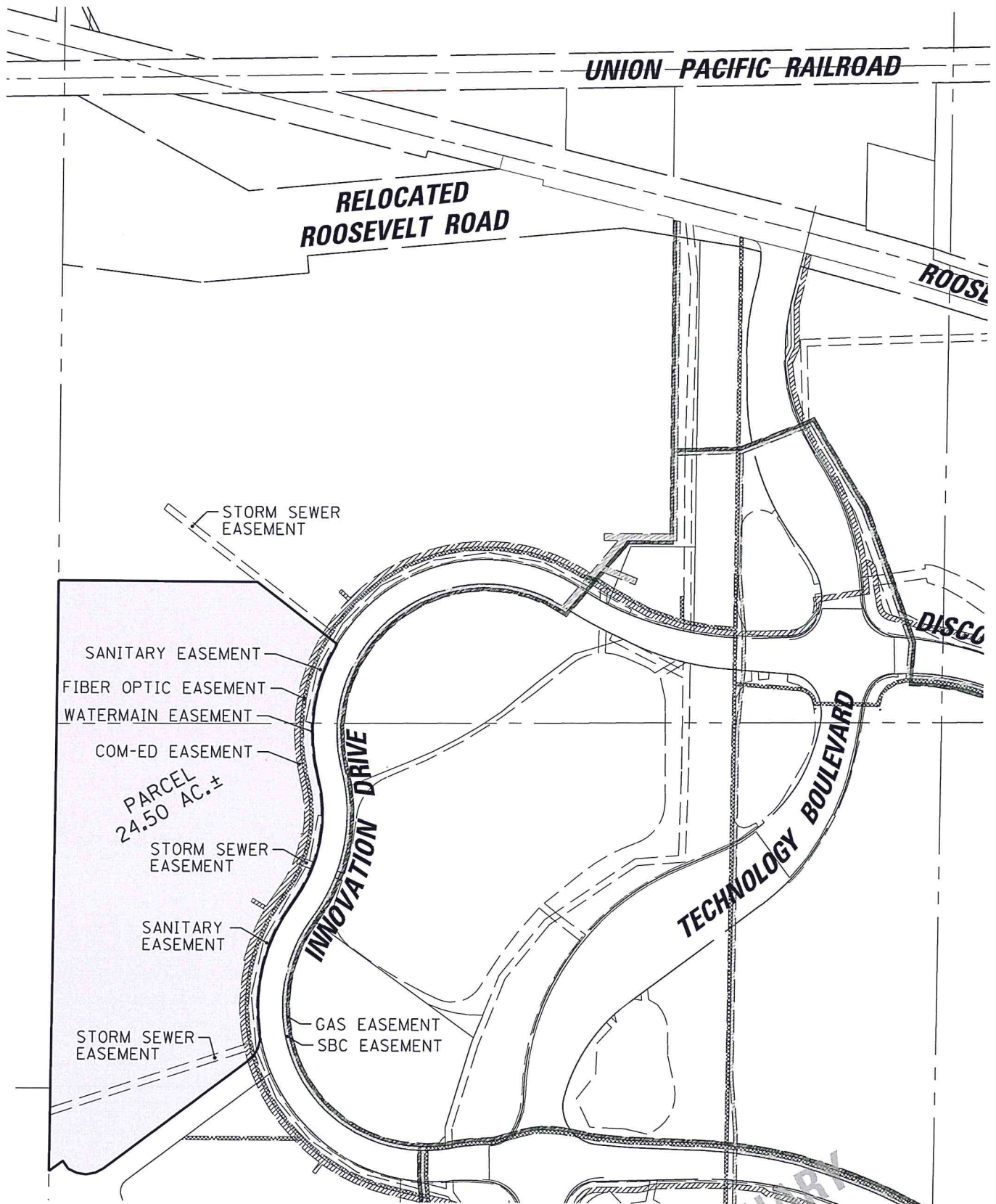
P.I.N.: _____

Common address: _____, West Chicago, Illinois

EXHIBIT A-2

Depiction of Subject Property

(attached)



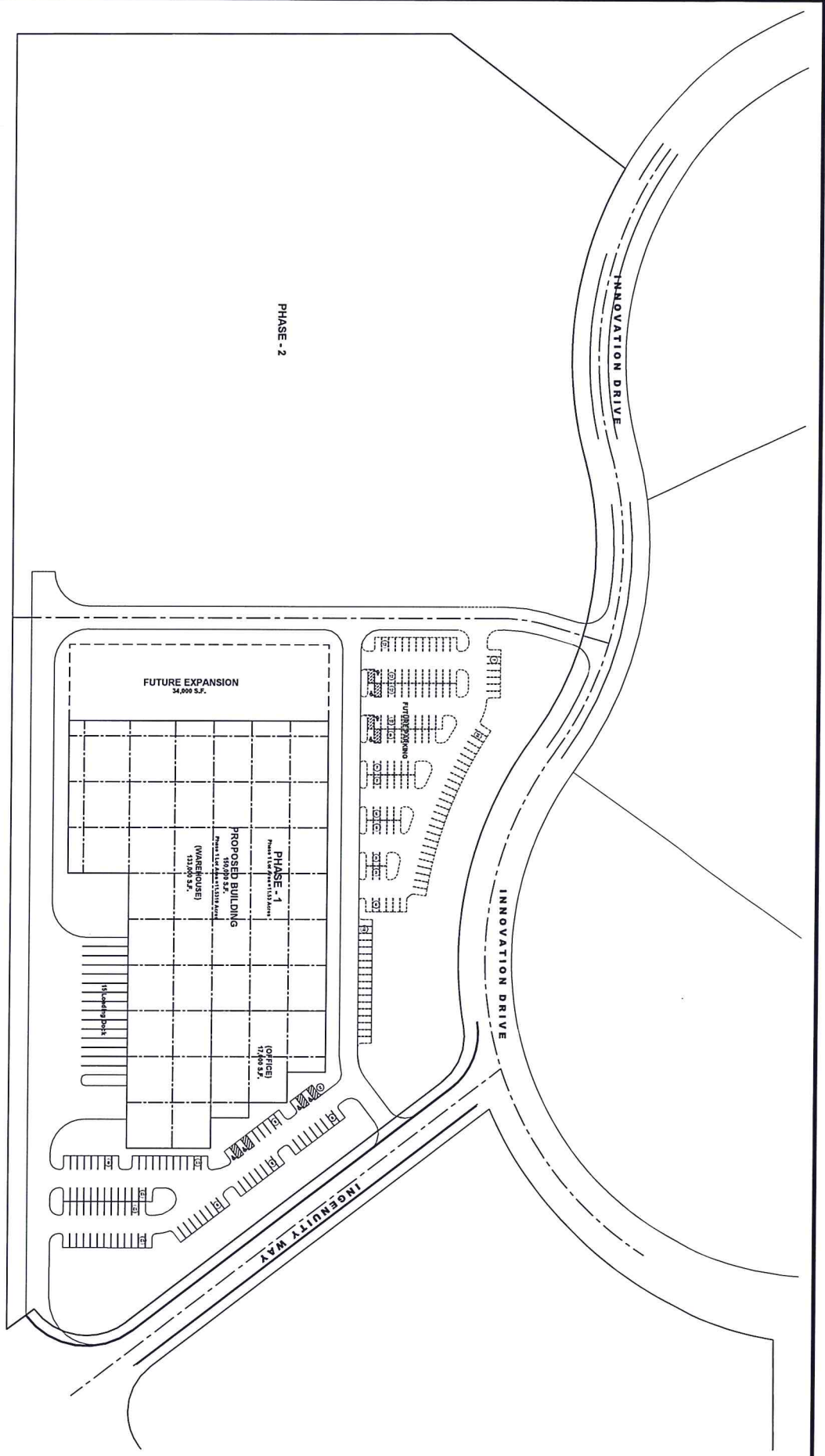
CHRISTOPHER B. BURKE
 ENGINEERING, LTD.
 9575 West Higgins Road
 Suite 600, Rosemont, Illinois 60018
 (847) 823-0500

PARCEL AREA'S
 IN
 CITY OF WEST CHICAGO, ILLINOIS
 PREPARED FOR
 DUPAGE AIRPORT AUTHORITY

EXHIBIT B-1

Project Site Plan

(attached)



TOTAL SITE AREA
24.59 ACRES
13.77 ACRES
PHASE - 2

PARKING REQUIREMENTS FOR PHASE 1
OFFICE: 1 SPACE PER 1,000 S.F.
MANUFACTURING WAREHOUSE: 1 SPACE PER 1,000 S.F.
TOTAL: 1 SPACE PER 1,000 S.F.

REQUIRED PARKING
OFFICE: 133 SPACES
WAREHOUSE: 10,800 S.F.
TOTAL: 133 SPACES

PROPOSED PARKING PROVIDED:
REGULAR STALLS: 277 SPACES
HANDICAPPED STALLS: 23 SPACES
TOTAL: 300 SPACES

EXHIBIT B-2

Project Description

(attached)

Project Description

Company Background

Alton Industries ("Alton") is a global leader for wet dry vacuum cleaners & air compressors. Alton has been in business for over 15 years and offers DeWalt, Stanley, Briggs & Stratton, Porter Cable, and Stealth brand products.

Alton Industries has been dedicated to building performance-driven, and reliable products in the power tool industry. Alton's sister company located in China manufactures component parts which are then shipped to Alton for distribution. Alton's U.S. office is located in Batavia, IL, houses the US headquarters, distribution and customer service team.

Project Overview

Alton has outgrown its current Illinois facility due to increased customer demand. In order to make room for additional capacity, Alton is exploring several build-to suit real estate options.

Alton is exploring relocating injection molding production from Alton's sister company in China to the new US site. As such, the new site would house distribution and warehousing activities. Alton is in the process of searching for a site to best accommodate operations. An entity with related ownership, Innovation Partners, LLC, would purchase and develop the property.

Proposed Project Impact

- Job Commitment
 - 25 new full-time jobs to West Chicago
 - 15 Hourly Workers - \$39K Average Wage
 - 10 Salary Workers - \$65K Average Wage
- Investment Commitment- \$12M
 - DuPage Business Park
 - 150K SF new build-to-suit facility
 - \$9M Estimated total cost
 - Machinery & Equipment - \$3M

EXHIBIT C

Anticipated Assessed Values

Year	Anticipated Assessed Valuation
Year 1	\$2,333,100
Year 2	\$2,333,100
Year 3	\$2,333,100
Year 4	\$2,525,422
Year 5	\$2,525,422
Year 6	\$2,525,422
Year 7	\$2,525,422
Year 8	\$2,733,599
Year 9	\$2,733,599
Year 10	\$2,733,599
Total	\$25,301,785

EXHIBIT D

Abatement Ordinance / Resolution

(attached)

[ORDINANCE / RESOLUTION] PROVIDING FOR REAL ESTATE TAX ABATEMENT

WHEREAS, the Illinois Property Tax Code, 35 ILCS 200/18-165, authorizes any taxing district to abate its taxes in relation to a specific property; and

WHEREAS, in "An Intergovernmental Agreement Between the City of West Chicago, DuPage Airport Authority, West Chicago Library District, West Chicago Fire Protection District, West Chicago Elementary School District 33, Community High School District 94 and _____ in Regard to a Property Tax Abatement Relative to the Development of the Alton Industries Property," dated _____, 2019 ("IGA"), the [City Council / Board of Trustees / Board of Commissioners / Board of Education] of the [Unit of Government] previously determined it to be in its best interests to abate a portion of its taxes on the real estate legally described in **Exhibit 1**, attached hereto and made a part hereof ("Subject Property"), in order to encourage a commercial firm to redevelop the Subject Property; and

WHEREAS, the conditions of the IGA for the abatement of a portion of the taxes on the Subject Property have been met; and

WHEREAS, in the IGA, this [City Council / Board of Trustees / Board of Commissioners / Board of Education] previously determined such abatement of taxes to be in the best interests of its tax payers in order to encourage a commercial firm to redevelop the Subject Property, increase the tax base, and increase employment opportunities; and

NOW, THEREFORE, BE IT [ORDAINED / RESOLVED] [by the [Mayor / Chairman / President] and [City Council / Board of Trustees / Board of Commissioners / Board of Education] of the [Unit of Government], DuPage County, Illinois, as follows:

Section 1. This [City Council / Board of Trustees / Board of Commissioners / Board of Education] hereby finds that all of the recitals contained in the preambles to this [Ordinance / Resolution] are full, true and correct and does now incorporate the same herein by reference.

Section 2. The County Clerk of DuPage County, Illinois is hereby ordered to abate the real estate taxes to be extended on the Subject Property, on behalf of the [Unit of Government] according to the rate set forth in Section 3 below, but excluding any levy or levies for debt service ("Abatement Rate"), commencing at the start of the next calendar year after the year in which this [Ordinance / Resolution] is passed. However, in no event shall the aggregate abatement of real estate taxes levied against the Subject Property by the [Unit of Government], together with real estate taxes levied against the Subject Property and abated in previous and future years by all other taxing districts, exceed the total of Four Million and No/100 Dollars (\$4,000,000.00).

Section 3. The Abatement Rate shall be Fifty Percent (50%) of the real estate taxes to be extended on the Subject Property on behalf of the [Unit of Government].

Section 4. The [Mayor / Chairman / President] and [Clerk / Secretary] of this [Unit of Government] are hereby authorized and directed to execute this [Ordinance / Resolution] and cause a certified copy of the same to be filed with the County Clerk of DuPage County, Illinois.

Section 5. This [Ordinance / Resolution] shall be in full force and effect upon its adoption and publication.

PASSED this _____ day of _____, 20__ by a majority vote of the Corporate Authorities of the [Unit of Government] on a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by the [Mayor / Chairman / President] of the [Unit of Government] on the ____ day of _____, 20__.

[Mayor / Chairman / President]

ATTEST:

[Clerk / Secretary]

[Published in pamphlet form / Published in the _____ newspaper, being a newspaper of general circulation within the [Unit of Government] this ____ day of _____, 20__.]

EXHIBIT 1

LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

(attached)

Innovation Partners Parcel

Legal Description

THAT PART OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER, PER MONUMENT RECORD R2003-137779; THENCE NORTH 00 DEGREES 02 MINUTES 50 SECONDS EAST ALONG THE WEST LINE OF SAID QUARTER SECTION (BEARING BASED ON THE ILLINOIS STATE PLANE COORDINATE SYSTEM EAST ZONE NAD-83) 410.53 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 10 SECONDS EAST PERPENDICULAR TO SAID WEST LINE 568.72 FEET; THENCE SOUTH 52 DEGREES 24 MINUTES 55 SECONDS EAST 291.25 FEET TO A POINT ON THE WESTERLY LINE OF INNOVATION DRIVE DEDICATED PER DOCUMENT R2007-131936; THENCE ALONG THE WESTERLY LINE OF SAID INNOVATION DRIVE FOR THE NEXT (4) COURSES; (1) THENCE SOUTHERLY 393.47 FEET ALONG THE ARC OF A NON-TANGENT CIRCLE TO THE LEFT HAVING A RADIUS OF 495.08 FEET AND WHOSE CHORD BEARS SOUTH 07 DEGREES 31 MINUTES 56 SECONDS WEST 383.20 FEET TO A POINT OF REVERSE CURVATURE; (2) THENCE SOUTHERLY 382.73 FEET ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT HAVING A RADIUS OF 424.92 FEET AND WHOSE CHORD BEARS SOUTH 10 DEGREES 34 MINUTES 03 SECONDS WEST 369.92 FEET TO A POINT OF REVERSE CURVATURE; (3) THENCE SOUTHERLY 404.58 FEET ALONG THE ARC OF A TANGENT CIRCLE TO THE LEFT HAVING A RADIUS OF 495.08 FEET AND WHOSE CHORD BEARS SOUTH 12 DEGREES 57 MINUTES 38 SECONDS WEST 393.41 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY LINE OF PROPOSED INGENUITY WAY; THENCE ALONG THE NORTHERLY LINE OF SAID INGENUITY WAY FOR THE NEXT (5) COURSES (1) THENCE SOUTHWESTERLY 83.21 FEET ALONG THE ARC OF A NON-TANGENT CIRCLE TO THE RIGHT HAVING A RADIUS OF 75.00 FEET AND WHOSE CHORD BEARS SOUTH 25 DEGREES 57 MINUTES 23 SECONDS WEST 79.00 FEET TO A POINT; (2) THENCE SOUTH 52 DEGREES 49 MINUTES 33 SECONDS WEST 514.54 FEET TO A POINT OF CURVATURE; (3) THENCE WESTERLY 108.62 FEET ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT HAVING A RADIUS OF 85.00 FEET AND WHOSE CHORD BEARS SOUTH 89 DEGREES 26 MINUTES 04 SECONDS WEST 101.38 FEET TO A POINT; (4) THENCE NORTH 36 DEGREES 19 MINUTES 24 SECONDS WEST NON-TANGENT TO THE LAST COURSE, 26.17 FEET; (5) THENCE SOUTH 53 DEGREES 40 MINUTES 36 SECONDS WEST PERPENDICULAR TO THE LAST COURSE, 48.88 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 00 DEGREES 19 MINUTES 26 SECONDS EAST ALONG SAID WEST LINE 1,285.35 FEET, TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS. CONTAINING 24.509 ACRES OR 1,067,592 SQUARE FEET MORE OR LESS.

[LEGAL DESCRIPTION]

P.I.N.: _____

Common address: _____, West Chicago, Illinois

EXHIBIT E

ABATEMENT PROCESS

Capitalized terms in this EXHIBIT E shall have the meanings as set forth for said terms in the "Intergovernmental Agreement Between The City Of West Chicago, DuPage Airport Authority, West Chicago Library District, West Chicago Fire Protection District, West Chicago Elementary School District 33, Community High School District 94, _____ And _____ In Regard To A Property Tax Abatement Relative To The Development Of The Alton Industries Property" ("IGA"), unless otherwise defined in this EXHIBIT E.

As of the Effective Date of the IGA, the process for administering the Tax Abatement is:

1. Within sixty (60) days of the Commencement Date, each UNIT OF GOVERNMENT shall adopt an Abatement Ordinance / Resolution, and send a certified copy of its Abatement Ordinance / Resolution to the Clerk.
2. The Clerk shall, at the time the tentative tax rates are prepared for each year's property tax levy, send to the chief executive officer of each of the UNITS OF GOVERNMENT a letter setting forth, with respect to the Tax Abatement, the parcel(s) affected, the amount of property taxes to be levied, and the amount of the abatement attributable to each of the UNITS OF GOVERNMENT ("Abatement Letter").
3. Each of the UNITS OF GOVERNMENT shall, each year, review the Abatement Letter from the Clerk, note any changes in the information provided, and then sign and return the Abatement Letter to the Clerk, all within seven (7) days of receipt of the Abatement Letter.
4. The Clerk shall track and account for the total Tax Abatement paid to the DEVELOPER.
5. The Clerk shall calculate the property tax levy for each of the UNITS OF GOVERNMENT taking the Tax Abatement into account, as approved by each of the UNITS OF GOVERNMENT with regard to its annual Abatement Letter.
6. The Tax Abatement for the Subject Property abated in previous and future years by all other taxing districts, shall not exceed the total of Four Million and No/100 Dollars (\$4,000,000.00).

RESOLUTION NO. 19-R-0036

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN ECONOMIC
INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF WEST
CHICAGO, INNOVATION PARTNERS LLC AND ALTON
INDUSTY LTD. GROUP**

BE IT RESOLVED by the City Council of the City of West Chicago, in regular session assembled, that the Mayor is hereby authorized to execute an Economic Incentive Agreement by and between the City of West Chicago, Innovation Partners LLC and Alton Industry Ltd. Group, a copy of which, in substantially the same form, is attached hereto and incorporated herein as Exhibit "A".

APPROVED this 3rd day of September, 2019

AYES: _____

NAYES: _____

ABSTAIN: _____

ABSENT: _____

Mayor Ruben Pineda

ATTEST:

City Clerk Nancy M. Smith

**ECONOMIC INCENTIVE AGREEMENT BY AND BETWEEN
THE CITY OF WEST CHICAGO, ALTON INDUSTRY LTD.
GROUP AND INNOVATION PARTNERS, LLC**

This ECONOMIC INCENTIVE AGREEMENT ("Agreement") is entered into this ____ day of _____, 2019 ("Effective Date") by and between the City of West Chicago, an Illinois home rule municipal corporation ("CITY"), and Innovation Partners, LLC, a Limited Liability Company, and Alton Industry Ltd. Group, a Corporation, and together with Innovation Partners, LLC, ("DEVELOPER"). The CITY and the DEVELOPER are sometimes individually referred to herein as a "Party" and collectively referred to as the "Parties."

WITNESSETH

WHEREAS, DEVELOPER, the CITY, and certain other units of government, entered into the "INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF WEST CHICAGO, DUPAGE AIRPORT AUTHORITY, WEST CHICAGO LIBRARY DISTRICT, WEST CHICAGO FIRE PROTECTION DISTRICT, WEST CHICAGO ELEMENTARY SCHOOL DISTRICT 33, COMMUNITY HIGH SCHOOL DISTRICT 94 AND INNOVATION PARTNERS, LLC IN REGARD TO A PROPERTY TAX ABATEMENT RELATIVE TO THE DEVELOPMENT OF THE ALTON INDUSTRIES PROPERTY" on _____, 2019 ("IGA"); and

WHEREAS, as set forth in the IGA, the DEVELOPER is under contract to acquire vacant land on Innovation Parkway in West Chicago, Illinois, with said property being legally described on EXHIBIT A-1, attached to the IGA, and depicted on EXHIBIT A-2, attached to the IGA ("Subject Property"); and

WHEREAS, the DEVELOPER desires to acquire and develop the Subject Property with a distribution and warehouse building of approximately one hundred forty thousand (140,000) to one hundred sixty thousand (160,000) square feet on no less than ten (10) acres and up to twenty-five (25) acres, as preliminarily depicted and further described in EXHIBIT B-1 and EXHIBIT B-2, respectively, attached to the IGA ("Project"); and

WHEREAS, the IGA provides that the DEVELOPER will receive a real estate tax abatement from the CITY and certain other units of government pursuant to 35 ILCS 200/18-165 ("Tax Abatement"), if the conditions for the Tax Abatement in the IGA are satisfied; and

WHEREAS, the DEVELOPER has requested that in addition to the Tax Abatement, the CITY provide the DEVELOPER with the additional incentive set forth in this Agreement ("Additional Incentive") to assist the DEVELOPER in acquiring the Subject Property and/or improving it with the Project; and

WHEREAS, the CITY agrees to provide the DEVELOPER with the Additional Incentive as set forth herein, and in exchange for the DEVELOPER agreeing to comply with the terms of the IGA and the terms of this Agreement, and in exchange for the DEVELOPER agreeing to redevelop the Property with the Project, the CITY will induce the DEVELOPER to cause the Project to be constructed and operated, which will provide future financial benefits for the CITY; and

WHEREAS, Article VII, Section 10 of the 1970 Illinois Constitution, 65 ILCS 5/8-1-2.5, 5 ILCS 220/1 *et seq.* and the CITY'S home rule powers provide the authority for this Agreement; and

WHEREAS, it is in the best interests of the Parties to enter into this Agreement;

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements contained herein, the Parties hereto agree as follows:

1. **INCORPORATION OF PREAMBLES.** The preambles hereto, as set forth above, are incorporated herein by reference and are made part hereof.
2. **DEVELOPER CONDITIONS.** The DEVELOPER'S right to receive the Additional Incentive under this Agreement is expressly conditioned upon the performance of the following conditions, to the extent the conditions can be met prior to the Additional Incentive being granted to the DEVELOPER:
 - A. DEVELOPER shall not be in default of its obligations in the IGA.
 - B. DEVELOPER shall operate an ongoing business operation on the Subject Property, within a physical building of approximately one hundred forty thousand (140,000) to one hundred sixty thousand (160,000) square feet.
 - C. DEVELOPER shall provide the CITY all documents reasonably requested by the CITY regarding the matters set forth in the IGA and this Agreement.
 - D. DEVELOPER shall, within two (2) years of the issuance of a final Certificate of Occupancy for the Project employ at the Subject Property no less than twenty-five (25) full-time equivalent employees, which number of full-time equivalent employees DEVELOPER shall maintain during the term of this Agreement.
 - E. DEVELOPER shall at not less than once per calendar year, on a date selected by the CITY, provide a written report to the CITY with:
 1. A summary of the Project's and the DEVELOPER's plans for prospective growth or expansion at the Subject Property; and
 2. Copies of documentation showing the number of square feet of the Subject Property used for carrying out the Project, including but not limited to property casualty policy renewal certificate, and/or annual fire inspection reports.

F. DEVELOPER shall at not less than once per calendar year, on a date selected by the CITY, provide a certified payroll summary, or similar documentation acceptable to the CITY, to verify the DEVELOPER'S compliance with its obligations in Section 2.D. above, and DEVELOPER shall redact and remove employee names, Social Security numbers, salaries and other sensitive and personal information removed from the documentation provided to the CITY hereunder.

3. **ADDITIONAL INCENTIVE.** For the Additional Incentive, the DEVELOPER shall only be required to pay only Fifty Percent (50%) of any building permit costs payable to the CITY for the Project, and the CITY shall waive the remaining building permit costs for the Project payable to the CITY, up to an aggregate total building permit costs waiver not to exceed amount of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) ("Building Permit Waiver Cap"). The DEVELOPER shall pay building permit costs to the CITY for the Project over the Building Permit Waiver Cap. Building permit costs waived herein exclude the sewer capacity fee and all third party costs paid by the CITY associated with the building permit for the Project, such as, but not limited to, plan review costs and the land cash fee to the West Chicago Fire Protection District. The amount of the actual building permit costs waived herein shall be the "Building Permit Waiver Costs."

4. **[INTENTIONALLY LEFT BLANK]**

5. **ADDITIONAL INCENTIVE CLAWBACK.** If either: (a) DEVELOPER ceases operating the Project on the Subject Property, or (b) if the DEVELOPER breaches any of its obligations in this Agreement, then, in either such instance, the CITY shall provide written notice of such cessation or breach to DEVELOPER (a "Default Notice"). If DEVELOPER does not (a) recommence

operation of the Project within thirty (30) days following DEVELOPER's receipt of a Default Notice, or (b) cure any such breach of this Agreement within such thirty (30) day period (provided, that if such cure cannot reasonably be performed in thirty (30) days, then, DEVELOPER shall have such additional time as may be reasonably required to effect such cure provided that DEVELOPER commences such cure within such thirty (30) day period and diligently pursues the same to completion), then the CITY may elect, by written notice to DEVELOPER, to terminate this Agreement (hereinafter, a "Termination"), whereupon the DEVELOPER shall reimburse the CITY the Additional Incentive as follows:

- A. If a Termination occurs within five (5) years from the "Commencement Date," as defined in the IGA, the DEVELOPER shall pay the CITY Seventy Five Percent (75%) of the Building Permit Waiver Costs realized by DEVELOPER prior to the date on which the Termination occurs, and thereafter the DEVELOPER shall not be entitled to receive any Additional Incentive pursuant to this Agreement; or
- B. If a Termination occurs after five (5) years from the "Commencement Date," as defined in the IGA, the DEVELOPER shall pay the CITY Fifty Percent (50%) of the Building Permit Waiver Costs, and thereafter the DEVELOPER shall not be entitled to receive any Additional Incentive pursuant to this Agreement.

The DEVELOPER's reimbursement obligations set forth herein shall survive, and be binding upon the DEVELOPER, regardless of the termination or expiration of this Agreement. The DEVELOPER shall reimburse the CITY as provided herein within thirty (30) days of a written demand from the CITY for such reimbursement.

6. **INTERVENING ACTIONS.** The Parties acknowledge that the Additional Incentive is predicated upon current law in the State of Illinois, as of the Effective Date, allowing the CITY to make the Additional Incentive available

to the DEVELOPER. Should the Illinois General Assembly, or a court of competent jurisdiction, hereafter eliminate or limit the CITY's authority to make the Additional Incentive available to the DEVELOPER, or should the CITY's ability to make any Additional Incentive to DEVELOPER be limited or eliminated in any manner, then, upon the occurrence of any of the foregoing events, (a) the DEVELOPER shall not be entitled to receive the Additional Incentive so limited, and (b) DEVELOPER may, by written notice delivered to the CITY at any time following the occurrence of any of the foregoing events, elect to terminate this Agreement whereupon this Agreement shall be of no further force or effect (including, without limitation, the DEVELOPER's liability under Section 5 above).

7. GENERAL CONDITIONS/REQUIREMENTS.

- A. This Agreement is entered into for the benefit of each of the Parties, solely, and not for the benefit of any third party.
- B. Nothing contained in this Agreement shall constitute a waiver of any privileges, defenses or immunities which the CITY may have under the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101, *et seq.*, with respect to any claim brought by a third party.
- C. The obligations of the DEVELOPER shall constitute covenants running with the land of the Subject Property and shall be binding on successors and assigns of the DEVELOPER and shall bind all owners of the Subject Property, including the Project located thereon, or any portion thereof.
- D. This Agreement shall be recorded on title to the Subject Property at the expense of the DEVELOPER upon taking effect.
- E. Upon a breach of this Agreement the non-breaching Party, by an action or proceeding solely in equity brought in the 18th Judicial Circuit Court, in DuPage County, Illinois, may secure the specific performance of the covenants and agreements herein contained, for failure of performance.
- F. In the event of a default by any of the Parties, the defaulting Party, as adjudicated by a court of competent jurisdiction, shall pay to the non-

defaulting Party, upon demand, all of the non-defaulting Party's reasonable costs, charges and expenses, including, but not limited to, the costs of accountants, consultants, attorneys and others retained by the non-defaulting Party for the purpose of enforcing any of the obligations of the defaulting Party under this Agreement.

- G. The failure of any Party to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, by any other Party, shall not constitute or be construed as a waiver or relinquishment of any Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
- H. If the performance by any Party hereunder is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances shall only include acts of God, war, strikes or similar acts of *force majeure*), the time for such performance shall be extended by the amount of time of such delay.
- I. This Agreement shall remain in full force and effect so long as the IGA remains in effect.
- J. In the event that the CITY's authority to carry out its obligation in this Agreement is repealed, become null and void or otherwise become invalid, then the CITY's obligations hereunder shall cease and no further obligations of any sort shall be required of the CITY. The DEVELOPER shall have no recourse against the CITY in such event.
- K. No amendment to, or modification of, this Agreement shall be effective unless and until it is in writing and approved by the authorized representative of the DEVELOPER and by the CITY'S corporate authorities, and executed and delivered by the authorized representatives of each Party.
- L. If, during the term of this Agreement, any lawsuits or other proceedings are filed or initiated against any Party before any court, commission, board, bureau, agency, unit of government or sub-unit thereof, arbitrator, or other instrumentality, that may materially affect or inhibit the ability of any Party to perform its obligations under, or otherwise to comply with, this Agreement ("Litigation"), the Party against which the Litigation is filed or initiated shall promptly deliver a copy of the complaint or charge related thereto to the other Parties and shall thereafter keep the other Parties fully informed concerning all aspects of the Litigation. Each Party shall, to the extent necessary, cooperate with the other Parties in this event. The Parties each agree to use their respective best efforts to defend the validity of this Agreement and all approvals of the Parties related thereto,

including every portion thereof and every approval given, and every action taken, pursuant thereto.

- M. The DEVELOPER shall and hereby agrees to defend, hold harmless and indemnify the CITY, and its respective elected officials, appointed officials, employees, agents and attorneys (collectively the "CITY Affiliates") from and against any and all third-party claims, demands, suits, damages, liabilities, losses, expenses, and judgments against any CITY Affiliates resulting from DEVELOPER's breach of its obligations hereunder. The obligation of the DEVELOPER in this regard shall include, but shall not be limited, to all costs and expenses, including reasonable attorneys' fees, incurred by the CITY Affiliates in responding to, defending against, or settling any such claims, demands, suits, damages, liabilities, losses, expenses or judgments. The DEVELOPER covenants that it will reimburse the CITY Affiliates, or pay over to the CITY Affiliates, all reasonable sums of money the CITY Affiliates pay, or becomes liable to pay, to any such third-party by reason of any of the foregoing; provided, however, that the DEVELOPER's liability under this Section 8.M. shall be limited to the total amount of the Additional Incentive that the DEVELOPER has received pursuant to this Agreement as of the date of any such claim, demand, suit, damage, liability, loss, expense, or judgment. In any suit or proceeding for which DEVELOPER is required to indemnify and hold any CITY Affiliates harmless hereunder, such CITY Affiliates shall have the right to appoint counsel of their own choosing to represent it, the reasonable costs and expenses of which shall be paid by the DEVELOPER.
- N. The DEVELOPER shall maintain the Subject Property, and operate the Project, in compliance with all Federal, State, County, and CITY laws, ordinances, resolutions, rules and regulations.

8. **NOTICES.** Notice or other writings which any Party is required to, or may wish to, serve upon any other Party in connection with this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

A. If to the CITY:

City of West Chicago
475 Main Street
West Chicago, Illinois 60185
Attention: Mayor

B. If to the DEVELOPER:

1031 N Raddant Rd
Batavia, IL 60510
Attention: Michael Roach

With copies to:
City of West Chicago
475 Main Street
West Chicago, Illinois 60185
Attn: City Administrator

With a copy to:
Huck Bouma PC
1755 S. Naperville Road,
Suite 200
Wheaton, Illinois 60189
Attn: Jonathan J. Fox

Bond, Dickson & Associates
400 Knoll Street
Wheaton, Illinois 60187
Attn: Patrick Bond

or to such other address, or additional individuals/entities, as any Party may from time to time designate in a written notice to the other Parties. Service by personal delivery shall be deemed given when delivery occurs, and service by certified or registered mail shall be deemed given three (3) days after depositing same in the mail.

9. **COUNTERPARTS.** This Agreement may be executed simultaneously in two (2) counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.
10. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them regarding the within subject matter. There are no representations, agreements, arrangements or understandings, oral or written, between and among the Parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.
11. **EFFECTIVE DATE.** This Agreement shall be deemed dated and become effective on the date the last of the Parties execute this Agreement as set forth below, which date shall be filled in on page 1 hereof.

IN WITNESS WHEREOF, the CITY, pursuant to authority granted by the adoption of a Motion/Resolution by its City Council, has caused this Agreement to be executed by its Mayor and attested by its Clerk and DEVELOPER, pursuant to proper authority granted in accordance with its organizational documents, has caused this Agreement to be executed by its President and attested by its Secretary.

CITY:

CITY OF WEST CHICAGO

By: _____
Ruben Pineda, Mayor

ATTEST:

Nancy M. Smith, City Clerk

Dated: _____

DEVELOPER:

By: _____
Printed Name, Title

ATTEST:

Printed Name, Title

Dated: _____

CITY OF WEST CHICAGO

FINANCE COMMITTEE AGENDA ITEM SUMMARY

ITEM TITLE:

Resolution No. 19-R-0037 – Sales Tax Sharing Agreement
– Ditch Witch Midwest

AGENDA ITEM NUMBER: 5.C.**FILE NUMBER:** _____**COMMITTEE AGENDA DATE:** 8/22/19**COUNCIL AGENDA DATE:** _____**STAFF REVIEW:****SIGNATURE** _____**APPROVED BY CITY ADMINISTRATOR:****SIGNATURE** _____**ITEM SUMMARY:**

Prior to choosing West Chicago as its new home, the owners of Ditch Witch Midwest (currently on Schmale Road in Carol Stream) inquired about economic incentives from the City, primarily sales tax rebates because of the approximately \$11 million in average sales made annually. The location being considered (northwest corner of Atlantic Drive and Shingle Oak Drive) was one where two previous seriously interested parties walked from the contract sale due to the extraordinary costs associated with developing that site, most notably the condition of the soils. Not knowing what those costs would be until more testing was done and the excavation complete, the parties decided to deal with the incentives after the costs were known, with the owners of Ditch Witch Midwest knowing that staff will recommend the sales tax sharing after construction is substantially complete, it is the City Council that has the final determination.

The cap for the sales tax sharing is still being finalized, and once known, it will be added to the attached Resolution. The figure will be at least \$100,000 and should be no higher than \$330,000.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution No. 19-R-0037 with the insertion of the final figure that represents the extraordinary costs of developing the Ditch Witch site.

COMMITTEE RECOMMENDATION:

RESOLUTION NO. 19-R-0037

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SALES TAX
SHARING AGREEMENT BETWEEN THE CITY OF WEST CHICAGO AND
DITCH WITCH MIDWEST TO REIMBURSE THE COMPANY FOR A PORTION
OF THE EXTRAORDINARY SITE DEVELOPMENT COSTS**

BE IT RESOLVED by the City Council of the City of West Chicago, in regular session assembled, that the Mayor is hereby authorized to execute a Sales Tax Sharing Agreement with Ditch Witch Midwest to reimburse the company for a portion of the extraordinary costs associated with site development, a copy of which is attached hereto and incorporated herein as Exhibit "A".

APPROVED this _____ day of _____ 2019.

AYES: _____

NAYES: _____

ABSTAIN: _____

ABSENT: _____

Mayor Ruben Pineda

ATTEST:

City Clerk Nancy M. Smith

**SALES TAX REVENUE SHARING AGREEMENT
(DITCH WITCH MIDWEST)**

This **SALES TAX REVENUE SHARING AGREEMENT (DITCH WITCH MIDWEST)** ("Agreement") is entered into on this ____ day of _____, 2019 ("Effective Date") by and between the City of West Chicago, Illinois, an Illinois home rule municipal corporation ("City"), and Ditch Witch Midwest, a _____ ("Developer"). The City and Developer are sometimes referred to herein collectively as the "Parties," and individually as a "Party."

RECITALS

- A. The City is a home rule Illinois municipality, and hereby enters into this Agreement pursuant to its home rule powers, and, pursuant to Section 6(a) of Article VII of the Constitution of the State of Illinois of 1970 and 65 ILCS 5/8-1-2.5, the City has determined that it has the authority to enter into this Agreement.
- B. The City deems it to be of significant importance to encourage development and redevelopment within the City, so as to maintain a viable real estate tax and sales tax base and employment opportunities.
- C. Developer owns the real estate commonly known as 1555 Atlantic Drive, West Chicago, Illinois, as legally described and depicted on Exhibit A-1 and Exhibit A-2, respectively, attached hereto and made a part hereof ("Subject Property").
- D. Developer is improving the Subject Property by constructing a forty thousand plus (40,000+) square feet building thereon as described and depicted in Exhibit B-1 and Exhibit B-2, respectively, attached hereto and made a part hereof ("Project"), and Developer will employ approximately forty-eight (48) full-time employees at the Subject Property upon completion of the Project.
- E. The Project enhances the City's real estate and sales tax bases, and creates additional employment opportunities in the City.

- F. Developer and the City acknowledge that Developer requires economic assistance from the City in order to construct the Project, due to certain extraordinary costs of the Project, and developing the Project in the City would not be economically feasible, but for the economic assistance promised by the City in this Agreement.
- G. In light of the foregoing, the City agrees, pursuant to the terms of this Agreement, to rebate to Developer up to _____ and No/100 Dollars (\$_____.00) over up to a _____ (___) year period, in Developer Sales Taxes (as defined in Section 3.01(A)(4) below), generated by the Project ("Maximum Reimbursement Amount"), subject to the other terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements herein made, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties hereto, the City and Developer hereby agree as follows:

ARTICLE I
RECITALS AS PART OF AGREEMENT

The Parties acknowledge that the statements and representations contained in the foregoing recitals are true and accurate, and incorporate such recitals into this Agreement as if fully set forth in this Article I.

ARTICLE II
OBLIGATIONS OF DEVELOPER –
CONDITION PRECEDENT TO CITY UNDERTAKINGS

- 2.01 Condition Precedent. Each of the obligations specified in this Article II shall be a condition precedent to the City's financial undertakings in this Agreement. The City shall have no financial obligation to Developer under this Agreement until the satisfaction by Developer of each and every condition of this Article II.

2.02 State Sales Taxes Information. Developer shall supply the City with State Sales Taxes (as defined in Section 3.01(A)(5) below) information for the Project, certified as true by an authorized officer of Developer, in the format, and in compliance with the timing, as requested by the City Administrator. Developer represents and warrants that all such information produced to the City pursuant to this provision is, and will be at all times in the future, true and accurate, and agrees and acknowledges that the City relies on the truth and accuracy of said information as a basis for its entering into this Agreement. Developer shall submit to the City an executed Illinois Department of Revenue form PTAX 1002-21, or such other replacement form as may be utilized from time to time, for the Project with a reporting period from the Effective Date through December 31, 2035.

2.03 State Sales Taxes Reporting, Audits and Confidentiality.

(A) Developer hereby agrees to provide the City with written reports of all the State Sales Taxes (as defined in Section 3.01(A)(5) below) generated by the Project during each calendar year of the Revenue Sharing Term (as defined in Section 3.01(B) below), as requested by the City Administrator. Such reports shall be certified as true by an authorized officer of Developer. Developer will deliver said reports to the City on a quarterly basis before the fifteenth (15th) day following the end of the calendar quarter for which Developer is reporting.

(B) The City hereby represents and warrants that any and all information regarding sales and State Sales Taxes (as defined in Section 3.01(A)(5) below) shall be confidential and used only for the purpose of calculating any amounts due and owing to Developer pursuant to this Agreement. The City and Developer acknowledge that Developer's sales and State Sales Taxes (as defined in Section 3.01(A)(5) below) information is financial information obtained from a business that is proprietary, privileged and/or confidential, and that disclosure of the sales and State Sales Taxes (as defined in Section 3.01(A)(5) below) information would

cause competitive harm to Developer, and, therefore, would not be subject to disclosure pursuant to a request under the Illinois Freedom of Information Act, 5 ILCS 140/1, *et seq*, as amended ("FOIA"). Developer agrees to reimburse the City for the reasonable attorneys' fees and costs incurred by the City in responding to any requests for information under FOIA, subpoena or otherwise relating to this Agreement or Developer's sales and State Sales Taxes (as defined in Section 3.01(A)(5) below) information supplied under this Agreement. Developer agrees that the City's compliance with any court order or directive from the Illinois Attorney General's Public Access Counselor to produce information shall not subject the City to any liability hereunder for said information release.

2.04 Guaranteed Completion, Occupancy and Operation of the Project. Developer agrees that:

- (A) Developer shall construct and operate the Project on the Subject Property substantially in accordance with Exhibits B-1 and B-2;
- (B) Developer shall obtain certificates of occupancy, or final approvals, for the Project from all governmental entities having jurisdiction over the design and construction of the Project, on or before December 31, 2019;
- (C) Developer shall occupy and operate the Project on the Subject Property for a minimum of fifteen (15) years from the Commencement Date (as defined in Section 3.02 below); and
- (D) The City shall receive State Sales Taxes (as defined in Section 3.01(A)(5) below) and Home Rule Sales Taxes (as defined in Section 3.01(A)(2) below) from the Project for a minimum of fifteen (15) years from the Commencement Date (as defined in Section 3.02 below).

2.05 Real Estate Taxes and Other Charges. Developer hereby covenants and agrees to promptly pay or cause to be paid before becoming delinquent, subject to any appeal rights,

any and all real estate taxes and governmental charges of general applicability that may at any time be lawfully finally assessed with respect to the Project and the Subject Property, or any portion thereof, which is owned and controlled by Developer.

- 2.06 Compliance. Developer shall comply with all Federal, State, DuPage County and City laws, ordinances, rules, regulations and directives.
- 2.07 No Default. Developer shall not be in default of any term of this Agreement.

ARTICLE III **CITY OBLIGATIONS AND UNDERTAKINGS**

3.01 Economic Assistance.

(A) Definitions.

- (1) "Annual Sales Tax Floor" shall be One Hundred Seventy Five Thousand and No/100 Dollars (\$175,000.00) of State Sales Taxes (as defined in Section 3.01(A)(5) below).
- (2) "Home Rule Sales Taxes" shall be those taxes received by the City pursuant to the Home Rule Municipal Retailers' Occupation Tax Act (65 ILCS 5/8-11-1), as amended, and the Home Rule Municipal Service Occupation Tax Act (65 ILCS 5/8-11-5), as amended, or any taxes received by the City as a replacement for the taxes currently received pursuant to the Home Rule Municipal Retailers' Occupation Tax Act or the Home Rule Municipal Service Occupation Tax Act.
- (3) "Developer Sales Tax Allocation" shall be fifty percent (50%).
- (4) "Developer Sales Taxes" shall be: (i) those State Sales Taxes (as defined in Section 3.01(A)(5) below) generated by the Project which are distributed to the City by the State, in excess of the Annual Sales Tax Floor, during each twelve (12) month period after the Commencement Date, during the term of this Agreement, net of any prompt payment discount; multiplied by

(ii) the Developer Sales Tax Allocation. "Developer Sales Taxes" shall exclude any Home Rule Sales Taxes received by the City.

(5) "State Sales Taxes" shall be those taxes received by the City pursuant to the Retailers' Occupation Tax Act, 35 ILCS 120/1, *et seq.*, as amended, and the Service Occupation Tax Act, 35 ILCS 115/1, *et seq.*, as amended, or any taxes received by the City as a replacement for the taxes currently received pursuant to the Retailers' Occupation Tax Act or the Service Occupation Tax Act.

(B) Assistance. Upon satisfaction by Developer of all of the conditions stated in Article II of this Agreement, the City shall rebate to Developer the Developer Sales Taxes. Said payments shall be made by the City to Developer for a period of _____ (__) years from the Commencement Date (as defined in Section 3.02 below) or until the Maximum Reimbursement Amount is reached, whichever occurs first ("Revenue Sharing Term").

3.02 Commencement Date. Developer shall give the City written notice that it has satisfied all of the conditions of Article II of this Agreement, and that it is electing to commence the Revenue Sharing Term. The City shall thereafter confirm whether Developer has satisfied all of the conditions of Article II of this Agreement and determine whether Developer is entitled to receive the Developer Sales Taxes. The Commencement Date will be the first day of January following the City's confirmation.

3.03 Payment Procedure. After the Commencement Date, so long as the City has confirmed that Developer has satisfied all the conditions of Article II of this Agreement, during the Revenue Sharing Term, the City shall pay to Developer the Developer Sales Taxes, on an annual basis, within forty-five (45) days of the end of each calendar year, upon receipt of State Sales Taxes in an amount which results in Developer Sales Taxes being generated for the particular calendar year.

- 3.04 No General Obligation. The obligation of the City to pay Developer Sales Taxes to Developer in this Agreement is not a general obligation of the City, and the City's full faith and credit are not pledged or encumbered to provide Developer with Developer Sales Taxes.

ARTICLE IV
GENERAL PROVISIONS

- 4.01 Delay and Force Majeure. For the purposes of any of the provisions of this Agreement, neither the City nor Developer, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain or storms or below freezing temperatures of abnormal degree or quantity for an abnormal duration, tornados and other events or conditions beyond the reasonable control of the Party affected which in fact interfere with the ability of such Party to discharge its respective obligations hereunder.
- 4.02 Assignment of Agreement. This Agreement may not be assigned by Developer without the prior written approval of the City, which approval shall be in the sole and absolute discretion of the City.
- 4.03 Developer Authority. Developer hereby represents and warrants that it is a _____ authorized to do business in, and in good standing with, the State of Illinois. Developer further represents and warrants that all corporate action necessary to make Developer's obligations hereunder enforceable against Developer have been taken, and that no further approvals or actions are required.
- 4.04 Defaults; Remedies.

(A) In the event of any default under or violation of this Agreement ("Default"), the Party not in Default shall serve notice upon the Party in Default ("Defaulting Party"), which notice shall be in writing and shall specify the particular Default ("Default Notice"). The Defaulting Party shall have the right to cure the Default within thirty (30) days from written notice of such Default; provided, however, if such Default cannot practically be cured within said thirty (30) days, provided the Defaulting Party has commenced the cure within such thirty (30) day period, and is actively and diligently proceeding with such cure, the Defaulting Party shall be granted such additional time to cure the Default as shall be reasonable under the circumstances. In this regard, the Defaulting Party shall advise the other Party, in writing, during the initial thirty (30) day cure period, of the amount of time needed to cure said Default, and why the additional time is needed. After issuance of the Default Notice, and the Defaulting Party's failure to cure within the time frame required, the Party which served the Default Notice may terminate this Agreement, or may proceed to seek a cure of the Default by any action or proceeding at law or in equity, including seeking specific performance of the covenants and agreements herein contained, and/or an award for money damages for failure of performance. Notwithstanding the foregoing:

- (1) In the event of a Default by the City, relative to its obligations to Developer under Article III, Developer's sole and exclusive remedies shall be to terminate this Agreement or seek specific performance from a court of competent jurisdiction, and Developer shall not be entitled to any monetary damages from the City, and hereby expressly waives any claim for monetary damages; and
- (2) The time period to cure a Default in relation to compliance with Section 2.03 above shall not exceed ninety (90) days.

(B) In the event that Developer fails to meet any of its obligations in this Agreement, the City shall have the following additional remedies, after giving Developer the notice required by Section 4.04(A) above:

- (1) In the first (1st) through fifth (5th) years after the Commencement Date, the City shall be repaid one-hundred percent (100%) of any sums paid or rebated to Developer pursuant to this Agreement.
- (2) In the sixth (6th) through tenth (10th) years after the Commencement Date, the City shall be repaid seventy-five percent (75%) of any sums paid or rebated to Developer pursuant to this Agreement.
- (3) In the eleventh (11th) through fifteenth (15th) years after the Commencement Date, the City shall be repaid fifty percent (50%) of any sums paid or rebated to Developer pursuant to this Agreement.

(C) Developer shall make any repayment owed to the City under this Agreement within thirty (30) days of a written demand from the City. Any amounts not repaid within said thirty (30) day period shall accrue interest at the rate of two percent (2%) per month, with the minimum interest payment being for a one (1) month period.

4.05 Notices. All notices and requests required pursuant to this Agreement shall be sent by certified mail, return receipt requested, postage prepaid, or by personal or overnight delivery, as follows:

If to Developer: _____

Attn: _____

with a copy to: _____

Attn: _____

If to the City: City of West Chicago
475 Main Street
West Chicago, Illinois 60185

With a copy to: Bond Dickson & Associates, P.C.
400 S. Knoll Street, Unit C
Wheaton, Illinois 60187
Attn: Patrick K. Bond

or at such other addresses as either Party may indicate in writing to the other Party. Service by personal or overnight delivery shall be deemed to occur at the time of the delivery, and service by certified mail, return receipt requested, shall be deemed to occur on the third (3rd) day after mailing.

- 4.06 Law Governing. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois. Venue for any legal action brought by either Party as a result of entering into the Agreement shall be in the Circuit Court of Kane County, Illinois.
- 4.07 Time. Time is of the essence under this Agreement and all time limits set forth herein are mandatory, and cannot be waived except by a lawfully authorized and executed written waiver by the Party excusing such timely performance.
- 4.08 Limitation of Debt. Any obligations of the City created by or arising out of this Agreement shall not be a general debt of the City on, or a charge against, the City's general credit or taxing powers, but shall be a limited obligation payable solely out of the Developer Sales Taxes as set forth in Article III.
- 4.09 No Waiver or Relinquishment of Right to Enforce Agreement. Failure of either Party to this Agreement to insist upon the strict and prompt performance of the terms covenants, agreements, and conditions herein contained, or any of them, upon the other Party imposed, shall not constitute or be construed as a wavier or relinquishment of the Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.
- 4.10 Article and Section Headings. All Article and Section headings or other headings in this Agreement are for the general aid of the reader and shall not limit the plain meaning or application of any of the provisions thereunder whether covered or relevant to such heading or not.

- 4.11 City's Authorization to Execute. The Mayor and City Clerk of the City hereby warrant that they have been lawfully authorized by the City Council to execute this Agreement.
- 4.12 Amendment. This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between Developer and the City relative to the subject matter thereof. There are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than as herein set forth. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties hereto unless authorized in accordance with law and reduced to writing and signed by them.
- 4.13 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which, taken together, shall constitute one and the same instrument.
- 4.14 Severability. If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be deemed to be excised from this Agreement and the invalidity thereof shall not affect any of the other provisions contained herein.
- 4.15 Limitation of Liability. No recourse under or upon any obligation, covenant or agreement of this Agreement, or for any claim based thereon or otherwise in respect thereof shall be had against any officer, agent or employee of the City, and all and any such rights or claims of Developer against any officer, agent or employee of the City are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the City.

CITY:

DEVELOPER:

CITY OF WEST CHICAGO

By: _____
Ruben Pineda, Mayor

By: _____
_____, _____

ATTEST:

ATTEST:

Nancy M. Smith, City Clerk

Dated: _____

_____, _____

Dated: _____

EXHIBIT A-1

Legal Description of the Subject Property

[LEGAL DESCRIPTION]

P.I.N.:

Common Address: _____, West Chicago, Illinois

EXHIBIT A-2

Depiction of the Location of the Subject Property

(attached)

EXHIBIT B-1

Description of the Project

EXHIBIT B-2

Depiction of the Project

(attached)

CITY OF WEST CHICAGO

FINANCE COMMITTEE AGENDA ITEM SUMMARY

ITEM TITLE:

Residential Solid Waste Collection Contract

AGENDA ITEM NUMBER: 6.A.

FILE NUMBER: _____

COMMITTEE AGENDA DATE: 8/22/19

COUNCIL AGENDA DATE:

STAFF REVIEW:

SIGNATURE _____

APPROVED BY CITY ADMINISTRATOR:

SIGNATURE _____

ITEM SUMMARY:

Please see the attached memorandum.

STAFF RECOMMENDATION:

Staff recommends that the City continue using Groot Industries as its residential solid waste collection contractor.

COMMITTEE RECOMMENDATION:

**CITY OF WEST CHICAGO
CITY COUNCIL MEMORANDUM**

TO: Honorable Mayor and Members of Council

FROM: Michael Guttman, City Administrator

SUBJ: Solid Waste Contract 2020-2024

DATE: August 7, 2019

At its May meeting, the Finance Committee directed staff to request proposals from West Chicago solid waste hauling companies to serve as the City's residential waste hauling contractor once West Chicago's current contract expires on December 31, 2019. It was very important to the Committee that the City support its corporate customers. The Committee also noted that it was comfortable with the services and benefits contained in the current contract, and wanted those to continue in any successor contract, wanting also to hopefully achieve cost reductions for our residents. Finally, the City's Environmental Commission is interested in some added services.

Both Groot Industries and Lakeshore Recycling Systems submitted responses to the RFP on July 18th. The economic analysis of both proposals is attached, and it clearly shows that it is in the best interests of the City to remain with Groot Industries for the following primary reasons:

- Groot has reduced the cost of stickers by almost 15%, with the cost of stickers in 2024 being below what customers are paying now.
- Rates for all three categories of toter users are lower in year one than now, with 3% annual increases (LRS proposed a four percent annual upward adjustment).
- Five Park District facilities are now included in the contract for free hauling, which saves it money annually.
- Maintaining a local office will remain a contract provision.

Groot also offered to incorporate several of the Environmental Commission's recommendations into the Contract including collecting e-waste at the curb (up to six items for \$30), pumpkin recycling once a year and holiday light recycling once a year. Groot would allow food waste to be recycled with yard waste, but only for those customers who have a subscription service that costs \$200.00 per season. Groot representatives were uncomfortable allowing food waste to be mixed with yard waste in paper bags because the material would be wetter, resulting in breaking bags on collection day, plus its experience with food waste recycling is that less than five percent of customers participate.

Finally, Groot did not offer a proposal for using RFID Technology where carts would have chips installed and customers would pay on a per pick up basis. That said, looking at the bottom of the attached spreadsheet, if LRS's proposed per pick-up were applied and then compared to Groot's

proposed rates, the only customers, excluding seniors, who would save money are those who on average have only one pick-up per month.

I will review the spreadsheet in more detail at the meeting. In the meantime, please let me know if you have any questions.

	Current	Groot	Difference	Savings/Year	2021	2022	2023	2024
Sticker	\$2.70	\$2.30	-14.81%		\$2.37	\$2.44	\$2.51	\$2.59
35-gallon Senior	\$9.68	\$9.00	-7.02%	\$8.16	\$9.27	\$9.55	\$9.83	\$10.13
35-gallon Regular	\$16.77	\$13.33	-20.51%	\$41.28	\$13.73	\$14.14	\$14.57	\$15.00
95-gallon	\$29.70	\$18.95	-36.20%	\$129.00	\$19.52	\$20.10	\$20.71	\$21.33

	Current	LRS	Difference	Savings	2021	2022	2023	2024
Sticker	\$2.70	\$2.75	1.85%		\$ 2.86	\$ 2.97	\$ 3.09	\$ 3.22
35-gallon Senior	\$9.68	\$9.68	0.00%	\$0.00	\$ 10.07	\$ 10.47	\$ 10.89	\$ 11.32
35-gallon Regular	\$16.77	\$16.69	-0.48%	\$0.96	\$ 17.36	\$ 18.05	\$ 18.77	\$ 19.52
95-gallon	\$29.70	\$29.65	-0.17%	\$0.60	\$ 30.84	\$ 32.07	\$ 33.35	\$ 34.69

Groot		2019	2020	2021	2022	2023	2024	
Sticker	61,460	\$165,942	\$141,358	\$145,599	\$149,967	\$154,466	\$159,100	
35-gallon Senior	622	\$72,252	\$67,176	\$69,191	\$71,267	\$73,405	\$75,607	
35-gallon Regular	3,809	\$766,523	\$609,288	\$627,566	\$646,393	\$665,785	\$685,759	
95-gallon	1,304	\$464,746	\$296,530	\$305,425	\$314,588	\$324,026	\$333,747	
		\$1,469,462	\$1,114,351	\$1,147,782	\$1,182,215	\$1,217,682	\$1,254,212	Value of Contract Over Five Years
								\$5,916,242

LRS		2019	2020	2021	2022	2023	2024	
Sticker	61,460	\$165,942	\$169,015	\$175,776	\$182,807	\$190,119	\$197,724	
35-gallon Senior	622	\$72,252	\$72,252	\$75,142	\$78,147	\$81,273	\$84,524	
35-gallon Regular	3,809	\$766,523	\$762,867	\$793,381	\$825,116	\$858,121	\$892,446	
95-gallon	1,304	\$464,746	\$463,963	\$482,522	\$501,823	\$521,896	\$542,771	
		\$1,469,462	\$1,468,096	\$1,526,820	\$1,587,893	\$1,651,409	\$1,717,465	
			\$353,745	\$379,038	\$405,678	\$433,727	\$463,253	
				2020				\$2,035,441

LRS RFID Technology		Every Week	2x/Month	LRS Reg	Groot Reg	1x/Month	
35-gallon Senior per pick up	\$4.13	\$274.76	\$159.12	\$116.16	\$108.00	\$109.56	(\$1.56)
35-gallon Regular per pick up	\$5.50	\$346.00	\$192.00	\$200.28	\$159.96	\$126.00	\$33.96
95-gallon per pick up	\$8.00	\$476.00	\$252.00	\$355.80	\$227.40	\$156.00	\$71.40
Monthly Base Rate	\$5.00						
Monthly if Paper Invoices	\$3.00						

RESOLUTION NO. 19-R-0038

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CERTAIN
CONTRACT WITH GROOT INDUSTRIES INC. – RESIDENTIAL SOLID WASTE,
RECYCLING AND YARD WASTE COLLECTION**

BE IT RESOLVED by the City Council of the City of West Chicago, in regular session assembled, that the Mayor is hereby authorized to execute a certain contract with Groot Industries, Inc. for residential solid waste, recycling and yard waste collection, a copy of which is attached hereto and incorporated herein in substantially the same form as Exhibit “A”.

APPROVED this 3rd day of September, 2019.

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

Mayor

ATTEST: _____
City Clerk

CITY OF WEST CHICAGO

FINANCE COMMITTEE AGENDA ITEM SUMMARY

ITEM TITLE:

Ordinance No. 19-O-0029 – An Ordinance Amending the Code of Ordinances of the City of West Chicago – Article VI, Sections 10-44, 10-47, 10-49 and 10-51

AGENDA ITEM NUMBER: 6.B.

FILE NUMBER: _____

COMMITTEE AGENDA DATE: 8/22/19

COUNCIL AGENDA DATE: 9/3/19

STAFF REVIEW:

SIGNATURE _____

APPROVED BY CITY ADMINISTRATOR:

SIGNATURE _____

ITEM SUMMARY:

The attached Ordinance codifies a practice that has been in place to minimize liability associated with tree management on larger, vacant parcels that the City owns.

STAFF RECOMMENDATION:

Staff recommends adoption of Ordinance No. 19-O-0029.

COMMITTEE RECOMMENDATION:

ORDINANCE NO. 19-O-0029

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST CHICAGO - ARTICLE VI, SECTIONS 10-44, 10-47, 10-49 AND 10-51

WHEREAS, the City of West Chicago (hereinafter referred to as the “City”) is a body politic and corporate, organized and existing pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

WHEREAS, the City is an Illinois home rule municipality; and

WHEREAS, Article VII, Section 6, of the Constitution of the State of Illinois of 1970, provides that municipalities of more than twenty five thousand (25,000) in population are home rule units and, subject to the specific limitations of Illinois law, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City possesses the authority, pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, to adopt ordinances pertaining to the public health, safety and welfare; and

WHEREAS, the City Council of the City (hereinafter referred to as the “City Council”) is the corporate authority for the City and is authorized by law to exercise all powers and to control the affairs of the City; and

WHEREAS, the City Council possesses full power and authority to approve and pass all necessary ordinances, resolutions, rules and regulations necessary for carrying into effect the objects for which the City was formed, in accordance with the Illinois Municipal Code; and

WHEREAS, as an Illinois home rule municipality, the City has the authority, among other things, to impose regulations concerning infested, diseased, dead and/or dying trees that constitute a danger to the public health, safety, comfort and welfare; and

WHEREAS, Sections 10-44 through 10-50 of the Code of Ordinances of the City of West Chicago contain provisions relative to abating, disposing and treating infested, diseased, dead and/or dying trees that constitute a danger to the public health, safety, comfort and welfare; and

WHEREAS, the City finds it is in the best interests of the City and the residents to clarify the tree abatement and removal provisions set forth in the Code of Ordinances of the City of West Chicago, consistent with private property rights, when treating trees on privately owned property; and

WHEREAS, the City owns various types of real property throughout the City, some of which property consists of large tracts of land that are not easily accessible by the general public or City Staff, thereby rendering it, at times, difficult to ascertain or become aware of the conditions of the trees on said properties; and

WHEREAS, the City finds it in the best interests to amend Sections 10-44 through 10-50 of the Code of Ordinances of the City of West Chicago contains provisions relative to abating, disposing and treating infested, diseased, dead and/or dying trees that constitute a danger to the public health, safety, comfort and welfare, as set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of West Chicago, County of DuPage, Illinois, as follows:

SECTION 1: That the Code of Ordinances of the City of West Chicago is hereby amended as follows:

**“ARTICLE VI- INFESTED, DISEASED, DEAD AND/OR DYING
TREES**

Sec. 10-44. - Purpose.

The city council, having found and determined that the existence of infested, diseased, dead and/or dying trees constitutes a danger to the public health, safety, comfort and welfare in that such conditions lead to blight, fire, hazards, infestation, decreasing values to surrounding properties, and decreasing woodlands, and that such neglect of property entitles this city to exercise its police powers to protect the health, safety, comfort and welfare of the community, intends the following regulations, when the city learns, or becomes aware, of the existence of said trees, to provide for the orderly abatement, disposition, and/or treatment of said tree(s) which are determined, in accordance with the provisions contained herein, to constitute a public nuisance. It is understood that the city is the owner of certain public property, some of which is not in proximity to any private property, is not accessible or used by the general public and is not subject to regular inspections, as inspecting the entirety of all city property would be both costly and time consuming. As a result, the city may not become aware of the existence of infested, diseased, dead and/or dying trees which may constitute a danger to the public health, safety, comfort and welfare. This article does not impose an affirmative obligation on the city to undertake a comprehensive inspection of all city property to assess the existence of infested, diseased, dead and/or dying trees.

Sec. 10-47. - Enforcement of article.

The director is charged with enforcement of this article. The director when he learns or becomes aware of the existence of infested, diseased, dead and/or dying trees shall exercise his discretion to determine whether such trees constitute a danger, as provided herein. To that end, the director is duly authorized and empowered to enter upon private property, after having made reasonable attempts to first obtain permission from the owner, tenant, agent or occupant of the premises where the same are situated, utilizing minimally intrusive means to enter upon private property, at all reasonable hours for purposes of inspecting trees thereon, which, in the discretion of the director he believes are a nuisance, as

provided for herein. The director may remove such specimens which he reasonably believes are infested, diseased, dead and/or dying and are required for purposes of analysis to determine whether or not the same are infected, infested, diseased, dead and/or dying. It shall be unlawful for any person to prevent the director from entering on private property for purposes of carrying out his duties under this article, or to interfere with the director in the lawful performance of his duties under the provisions of this article. It shall be unlawful for any person to knowingly permit or maintain therein any tree that is infested, diseased, dead and/or dying.

Sec. 10-49. - Removal from private lands.

If the person upon whom due notice has been served, pursuant to the provisions of the proceeding sections, fails, neglects, or refuses to remove and properly dispose of such tree, or treat for the purpose of eradication of such pest, within thirty (30) calendar days of the date of the notice, as provided for herein, the director may cause such tree which the director reasonably believes to be infested, diseased, dead and/or dying trees to be removed and properly disposed, or treated for the purpose of eradication of such pest, and assess costs thereof against the owner of such parcel of land where the same were situated. Time extensions may be granted, by the director, only upon receipt of a written request for such time extensions by the person upon whom due notice has been served. All requests for time extensions must provide reason for said extension and must be received within the time provided for said removal. All reasonable requests for an extension of time will be considered and will be granted when, in the discretion of the director, or his duly authorized representative, it is determined that the extension will not result in an immediate danger to the public health, safety, comfort and welfare.

Sec. 10-51. City obligation for public lands.

The city owns various types of real property throughout the city. While the city is diligent in its efforts to maintain all public property, it can prove difficult, time consuming and costly to the taxpayers for the city to inventory the consolidation of all trees on city property. Some of the properties owned by the city consist of large tracts of land and are not easily accessible by the general public or city staff.

It shall be the policy of the City that the director, with respect to tracts of land in excess of 2.5 acres or 108,900 square feet, that cannot be reasonably inspected with any consistency or regularity to determine the existence of infested, diseased, dead and/or dying trees which constitute a danger to the public health, safety, comfort and welfare. When the city is on actual notice that infested, diseased, dead and/or dying trees are present within its jurisdiction, the director shall exercise his enforcement powers, as provided for herein. Any individual with questions as to the health of a

tree, or portion thereof, shall immediately notify the city as to said conditions.”

SECTION 2: All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, to the extent of such conflict, are expressly repealed.

SECTION 3: If any portion of this Ordinance is ruled or held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the Ordinance, and the remainder of the Ordinance shall be construed as if not containing the particular provision and shall continue in full force, effect and enforceability.

SECTION 4: This Ordinance and amendments provided herein shall be controlling over any State law, which does not expressly limit the home rule authority of the City, including but not limited to section 11-150-2 of the Illinois Municipal Code.

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

PASSED this 3rd day of September 2019.

Alderman J. Beifuss	_____	Alderman L. Chassee	_____
Alderman J. Sheahan	_____	Alderman H. Brown	_____
Alderman A. Hallett	_____	Alderman M. Ferguson	_____
Alderman M. Birch-Ferguson	_____	Alderman S. Dimas	_____
Alderman K. Swiatek	_____	Alderman M. Garling	_____
Alderman R. Stout	_____	Alderman J. Short	_____
Alderman N. Ligino-Kubinski	_____	Alderman B. Gagliardi	_____

APPROVED as to form: _____
City Attorney

APPROVED this 3rd day of September 2019.

Mayor Ruben Pineda

ATTEST:

City Clerk Nancy M. Smith

PUBLISHED: September 4, 2019