

ORDINANCE NO. F-1670

AN ORDINANCE AUTHORIZING THE SIGNING OF AN
ANNEXATION AGREEMENT – 1425 S. GABLES BOULEVARD – WHEATON SANITARY
DISTRICT AND ST. MATTHEW UNITED CHURCH OF CHRIST

WHEREAS, a written petition has been filed with the City Clerk of Wheaton, Illinois, requesting the annexation to the City of Wheaton, Illinois ("City"), of certain territory legally described in Exhibit 'A' which is contiguous to the boundaries of the City and not within the corporate boundaries of any other municipality, pursuant to a proposed annexation agreement ("Annexation Agreement") which sets forth the terms and conditions under which annexation shall take place; and

WHEREAS, pursuant to notice, a public hearing was conducted by the City Council on April 23, 2012 and continued to June 11, 2012, to consider the terms and conditions of the proposed Annexation Agreement; and

WHEREAS, an annexation agreement dated October 15, 2012, among the City and the Wheaton Sanitary District and St. Matthew United Church of Christ ("Owners"), is the direct result of deliberations on the proposed Annexation Agreement pursuant to the public hearing and other meetings before the City Council and City Staff.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The Mayor of the City is authorized and directed to sign, on behalf of the City, the Annexation Agreement, and the City Clerk is authorized and directed to attest to the signature of the Mayor and affix the corporate seal of the City thereon. A copy of the Annexation Agreement is on file in the Office of the City Clerk and is incorporated into this ordinance by this reference as though fully set forth herein.

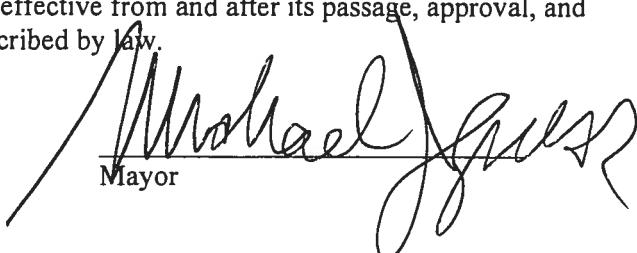
Section 2: The Annexation Agreement shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois, at the expense of the Owners.

Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

ATTEST:


Sean Bonnaffon
City Clerk


Michael Gitter
Mayor

Roll Call Vote

Ayes: Councilman Rutledge
Mayor Gresk
Councilwoman Pacino Sanguinetti
Councilman Scalzo
Councilman Suess
Councilwoman Ives
Councilman Mouhelis

Nays: None

Absent: None

Motion Carried Unanimously

Passed: October 15, 2012
Published: October 16, 2012

EXHIBIT A

TRACT 1 AND TRACT 2 IN MAPLE KNOLL ACRES ASSESSMENT PLAT OF LOTS 1 AND 2 IN MAPLE KNOLL ACRES, ALSO THAT PORTION OF THE ILLINOIS PRAIRIE PATH LYING EASTERLY OF TRACT 1 AND TRACT 2 IN MAPLE KNOLL ACRES ASSESSMENT PLAT, ALL A PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

PIN: 05-20-400-014 and 05-20-400-013

The subject property is commonly known as 1425 South Gables Boulevard, Wheaton, IL 60189.

THIS INSTRUMENT PREPARED BY
AND MAIL TO:

Henry S. Stillwell III
Rathje & Woodward LLC
300 E. Roosevelt Road
Suite 300
Wheaton, IL 60187

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT ("Agreement"), is made and entered as of the 15th day of October 2012, by and among the CITY OF WHEATON, an Illinois municipal corporation located in DuPage County, State of Illinois ("City"), WHEATON SANITARY DISTRICT, an Illinois municipal corporation ("District") and ST. MATTHEW UNITED CHURCH OF CHRIST, an Illinois religious corporation ("St. Matthew"). The District and St. Matthew are sometimes referred to herein individually as an "Owner" and collectively as the "Owners". The City, District and St. Matthew are sometimes referred to herein individually as a "Party" and collectively as the "Parties".

RECITALS:

A. The District is the owner of record of fee title to the real estate consisting of approximately 4.4 acres, as legally described in Exhibit "A" ("District Parcel").

B. St. Matthew is the owner of record of fee title to the real estate consisting of approximately .33 acres, as legally described in Exhibit "B" ("St. Matthew Parcel"). The District Parcel and St. Matthew Parcel are sometimes referred to herein individually as a "Parcel" and collectively as the "Subject Property"). The Subject Property is depicted on the Plat of Annexation attached hereto as Exhibit "C" ("Plat of Annexation").

C. St. Matthew is also the record owner of the real estate consisting of approximately 2.5 acres as legally described in Exhibit "B-1" ("St. Matthew Church Property"). The St. Matthew Church Property is currently improved with a church building, parking lot and ancillary facilities utilized by St. Matthew for worship and church related functions. The St. Matthew Church Property is located within the corporate boundaries of the City and is currently zoned I-1 under the City's Zoning Ordinance.

D. The Subject Property is contiguous to the corporate limits of the City.

E. It is the desire of Owners that all of the Subject Property be annexed to the City under the terms and conditions of this Agreement.

F. The City has concluded that annexation of the Subject Property under the terms and conditions of this Agreement would further the growth of the City, enable the City to control the development of the area, increase the taxable value of the property within the City, extend the corporate limits of jurisdiction of the City, permit the sound planning and development of the City, and otherwise enhance and promote the health, safety and general welfare of the City.

G. Pursuant to the provisions of Section 6.1, *et seq.*, of the Wheaton City Code ("City Code") and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution, a proposed annexation agreement in substance and form the same as this Agreement was submitted to the Wheaton City Council ("City Council"), and a public hearing was held thereon pursuant to notice as provided by ordinance and statute.

H. The City has had such hearings and heard such testimony as prescribed by law with respect to (i) the requested zoning classification of R-3 Residential District for the District Parcel and for the St. Matthew Parcel, (ii) a special use for the St. Matthew Parcel to permit the use thereof for a Special Use Facility, as defined in Section 7, and (iii) the vacation of a certain portion of the Gables Boulevard public street right-of-way.

I. Notice has been duly served in the manner provided by statute on the appropriate governmental entities and an affidavit that service of said notice has been duly served has been placed on record with the Recorder of Deeds, DuPage County, Illinois.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

1. LEGAL CONFORMANCE WITH LAW. This Agreement is made pursuant to and in accordance with the provisions of the City Code and applicable provisions of the Illinois Compiled Statutes and Illinois Constitution.

2. PETITION TO ANNEX. Owners have filed with the Clerk of the City, a petition pursuant to the provisions of Section 7-1-8 of the Illinois Compiled Statutes [65 ILCS 5/7-1-8 (2008 Edition)], conditioned upon the signing of this Agreement, to annex the Subject Property to the City, a copy of which petition is attached as Exhibit "D" ("Petition for Annexation"). This Agreement in its entirety, together with the Petition for Annexation, shall be null, void and of no force and effect unless the Subject Property is validly zoned and classified under the City's Zoning Ordinance ("Zoning Ordinance") and approved for subdivision, all as hereinafter set forth and amended.

3. ANNEXATION ORDINANCE. Immediately upon the execution of this Agreement, the City Council will enact an ordinance annexing the Subject Property to the City ("Ordinance Annexing").

4. REZONING.

4.01. Enactment of Ordinances. Immediately after the passage of the Ordinance Vacating, as provided for and defined in Section 8, the City shall, without further hearing, adopt an ordinance or ordinances ("Rezoning/Special Use Ordinance") (a) amending the City Zoning Map which is a part of the City Zoning Ordinance and the Comprehensive Plan of the City, zoning and classifying (i) the District Parcel, and St. Matthew Parcel (all as located in and constituting lots 1 and 2 of the Initial Plat, as hereinafter defined) in the R-3 Residential District ("R-3") and (ii) the portion of the Vacated Area located in lot 3 of the Initial Plat in the I-1 Institutional District ("I-1") and (b) granting a special use on the St. Matthew Parcel for the construction, use and maintenance of a surface level parking lot ("Special Use").

4.02. Duration of Zoning and Special Use. Until amended in the manner provided by law zoning (for the subject property) shall not expire at any time or upon the happening of any event or the failure of any event to occur.

5. SUBDIVISION.

5.01. Initial Three Lot Subdivision. Owners have submitted to the City a combined preliminary and final plat of subdivision subdividing the Subject Property, St. Matthew Church Property and the Vacated Area, as defined in Section 8, into three (3) lots, a copy of which plat is attached hereto as Exhibit "E-1" ("Initial Plat"). The Initial Plat creates a single subdivided lot for each of (i) the District Parcel, plus a portion of the Vacated Area, (ii) the St. Matthew Parcel, plus a portion of the Vacated Area, and (iii) the St. Matthew Church Property, plus a portion of the Vacated Area. The Initial Plat is intended for convenience for the purposes of establishing subdivided lot descriptions for all of the said properties and not to facilitate the ultimate development of the Subject Property. As a result, the City agrees that the recordation of the Initial Plat shall not require (a) the Parties to enter into a Subdivision Improvement Agreement, (b) the installation or construction of any of the Subdivision Improvements, as defined in Section 6, nor (c) the deposit of a Security Instrument, as defined in Section 9. The City hereby waives and varies all applicable provisions of the City Code in conflict with the foregoing sentence.

5.02. Preliminary Plat of Re-Subdivision. The District has submitted to the City a preliminary plat of re-subdivision for the resubdivision of the District Parcel plus a portion of the

Vacated Area, a copy of which preliminary plat is attached hereto as Exhibit "E-2" ("Preliminary Plat"). Prior to execution of this Agreement, the City Council has reviewed the Preliminary Plat pursuant to the requirements of the City Code and has determined that the Preliminary Plat is in compliance with all of the applicable provisions of the City Code, except as otherwise permitted pursuant to the terms of this Agreement. In accordance with the development concept set forth on the Preliminary Plat, the District Parcel and applicable portion of the Vacated Area may be subdivided and developed into one outlet for stormwater detention ("Detention Outlet") and up to eight (8) lots for improvement with one detached single family residential dwelling unit on each lot (each individually a "Lot" and collectively the "Lots"). The Preliminary Plat is hereby approved by the City, and said approval shall remain in force and effect without further action of the District, or any other Party, throughout the Term of this Agreement. The District Parcel shall be developed in the manner and in accordance with the development concept set forth in the Preliminary Plat. The basic engineering design for the sanitary sewer, water, storm sewer service and the stormwater detention, as well as the streets and sidewalks within, upon and serving the Subject Property shall be in substantial conformance with the preliminary engineering as identified on Exhibit "E-3" ("Preliminary Engineering"), subject to final engineering considerations.

5.03. Final Plat of Subdivision.

(a) Final Plans: Prior to the development of the District Parcel pursuant to the Preliminary Plat and Preliminary Engineering, the District shall prepare and submit to the City, for its review and approval, a final plat of subdivision ("Final Plat"), final engineering plans ("Final Engineering") and all other associated materials required by applicable provisions of the City Code with respect thereto.

(b) Final Approvals: The City shall hold such meetings and take such actions as are required pursuant to the City Code and the laws of the State of Illinois in a prompt and reasonable manner to review and take action approving or denying the Final Plat and Final Engineering as submitted. Provided the Final Plat is in substantial conformance with the Preliminary Plat, the City shall approve the Final Plat, subject to the City's review and approval of the Final Engineering therefor, which approval shall not be unreasonably delayed or denied.

6. SUBDIVISION IMPROVEMENTS. As a condition of this Agreement, Owners are requesting that the following City utilities and public improvements be extended and constructed to service the Subject Property, together with any other improvements required pursuant to applicable provisions of the City Code (individually a "Subdivision Improvement" and collectively the "Subdivision Improvements"). Owners understand that any extension of the City utilities and improvements and the construction of the Subdivision Improvements shall be performed in accordance with the applicable provisions of the City Code and this Agreement.

6.01. Sanitary Sewer Facilities. The City agrees to cooperate with Owners in obtaining such permits as may be required from time to time by both federal and state law, including, without limitation, the Illinois Environmental Protection Act, permitting the connection onto the sanitary sewer lines of the Wheaton Sanitary District in order to develop and use the Subject Property. The City will accept the dedication of those sanitary sewer improvements as provided in Section 11. The location and size of the sanitary sewer lines to be installed by an Owner shall be in substantial conformity with the Preliminary Engineering, subject to final engineering considerations.

6.02. Water Facilities. The City covenants that the water distribution system of the City is currently of sufficient capacity to service the Subject Property with potable water for domestic water consumption and fire flow protection, if the Subject Property is developed in accordance with this Agreement. The City agrees to cooperate with Owners in obtaining such permits as may be required from time to time by both federal and state law, including, without limitation, the Illinois Environmental Protection Act, to permit the Subject Property to be connected to the City's water distribution system to be served with potable water and fire flow protection. In addition, the City will accept dedication of those water supply improvements as provided for in Section 11. The location and size of the water lines to be installed by an Owner shall be in substantial conformity with the Preliminary Engineering, subject to final engineering considerations.

6.03. Stormwater Facilities. Owners shall provide for stormwater drainage of the Subject Property through a system of underground pipes and structures, surface level drainage swales and a stormwater detention facility in compliance with the Preliminary Engineering, subject to final engineering considerations, and the applicable provisions of the City Code and other applicable laws and regulations (collectively the "**Drainage System**"). Stormwater detention shall be provided for the entirety of the Subject Property within a single stormwater detention facility ("**Detention Facility**") to be constructed and maintained upon and within the Detention Outlot, identified as Outlot A on the Preliminary Plats. The Detention Outlot shall be utilized solely for the Detention Facility and the installation and operation of such other utility lines and structures as may be approved by the City and shall not be utilized for the construction or occupation of a dwelling unit. The Detention Facility shall be permitted to have a maximum stormwater storage depth of five feet six inches (5'6"), anything contained in the Wheaton City Code ("**City Code**") to the contrary notwithstanding. The Detention Lot and Detention Facility shall be owned and maintained by the Association, as defined in Section 12. Access by the Association and the City to and from the Detention Lot for vehicles, workers, and equipment shall be provided through a fifteen (15) foot wide access easement ("**Detention Access Easement**") located within the northerly thirty (30) feet of Lot 1, as said Lot 1 is identified on the Preliminary Plat. The Detention Access Easement shall be established and included on the initial Final Plat for the first Development Phase approved and recorded by the City. The specific location of the Detention Access Easement shall be as approved by the Developer and the City within the thirty foot wide public utility easement located on the northwesterly portion of Lot 1, as identified on the Preliminary Plat at the time said Final Plat is approved.

6.04. Sidewalks and Street Related Improvements. The applicable Owner shall cause the curb, gutter, street pavement, street lights, public sidewalks, and parkway trees (collectively the "Street Improvements") to be installed in substantial conformity with the Preliminary Engineering, subject to final engineering considerations and the applicable provisions of the City Code. All public sidewalks and parkway trees to be constructed or installed pursuant to the Final Engineering shall be installed and completed at one and the same time when the Subdivision Improvements are constructed. Anything contained in the City Code to the contrary notwithstanding, Owners shall have no responsibility or obligation to install, pay for or contribute toward the public sidewalk, street trees and parkway landscaping along the northerly side of More Court and the northeast side of Gables Blvd., as identified on the Preliminary Plat, which improvements shall be the responsibility of the owner of the Benefitted Property, as defined in Section 14, at the time the Benefitted Property is developed.

6.05. Easements and Rights-of-Way. The Owners shall fully cooperate with the City and each other in causing all necessary and appropriate easements and public street right-of-way required for development of any portion of the Subject Property, to be established by recordable plats or other instruments which are in a form and content approved by the City (collectively the "Dedication Instruments"). Each Owner shall exercise good faith, due diligence and reasonableness in reviewing and finalizing the Dedication Instruments and an Owner shall not unreasonably delay or deny the approval, execution and recordation with the DuPage County Recorder's office of the Dedication Instruments. In the event an Owner's Parcel is subject to a mortgage, trust deed or other form of security instrument, the Owner shall cause the holder of the security interest to subordinate or release its security interest with respect to the Dedication Instrument.

7. ST. MATTHEW PARCEL SPECIAL USE. Pursuant to the Special Use for the St. Matthew Parcel to be established pursuant to the provisions of Section 4.01, the Owner of the St. Matthew Parcel may, from time to time, elect to utilize all or a portion of the St. Matthew Parcel for the construction, use and maintenance of a surface level automobile parking lot, or such other uses as may from time to time be approved by the City pursuant to an amendment to the Special Use in compliance with applicable ordinances, associated with or servicing the St. Matthew Church facilities located on the St. Matthew Church Property ("Special Use Facility"). A concept plan for a surface level automobile parking lot ("Parking Facility") which may, at St. Matthew's election, be constructed as a Special Use Facility, is attached hereto as Exhibit "F" ("Parking Concept Plan"). The Parking Concept Plan is intended to serve as a concept of the manner in which the Parking Facility may, but need not be, designed and the access thereto provided. In the event St. Matthew elects, in its sole discretion, to construct the Parking Facility, the final design of the Parking Facility, including compliance with the applicable landscaping, screening, access and internal circulation requirements of the City Code, shall be submitted to and subject to the review and approval of the City, which approval shall not be unreasonably delayed or denied, as a part of the building permit application for the Parking Facility. The construction and use of the Parking Facility or any other Special Use Facility by St. Matthew

shall not preclude the subsequent subdivision of the St. Matthew Parcel, the demolition of all or a portion of the Special Use Facility and the construction of a single family dwelling unit on each residential lot thereby created, subject to the applicable review and approval by the City of all required plats and plans pertaining thereto. In the event the construction of a Special Use Facility occurs prior to the installation of the Subdivision Improvements, the Owner of the St. Matthew Parcel shall, at its expense, install all necessary stormwater management improvements, including that portion of the Detention Facilities sufficient to service the Special Use Facility, and obtain the recordation of all necessary duly and legally granted utility, drainage and stormwater management easements over, upon, across and beneath the District Parcel permitting the installation and maintenance of the same ("Stormwater Management Condition"). The Owner of the District Parcel shall reasonably cooperate with St. Matthew in establishing said easements. The City shall have no obligation to issue any permit for a Special Use Facility to be constructed within the St. Matthew Parcel unless the Stormwater Management Condition will be complied with in conjunction therewith. Notwithstanding any language to the contract, all stormwater facilities and management shall comply with the DuPage Countywide Stormwater Ordinance and any applicable Federal regulations at the time development permits for the Subject Property are issued.

8. VACATION OF GABLES RIGHT-OF-WAY. Owners have submitted to the City that certain petition for vacation of public street right-of-way, a copy of which is attached hereto as Exhibit "G" ("Petition for Vacation"), pertaining to the vacation of that portion of Gables Boulevard ("Vacated Area") legally described and depicted on the Plat of Vacation attached hereto as Exhibit "H" ("Plat of Vacation"). The corporate authorities of the City have heretofore given all notices and held the public hearing as required pursuant to Article IV, Chapter 58, Section 58-141 of the City Code in furtherance of the Petition for Vacation. Pursuant to said public hearing and the testimony provided therein, the City Council, pursuant to the affirmative vote of not less than three/fourths (3/4) of the membership of the City Council qualified to vote on an ordinance, has found that the requested vacation of the Vacated Area is in the best interests of the citizens of the City. In furtherance thereof, the City Council shall, (i) adopt an ordinance vacating that portion of the Gables Boulevard right-of-way identified herein as the Vacated Area and conveying the portion thereof adjacent to each Owner's Parcel to that Owner upon payment of the Vacation Compensation, as hereinafter defined ("Ordinance Vacating"), and (ii) cause the Ordinance Vacating and Plat of Vacation to be duly recorded with the DuPage County Recorder's office, at Owner's expense, immediately following the recordation of the Ordinance Annexing. The total area of the District Parcel combined with that portion of the Vacated Area conveyed to the District as legally described on the Plat of Vacation is referred to herein collectively as the "District Consolidated Parcel". The total area of the St. Matthew Parcel combined with that portion of the Vacated Area conveyed to St. Matthew and located within lot 2 of the Initial Plat is referred to herein collectively as the "St. Matthew Consolidated Parcel". The total area of the St. Matthew Church Property combined with that portion of the Vacated Area conveyed to St. Matthew and located within lot 3 of the Initial Plat is referred to collectively as the "St. Matthew Church Consolidated Property". Upon the City's vacation and conveyance of the Vacated Area following the Vacation Effective Date as provided for herein, all references in this Agreement to the District Parcel shall be construed to include and mean the District Consolidated Parcel, all references in this Agreement to the St.

Matthew Parcel shall be construed to include and mean the St. Matthew Consolidated Parcel, and all references in this Agreement to the St. Matthew Church Property shall be construed to include and mean the St. Matthew Church Consolidated Property. The Ordinance Vacating shall include the following obligations which shall be binding upon St. Matthew, the St. Matthew Parcel and the St. Matthew Church Property.

(a) The Ordinance Vacating and Plat of Vacation shall reserve unto and for the benefit of the City a perpetual, non-exclusive easement for pedestrian and bicycle ingress and egress to and from the DuPage Prairie Path in accordance with the easement provisions set forth in Exhibit "N" ("Easement"), over, across and upon that portion of the Vacated Area ("Easement Premises") consisting of (i) the entirety of that portion of the Vacated Area vacated to St. Matthew as identified on the Plat of Vacation until the Easement Improvements, as defined in the Easement, are constructed in conformity with the terms and provisions of the Easement and (ii) following the construction of the Easement Improvements in conformity with the Easement, the Easement Premises shall automatically and without further action of the Parties be reduced to that certain strip of land being twelve (12) feet in width as provided for and depicted on the Plat of Vacation.

(b) St. Matthew shall compensate the City in full for the Vacated Area in the amount of \$ 27,000.00 ("Vacation Compensation") upon adoption of the Annexation Ordinance for the Subject Property. Upon payment of the Vacation Compensation, the City shall record the Plat of Vacation and Annexation Ordinance at the Owner's expense. In the event the St. Matthew Parcel is resubdivided prior to the expiration of this Agreement, the Owner of the St. Matthew Parcel shall, at the time of recordation of the final plat of resubdivision, pay to the City the additional sum of \$63,000.00 as further compensation for the Vacated Area ("Additional Vacation Compensation").

9. **SECURITY INSTRUMENTS.** Pursuant to the provisions of Section 62-54 of the City Code, the Owner or developer of the District Parcel shall, prior to the recordation of the Final Plat and in compliance with applicable provisions of the City Code, deposit with the City an irrevocable letter of credit or cash escrow to secure the completion of the Subdivision Improvements ("Security Instrument"). The Security Instrument shall be in a form and content approved by the City, which approval shall not be unreasonably delayed or denied, with an initial duration of twelve (12) months in an amount not to exceed one hundred twenty-five percent (125%) of the Owner's engineer's estimated cost to construct the Subdivision Improvements as approved by the City Engineer.

10. **CONDITION OF PUBLIC IMPROVEMENTS.** The City shall have no obligation of any kind with respect to the public improvements presently existing within and adjacent to the Subject Property. Once the Subject Property is annexed to the City, the City shall maintain the Public Improvements constructed within and adjacent to the Subject Property in the customary manner in which it maintains public improvements.

11. **SUBDIVISION IMPROVEMENT AGREEMENT/ACCEPTANCE OF PUBLIC IMPROVEMENTS.** Concurrent with the recordation of the Final Plat, the applicable Owner or

developer and the City shall enter into a Subdivision Improvement Agreement substantially in the form attached hereto as Exhibit "I" ("Subdivision Improvement Agreement"). That portion of the Subdivision Improvements which are to be conveyed to, owned and maintained by the City are identified in Exhibit "J" ("Public Improvements"). Following completion of the construction of the Public Improvements, subject to the City's inspection and approval thereof, the City shall, in a prompt and reasonable manner, accept ownership of the Public Improvements pursuant to the applicable provisions of the City Code. Following the City's acceptance of the Public Improvements and the expiration of the twelve (12) month maintenance period following said acceptance as provided in the City Code, the applicable Owner and developer shall have no further obligation or responsibility with respect thereto and the applicable Security Instruments pertaining thereto shall be fully released by the City. Those Subdivision Improvements which are not a part of the Public Improvements and which are identified in Exhibit "J" ("Private Improvements") shall be maintained by the applicable Owner or developer until the Private Improvements are duly conveyed to the Association, as defined in Section 12, or Lot Owner, and thereafter the Private Improvements shall be owned and maintained by the Association, St. Matthew or individual Lot owner, as the case may be, pursuant to and in compliance with the terms and provisions of the Declaration, as defined in Section 12, and Exhibit "J".

12. DECLARATION OF COVENANTS/OWNERS ASSOCIATION. Not later than the recordation of the Final Plat, Owners shall prepare, execute and record with the DuPage County Recorder's office, a declaration of covenants, conditions and restrictions ("Declaration") for the Subject Property. The Declaration shall provide for the establishment by Owners of an association ("Association") of all persons and entities from time to time owning all or any portion of fee title to a Lot or other parcel within the Subject Property (each individually a "Member Owner" and collectively the "Member Owners"), which shall be incorporated as a not-for-profit corporation under the laws of the State of Illinois, or be established as such other form of entity as Owners may mutually agree. The Declaration shall, among other things, provide for the ownership and maintenance by the Association of the Private Improvements and all common areas owned or controlled by the Association, including, without limitation, the Detention Lot, Detention Facility and the storm sewer lines tributary to the Detention Facility which are not owned and maintained by the City. Each Member Owner shall own and be responsible for the maintenance of those Private Improvements located upon its Lot or other parcel, except as otherwise provided herein. Membership in the Association shall be mandatory for all Member Owners. The Declaration shall provide for the authority of the Association to levy periodic assessments against Member Owners to defray the cost of maintaining the Private Improvements and common areas. The Declaration shall also provide for the right, but not the obligation, of the City to enforce proper care and maintenance of the Detention Facility and to carry out said maintenance upon the failure of the Association to do so within thirty (30) days following written notice thereof given by the City. The City shall have the right to recover the costs from time to time incurred by the City in performing said maintenance from the Association and the Member Owners on a prorata basis, including the right to file a lien therefor against each Member Owner's Lot or parcel and/or to establish a special service area ("SSA") over all of the Lots for said limited purpose, the establishment of which SSA shall not be

objected to and shall be supported by the District, St. Matthew and all Member Owners. The form and content of the Declaration shall be subject to the review and approval of the City Attorney, which approval shall not be unreasonably delayed or denied.

13. RECAPTURE OBLIGATIONS. Except as otherwise expressly provided in this Agreement, there are currently no recapture agreements or recapture ordinances affecting public utilities or other public improvements which will be utilized to service the Subject Property which the City has any knowledge of or under which the City is or will be required to collect recapture amounts from the Owners or their successors, upon connection of the Subject Property to any of the public utilities or public improvements. Further, the City has no knowledge of a pending or contemplated request for approval of any recapture agreement or ordinance which will affect the Subject Property.

14. RIGHT TO RECAPTURE. Pursuant to Chapter 50 of the City Code, the City Council has determined that certain portions of the Subdivision Improvements as identified in Exhibit "K" ("Recapture Improvements") will provide a benefit to the real estate legally described in Exhibit "L" ("Benefitted Property") in the event the Benefitted Property is hereafter developed and connects to all or any of the Recapture Improvements. The notice and hearing requirements set forth in Section 50-4 of the City Code having been heretofore satisfied by the City, the City agrees to enter into a recapture agreement substantially in the form attached hereto as Exhibit "M" ("Recapture Agreement") with the Owner or Owners which pays for the Recapture Improvements. The amounts recoverable under the Recapture Agreement shall include the actual costs incurred by the Owner in designing, securing, constructing, supervising, inspecting and obtaining City acceptance of the Recapture Improvements ("Recapture Expense"). The Recapture Expense shall bear interest at an annual rate of not less than three and one-half percent (3.5%).

15. EXISTING STRUCTURES. The structures currently located upon the Subject Property, consisting of a single family dwelling which straddles the boundary line between the St. Matthew Parcel and District Parcel ("Principal Building") and associated garage ("Out-Building") (the Principal Building and Out-Building collectively the "Existing Structures"), all of which are currently being utilized by St. Matthew for non-residential purposes in association with the St. Matthew Church Property, shall be permitted to remain on the Subject Property in their existing condition and continue to be utilized for activities and purposes associated with and administered by St. Matthew and its adjacent facilities, subject to compliance with the provisions of Chapter 22 entitled "Buildings and Building Regulations". Not later than the commencement of development of the District Parcel, the Existing Structures on the Subject Property shall be demolished in compliance with Article XIV of Chapter 22 of the City Code, provided, however, the thirty (30) days waiting period and the required meeting with neighbors provided for in Section 22-205(c) and (e) shall not be applicable to the demolition of the existing structures. Pursuant to applicable agreements heretofore entered into between the District and St. Matthew, the District has approved the continued use by St. Matthew of those portions of the Existing

Structures located upon the District Parcel until the same are demolished in accordance with this Agreement.

16. AMENDMENT TO ORDINANCES. Except as expressly hereinafter provided, the Subject Property shall be developed and used in conformance with the City's Zoning Ordinance, Subdivision Control Ordinance, Building Codes, and other Ordinances, Codes, Rules and Regulations of the City pertaining to the development of the Subject Property. The Ordinances, Codes, Rules and Regulations existing on the date of the application for building/site development permits shall be applicable, except as this same may be specifically amended pursuant to the terms of this Agreement. The foregoing provisions to the contrary notwithstanding, with respect to the development and use of the Subject Property, the provisions of the Wheaton City Code pertaining to the following items which are in affect on the date of this Agreement, except as to any such item which is otherwise amended or varied pursuant to the terms of this Agreement, shall remain applicable to the Subject property for a period of five (5) years following the date hereof without regard to their subsequent amendment, modification or repeal, unless otherwise consented to in writing by the applicable Owner as to its Parcel, or unless otherwise mandated by a superior governmental authority:

- (a) Minimum size of yards and setbacks;
- (b) Maximum building height;
- (c) Maximum lot coverage;
- (d) Minimum lot width;
- (e) Maximum floor area ratio;
- (f) Minimum lot size;
- (g) Minimum usable open space;
- (h) Minimum lot depth;
- (i) Minimum storm water retention/detention design and capacity requirements;
- (j) Curb, gutter and street construction and pavement standards for public streets and cul-de-sacs.

In any event, the City agrees that the District Parcel shall be allowed to be developed with eight (8) detached single family residential dwelling units, the provisions of any City ordinance in affect at the time of application for a site development/building permit to the contrary notwithstanding.

17. SCHOOL AND PARK CONTRIBUTIONS. The Owner or developer of the District Parcel shall comply with the requirements of Article V of Chapter 62 of the City Code pertaining to school and park contributions for each single family residential lot contained within the District Parcel. Said school and park contributions shall be satisfied through the payment of a fee-in-lieu of the dedication of land ("**Cash Contribution**"), unless otherwise mutually agreed to between the applicable Owner and the school or park district. A credit for one three bedroom single family dwelling unit shall be given in calculating the Cash Contribution applicable to the

District Parcel for the Principal Building which was previously utilized as a single family residence. Anything contained in said Article V to the contrary notwithstanding, the Cash Contribution shall be paid on a prorata basis at the time of issuance of each building permit for a single family dwelling unit. Owners shall not be required to donate any land or money to the City for any other purpose.

18. FEES AND CHARGES. The City shall impose upon and collect from the Owner or developer of a Development Phase, and its respective contractors and suppliers, only those permit, license, tap-on, connection and user fees and charges, and in such amount or at such rate, as are generally applied throughout the City.

19. CONFLICT AND REGULATIONS. The provisions of this Agreement shall supercede the provisions of any ordinance, code or regulation of the City which may be in conflict with any of the provisions of this Agreement.

20. GENERAL PROVISIONS.

20.01. Enforcement/Applicable Law. This Agreement shall be enforceable in any court of competent jurisdiction by any of the Parties or their respective successors or assigns by an appropriate action of law or in equity to secure the performance of the covenants and agreements contained herein. The prevailing party in any enforcement action shall be entitled to recover all of its costs and expenses arising from said enforcement action, including, without limitation, reasonable attorney's fees, court costs and expert witness fees. This Agreement shall be governed by the laws of the State of Illinois.

20.02. Binding Effect/Recording. This Agreement shall be binding upon the Parties hereto, the heirs, executors, administrators, assignees, successors, and grantees. This Agreement shall run with the land and, as such, shall be assignable to and binding upon subsequent grantees, lessees, and successors in interest of the Owners. This Agreement and all exhibits hereto shall be recorded with the DuPage County Recorder's office, at Owners' expense. Upon the conveyance of any of an Owner's interest in any portion of the Subject Property ("Transferor") to a third party ("Transferee"), the rights and obligations contained herein of such Transferor, shall be deemed assigned to and assumed by the Transferee, and the Transferor shall thereupon be released and discharged by the City from any further obligation pertaining to the identified rights and duties with respect to the portion of the Subject Property that was transferred. The Transferee shall thereupon be entitled to exercise all rights and authorities and shall perform all duties and obligations of the Transferor pertaining to the portion of the Subject Property transferred. The Transferee shall comply with the applicable requirements of this Agreement pertaining to the posting of Security Instruments with the City affecting the portion of the Subject Property conveyed. Any Security Instruments previously posted by the Transferor shall be released by the City upon the delivery to the City by the Transferee of a substitute Security Instrument in the appropriate form and amount. The foregoing to the contrary notwithstanding,

the purchaser of a Lot for occupation of the single family dwelling unit contained thereon shall not constitute a Transferee under this Section.

20.03. Notices. Any notice required or desired to be given under this Agreement shall be in writing and shall be deemed to have been given when delivered personally, on the date of confirmed telefacsimile transmission, or on the date deposited in a United States Post Office, registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

If to Owners: Wheaton Sanitary District
Attn: Executive Director
1S649 Shaffner Road
P.O. Box 626
Wheaton, IL 60189-0626

with a copy to: Peregrine, Stime, Newman, Ritzman & Bruckner, Ltd.
Attn: Roger Ritzman
221 E. Illinois Street
Wheaton, IL 60187

and: St. Matthew United Church of Christ
Attn: Council President
1420 S. Gables Boulevard
Wheaton, IL 60189

with a copy to: David J. Boyd
510 Aurora Way
Wheaton, IL 60187

or to such other address as either Party may from time to time specify in writing to the other in accordance with the terms hereof.

20.04. **Severability.** Each provision of this Agreement shall be interpreted, where possible, in a manner necessary to sustain its legality and enforceability. The unenforceability of any provision of this Agreement in a specific situation, or the unenforceability of any portion of any provision of this Agreement in a specific situation, shall not affect the enforceability of:

- (i) that provision or portion of provision in another situation; or
- (ii) the other provisions or portions of provisions of this Agreement and such other provisions if the remaining portions could then continue to conform with the purposes of this Agreement and the terms and requirements of applicable law.

20.05. Amendment. This Agreement, and any Exhibits, or attachments hereto, may be amended from time to time in writing with the consent of the Parties, pursuant to applicable provisions of the City Code and Illinois Compiled Statutes. This Agreement may be amended by the City and the owner of record of a portion of the Subject Property as to provisions applying exclusively thereto, without the consent of the owners of record of other portions of the Subject Property not affected by such amendment.

20.06. Conveyances. Nothing contained in this Agreement shall be construed to restrict or limit the right of an Owner to sell or convey all or any portion of the Subject Property, whether improved or unimproved.

20.07. Necessary Ordinances and Resolutions. The City shall pass all ordinances and resolutions necessary or appropriate to permit the Owners and their successors, assignees and Transferees, to annex, zone, subdivide and develop the Subject Property in accordance with the provisions of this Agreement, provided said ordinances or resolutions are not contrary to law.

20.08. Term of Agreement. The term of this Agreement shall be twenty (20) years ("Term").

20.09. Captions and Section Headings. The caption, section and paragraph headings inserted in this Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge or affect the scope or intent of this Agreement nor the meaning of any provision hereof.

20.10. Incorporation of Recitals and Exhibits. The recitals set forth at the beginning of this Agreement and the exhibits attached hereto are hereby incorporated into this Agreement and made a part of the substance hereof.

20.11. References to Sections, Paragraphs and Exhibits. All references to section and paragraph numbers contained in this Agreement shall mean the section or paragraph of such number contained in this Agreement, unless otherwise expressly provided herein. All references herein to an Exhibit shall mean such exhibit attached to this Agreement, unless otherwise expressly provided herein.

20.12. No Obligation to Develop. Nothing contained in this Agreement shall be construed to obligate an Owner to develop or cause others to develop all or any portion of its Parcel.

20.13. Counterparts/Facsimile. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. For purposes of executing this Agreement, any signed copy of this Agreement may be transmitted by facsimile machine and the signature of any party thereon shall for purposes of execution hereof be considered an original signature. Any facsimile document shall, at the request of either Party, be re-executed by the other party in an original form, and neither Party shall raise the use of a facsimile machine, or the fact that any signature or document was transmitted thereby, as a defense to the effectiveness of this Agreement.

20.14. Indemnification/Insurance. The Owner of any portion of the Subject Property shall, during the development thereof, indemnify and hold the City harmless from all injuries to persons and property which arise due to the negligence of the Owner, its agents, assignees, employees, contractors and subcontractors. Said Owner shall indemnify and hold the City harmless from all causes of action, suits, judgments, settlements, legal fees, and all other costs which may be incurred by the City as a result of the aforesaid negligence. Said Owner shall provide to the City, prior to commencement of development, certificates of insurance as required by the Subdivision Improvement Agreement.

(Signature Page Follows)

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

CITY:

CITY OF WHEATON, an Illinois municipal corporation.

By:

Mayo

Attest:

City Clerk

OWNERS:

WHEATON SANITARY DISTRICT, an
Illinois municipal corporation

By

Steph R. Murray

Tit

EXECUTIVE Director

ST. MATTHEW UNITED CHURCH OF
CHRIST, an Illinois religious
corporation

By:

ation

Tit. I

Pres. de. uti

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Michael Fink, Mayor, and Sharon Barnett-Huguen, City Clerk, of the CITY OF WHEATON, an Illinois municipal corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instruments as such Mayor and City Clerk, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said City Clerk then and there acknowledged that she, as custodian of the records of the corporation, did affix the corporate seal of said corporation to said instrument as her own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10 day of October 2012.

Sara Bemer

Notary Public

STATE OF ILLINOIS
)
)
COUNTY OF DUPAGE)

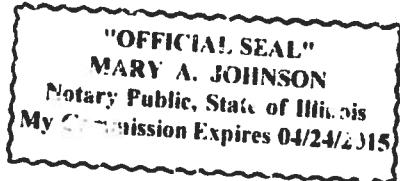


I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Stephen R. Manley, of the WHEATON SANITARY DISTRICT, an Illinois municipal corporation, who is personally known to me to be the same persons whose name is subscribed to the foregoing instruments as such has, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Stephen Manley then and there acknowledged that he, as custodian of the records of the corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2nd day of November 2012.

Mary A. Johnson

Notary Public

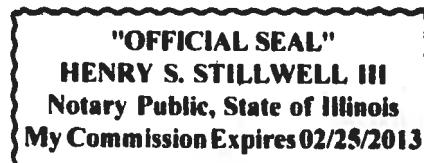
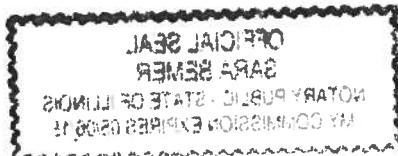


STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Brian English, President of St. Matthew United Church of Christ, an Illinois religious corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instruments as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2nd day of November 2012.

James S. Hause
Notary Public



SCHEDULE OF EXHIBITS

EXHIBIT "A":	Legal Description of District Parcel
EXHIBIT "B":	Legal Description of St. Matthew Parcel
EXHIBIT "B-1":	Legal Description of St. Matthew Church Property
EXHIBIT "C":	Plat of Annexation
EXHIBIT "D":	Petition for Annexation
EXHIBIT "E-1":	Initial Plat
EXHIBIT "E-2":	Preliminary Plat
EXHIBIT "E-3":	Preliminary Engineering Plan
EXHIBIT "F":	Parking Concept Plan
EXHIBIT "G":	Petition to Vacate
EXHIBIT "H":	Plat of Vacation
EXHIBIT "I":	Subdivision Improvement Agreement
EXHIBIT "J":	Public/Private Improvements Plan
EXHIBIT "K":	Recapture Improvements
EXHIBIT "L":	Benefitted Property
EXHIBIT "M":	Recapture Agreement
EXHIBIT "N"	Easement

EXHIBIT "A"

LEGAL DESCRIPTION OF DISTRICT PARCEL

THAT PART OF LOTS 1 AND 2 IN MAPLE KNOLL ACRES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 8, 1961 AS DOCUMENT 996078, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1 AND THENCE NORTH 42 DEGREES 44' 24" EAST, ALONG THE NORTHWESTERLY LINE OF SAID LOTS 1 AND 2, 780.12 FEET, TO THE NORTHWESTERLY CORNER OF SAID LOT 2, ALSO BEING THE CENTER LINE OF UNION DRAINAGE DITCH NO. 1; THENCE SOUTH 82 DEGREES 54' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 140.00 FEET; THENCE SOUTH 52 DEGREES 32' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 129.00 FEET, TO THE NORTHEASTERLY CORNER OF SAID LOT 2, ALSO BEING THE NORTHWESTERLY RIGHT OF WAY LINE OF THE DUPAGE COUNTY PARKWAY BEING THE FORMER CHICAGO, AURORA & ELGIN RAILROAD; THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY, HAVING A RADIUS OF 1467.0 FEET, AN ARC DISTANCE OF 589.13 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF SAID LOT 2, ALSO HAVING A CHORD BEARING OF SOUTH 40 DEGREES 30' 36" WEST AND A CHORD DISTANCE OF 585.18 FEET; THENCE NORTH 50 DEGREES 44' 05" WEST, 198.58 FEET TO A POINT; THENCE SOUTH 39 DEGREES 15' 55" WEST, 238.02 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID LOT 1, ALSO BEING A NORTHERLY RIGHT OF WAY LINE OF GABLES BOULEVARD; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF SAID LOT 1, 90.18 FEET, TO THE PLACE OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

PIN: 05-20-400-014

EXHIBIT "B"

LEGAL DESCRIPTION OF ST. MATTHEW PARCEL

PART OF LOTS 1 AND 2 IN MAPLE KNOTS ACRES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 8, 1961 AS DOCUMENT 996078, IN DUPAGE COUNTY, ILLINOIS (EXCEPT THAT PART DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1, THENCE NORTH 42 DEGREES 44' 24" EAST, ALONG THE NORTHWESTERLY LINE OF SAID LOTS 1 AND 2, 780.12 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 2, ALSO BEING THE CENTER LINE OF UNION DRAINAGE DITCH NO. 1; THENCE SOUTH 82 DEGREES 54' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 140.00 FEET; THENCE SOUTH 52 DEGREES 32' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 129.00 FEET, TO THE NORTHEASTERLY CORNER OF SAID LOT 2, ALSO BEING THE NORTHWESTERLY RIGHT OF WAY LINE OF THE DUPAGE COUNTY PARKWAY, BEING THE FORMER CHICAGO, AURORA & ELGIN RAILROAD; THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY, HAVING A RADIUS OF 1467.0 FEET, AN ARC DISTANCE OF 589.13 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF SAID LOT 2, ALSO HAVING A CHORD BEARING OF SOUTH 40 DEGREES 30' 36" WEST AND A CHORD DISTANCE OF 585.18 FEET; THENCE NORTH 50 DEGREES 44' 05" WEST, 198.58 FEET TO A POINT; THENCE SOUTH 39 DEGREES 15' 55" WEST, 238.02 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID LOT 1, ALSO BEING THE NORTHERLY RIGHT OF WAY LINE OF GABLES BOULEVARD; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF SAID LOT 1, 90.18 FEET, TO THE PLACE OF BEGINNING).

PIN: 05-20-400-013

EXHIBIT "B-1"

LEGAL DESCRIPTION OF ST. MATTHEW CHURCH PROPERTY

TRACT 5 OF HADLEY ESTATES, A SUBDIVISION OF PART OF SECTION 20,
TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN,
ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT 456070, IN
DUPAGE COUNTY, ILLINOIS.

EXHIBIT "C"

PLAT OF ANNEXATION

(See following page)

EXHIBIT "D"

PETITION FOR ANNEXATION

(See following 5 pages)

STATE OF ILLINOIS
COUNTY OF DUPAGE

To: Mayor and City Council
City of Wheaton, Illinois

PETITION FOR ANNEXATION

The undersigned, as owners of record of the property described in Exhibit "A" attached hereto and pursuant to Sections 5/7-1-8 of Chapter 65 of the Illinois Compiled Statutes (2008 ed.), respectfully represents unto the Mayor and City Council of the City of Wheaton ("City") as follows:

1. That the undersigned are the owners of record of the real estate legally described in Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter sometimes referred to as "Subject Property").
2. That the Subject Property constitutes a contiguous tract of land.
3. That the Subject Property is not within the corporate limits of any municipality.
4. That the Subject Property is within an unincorporated area of DuPage County but is contiguous to the existing corporate limits of the City.
5. That there are no electors residing on the Subject Property.
6. That the undersigned constitute the sole owners of record of the Subject Property (each individually an "Owner" and collectively the "Owners").
7. That the undersigned are desirous of annexing the Subject Property to the City, provided that prior to annexation of the Subject Property a certain annexation agreement is executed by and between the undersigned and the City, pursuant to the provisions of Section 5/11-15.1, et seq., of Chapter 65, of the Illinois Compiled Statutes (2008 ed.), which annexation agreement shall encompass and pertain to the entirety of the Subject Property.
8. That prior to the annexation of the Subject Property to the City, the undersigned shall submit to the City a plat of annexation depicting and legally describing the Subject Property.
9. That the undersigned hereby authorizes Henry Stillwell, as attorney for Owners, or such other person or persons as may from time to time be designated in writing by the undersigned, to proceed with all necessary and appropriate meetings and public hearings before the corporate authorities of the City for the purpose of effectuating the purpose of this Petition.

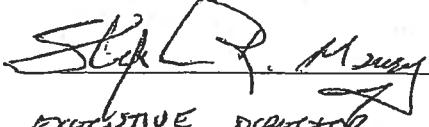
WHEREFORE, the undersigned pray as follows:

1. That the corporate authorities of the City will hold such public hearings as are required by law.
2. That the corporate authorities of the City will enter into a certain Annexation Agreement herewith or hereafter submitted by the undersigned record owners of the Subject Property.
3. That upon execution of said Annexation Agreement by the undersigned record owners of the Subject Property and the City, and only in the event said Annexation Agreement is mutually agreed upon and so executed, and upon the submission by the undersigned and approval by the City of the aforesaid plat of annexation, to annex the Subject Property to the City all in compliance with such statutes and ordinances as are required by law.

OWNER:

PARCEL 1:

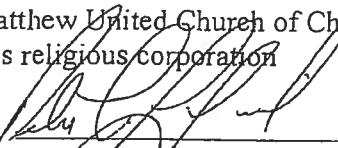
Wheaton Sanitary District, an Illinois municipal corporation

By: 

Title: executive director

PARCEL 2:

St. Matthew United Church of Christ, an Illinois religious corporation

By: 

Title: PRESIDENT

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that STEPHEN R. HARVEY, ^{EXECUTIVE} ~~DIRECTOR~~, of Wheaton Sanitary District, an Illinois municipal corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instruments as such ^{EXECUTIVE} ~~DIRECTOR~~, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said ^{EXECUTIVE} ~~DIRECTOR~~ then and there acknowledged that he, as custodian of the records of the corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of AUGUST 2010.

Jessica L Tullier
Notary Public
"OFFICIAL SEAL"
JESSICA L. TULLIER
Notary Public, State of Illinois
My Commission Expires 04/01/2012

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Peter Lindquist, President of St. Matthew United Church of Christ, an Illinois religious corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instruments as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of AUGUST 2010.

A rectangular notary seal with a double-line border. The top line contains the name "DIANA M. SOLTESS". The bottom line contains the title "Notary Public, State of Illinois" and the expiration date "Commission Expires October 27, 2011". In the center of the seal is a circular emblem featuring a map of the state of Illinois and the text "THE GREAT SEAL OF THE STATE OF ILLINOIS".

EXHIBIT "A"

LEGAL DESCRIPTION OF SUBJECT PROPERTY

A. PARCEL 1: (Wheaton Sanitary District)

THAT PART OF LOTS 1 AND 2 IN MAPLE KNOLL ACRES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 8, 1961 AS DOCUMENT 996078, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1 AND THENCE NORTH 42 DEGREES 44' 24" EAST, ALONG THE NORTHWESTERLY LINE OF SAID LOTS 1 AND 2, 780.12 FEET, TO THE NORTHWESTERLY CORNER OF SAID LOT 2, ALSO BEING THE CENTER LINE OF UNION DRAINAGE DITCH NO. 1; THENCE SOUTH 82 DEGREES 54' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 140.00 FEET; THENCE SOUTH 52 DEGREES 32' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 129.00 FEET, TO THE NORTHEASTERLY CORNER OF SAID LOT 2, ALSO BEING THE NORTHWESTERLY RIGHT OF WAY LINE OF THE DUPAGE COUNTY PARKWAY BEING THE FORMER CHICAGO, AURORA & ELGIN RAILROAD; THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY, HAVING A RADIUS OF 1467.0 FEET, AN ARC DISTANCE OF 589.13 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF SAID LOT 2, ALSO HAVING A CHORD BEARING OF SOUTH 40 DEGREES 30' 36" WEST AND A CHORD DISTANCE OF 585.18 FEET; THENCE NORTH 50 DEGREES 44' 05" WEST, 198.58 FEET TO A POINT; THENCE SOUTH 39 DEGREES 15' 55" WEST, 238.02 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID LOT 1, ALSO BEING A NORTHERLY RIGHT OF WAY LINE OF GABLES BOULEVARD; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF SAID LOT 1, 90.18 FEET, TO THE PLACE OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

PIN: 05-20-400-014

B. PARCEL 2: (St. Matthew United Church of Christ)

PART OF LOTS 1 AND 2 IN MAPLE KNOLLS ACRES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 8, 1961 AS DOCUMENT 996078, IN DUPAGE COUNTY, ILLINOIS (EXCEPT THAT PART DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1, THENCE NORTH 42 DEGREES 44' 24" EAST, ALONG THE NORTHWESTERLY LINE OF SAID LOTS 1 AND 2, 780.12 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 2, ALSO BEING THE CENTER LINE OF UNION DRAINAGE DITCH NO. 1; THENCE SOUTH 82 DEGREES 54' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 140.00 FEET; THENCE SOUTH 52 DEGREES 32' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 129.00 FEET, TO THE NORTHEASTERLY CORNER OF SAID LOT 2, ALSO BEING THE NORTHWESTERLY RIGHT OF WAY LINE OF THE DUPAGE COUNTY PARKWAY, BEING THE FORMER CHICAGO, AURORA & ELGIN RAILROAD; THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY, HAVING A RADIUS OF 1467.0 FEET, AN ARC DISTANCE

OF 589.13 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF SAID LOT 2, ALSO HAVING A CHORD BEARING OF SOUTH 40 DEGREES 30' 36" WEST AND A CHORD DISTANCE OF 585.18 FEET; THENCE NORTH 50 DEGREES 44' 05" WEST, 198.58 FEET TO A POINT; THENCE SOUTH 39 DEGREES 15' 55" WEST, 238.02 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID LOT 1, ALSO BEING THE NORtherLY RIGHT OF WAY LINE OF GABLES BOULEVARD; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF SAID LOT 1, 90.18 FEET, TO THE PLACE OF BEGINNING).

PIN: 05-20-400-013

EXHIBIT "E-1"

INITIAL PLAT

(See following pages)

MORE ESTATES
PLAT OF SUBDIVISION

A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF
THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

— 2 —

LEGAL DESCRIPTION

DOI: [10.1017/ntr.2023.372](https://doi.org/10.1017/ntr.2023.372) © 2023 Association for Child and Adolescent Mental Health.

Digitized by srujanika@gmail.com

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EXHIBIT "E-2"

PRELIMINARY PLAT

(See following page)

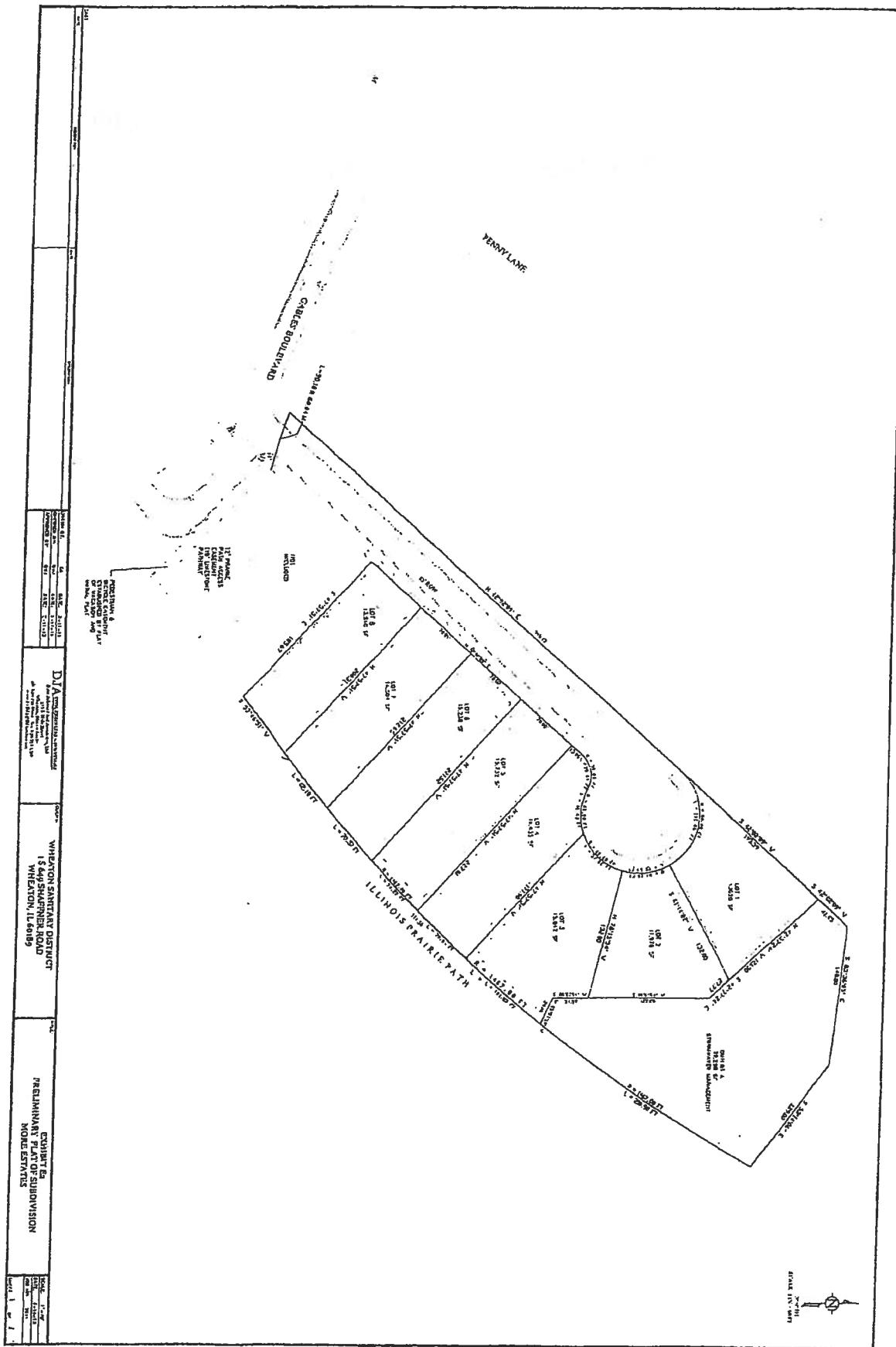


EXHIBIT "E-3"

PRELIMINARY ENGINEERING PLAN

(See following page)

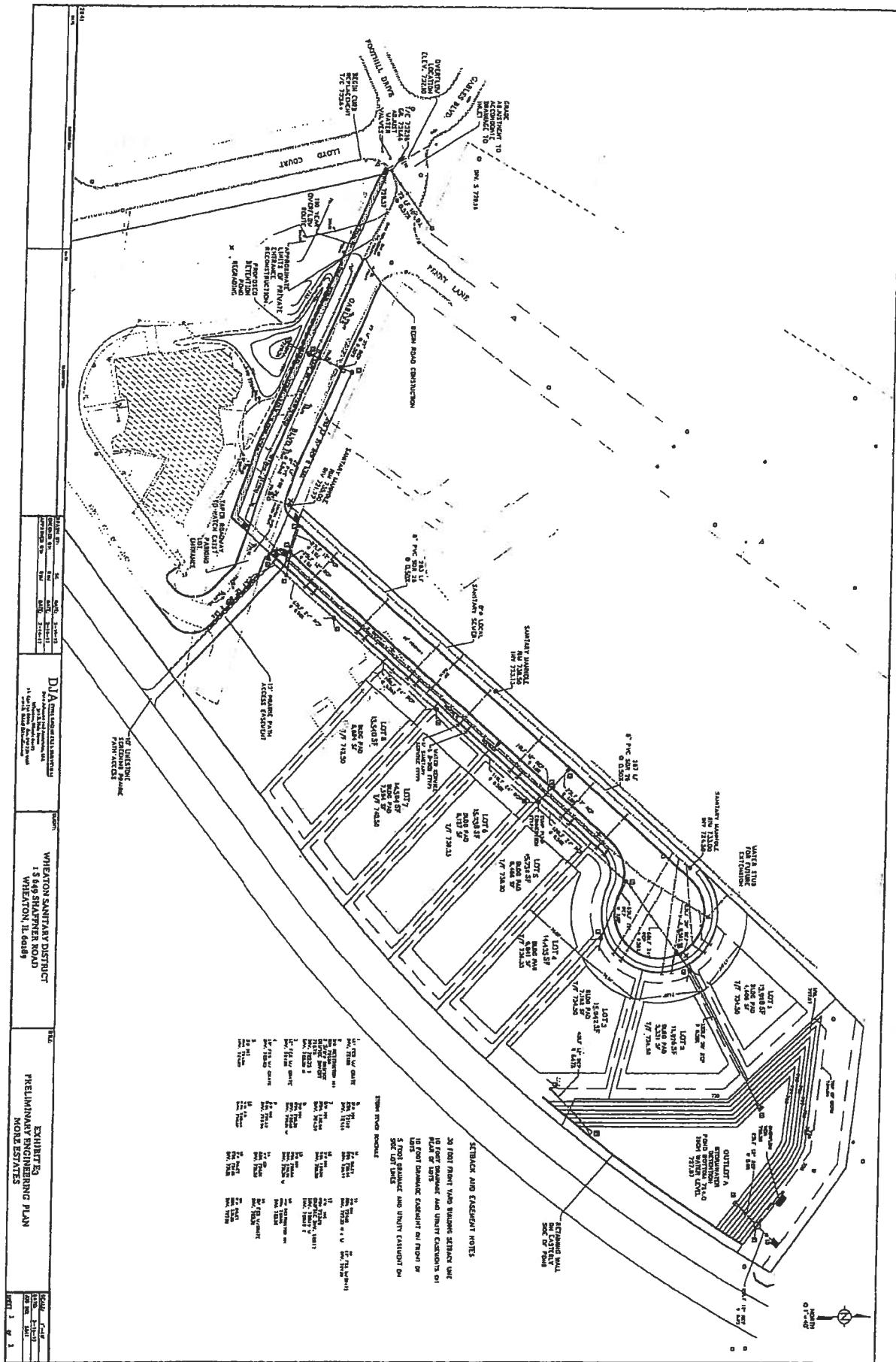


EXHIBIT "F"

PARKING CONCEPT PLAN

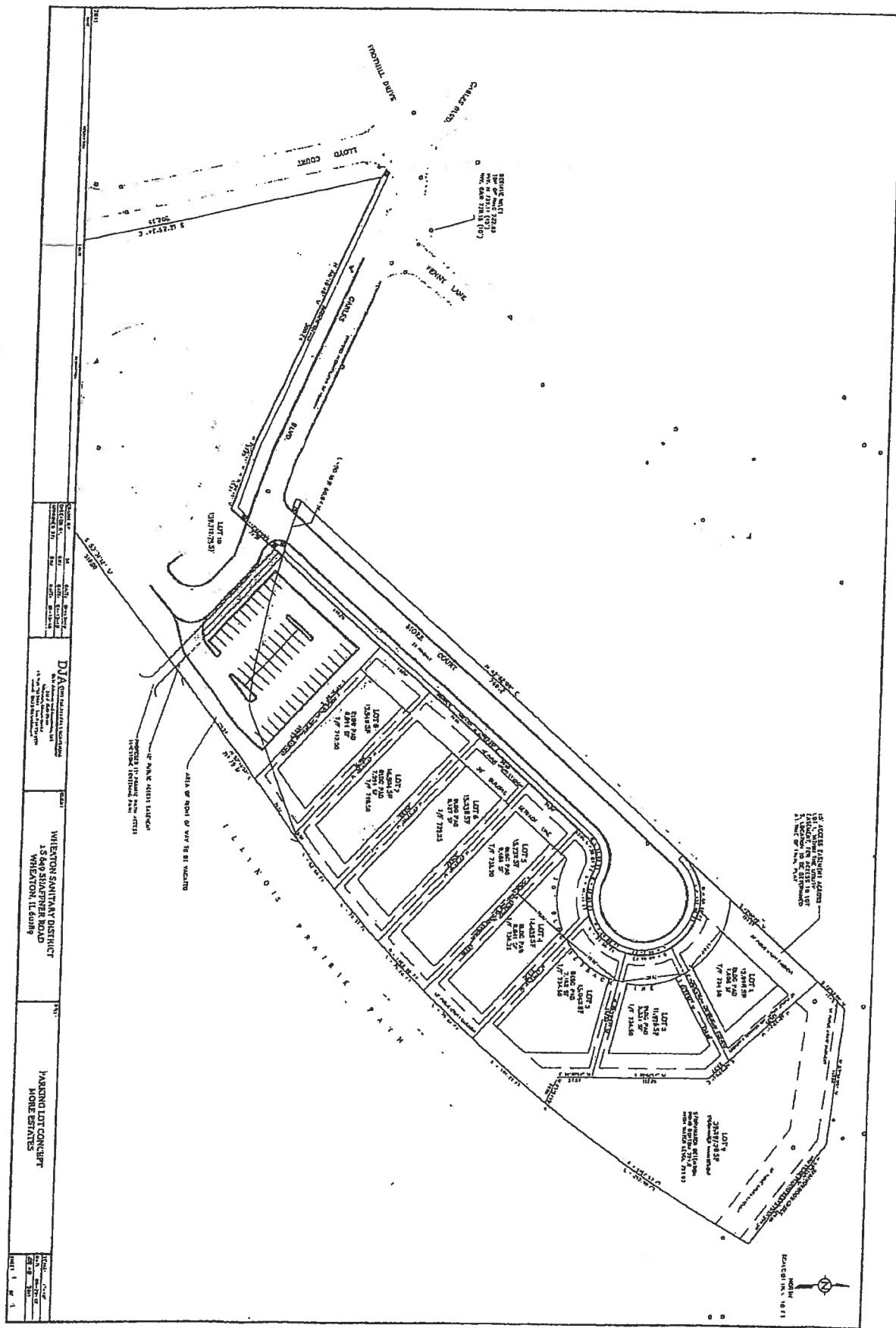


EXHIBIT "G"

PETITION TO VACATE

(See following 4 pages)

STATE OF ILLINOIS
COUNTY OF DUPAGE

To: Mayor and City Council
City of Wheaton, Illinois

**PETITION FOR VACATION OF
PUBLIC STREET RIGHT-OF-WAY**

The undersigned petitioners (each individually a "Petitioner" and collectively the "Petitioners"), pursuant to Chapter 58, Article IV, Section 58-136, *et seq.* of the City Code, hereby respectfully petition the City Council of the City of Wheaton, Illinois ("City") to vacate that portion of existing public street right-of-way as hereinafter defined and cause the conveyance of legal title thereto to Petitioners in the manner hereinafter identified, and in support thereof state as follows:

1. Petitioner Wheaton Sanitary District is an Illinois municipal corporation and Petitioner St. Matthew United Church of Christ is an Illinois religious corporation and pursuant to Section 58-140(2) of the City Code disclosures of the names of the officers and directors of each Petitioner are submitted herewith.
2. The public street right-of-way being the subject of this Petition is legally described and depicted on the proposed Plat of Vacation attached hereto as Exhibit "A" ("Subject Right-of-Way"). The Subject Right-of-Way constitutes a portion of Gables Boulevard.
3. Petitioners are the legal owners of certain parcels of land located immediately adjacent to and contiguous with the Subject Right-of-Way.
4. Petitioners have caused to be submitted a list of all property owners within 250 feet of the Subject Right-of-Way.
5. Petitioners have no knowledge of any existing public service facilities located over, under or upon the Subject Right-of-Way and all existing and proposed public service facilities will be located and accommodated in compliance with the Preliminary Plat submitted by Petitioners as a part of the overall applications for entitlements, of which this Petition is a part (collectively the "Entitlement Applications").
6. The circumstances pertaining to this Petition, the nature and type of the entities comprising the Petitioners and the use to which the Subject Right-of-Way will be put are unique, as contemplated under Section 58-134 of the City Code, justify an exception to the application of the compensation formula as set forth in Section 58-138 of the City Code.

WHEREFORE, the undersigned Petitioners pray as follows:

1. That the corporate authorities of the City will hold such public hearings as are required by law.

2. That the corporate authorities of the City find that the circumstances of the requested vacation of the Subject Right-of-Way are unique, that said circumstances justify a departure from the rigid application of the compensation formula in Section 58-138 of the City Code and that the corporate authorities waive the requirement of compensation in its entirety.
3. That, subject to the City and Petitioners entering into a certain Annexation Agreement pursuant to the Petition for Annexation being a part of the Entitlement Applications, the corporate authorities of the City adopt such ordinances and take such actions as are reasonably and legally necessary and appropriate to vacate the Subject Right-of-Way and convey each portion thereof located adjacent to the property of a Petitioner to that Petitioner without further compensation.

PETITIONERS:

PARCEL 1:

Wheaton Sanitary District, an Illinois municipal corporation

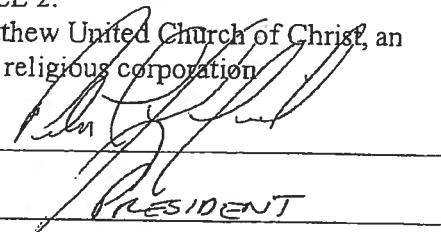
By: 

Title: EXECUTIVE DIRECTOR

Address: 1S649 Shaffner Road
P.O. Box 626
Wheaton, IL 60187

PARCEL 2:

St. Matthew United Church of Christ, an Illinois religious corporation

By: 

Title: PRESIDENT

Address: 1420 S. Gables Blvd.
Wheaton, IL 60189

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Stetson R. Nancy, ^{Executive} ~~Director~~, of Wheaton Sanitary District, an Illinois municipal corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instruments as such ^{Executive} ~~Director~~, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said ^{Executive} ~~Director~~ then and there acknowledged that he, as custodian of the records of the corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of AUGUST 2010.

STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Peter Lindquist, President of St. Matthew United Church of Christ, an Illinois religious corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instruments as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth

GIVEN under my hand and Notarial Seal this 30th day of August, 2010.

Notary Public



EXHIBIT "A"

PLAT OF VACATION

(See following page)

EXHIBIT "H"

PLAT OF VACATION

(See following page)

EXHIBIT "I"

SUBDIVISION IMPROVEMENT AGREEMENT

DEVELOPMENT /SUBDIVISION IMPROVEMENT
AGREEMENT

THIS AGREEMENT made and entered into this _____ by and between the City of Wheaton, an Illinois Municipal Corporation, and having its office at City Hall, 303 West Wesley Street, Wheaton, Illinois hereinafter called "City" and _____, an Corporation, (Partnership, Limited Liability Company) hereinafter called the "Developer," WITNESSTH:

WHEREAS, the Developer has fee simple title in itself to the real estate described as follows:

(Insert underlying legal here)

Property Index Number _____ (hereinafter "Property")

WHEREAS, the Developer has submitted a plan for a development/subdivision subdivided the Property by Plat of subdivision, or resubdivision, or zoning approval, as the case may be, approved by the Corporate Authorities of the City by Resolution (insert #) on (insert date); and

WHEREAS, the City has approved said development /subdivision plat strictly subject to the completion of the public and required improvements in accordance with its ordinances, resolutions, good engineering practices , and this Agreement, and as a condition to the issuance of occupancy permits for any buildings to be constructed on the property.

NOW THEREFORE, City and Developer agree as follows:

REQUIRED IMPROVEMENTS

1. The Developer at its sole cost and expense shall furnish all necessary materials, labor, and equipment to construct and complete public and required improvements, stormwater management improvements and other required improvements, (hereinafter "Required Improvements") in conformance with, the requirements of the Subdivision Control Ordinance, this Agreement, good engineering practices, and any other requirements as may be set forth in ordinances or resolutions approving the development/subdivision . These Required

Improvements shall include: survey monuments, sanitary sewers and all appurtenances, storm drainage systems and all appurtenances, watermains and all appurtenances, street lighting and all appurtenances, street signs, street pavements to include curb and gutter, sidewalks, parkway trees, parkway landscaping, final lot staking, erosion control, landscaping improvements, detention area landscaping, including inspection, testing and final engineering record drawings. All these Required Improvements shall be in accordance with the standards, specifications, and requirements of the City of Wheaton. Such Required Improvements are purportedly indicated by the plans and specifications approved by the City of Wheaton, shown on Exhibit A attached hereto which exhibit has been prepared by _____ who are registered professional engineers. Any Improvement required by ordinance, resolution or this Agreement, but omitted from Exhibit A, shall be constructed and completed as required. All utility lines and services to be replaced under the street shall be installed prior to paving.

CONTRACTS/ESTIMATES AND SECURITY FOR PUBLIC/REQUIRED

IMPROVEMENTS

2. Attached hereto and incorporated herein as if fully set forth as Exhibit B, is an executed contract between the Developer and a contractor, or a complete cost estimate prepared by a professional engineer, for the construction and completion of the Required Improvements. Prior to the execution of this Agreement, the Developer shall deposit: a) in a cash escrow (Exhibit "C") an amount equal to One hundred ten percent (110%) of the total of the contract amounts required to pay for the Required Improvements; or, b) 125% of the engineer's cost estimate for the Required Improvements, including all final lot staking, survey monuments, by irrevocable letter of credit or cash. A cash escrow deposit may be held by the City or a third party escrow agent, Insert title company Name Here to be disbursed with the joint written order of the Director of Engineering and _____ agent for the Developer for the sole purpose of paying for the Required Improvements. Any third party escrow agent, as well as the terms of any escrow agreement, shall be subject to the reasonable approval of the City attorney. Until said cash escrow (Exhibit "C") or letter of credit is established this agreement shall be

ineffective and no permits shall issue. Any escrow agent shall be deemed a party to this Agreement.

Any letter of credit posted to guarantee the Required Improvements shall be subject to the approval of the City Attorney and Director of Engineering, with the City being the sole beneficiary of the letter of credit for purposes of constructing and completing the Required Improvements. Any amounts drawn by the City from the escrow or letter of credit, exceeding the cost of the Required Improvements, shall be returned: in the case of a cash escrow exclusively to the Developer in the case of a cash escrow held by the City; exclusively to the escrow agent in the case of a third party escrow; or in the case of the letter of credit exclusively to the issuer.

CONSTRUCTION OBSERVATIONS

3. All work on Required Improvements shall be subject to spot construction observations and the approval of the Director of Engineering or his designee, and his written approval thereof shall be a condition precedent to payout or reduction of the funds deposited in escrow or the letter of credit. Written approval by the Director of Engineering or his designee shall not in any way diminish, qualify, or release the Developer's obligation to construct, complete and guarantee the Required Improvements as required by ordinance, resolution, good engineering practice and this Agreement. The Developer shall be responsible for inspecting and insuring that its work is in compliance with all of the foregoing requirements.

OBSERVATION FEES

4. The Developer shall pay 2% of the total cost of the Improvement to the City as a construction observation fee, as required by Ordinance. Payment shall be made within ten (10) days of the execution of this Agreement.

INSURANCE

5. Prior to commencement of any work provided for herein, the Developer and/or its contractors shall furnish the City with certificates of insurance providing for workmen's compensation and commercial liability insurance, including occupational disease coverage and comprehensive liability to cover said work as follows:

- (a) Workmen's compensation (statutory limits)
- (b) Comprehensive Commercial liability coverage, by one or more policies, with combined limits of 1,000,000/ 3,000,000, including collapse and explosion coverage.
- (c) Vehicle liability coverage with limits of \$500,000/ 1,000,000.
- (d) Minimum liability coverage of One Hundred Thousand (\$100,000) Dollars for property damage.

The foregoing coverages shall be the required minimums. Except for the Workmen's Compensation coverage all certificates of insurance shall name the City as an additional -insured with respect to the provisions of said policy related to the Required Improvements.. All policies of insurance shall be occurrence polices. Claims made policies are unacceptable. All policies shall be primary and no policy shall require contribution from the City's insurance. All carriers providing insurance shall be authorized to do business in the State of Illinois and shall be subject to the reasonable approval of the City Attorney. Certificates of insurance for the foregoing coverage shall be filed with the City Engineer prior to the issuance of any permits.

In addition, by its execution of this Agreement, the Developer hereby agrees to the greatest extent allowable under Illinois law to defend, indemnify and hold harmless the City, its elected and appointed officials employees, agents and assigns and each of them, against any and all claims, actions, losses, damages, attorney's fees or expenses which they may sustain or become liable for on account of injury or death of persons, or damage to or destruction of property resulting from acts or omissions in the performance of work related to the Required Improvements , by the Developer or his contractors or any employee or subcontractor of any of them, or by the City its agents or employees in furtherance of construction of the Required Improvements , or due to the condition of the premises or other property of the Developer upon, about, or in connection with which any work incident to the performance of the terms of this Agreement.

ACCEPTANCE AND GUARANTEE

6. The Developer guarantees that the design, workmanship and material furnished in the Required Improvements will be designed, furnished and performed in accordance with well known established practice and standards recognized by professional engineers and in the construction trades. All such Required Improvements shall be new and of the best grade of their respective kinds for the purpose. All materials and workmanship will be guaranteed by the Developer and his escrow agent for a period of one year from the date of final acceptance by the City. Except for those projects which contain special management areas such as wetlands and/or floodplains that may contain longer guarantee periods as stipulated by the permitting authority.

Prior to requesting final acceptance, the Developer shall inspect and repair all deficiencies in the Required Improvements. The City will then inspect and provide a list of deficiencies ("Punchlist").

The Developer shall cause all deficiencies to be repaired within 60 days of receipt of the list of deficiencies or the City shall have the right to make or cause the repairs to be made and draw on the cash escrow or letter of credit, described in Paragraph 2, to insure compliance with this Agreement. Failure to complete the deficiencies within 60 days may also require a re-inspection by the City at the Developer's expense. Any re-inspections by the City shall be paid for by the Developer based on time and material costs as actually incurred by the City.

The City shall retain ten (10%) of the total amount of the security, for the Required Improvements for one year after final acceptance of the Improvement, as a guarantee that the workmanship and materials furnished therefore are first class and as above provided, and that the Required Improvements are and will remain in good and sound condition for and during the one year period from and after its completion and acceptance except for projects which contain special management areas such as wetlands and/or floodplains that may contain longer guarantee periods as stipulated by the permitting authority.

The Developer shall make or cause to be made at its own expense, any and all repairs that may become necessary by virtue of this guarantee, and shall leave the Required Improvements in

good and sound condition, satisfactory to the City Engineer, at the expiration of the guarantee. In said event and at the expiration of such period, the amount retained as a guarantee, less any and all necessary expenses which may have been incurred by the City in connection with the maintenance of the Required Improvements, shall be paid over, or released as the case may be, in conformance with Section 2 of this Agreement.

Further, if during said guarantee period, the improvement shall in the opinion of the City Engineer, require any repairs or renewals the Developer shall upon notification by the Director of Engineering of necessity for such repair or renewals, make such repairs or renewals, at its own cost and expense. Should the Developer fail to make such repairs, renewals, within a reasonable time after notification as herein before provided, or to start work within one week after such notification, the City may cause such work to be done, either by contract or otherwise, and the entire cost and expense thereof shall be paid and deducted from the amount retained as a guarantee. Should such cost and expense exceed the amount retained or remaining in the guarantee fund, the Developer shall pay such amount of excess to the City.

TIME LIMIT

7. The Developer shall cause said Required Improvements, except for sidewalks and landscaping as herein described to be completed within one year from the date hereof. If work is not completed within the time prescribed herein, then the City shall have the right to complete said work and draw on funds in escrow as provided in Exhibit "C". The Developer shall cause his consulting engineers to correct drawings to show work as actually constructed and said engineers shall turn over original tracings thereof to the City as and for the City's property.

ORDINANCES

8. Notwithstanding this Improvement Agreement, in the event a valid ordinance of the City was overlooked at the date hereof, the Developer upon notice from the City and prior to acceptance of the subdivision shall install or perform the improvement or work so required; further, any law or ordinance which shall be passed after the date of this Agreement, which is a law or ordinance directed to the health, safety or welfare of the public, shall apply to this property as of the effective date of said law or ordinance.

LIEN WAIVERS

9. The Developer shall furnish the City with a contractor's affidavit showing all subcontractors and material suppliers and further furnish lien waivers that all persons who have done work, or have furnished material under this agreement, and are entitled to a lien therefore under any laws of the State of Illinois, have been fully paid or are not longer entitled to such lien.

OCCUPANCY PERMITS

10. It is agreed that no occupancy permits shall be issued for any building in said subdivision until all Required Improvements required by this Agreement have been completed, except for final road surface course, public sidewalks, and parkway trees. Parkway trees shall be installed within six months from the issuance of an occupancy permit. It is also agreed that parkway trees that do not meet City standards will be replaced and maintained by the Developer no later than 60 days after notification by the City.

MAINTENANCE

11. The Developer shall be responsible for the maintenance of the required improvements until such time as they are accepted by the City. This maintenance shall include routine maintenance such as snow removal, pruning and watering of parkway trees, landscaping and street sweeping as well as emergency maintenance such as sewer blockages. If the Developer requests and the City elects, at the time of the execution of this agreement, to have the City perform this maintenance it hereby agrees to reimburse the City its cost for the performance of this maintenance upon the receipt of an invoice from the City setting forth said cost to the City. Any payments not made pursuant to this requirement may be taken by the City, in its sole discretion, from the security posted in accordance with Section 2 of this Agreement. If a deduction taken by the City from the security results in a shortfall of the required amount of the security the Developer shall replenish the security in the amount of the deficiency within seven calendar days of the City's request. Any failure of the Developer to replenish the security within seven days of the City's request shall constitute a material breach of this Agreement authorizing the City to assert control over the cash escrow or call the letter of credit.

RESOLUTION

12. It is hereby agreed that the following development shall comply with the strict adherence of Subdivision or Planned Unit Development Ordinance requirements and as approved by Insert Ordinance or Resolution here _____ a copy of which is attached hereto and made a part hereof.

BINDING EFFECT

13. This Agreement shall be binding upon all parties, their successors and assigns and grantees.

INTEGRATION

14. This Agreement cancels and supersedes any agreements heretofore entered into between the parties which are in conflict with the provision hereof. All aspects of the parties negotiations related to this Agreement are fully integrated herein and there are no other understandings or agreements, oral or written, related to the provisions of this Agreement or any ordinances or resolutions adopted in conjunction herewith.

AMENDMENTS

15. Any amendments to this Agreement shall be in writing and approved by the City Council. City Ordinance provisions in effect at the time of the request for an amendment shall apply. (Unless specified otherwise.)

NO THIRD PARTY BENEFICIARIES

16. There are no third party beneficiaries of this Agreement.

CITY'S LITIGATION EXPENSES

17. Should the Developer bring any claim or litigation against the City or any of its employees in their professional or personal capacity in consequence of this Agreement, or should the City bring any action to enforce all or any portion of this Agreement, and should the Developer lose all or a portion of said litigation, the Developer shall reimburse the City or its employees their reasonable attorneys fees, expert witness fees and costs: in the full amount if it loses the whole of the litigation or; in a case where it loses a portion of the litigation those

reasonable attorneys fees, expert witness fees and costs attributable to that portion of the litigation.

EXCLUSIVE JURISDICTION

18. Exclusive jurisdiction for any litigation related to this Agreement shall be in the 18th Judicial Court, DuPage County, Illinois.

IN WITNESS WHEREOF, the City has caused this agreement to be executed by its Mayor and attested by its Clerk and the Owner has executed this agreement, all as of the date first above written.

CITY OF WHEATON, an Illinois
Municipal Corporation

BY _____
Mayor

ATTEST:

City Clerk

DEVELOPER:

BY _____

EXHIBIT "J"

SUBDIVISION IMPROVEMENTS

A. Public Improvements:

1. All streets, curbs, gutters, sidewalks, trees and street lights located within the public street right-of-way, as depicted on page J-2 (public sidewalks and parkway trees along the north side of More Court and the northeast side of Gables Boulevard are not included).
2. Sanitary sewer mains, structures and appurtenances as depicted on page J-2.
3. Water mains, structures and appurtenances as depicted on page J-2.
4. Storm sewer lines, structures and appurtenances located within the public street right-of-way and the public drainage easements between Lot 1 and Lot 2 and at the rear of Lot 3, as depicted on page J-2.
5. Ten (10) feet wide limestone screening Prairie Path access path as depicted on page J-2.

B. Private Improvements:

1. Detention Facility, including all storm sewer lines, inlet structures, restrictors and outflow structures located within the Detention Outlot or within a public drainage easement on a Lot and connecting to the Detention Facility, as depicted on page J-2 which shall be owned and maintained by the Association.
2. Sanitary sewer lot stubs and water service lines extending to and including buffalo boxes, which shall be owned and maintained by the owner of the Lot on or adjacent to which said improvements are located.
3. Regrading of the existing detention basin, installation of a new storm sewer outfall structure and reconstruction of the existing parking lot entrances, all as located on the St. Matthew Church Property, as depicted on page J-2, which shall be owned and maintained by St. Matthew.

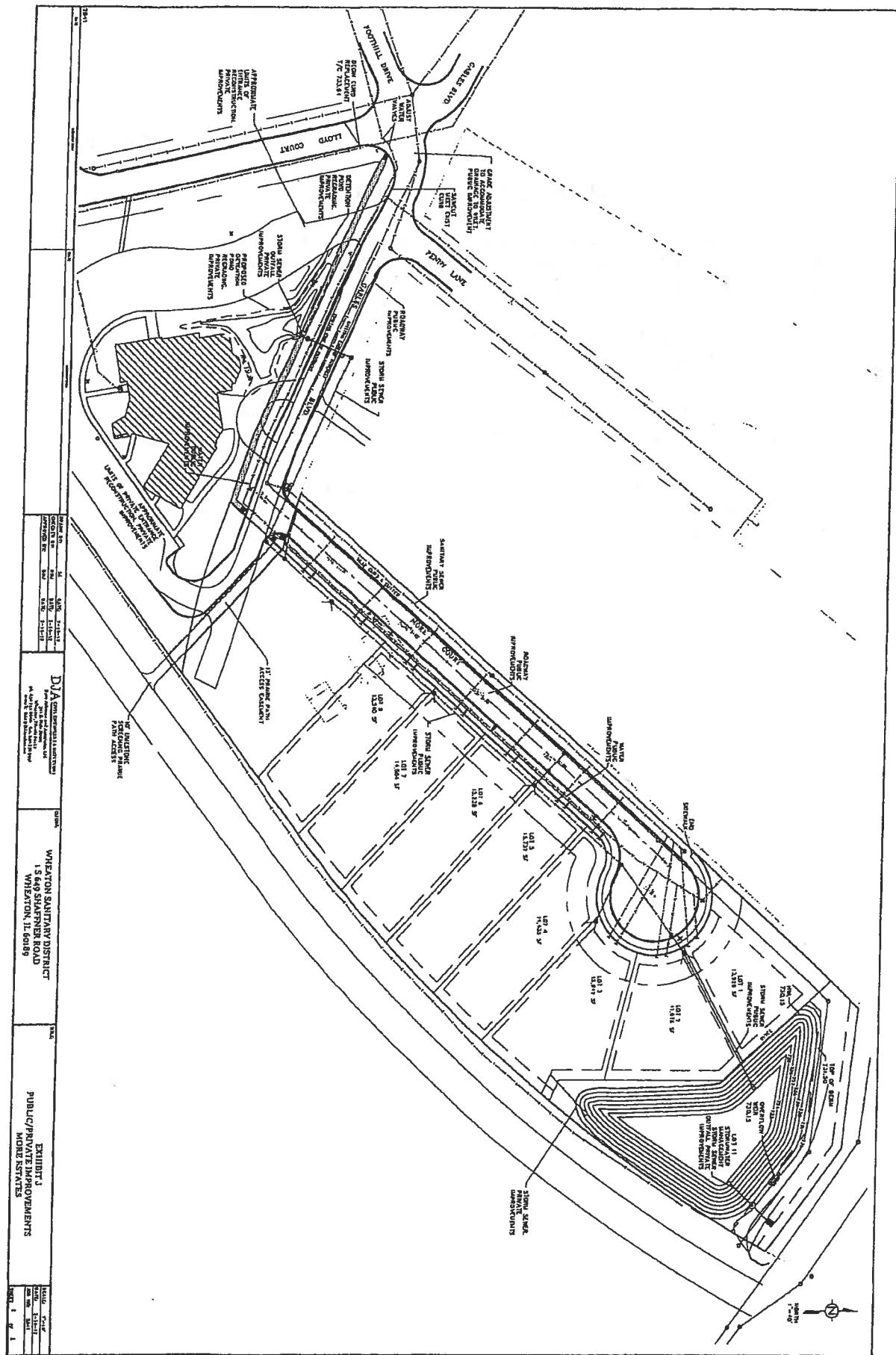


EXHIBIT "K"

RECAPTURE IMPROVEMENTS

1. 845 feet of public street improvements, including, without limitation, sub-base, base, gravel, binder, surface course, curb, gutter and street lights installed within proposed More Court and existing Gables Boulevard.
2. 892 feet of 8 inch water line, including all structures and appurtenances being a part thereof installed within proposed More Court and existing Gables Boulevard.
3. 572 feet of 8 inch sanitary sewer line, including all structures and appurtenances being a part thereof installed within proposed More Court and existing Gables Boulevard.
4. 1033 feet of a combination of 12, 21, 24 and 30 inch storm sewer lines, including all structures and appurtenances being a part thereof installed within proposed More Court and existing Gables Boulevard.

EXHIBIT "L"

BENEFITTED PROPERTY

A. Legal Description:

TRACT 3 IN HADLEY ESTATES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 20, 1943 AS DOCUMENT 456070, IN DUPAGE COUNTY, ILLINOIS.

B. Address: 1421 Gables, Wheaton, IL 60187

C. Permanent Index Number: 05-20-400-010

EXHIBIT "M"

RECAPTURE AGREEMENT

(See following 17 pages)

RECAPTURE AGREEMENT

This Recapture Agreement ("Agreement") made and entered into this 15th day of October 2012, by and between the CITY OF WHEATON, an Illinois municipal corporation (hereinafter referred to as the "City"), and WHEATON SANITARY DISTRICT, an Illinois municipal corporation, (hereinafter referred to as the "Owner"):

WITNESSETH:

WHEREAS, the City is an Illinois Municipal corporation exercising home rule powers pursuant to Article VII of the Constitution of Illinois, 1970, and pursuant to Chapter 50 of the Wheaton City Code; and

WHEREAS, Owner is the legal or beneficial owner of the real property legally described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "**Subject Property**"); and

WHEREAS, the Subject Property is located within the corporate limits of the City; and

WHEREAS, the Subject Property constitutes a 4.4 acre parcel of vacant land which is being subdivided into eight (8) buildable single family lots and one (1) stormwater detention outlot (hereinafter referred to as the "**Subdivision**"); and

WHEREAS, the City has recognized that certain public improvements need to be modified or added to service the Subdivision; and

WHEREAS, certain public improvements are required by the City; and

WHEREAS, the Owner shall install the public improvements required by the City; and

WHEREAS, the installation of certain of such public improvements to serve the Subject Property which are defined in Section 4 as the Recapture Improvements will, in the opinion of the corporate authorities of the City, provide a benefit for and will be used by the persons or entities constituting the owner or owners (hereinafter referred to collectively as

the “**Benefitted Owner**”) of the property legally described in Exhibit “B” attached hereto and made a part hereof (hereinafter referred to as the “**Benefitted Property**”); and

WHEREAS, the Owner is desirous of obtaining from the City an agreement that upon the first to occur of the request by the Benefitted Owner or its authorized agent for (i) annexation, (ii) subdivision approval or (iii) building permit approval by the City for all or any portion of the Benefitted Property (individually a “**Recapture Event**” and collectively “**The Recapture Events**”), the Benefitted Owner shall (a) as to the More Court Recapture Improvements, as identified in Exhibit “C”, to which the Benefitted Property makes connection and (b) as to all of the Gables Boulevard Recapture Improvements, as identified in Exhibit “C”, be required to contribute its pro rata share toward the cost of the design, supervision, permitting, securing and installation of the applicable Recapture Improvements; and

WHEREAS, the Corporate Authorities of the City caused to be conducted a hearing on this proposed Recapture Agreement, said hearing having been conducted on June 11, 2012, at the Wheaton City Hall, pursuant to notice.

NOW THEREFORE, in consideration of the foregoing premises and the covenants and conditions, the adequacy and sufficiency of which the parties hereto hereby acknowledge, the parties agree as follows:

1. Improvements to be Completed. The Owner shall cause the public improvements referenced in paragraph 4, and as required by the City, to be substantially completed following the recordation of the final plat for the subdivision of the Subject Property.

2. Conveyance of Improvements. The Owner hereby agrees to transfer all of its rights, titles, and interest in and to said improvements installed on the Subject Property or located within the public right-of-way and easements adjacent to the Subject Property and/or the Benefited Property to the City, by executing a Bill of Sale therefore in favor of the City in a form acceptable to the City Attorney. The work shall be done subject to the inspection and approval of the City Engineer. The City hereby agrees to accept such a Bill of Sale and shall, subsequent to said conveyance, use, operate, and maintain said improvements. The Owner for the work herein specified guarantees that the workmanship and material furnished under the specifications and used in said work will be furnished and performed in accordance with well known established practices and standards recognized by engineers in the trade. All such work is

to be new and of the best grade of their respective kinds for the purpose. All materials and workmanship will be guaranteed by the Owner pursuant to applicable ordinances of the City. Prior to the start of construction, the Owner shall enter into a Subdivision Improvement Agreement (SIA) with the City and shall submit a Letter of Credit in the amount of one hundred twenty five percent (125%) of the proposed engineering cost figures or one hundred ten percent (110%) of the actual costs of the project to secure performance under the SIA and this Agreement. Upon the completion of the said public improvements, and the acceptance thereof by the City, ten percent (10%) of the original amount of this Letter of Credit will be retained by the City for a period of one (1) year from the date of completion so as to secure the Owner's guarantee of the Improvements set forth in the SIA.

3. Benefited Property. The Corporate authorities of the City have determined that the parcel of property described in Exhibit "B" attached hereto and referred to herein as the Benefited Property will benefit from the construction of certain of said improvements referred to in paragraph 1.

4. Benefiting Improvements, Recapture Expenses. Attached hereto as Exhibit "C" is a schedule of those elements of the required public improvements referred to in paragraph 1, deemed by the Corporate authorities of the City to provide a benefit to the Benefitted Owner and the Benefitted Property ("Recapture Improvements") together with a list of the categories and estimated amount of the expenses associated with and attributable to the Recapture Improvements determined to be suitable for recapture and allocable to the Benefitted Property at the rate of fifty percent (50%) of the total of said costs. ("Estimated Recapture Expense").

In the event the actual total cost of the Recapture Improvements is less than the Estimated Recapture Expense, such reduced cost shall be applied on a pro rata basis by way of an amendment to this Agreement. In the event the actual total cost of the Recapture Improvements is more than the Estimated Recapture Expense, and provided any such increased cost is approved by the City Engineer prior to installation, such increased cost shall be applied on a pro rata basis by way of an amendment to this Agreement. Upon completion of the public improvements, Owner shall furnish the City with paid bills and lien waivers for the work performed. Fifty percent (50%) of the total actual cost of the Recapture Improvements as approved by the City Engineer, and as identified in the applicable amendment to this Agreement

if said amount is more or less than the Estimated Recapture Expense, is referred to herein as the "Recapture Expense".

The Recapture Expense shall bear annual interest at the rate of three and one-half percent (3.5%) per annum from and after the date of the acceptance by the City of the Recapture Improvements and approval of the amount of the Recapture Expense by the City Engineer, unless a lesser rate is otherwise from time to time mandated by applicable law, in which event the lesser rate shall apply.

5. Collection of Recapture Expense. The City shall assess against and collect from the Benefitted Owner, owning all or any portion of the Benefitted Property, its successors and assigns, the Recapture Expense. At such time as a Benefitted Owner or its agent causes a Recapture Event to occur as to all or any portion of the Benefitted Property, the City shall collect from such Benefitted Owner or agent that amount of the Recapture Expense commensurate with the portion of the Benefited Property affected and/or the applicable use of or frontage on the Recapture Improvements .

6. Payment of Recapture Expense. All Recapture Expense collected by the City pursuant to this Agreement shall be paid to the Owner or his successors or assigns within sixty (60) days after collection by the City. It is understood and agreed that the City's obligation to reimburse the Owner shall be limited to funds collected from such Recapture Expense and payments made hereunder shall be made solely out of said funds. This Agreement shall not be construed as creating any obligation upon the City to make payments from its general Corporate funds or revenue.

7. City's Obligations. The City and its officers, employees, and agents, shall make all reasonable efforts to make collections of Recapture Expenses. Neither the City or any of its officials or employees shall be liable in any manner for failure to make such collections, and the Owner agrees to hold the City, its officers, employees, and agents, harmless for the unintentional failure to collect said fees. However, the Owner or City may sue any party owing Recapture Expenses for collection, and in the event the Owner prosecutes a collection law suit, the City agrees to cooperate in its collection attempts by allowing full and free access to its books and records. In the event the City and any of its agents, officers, or employees is made a party Defendant in any actual or threatened litigation arising out of or resulting from this Agreement and/or the City's execution thereof, the Owner or it heirs, successors, assigns, and purchasers,

shall defend such litigation, including the interest of the City, and shall further release and hold the City harmless from any Judgment entered against the Owner and/or the City and shall further indemnify the City from any loss resulting therefrom, including reasonable attorney's fees.

8. City's Collection of Other Fees and Charges. Nothing shall limit or in any way affect the rights of the City to collect other fees and charges pursuant to City ordinances, resolutions, motions, or policies, as the fees provided for herein are in addition to such other City fees and charges.

9. Term. This Recapture Agreement shall be in full force and effect for a period of twenty (20) years from the date hereof, unless sooner terminated by the Agreement of the parties hereto or by the completion of all duties to be performed hereunder.

To the extent that the owner(s) of the Benefited Property, or any portion thereof fail to annex to the City, request subdivision approval by the City or apply for a building permit from the City within the said twenty (20) years, then this Recapture Agreement, and each and every duty or undertaking set forth herein, shall become null and void and of no further force and effect.

10. Lien. Upon completion of the public improvements which are the subject of this Agreement and verification by the City Engineer of the reasonable costs of said improvements, such sum shall constitute a lien against the Benefited Property and each parcel or lot from time to time contained therein, in the amount of the Recapture Expense, plus interest provided herein.

11. Miscellaneous Provisions.

A. Amendment: This Agreement may be amended upon the mutual consent of the parties hereto from time to time by written instrument and in conformity with all applicable statutory and ordinance requirements, and without the consent of any other person or corporation owning the Benefited Property of any portion thereof, provided not less than fifteen (15) days prior written notice is mailed to the then real estate tax assessee for the Benefitted Property as identified in the records of DuPage County.

B. Binding Effect: Except as otherwise herein provided, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Owner and any successor municipal corporation of the City.

C. Enforcement: Any party to this Agreement, or their respective successors or assigns may either in law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel performance of this Agreement.

D. Recordation: A true and correct copy of this Recapture Agreement, shall be recorded by the City with the DuPage County Recorder of Deeds, so as to provide owner(s) of the Benefited Property, its successors and assigns, with notice of the terms hereof. The cost of such recordation shall be paid by the Owner.

E. Notices:

If to City: City of Wheaton
303 W. Wesley Street
Wheaton, IL 60187

With a copy to: Walsh, Knippen, Knight & Pollock, Chtd.
2150 Manchester Road, Suite 200
Wheaton, IL 60187

If to Owner: Wheaton Sanitary District
Attn: Executive Director
1S649 Shaffner Road
P.O. Box 626
Wheaton, IL 60189-0626

With a copy to: Peregrine, Stime, Newman, Ritzman & Bruckner, Ltd.
Attn: Roger Ritzman
221 E. Illinois Street
Wheaton, IL 60187

or at such other place or places as the parties may from time to time designate in writing.

F. Severability: The invalidity or unenforceability of any of the provisions hereof, or of any charge imposed as to any portion of the property deemed benefited, shall not affect the validity or enforceability of the remainder of this Agreement or the charges imposed.

G. Complete Agreement: This Agreement contains all the terms and conditions agreed upon by the parties hereto and no other prior agreement (oral or otherwise) regarding the subject matter of this Agreement shall be deemed to exist to bind the parties.

H. Captions and Paragraph Headings: The captions and paragraph headings incorporated herein are for convenience only and are not part of this Agreement, and further shall not be used to construe the terms hereof.

I. Governing Law: This Agreement and the application of the terms contained herein shall be governed by the laws of the State of Illinois.

J. No Assumption or Obligation: Notwithstanding anything contained herein to the contrary, it is understood and agreed by and between the parties hereto that nothing contained herein shall in any manner be construed to constitute an assumption or undertaking by Owner to construct or complete the subject improvements on the Subject Property and/or the Benefited Property. The City agrees and acknowledges that the construction of the said public improvements by Owner shall be in the sole discretion of the Owner and that the Owner's subsequent election not to proceed with the construction of said public improvements shall not result in any claim, right, or cause of action by the City or any other interest party against the Owner as a result thereof. Non-performance by Owner shall terminate the City's obligations provided herein and the recapture rights of Owner.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures on the day and date first written above.

CITY:

THE CITY OF WHEATON,
An Illinois municipal corporation

By: _____
Mayor

Attest:

City Clerk

OWNER:

WHEATON SANITARY
DISTRICT, an Illinois
municipal corporation

By: _____

Title: _____

Attest:

By: _____

Title: _____

STATE OF ILLINOIS)
)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Michael J. Gesk, Mayor of the City of Wheaton, Illinois and Sharon Barrett-Hagen, City Clerk of the City of Wheaton, Illinois, who are personally 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 date in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of the City of Wheaton, a municipal corporation, for the uses and purposes therein set forth; and the said City Clerk then and there acknowledged that she, as custodian of the corporation, did affix the seal of said corporation to said instrument as her own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 2012.

Notary Public

My Commission Expires:

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO
HEREBY CERTIFY that _____, _____, and _____,
_____, of WHEATON SANITARY DISTRICT, an Illinois municipal corporation, who are
personally known to me to be the same persons whose names are subscribed to the foregoing
instruments as such _____ and _____, respectively, appeared before me this day in
person and acknowledged that they signed and delivered the said instrument as their own free
and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes
therein set forth; and the said _____ then and there acknowledged that he, as custodian of
the records of the corporation, did affix the corporate seal of said corporation to said instrument
as h own free and voluntary act and as the free and voluntary act of said corporation, for the
uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____, 2012.

Notary Public

My Commission Expires:

SCHEDULE OF EXHIBITS

EXHIBIT "A" Legal Description of Subject Property

EXHIBIT "B" Legal Description of Benefitted Property

EXHIBIT "A"

LEGAL DESCRIPTION OF SUBJECT PROPERTY

THAT PART OF LOTS 1 AND 2 IN MAPLE KNOLL ACRES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 8, 1961 AS DOCUMENT 996078, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1 AND THENCE NORTH 42 DEGREES 44' 24" EAST, ALONG THE NORTHWESTERLY LINE OF SAID LOTS 1 AND 2, 780.12 FEET, TO THE NORTHWESTERLY CORNER OF SAID LOT 2, ALSO BEING THE CENTER LINE OF UNION DRAINAGE DITCH NO. 1; THENCE SOUTH 82 DEGREES 54' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 140.00 FEET; THENCE SOUTH 52 DEGREES 32' 00" EAST, ALONG A NORTHERLY LINE OF SAID LOT 2, ALSO BEING THE CENTER LINE OF SAID DITCH, 129.00 FEET, TO THE NORTHEASTERLY CORNER OF SAID LOT 2, ALSO BEING THE NORTHWESTERLY RIGHT OF WAY LINE OF THE DUPAGE COUNTY PARKWAY BEING THE FORMER CHICAGO, AURORA & ELGIN RAILROAD; THENCE SOUTHWESTERLY ALONG SAID RIGHT OF WAY, HAVING A RADIUS OF 1467.0 FEET, AN ARC DISTANCE OF 589.13 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF SAID LOT 2, ALSO HAVING A CHORD BEARING OF SOUTH 40 DEGREES 30' 36" WEST AND A CHORD DISTANCE OF 585.18 FEET; THENCE NORTH 50 DEGREES 44' 05" WEST, 198.58 FEET TO A POINT; THENCE SOUTH 39 DEGREES 15' 55" WEST, 238.02 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID LOT 1, ALSO BEING A NORTHERLY RIGHT OF WAY LINE OF GABLES BOULEVARD; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF SAID LOT 1, 90.18 FEET, TO THE PLACE OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

PIN: 05-20-400-014

* * * * *

EXHIBIT "B"

LEGAL DESCRIPTION OF BENEFITTED PROPERTY

A. Legal Description:

TRACT 3 IN HADLEY ESTATES, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 20, 1943 AS DOCUMENT 456070, IN DUPAGE COUNTY, ILLINOIS.

B. Address: 1421 Gables, Wheaton, IL 60187

C. Permanent Index Number: 05-20-400-010

EXHIBIT "C"

ESTIMATED RECAPTURE EXPENSE¹

<u>ITEM</u>	<u>ESTIMATED COST</u>
A. More Court:	
1. Total Estimated Cost of Recapture	
Improvements:	\$242,853.53
2. Estimated Recapture Expense Allocated to Benefitted Property	121,426.76
B. Gables Boulevard:	
1. Total Estimated Cost of Recapture Improvements	\$103,960.73
2. Estimated Recapture Expense Allocated to Benefitted Property	\$ 51,980.36
TOTAL ESTIMATED RECAPTURE EXPENSE	<u>\$173,407.12</u>

See following 4 pages (pages 14-17) for itemization of components of the Estimated Recapture Expense.



More Court
Recapture Cost Estimate
5/31/2012

Item	Quantity	Unit	Unit Cost	Total Cost
Earthwork & Erosion Control				
Clay Cut to Fill	1,000	CY	\$3.50	\$3,500.00
Stockpile Topsoil & Respread	750	CY	\$3.00	\$2,250.00
Silt Fence	1,242	LF	\$3.00	\$3,726.00
Inlet Erosion Protection	5	EA	\$250.00	\$1,250.00
Rip Rap @ FES Outlets	3	EA	\$500.00	\$1,500.00
SUBTOTAL				\$12,226.00
Paving				
1.5" CL I Surface Course	2,146	SY	\$4.25	\$9,120.50
2.0" CL I Binder Course	2,146	SY	\$4.25	\$9,120.50
6.5" Bituminous Aggregate Mixture (BAM)	2,146	SY	\$18.50	\$39,701.00
8-6:12 Curb & Gutter	1,242	LF	\$15.00	\$18,630.00
SUBTOTAL				\$76,572.00
Sanitary Sewer				
8" PVC SDR-26 w/ Bedding	535	LF	\$28.00	\$14,980.00
4' Dia. San. Manhole w/ Type 1 Closed Lid	2	EA	\$2,500.00	\$5,000.00
Trench Backfill	50	CY	\$25.00	\$1,250.00
Televising	1	LS	\$750.00	\$750.00
Testing	1	LS	\$750.00	\$750.00
SUBTOTAL				\$22,730.00
Storm Sewer				
12" RCP w/ Bedding	208	LF	\$18.00	\$3,744.00
24" RCP w/ Bedding	553	LF	\$20.50	\$11,336.50
30" RCP w/ Bedding	178	LF	\$26.00	\$4,628.00
12" Concrete Flared End Section	2	EA	\$1,200.00	\$2,400.00
30" Concrete Flared End Section	1	EA	\$1,500.00	\$1,500.00
60" Dia. Manhole	5	EA	\$2,000.00	\$10,000.00
60" Dia. Restrictor Manhole	1	EA	\$5,500.00	\$5,500.00
72" Dia. Manhole	1	EA	\$2,500.00	\$2,500.00
48" Dia. Catch Basin	2	EA	\$1,500.00	\$3,000.00
48" Dia. Manhole	1	EA	\$1,450.00	\$1,450.00
24" Dia. Inlet	2	EA	\$750.00	\$1,500.00
Trench Backfill	300	CY	\$25.00	\$7,500.00
Televising	1	LS	\$750.00	\$750.00
SUBTOTAL				\$55,808.60

**Water Main & Appurtenances**

8" D.I.W.M. w/ Poly Wrap & Fittings	594	LF	\$26.00	\$15,444.00
8" Gate Valve w/ Valve Box Adaptor II	1	EA	\$1,500.00	\$1,500.00
Fire Hydrant w/ Aux. Valve & Fittings	2	EA	\$1,850.00	\$3,700.00
Trench Backfill	100	CY	\$25.00	\$2,500.00
Testing	1	LS	\$750.00	\$750.00
SUBTOTAL				\$23,894.00

Miscellaneous

Street Lights w/ Pole & Base	3	EA	\$3,800.00	\$11,400.00
Cable Duct with 3 - #6 Copper Conductors	1,000	LF	\$3.75	\$3,750.00
SUBTOTAL				\$15,150.00
SUBTOTAL				\$206,380.50

Design Engineering and Construction Administration

Design Engineering (6%)			\$12,382.83
Construction Phase Engineering /Supervision(8%)			\$16,510.44
Letter of Credit(1% of 125%)			\$2,579.76
Permit Fees			\$5,000.00
SUBTOTAL			\$36,473.03
TOTAL			\$242,853.53

BENEFITED PROPERTY RECAPTURE EXPENSE
50% OF TOTAL

\$121,426.76



Gables Boulevard
Recapture Cost Estimate
5/31/2012

Item	Quantity	Unit	Unit Cost	Total Cost
Earthwork & Erosion Control				
Clay Cut to Fill	500	CY	\$3.50	\$1,750.00
Stockpile Topsoil & Respread	100	CY	\$3.00	\$300.00
Inlet Erosion Protection	2	EA	\$250.00	\$500.00
Silt Fence	581	LF	\$3.00	\$1,743.00
SUBTOTAL				\$4,293.00
Paving				
1.5" CL I Surface Course	900	SY	\$4.25	\$3,825.00
2.0" CL I Binder Course	900	SY	\$4.25	\$3,825.00
6.5" Bituminous Aggregate Mixture (BAM)	900	SY	\$18.50	\$16,650.00
B-6: 12 Curb & Gutter	581	LF	\$15.00	\$8,715.00
SUBTOTAL				\$33,015.00
Sanitary Sewer				
8" PVC SDR-26 w/ Bedding	36	LF	\$28.00	\$1,008.00
4' Dia. San. Manhole w/ Type 1 Closed Lid	1	EA	\$2,500.00	\$2,500.00
Trench Backfill	50	CY	\$25.00	\$1,250.00
Televising	1	LS	\$750.00	\$750.00
Testing	1	LS	\$750.00	\$750.00
SUBTOTAL				\$6,258.00
Storm Sewer				
21" RCP w/ Bedding	240	LF	\$18.00	\$4,320.00
24" RCP w/ Bedding	25	LF	\$20.50	\$512.50
60" Dia. Manhole	1	EA	\$5,500.00	\$5,500.00
48" Dia. Catch Basin	1	EA	\$1,500.00	\$1,500.00
48" Dia. Manhole	3	EA	\$1,450.00	\$4,350.00
Trench Backfill	100	CY	\$25.00	\$2,500.00
Televising	1	LS	\$750.00	\$750.00
SUBTOTAL				\$19,432.50

**Water Main & Appurtenances**

8" D.I. W.M. w/ Poly Wrap & Fittings	328	LF	\$26.00	\$8,528.00
8" Gate Valve w/ Valve Box Adaptor †	1	EA	\$1,500.00	\$1,500.00
Fire Hydrant w/ Aux. Valve & Fittings	1	EA	\$1,850.00	\$1,850.00
Trench Backfill	100	CY	\$25.00	\$2,500.00
Testing	1	LS	\$750.00	\$750.00
SUBTOTAL				\$15,128.00

Miscellaneous

Street Lights w/ Pole & Base	2	EA	\$3,800.00	\$7,600.00
Cable Duct with 3 - #6 Copper Conductors	500	LF	\$3.75	\$1,875.00
SUBTOTAL				\$9,475.00
SUBTOTAL				\$87,601.50

Project Design and Construction Administration

Design Engineering (6%)			\$5,256.09
Construction Phase Engineering/Supervision (8%)			\$7,008.12
Letter of Credit (1% of 125%)			\$1,095.02
Permit Fees			\$3,000.00
SUBTOTAL			\$16,359.23
TOTAL			\$103,960.73

BENEFITED PARCEL RECAPTURE EXPENSE		
50% OF TOTAL		\$51,980.36

EXHIBIT "N"

EASEMENT

RESERVATION OF PEDESTRIAN AND BICYCLE EASEMENT

1. Easement Reservation. The City of Wheaton, an Illinois municipal corporation ("City") hereby reserves unto and for the benefit of the City a perpetual, non-exclusive easement ("Easement") for the sole and limited purpose of maintaining, replacing and repairing a pedestrian and bicycle pathway ("Pathway") and such other improvements as may be incidental thereto (collectively "Easement Improvements"), over, across, upon and below the Easement Premises, as hereinafter defined, for the passage of pedestrians and bicycles to and from the Illinois Prairie Path located south of and adjacent to the Easement Premises, and for no other purposes.

2. Easement Premises. That portion of the property vacated on the hereon plat ("Vacated Property") which shall be subject to, bound and burdened by the Easement ("Easement Premises") shall consist of (i) initially the entirety of that portion of Vacated Property defined as the St. Matthew Vacated Parcel on the hereon plat ("Initial Easement Premises") until the Easement Improvements, are constructed and (ii) immediately following the completion of the construction of the Easement Improvements and the City Engineer's written acceptance thereof, and without any further action of the City or fee title owner of the Easement Premises ("Owner"), the Easement Premises shall be reduced and limited to that portion of the Initial Easement Premises consisting of a strip of land being twelve (12) feet in width centered along the centerline of the Pathway, ("Final Easement Premises"), as generally depicted on the hereon plat. The Initial Easement Premises and Final Easement Premises are referred to herein collectively as the "Easement Premises", provided, however, that the use of the defined term Easement Premises shall only mean whichever of the Initial Easement Premises or Final Easement Premises is from time to time in effect pursuant to the provisions of this Easement. Within sixty (60) days following the City Engineer's written acceptance of the Easement Improvements, which acceptance shall not be unreasonably delayed or denied, the Owner shall, at its expense, prepare a certificate of correction to this plat containing the legal description for the Final Easement Premises which, following execution by the City and Owner, which execution shall not be unreasonably delayed or denied, shall be recorded with the DuPage County Recorder's Office at the Owner's expense.

3. Installation, Operation and Maintenance. The initial construction of the Easement Improvements shall be the sole responsibility and expense of the Owner. Said initial construction shall be carried out and completed as part of and concurrent with the improvement by the Owner of all or any portion of the St. Matthew Vacated Parcel in conjunction with the additional land owned by the Owner located east of the St. Matthew Vacated Parcel ("Owner East Parcel"), or such earlier date as Owner and City may mutually agree. Upon acceptance of the Easement Improvements in writing by the City Engineer, which shall not be unreasonably delayed or denied, the Easement Improvements shall be owned by the City and shall be the sole responsibility and expense of the City.

4. Invitees. The City shall have the right to permit and allow its employees, contractors and members of the general public to access the Easement Improvements ("Invitees"). Invitees shall not be considered third party beneficiaries of the Easement as the Easement is the exclusive right of the City. Nothing in this Easement shall be interpreted to waive or release any statutory privileges or immunities of the City.

5. Owner Exculpation. The Owner shall have no responsibility for, nor assume any liability concerning, the ongoing care, maintenance, operation, use and safety of the Easement Premises and/or the Easement Improvements.

6. Easement on Church Property. In the event the alignment of the Final Easement Premises requires the extension of the Easement ("Easement Extension") over and across a portion of the Owner's property located outside and southerly of the Easement Premises and consisting of a strip of land twelve (12) feet wide ("Extended Easement Premises") in order to create connection with the Prairie Path, the Owner shall grant to the City the Extended Easement over, upon, across and below the Extended Easement Premises. The terms of the Extended Easement affecting the Additional Easement Premises shall be consistent with the provisions of this Easement. At the City's request, the Owner shall execute and record such additional easement documents as shall be reasonably required by the City to establish the Extended Easement.

7. Covenants Run with Land. All provisions of this Easement, including the benefits and burdens, shall run with the land and are binding upon and inure to the benefit of the City and all persons and entities having or acquiring any right, title or interest in or to any portion of or interest or estate in the Vacated Property. The City shall not, however, convey its interest in this Easement to a non-governmental entity without the prior written consent of the Owner.