

ORDINANCE NO. O-2020-03

**AN ORDINANCE VACATING A PUBLIC ALLEY RIGHT-OF-WAY  
CALC Holdings**

**WHEREAS**, written petition has been filed with the City of Wheaton, Illinois ("City") by CALC Holdings LLC in Wheaton ("Petitioner") requesting the vacation of a public alley located south of 1406 & 1412 Avery Avenue, west of the properties at 202, 206 & 214 Prospect Avenue and east of 1403 Harwarden Street legally described herein; and

**WHEREAS**, the vacation petition has been filed pursuant to the provisions of Chapter 58, Article IV of the Wheaton City Code; thereafter, pursuant to notice as required by the City Code, a public hearing was conducted by the City Council on January 13, 2020 to consider the vacation; and

**WHEREAS**, the City Council has determined that the vacation of the public alley right-of-way legally described herein will promote the health, safety, and welfare of the City and its residents.

**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 following described public alley right-of-way (Subject Property) is hereby vacated in conformance with the Plat of Vacation prepared by Webster, McGrath & Ahlberg LTD. dated November 5, 2019 attached hereto as Exhibit 1 and made a part hereof (hereinafter "Plat").

THAT PART OF THE NORTH-SOUTH PUBLIC ALLEY LYING EAST OF AND ADJACENT TO LOTS 11 THROUGH 22, INCLUSIVE, IN BLOCK 6 OF EAST WHEATON, BEING A SUBDIVISION IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 2, 1889 AS DOCUMENT NO. 40813 IN DUPAGE COUNTY, ILLINOIS.

The Subject Property described above is hereby vacated, subject to the utility easement reservations described herein for the benefit of the petitioner for these following properties: P.I.N. 05-15-126-007; -008; -009; -010; -011; -012; -013; -014; -015; -016; -017.

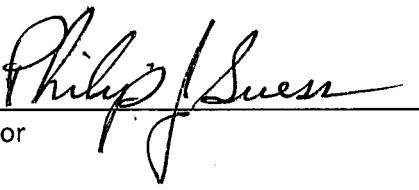
**Section 2:** The vacation of the Subject Property provided for in this ordinance shall be subject to the following conditions and requirements:

- A. Vacation of the Subject Property legally described herein shall be at no cost to the Petitioner. The determination to not require compensation for the vacated right-of-way is found to be consistent with Section 58-138 (a)(4) of the Wheaton City Code: "No fair and just compensation shall be required for public ways that necessitate a permanent easement over the entire public way land area."
- B. The Petitioner shall pay all fees associated with the vacation as provided for by Section 58-143 of the Wheaton City Code.
- C. The Petitioner, in its Plat of Vacation, shall reserve permanent easements for the benefit of the City and other utilities over the entire vacated right-of-way for utilities and drainage. The location, form and content of the utility easements shall be subject to the approval of the City Engineer and City Attorney.

**Section 3:** Upon satisfaction of the condition set forth in Section 2. C of this ordinance, the Mayor is authorized to execute the Plat, and the City Clerk is directed to attest to the signature of the Mayor. The Plat shall be recorded in the Office of the DuPage County Recorder along with a certified copy of this ordinance.

**Section 4:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance shall be repealed.

**Section 5:** This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

  
Philip J. Suess  
\_\_\_\_\_  
Mayor

ATTEST:

  
Alan Brueckner-Hagen  
City Clerk

	<u>Roll Call Vote</u>
Ayes:	Councilman Barbier Councilwoman Bray-Parker Mayor Suess Councilwoman Robbins Councilman Rutledge Councilman Zaruba

Nays:	None
Absent:	Councilwoman Fitch <u>Motion Passed Unanimously</u>

Passed: January 21, 2020

Published: January 22, 2020

## Exhibit 1

○

○

○