

Matt Brolley, Village President
Tiffany Francis, Village Clerk
Stan Bond, Trustee
Pete Heinz, Trustee
Steve Jungermann, Trustee
Denny Lee, Trustee
Doug Marecek, Trustee
Theresa Sperling, Trustee



Village Board Meeting
Monday, February 8, 2016
7:00 PM, Village Hall

THIS MEETING IS BEING RECORDED AND WILL BE AVAILABLE FOR VIEWING ON THE VILLAGE YOUTUBE CHANNEL.

AGENDA

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Public Participation

Members of the public are welcome to speak at this time. Please provide the Clerk with your name, address & phone number.

- A. Public Comments (Two Minute Opportunity).
- B. Recognition of Eric Biegalski for Saving a Life.

5. Consent Agenda

The following items are considered routine business by the Village Board and will be approved in a single vote in the form listed below.

- A. Minutes of the Village Board Meeting of January 25, 2016.
- B. Accounts Payable through February 4, 2016 in the Amount of \$362,503.41.
- C. Request from Family Outreach Program to Conduct Tag Days on February 19 and 20, 2016.
- D. Request from Montgomery VFW to Conduct a Poppy Drive on May 13 and 14, 2016.

6. Items for Separate Action

- A. Recommendation of the Plan Commission on PC 2016-003 SU Special Use for Outdoor Storage at 1400 Bohr Avenue – H. Linden & Sons Development/Steve Linden.
- B. Ordinance 1713 Granting a Special Use for Outdoor Storage for 1400 Bohr Avenue (H. Linden & Sons) (First Reading).
- C. Recommendation of the Plan Commission on PC 2016-002 SU Amendment to the Special Use for Outdoor Storage and a Special Use for Alternative Surfaces Located at 1065 and 1079 Sard Avenue – JPC Tree Care, LLC (To Be Postponed until the February 22, 2016 Village Board Meeting).
- D. Ordinance 1712 Declaring Surplus Property (Waiver of First and Passage on Second Reading).
- E. Resolution 16-001 Authorizing Execution of a Recreational Lease Agreement with Commonwealth Edison.

7. Items for Discussion

The following items are listed for discussion only. No decision or vote will be taken during this meeting.

- A. Discussion of Audit Proposal Results.

8. New or Unfinished Business

9. Future Meetings

- A. Committee of the Whole Meeting – Tuesday, February 16, 2016 at 7:00 p.m.
- B. Beautification Meeting – Wednesday, February 17, 2016 at 6:00 p.m.
- C. Intergovernmental Committee – Monday, February 22, 2016 at 6:00 p.m.
- D. Village Board Meeting – Monday, February 22, 2016 at 7:00 p.m.

10. Executive Session

- A. To Discuss the Employment of an Employee Pursuant to 5 ILCS 120/2 (c)(1).
- B. To Discuss the Acquisition of Real Property Pursuant to 5 ILCS 120/2(c)(5).

11. Adjournment

Trustee Lee called the meeting to order at 7:00 p.m. Trustee Lee asked everyone to rise for the Pledge of Allegiance.

Trustee Jungermann moved to appoint Trustee Lee as Village President Pro Tem in the absence of President Brolley. Trustee Marecek seconded this motion.

5 Yea. 0 No. Motion carried. Trustee Jungermann, Trustee Marecek, Trustee Bond, Trustee Lee, Trustee Heinz voting yea.

Roll Call

Trustee Sperling	No	Trustee Jungermann	Yea
Trustee Lee	Yea	Trustee Marecek	Yea
Trustee Heinz	Yea	Trustee Bond	Yea

Also present: Administrator Jeff Zoepfel, Attorney Steve Andersson, Chief of Police Daniel Meyers, Deputy Chief Armando Sanders, Director of Public Works Todd Hoppenstedt, Director of Finance Justin VanVooren, Director of Community Development Rich Young, Engineer Peter Wallers, Members of the Press and others.

Public Participation

A. Public Comments (Two Minute Opportunity).

There were no public comments this evening.

B. Recognition of Collin Bowers, Blake Bowers, Grant Bowers, and Jacob Giese for serving the community.

Trustee Bond presented certificates to four young residents of Montgomery, Collin Bowers, Blake Bowers, Grant Bowers, and Jacob Giese, for their voluntary service to clean up litter in the Fairfield Way and Foxmoor neighborhoods. Trustee Bond spoke regarding the appreciation the Village has towards individuals who volunteer their time to make Montgomery a better place.

Consent Agenda

A. Minutes of the Village Board Meeting of December 14, 2015.

B. Executive Session Minutes of December 14, 2015.

C. Minutes of the Village Board Meeting of January 11, 2016.

D. Executive Session Minutes of January 11, 2016.

E. Accounts Payable through January 21, 2016 in the Amount of \$289,162.71.

F. Ordinance 1707 Authorizing and Granting a Franchise to Northern Illinois Gas Company (Second Reading).

G. Ordinance 1709 Approving the Official Zoning Map for the Village of Montgomery (Second Reading).

Trustee Heinz moved to approve items A-G on the Consent Agenda. Trustee Marecek seconded this motion.

5 Yea. 0 No. Motion carried. Trustee Heinz, Trustee Jungermann, Trustee Marecek, Trustee Bond, Trustee Lee voting yea.

Items for Separate Action

A. Ordinance 1692 Approving the Final Plat for Fullers Montgomery Subdivision (Second Reading).

Director Young gave an overview of this item. He stated that this is the consolidation of two lots and asked that this be approved subject to a final review by the Village Engineer.

Trustee Marecek moved to approve the Ordinance 1692 Approving the Final Plat for Fullers Montgomery Subdivision pending Village Engineer approval (Second Reading). Trustee Jungermann seconded this motion.

5 Yea. 0 No. Motion carried. Trustee Marecek, Trustee Bond, Trustee Lee, Trustee Heinz, Trustee Jungermann voting yea.

B. Ordinance 1708 Granting a Special Use in the Village of Montgomery (Second Reading).

Director Young gave an overview of this item. He asked the board to approve this item pending the Village Engineer approval of the surface.

Trustee Lee spoke regarding the road's condition. Village Engineer Wallers gave a review of the current condition of the road as well as a review of what the Village could expect based on the impact of the trucks on that roadway.

Trustee Marecek moved to approve the Ordinance 1708 Granting a Special Use in the Village of Montgomery pending approval of the Village Engineer (Second Reading). Trustee Bond seconded this motion.

5 Yea. 0 No. Motion carried. Trustee Marecek, Trustee Bond, Trustee Lee, Trustee Heinz, Trustee Jungermann voting yea.

C. Ordinance 1710 Granting a Variance to the Setback Requirements for Alternative Surfaces for ATMI (Second Reading).

Director Young gave an overview of this item.

Trustee Bond moved to **approve the Ordinance 1710 Granting a Variance to the Setback Requirements for Alternative Surfaces for ATMI (Second Reading)**. Trustee Jungermann seconded this motion.

5 Yea. 0 No. Motion carried. Trustee Bond, Trustee Lee, Trustee Heinz, Trustee Jungermann, Trustee Marecek voting yea.

Items for Discussion

New or Unfinished Business

Future Meetings

- A. Plan Commission – Thursday, February 4, 2016 at 7:00 p.m.
- B. Village Board Meeting – Monday, February 8, 2016 at 7:00 p.m.
- C. Committee of the Whole Meeting – Tuesday, February 16, 2016 at 7:00 p.m.
- D. Beautification Committee – Wednesday, February 17, 2016 at 6:00 p.m.
- E. Intergovernmental Committee – Monday, February 22, 2016 at 6:00 p.m.
- F. Village Board Meeting – Monday, February 22, 2016 at 7:00 p.m.

Executive Session – No Executive Session

Adjournment: 7:15 p.m.

Seeking no further business to come before the Board, it was moved by Trustee Heinz and seconded by Trustee Jungermann to **adjourn the meeting**.

5 Yea. 0 No. Motion carried. Trustee Heinz, Trustee Jungermann, Trustee Marecek, Trustee Bond, Trustee Lee voting yea.

Respectfully submitted,

Tiffany Francis
Village Clerk

Village of Montgomery
Bills to be Paid
February 8, 2016

<u>All Departments</u>	<u>Amount</u>
CDW	573.17
Chase	4,878.06
Cintas	119.46
Responsive Network Services	6,127.00
Verizon	2,064.79
 <u>Community Development/Building Department</u>	
Cannonball	250.00
Chicago Tribune	161.47
NIU	50.00
 <u>Elected Officials</u>	
Debbie Buchanan	27.26
Van Duser	75.00
 <u>Finance Department/Water Billing</u>	
Comcast	239.85
Kendall Printing	430.65
Kendall Printing	643.15
My Office Products	219.99
Office Depot	357.72
Petty Cash	108.30
Pitney Bowes	500.00
Sikich	793.00
USPS	3,595.99
Water Refund	558.88
 <u>Human Resources/Payroll</u>	
Aflac	606.18
Better Business Planning	240.00
Blue Cross	72,013.77
Dearborn	326.70
Fidelity	388.36
Guardian	3,713.48
International Union of Operating Engineers	280.50
International Union of Operating Engineers	1,157.76
Legal Shield	127.02
Midwest Occupational Health	280.00
Nationwide 457	435.00

Nationwide IRA	100.00
Provident Life	360.33
State Disbursement Unit	957.53

Police Department

AT&T	143.00
Communication Revolving Fund	506.40
GFC	693.06
MorphoTrust	2,170.00
Quill	168.05
Skeeter Kell Sports	165.00
Zuma	101.27

Public Works Department

Aurora Automotive	406.43
Aurora Automotive	115.30
Bonnell	511.02
Brickman	9,997.23
Butler Domestic Services	1,500.00
CES	690.44
Coffman Truck	2,358.68
Coffman Truck	42.00
Coffman Truck	70.20
Coffman Truck	889.37
Comcast	202.85
ComEd	4,206.96
ComEd	1,236.38
Connor Co.	34.46
Crescent Electric	59.54
Crescent Electric	57.52
Crescent Electric	105.27
Dukane	3,701.00
Edmonds	287.65
Edmonds	207.16
Factory Motor Parts	49.74
Factory Motor Parts	(34.15)
Factory Motor Parts	232.80
Farm N Fleet	282.96
Firestone	30.00
Fox Metro	550.00
Fox Metro	6,902.82
Geneva Construction	70,820.10
G&K	111.26
GFC	169.99
GFC	315.04
Illco	4,232.20
JULIE	6,793.78
Kimball Midwest	474.03
MCCann	1,712.82

Meade	5,302.88
Menards	95.59
Menards	14.71
Menards	29.32
Midwest Salt	2,774.72
Midwest Salt	4,544.88
Motion Industries	81.14
Nicor	28.44
Olsson Roofing	606.00
Patten	1,115.00
Patten	1,980.92
Pomp's Tire	1,015.96
Pomp's Tire	455.80
Republic	110,491.95
RJ O'Neil	130.00
Ron Westphal	47.31
Ron Westphal	23.44
Rush Truck Center	934.24
Rush Truck Center	134.59
Viking Chemical	3,770.13
Water Services	750.00
Wholesale Direct	1,446.92

Village Administrator's Office/Village Hall

Aerex	113.00
Leaf	159.00
Metro West	35.00
Proven Business	392.47

Grand Total	<u><u>362,503.41</u></u>
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Family Outreach Program

making a difference

2223 Plainfield Rd. Crest Hill, IL 60403 * 630 853-7776 * cityoutreach@aol.com

Debbie Buchanan
Village of Montgomery
200 N. River St. | Montgomery, IL 60538
Ph: (630) 896-8080

January 29, 2016

Dear Mayor and Village of Montgomery management,,

Greetings. We of the Family Outreach Program would like to express our deep appreciation for your consideration in regards to granting permission to conduct a fund-raiser in your village for our area charity.

The Family Outreach Program is an Illinois registered not for profit organization, Illinois Tax exempt ID #E9942-4614-01, and a 5 01 (c) (3) federal non-profit- human service agency. It is one of the largest distributors of food to the needy in the Greater Chicago Counties as documented by the Northern Illinois Food Bank.

We wish to request a TAG DAY in the Village of Montgomery for February 19 and 20, 2016. Hours for solicitation would be from 9 AM to 5 PM. Volunteers would only conduct their solicitation at intersections where traffic comes to a complete stop where there is a traffic signal. They would follow State of Illinois Rules for highway solicitation, included the wearing of highly visible vests which state the name of the organization and purpose of the fundraiser. We will immediately send you a certificate of liability through Illinois Securities.

If you have any further questions, please contact us at the above number. Also, we would be happy to mention your kindness in our local publications.

Again, we are deeply grateful for your assistance for this aid program.

Thank you and have a nice day.

Sincerely,

Lawrence George, Program Manager
Family Outreach Program, Inc.
Fax 815 846-8377 Email cityoutreach@aol.com
Web site: <http://familyoutreachprogram.org>



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

October 6, 2015

FAMILY OUTREACH PROGRAM, INC.
2223 PLAINFIELD RD.
CREST HILL, IL 60435

Lisa Madigan
ATTORNEY GENERAL

RE: RE: Status of FAMILY OUTREACH PROGRAM, INC. under the Illinois Charitable
Laws CO# 01034822

Dear Registrant:

This letter is pursuant to your request that the Attorney General confirm the status of FAMILY OUTREACH PROGRAM, INC. under the Charitable Organization Laws.

This organization is currently registered with the Attorney General's Charitable Trust and Solicitations Bureau as CO# 01034822. It is current in the filing of its financial reports, having filed its report for the period ended January 31, 2015. Please let us know if you require further information.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Madigan", is written over the typed name.

Takiyah Martin Barnes, Compliance Officer
Charitable Trusts Bureau
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
Telephone: (312) 814-2595

VFW



VETERANS OF FOREIGN WARS OF THE U.S.
MONTGOMERY MEMORIAL POST NO. 7452
121 North River Street
Montgomery, Illinois 60538-1315

January 29, 2016

Village of Montgomery
200 North River Street
Montgomery, IL 60538

ATTN: Montgomery Board of Trustees

Dear Ladies and Gentlemen of the Board:

As chairman of the Poppy Drive for Montgomery Memorial Post 7452, I respectfully request your permission to hold our annual Buddy Poppy Days drive between the hours of 10:00am and 3:00pm on Friday, May 13th, 2016, and Saturday, May 14th, 2016

The proceeds from this drive are used to assist disabled and needy veterans. My fellow veterans and I thank you for your consideration.

Sincerely,

John Behnke
Post Commander
Montgomery Memorial Post 7452



**VILLAGE OF MONTGOMERY
REQUEST FOR BOARD OF TRUSTEES ACTION
FOR INCLUSION ON BOARD AGENDA**

- Resolution or Ordinance (Blue)
 Recommendation of Boards, Commissions & Committees (Green)
 Other Business (Pink)

To: Village President and Board of Trustees

From: Jeff Zoepfel, Village Administrator

Date: February 5, 2016

B of T Date: February 8, 2016

Subject: Recommendation of the Plan Commission on PC 2016-003 SU Special Use for Outdoor Storage at 1400 Bohr Avenue – H. Linden & Sons Development/Steve Linden

Submitted By: Jerad Chipman AICP, Senior Planner

Background/Policy Implications:

The Plan Commission discussed and recommended approval of the proposed special use. The Petitioner was granted a previous special use in 2004 and an amendment to that special use in 2006 for a self-service storage facility. The previous special use prohibited the storage of vehicles on the site, and the Petitioner is requesting permission to store vehicles on the property. The Plan Commission discussed a maximum height for the outdoor storage, and a recommend of fifteen (15) feet was made to allow for the storage of recreational vehicles that could be taller than ten (10) feet.

The Plan Commission recommended approval of 2016-003 SU special use for outdoor storage for H. Linden & Sons Development/Steve Linden to include a maximum storage height of fifteen (15) feet and for staff to review a landscape plan screening the storage area from U.S. Route 30. The motion passed 5-2.

Describe Fiscal Impact/Budget Account Number and Cost:

Review:

Village Administrator Jeff Zoepfel

NOTE: All materials must be submitted to and approved by the Village Administrator by 12:00 noon, Thursday, prior to the Agenda distribution.



PC 2016-003
PLAN COMMISSION ADVISORY REPORT

To: Chair Hammond and Members of the Plan Commission
From: Jerad Chipman, AICP
Senior Planner
Date: January 28, 2016
Subject: Outdoor Storage at 1400 Bohr Avenue - *Special Use*.

Petitioner: H. Linden & Sons Development/Steve Linden
Location/Address: 1400 Bohr Avenue
Requests: Special Uses for Outdoor Storage.
Current Zoning: M-2 General Manufacturing District
Comprehensive Plan: Light Industrial/Business Park

Surrounding Land Uses:

Location	Adjacent Land Use	Adjacent Zoning
North	Industrial	M-1
East	Industrial	M-2 and Unincorporated
South	Industrial	M-2
West	Agricultural	Unincorporated

Background:

The Petitioner owns and operates the US 30 Storage facility on Bohr Avenue. US 30 Storage is composed of one parcel in the Village that contains self-storage buildings, and a parcel in unincorporated Kane County that contains outdoor vehicle storage. The Petitioner is requesting approval of an additional special use for outdoor storage. The Petitioner received a special use for a self-service storage facility in 2004, Ordinance 1128, and a subsequent amendment to the special use in 2006, Ordinance 1279. When the special use was amended in 2006, the plan was to construct additional self-storage buildings on the remainder of the property owned by the Petitioner and the amendment states explicitly that parking and storage of vehicles on the property is prohibited. Since the amendment was passed, several buildings have been added to the site, however, not all of the proposed buildings were constructed resulting in a paved area on the site that is currently not able to be used for parking and storage of vehicles.

Conformance with the Comprehensive Plan:

The proposed land use conforms to the Comprehensive Plan as it indicates that the location be utilized as Light Industrial/Business Park. A general description of the intent of the Industrial/Business Park land use category has been provided below.

Industrial/Business Park

Light Industrial and business parks are less intensive industrial uses that can complement commercial land uses and the Heavy Industrial areas. Light industrial uses should consist of office complexes or smaller service- and/or consumer-oriented businesses as opposed to large manufacturers. While light industrial and business park uses are desirable and contribute to the economic health of the community, they have the potential to negatively impact the environment and the quality of life for residents living in adjacent neighborhoods. Accordingly, the Land Use Plan identifies a land use arrangement that seeks to minimize land use conflicts, promoting separation from residential areas where possible.

Zoning:

The property is zoned M-2 General Manufacturing District. Outdoor storage is allowed as a special use in the M-2 District.

Bulk Standards:

The setbacks and floor area ratio for the site comply with the Zoning Ordinance with the exception of the eastern side yard. The entire eastern side yard setback is paved. Due to the fact that the Petitioner owns and operated the adjacent property under the same business and that it is a preexisting condition, staff is recommending allowing the encroachment to continue.

No additional buildings are being proposed and those that are present comply with the maximum height allowed in the Zoning Ordinance.

Parking: Number of Spaces, Handicap Spaces, Drive Aisles & Dimensions:

The site contains five parking spaces located outside of the security fence. One of those parking spaces shall properly be indicated as a handicapped space per the Illinois Accessibility Code.

Landscaping/Screening:

The Zoning Ordinance requires an eight (8) foot tall wood privacy fence for outdoor storage uses. The Petitioner has previously installed a decorative metal fence on the property abutting US Route 30 and a black-coated chain-link fence around the remained of the property in conformance with the original 2004 special use.

A new landscape plan has not been submitted, and some of the landscape material along US Route 30 that was in the original plan has died and been removed. Due to the presence of the decorative metal fence that abuts US Route 30, staff is recommending that no additional fencing be required and instead the landscaping that has died be replaced and additional landscaping be installed to screen the proposed vehicle storage. Staff is recommending that the Petitioner submit a landscape plan for subsequent review and approval by staff.

Lighting:

Lighting currently exists on the buildings and on the adjacent parcel that the Petitioner owns and operates. The Petitioner does not intend to install additional lighting. It is staff's opinion that the existing lighting, although below the Village's standard, will suffice for the proposed use. In the event that the Petitioner decides to install lighting, any addition or alteration to the site lighting shall comply with the lighting standards in the Zoning Ordinance.

Access:

One (1) point of access exists into the site and the storage area. That access is located on Bohr Avenue, and is gated to provide limited access into the self-storage area. Due to the infrequent visitors that the use generates, adequate access to the site has been provided.

Surface:

The area that the Petitioner is proposing to store vehicles on is currently paved with asphalt, complying with the Zoning Ordinance.

Height:

The Petitioner is requesting that the height of the storage vary based on the height of the individual vehicles that are intended to be stored on the property.

Special Use:

The Petitioner is requesting a special use for outdoor storage. The Commission should consider whether the use is in keeping with the vision of the area and whether its impacts can be properly mitigated. According to the Montgomery Zoning Ordinance, whose language hereafter is in italics, "*no special use shall be recommended by the Plan Commission unless the Commission shall find that the following standards have been satisfied:*

Staff has provided findings of fact following the standards for the Plan Commissioner's consideration.

A. *That the establishment, maintenance or operation of the special use will not be detrimental to endanger the public health, safety, comfort or general welfare;*

This proposed use should not endanger the public health, safety, comfort or general welfare;

B. *That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, not substantially diminish or impair property values within the neighborhood;*

This use should not be injurious or diminish property values;

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

The proposed use does not prohibit use of surrounding property and is normal and orderly;

D. *That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided;*

Adequate utilities, roads and drainage have been planned for;

E. *That adequate measures have been, or will be, taken to provide ingress and egress so designed as to minimize traffic congestion in public streets;*

Adequate means of ingress and egress have previously been constructed to service the property; and

F. *That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Village Board pursuant to the recommendations of the Plan Commission.*

All aspects of the proposed development that have been submitted to this point that do not meet the Zoning Ordinance have been discussed in the above report and recommendations have been made accordingly.

The Plan Commission should discuss each of these criteria and make findings of fact as to whether the proposed use meets the criteria. If the Commission finds that the use should be permitted, they may impose additional conditions in order to mitigate any impacts of the proposed use.

Recommendation:

Staff is recommending approval of the special use for outdoor storage with the condition that the Petitioner submit a landscape plan for the purpose of screening the storage area from US Route 30.



**VILLAGE OF MONTGOMERY
REQUEST FOR BOARD OF TRUSTEES ACTION
FOR INCLUSION ON BOARD AGENDA**

- Resolution or Ordinance (Blue)
 Recommendation of Boards, Commissions & Committees (Green)
 Other Business (Pink)

To: Village President and Board of Trustees

From: Jeff Zoepfel, Village Administrator

Date: February 5, 2016

B of T Date: February 8, 2016

Subject: Ordinance 1713 Granting a Special Use for Outdoor Storage for 1400 Bohr Avenue (H. Linden & Sons)

Submitted By: Steven A. Andersson & Laura M. Julien, Village Attorneys

Background/Policy Implications:

The attached ordinance grants a special use for outdoor storage for the US 30 Storage facility. A special use was granted in 2004 for the operation of a self-service storage facility and was amended in 2006 to allow the construction of additional self-storage buildings. However, the special use expressly prohibited the parking of storage vehicles on the property. Since the time the amendment was passed, not all additional buildings were constructed and there is an empty, paved surface that Petitioner would like to use for parking and vehicle storage.

These matters are outlined in greater detail in the Plan Commission Advisory Report (PC 2016-003).

The Plan Commission reviewed Petitioner's request, and recommended the approval of the special use by the Village Board in accordance with the findings of fact set forth in the PC 2016-003 Advisory Report, subject to the submission and approval of a landscaping plan as well as a 15' height limit for the vehicles to be stored in the aforementioned area.

Describe Fiscal Impact/Budget Account Number and Cost: N/A

Review:

Village Administrator Jeff Zoepfel

NOTE: All materials must be submitted to and approved by the Village Administrator by 12:00 noon, Thursday, prior to the Agenda distribution.



VILLAGE OF MONTGOMERY

ORDINANCE NO. 1713

**AN ORDINANCE GRANTING A SPECIAL USE FOR OUTDOOR STORAGE FOR
1400 BOHR AVENUE,
VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES, ILLINOIS
(H. LINDEN & SONS DEVELOPMENT/STEVE LINDEN)**

PASSED BY THE PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES, ILLINOIS
THIS ____ DAY OF _____, 2016.

PUBLISHED IN PAMPHLET FORM BY AUTHORITY
OF THE PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES,
ILLINOIS, THIS ____ DAY OF _____, 2016.

ORDINANCE NO. 1713

**AN ORDINANCE GRANTING A SPECIAL USE FOR OUTDOOR STORAGE FOR
1400 BOHR AVENUE,
VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES, ILLINOIS
(H. LINDEN & SONS DEVELOPMENT/STEVE LINDEN)**

BE IT ORDAINED by the Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois as follows:

WHEREAS, the Village of Montgomery is not a home rule municipality within Article VII, Section 6A of the 1970 Constitution of the State of Illinois, and therefore, acts pursuant to those powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

WHEREAS, the land described in Section One of this ordinance is within the boundaries of the Village of Montgomery and presently zoned (M-2) General Manufacturing District, and is sought by the petitioner to be granted special use for outdoor storage; and,

WHEREAS, all hearings required to be held before agencies of the Village took place pursuant to proper legal notice including publication; and,

WHEREAS, the Plan Commission, after consideration of an application to grant a special use for said property, has made the following findings of fact and the Village Board has adopted said findings of fact: (1) the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, comfort, or general welfare; (2) the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and will not substantially diminish or impair property values in the neighborhood; (3) the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; (4) adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided; (5) adequate measures have been, or will be, taken to provide ingress and egress so designed as to minimize traffic congestion in public streets; (6) the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Village Board pursuant to recommendations by the Planning Commission; and,

WHEREAS, the Plan Commission recommended to the Village Board of Trustees approval of said application pending review and approval of final plat and consultant review; and,

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, as follows:

SECTION ONE: SPECIAL USE

That the property legally described on the attached **Exhibit A** (hereby incorporated by reference) is granted a special use as follows:

Petitioner is granted a special use for outdoor storage conditioned upon its fulfillment of the items set forth below.

SECTION TWO: CONDITIONS

The special use is granted upon the following conditions and restrictions pursuant to Sections 14.09(1-9) of the Village of Montgomery Zoning Ordinance:

- 1) The development of the site shall be in substantial conformance with **Exhibit B**, except with such deviations as are approved by Village staff in the finalization of the plans.
- 2) The use may not be expanded or changed, without prior Village approval pursuant to Section 14.09(1-9).
- 3) Said use is conditioned upon continued compliance with all Village ordinances and all regulations of the Village Zoning Ordinance, it being acknowledged that no Variances from said Ordinance have been granted in conjunction with this special use ordinance described herein and that any Variation shall require separate action by the Village Board.
- 4) The petitioner, and owner of record of the property in question (and their heirs assigns, lessees, etc.), by applying for this special use, agrees to be bound by all the terms of this ordinance and waives any claims of vested rights, reliance or other defenses, of any type or character, to defend against a revocation of said special use based on any violation of the above provisions. The provisions of this special use shall be binding on the heirs, successors and/or assigns of the petitioner and/or owners of record of the parcel described in **Exhibit A** hereof.
- 5) This special use shall expire if not commenced by owners within one year of the date of passage of this ordinance.
- 6) That in the event that the use of the property for outdoor storage ceases active operation for a period of more than six months, said use will be conclusively deemed abandoned, and may not be reinstated or continued without prior Village approval pursuant to Section 14.09(1-9).

The Village further conditions the special use on the following standards:

- 1) The Petitioner shall submit a landscape plan for review and approval by the Director of Community Development or his or her designee.
- 2) Upon approval of said plan, Petitioner shall install and maintain all landscaping and fencing in accordance with the Landscape Plan submitted with its application so as to ensure that the storage area is adequately buffered and screened from view.

- 3) That the vehicles stored in the aforementioned area be of no more than 15' in height, so as to maintain the aesthetics of the area and ensure the landscaping provides adequate screening.

The Zoning Ordinance of the Village of Montgomery, Kane and Kendall Counties, Illinois is hereby amended to provide for said special use on said property and the clerk is directed to amend the zoning map of the Village of Montgomery to reflect this amendment.

SECTION THREE: GENERAL PROVISIONS

REPEALER: All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

SEVERABILITY: Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this Ordinance.

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

PASSED AND APPROVED by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois this ____ day of _____, 2016.

 Matthew Brolley,
 President of the Board of Trustees of the Village of Montgomery

ATTEST:

 Tiffany Francis,
 Clerk of the Village of Montgomery

	Aye	Nay	Absent	Abstain
Trustee Stan Bond	___	___	___	___
Trustee Pete Heinz	___	___	___	___
Trustee Steve Jungermann	___	___	___	___
Trustee Denny Lee	___	___	___	___
Trustee Doug Marecek	___	___	___	___
Trustee Theresa Sperling	___	___	___	___
Village President Matthew Brolley	___	___	___	___

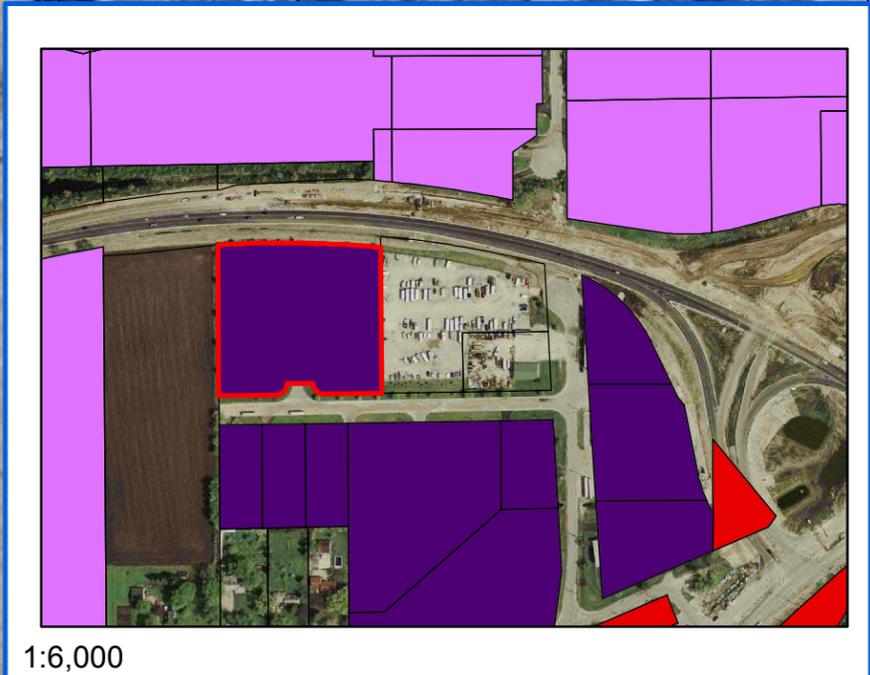
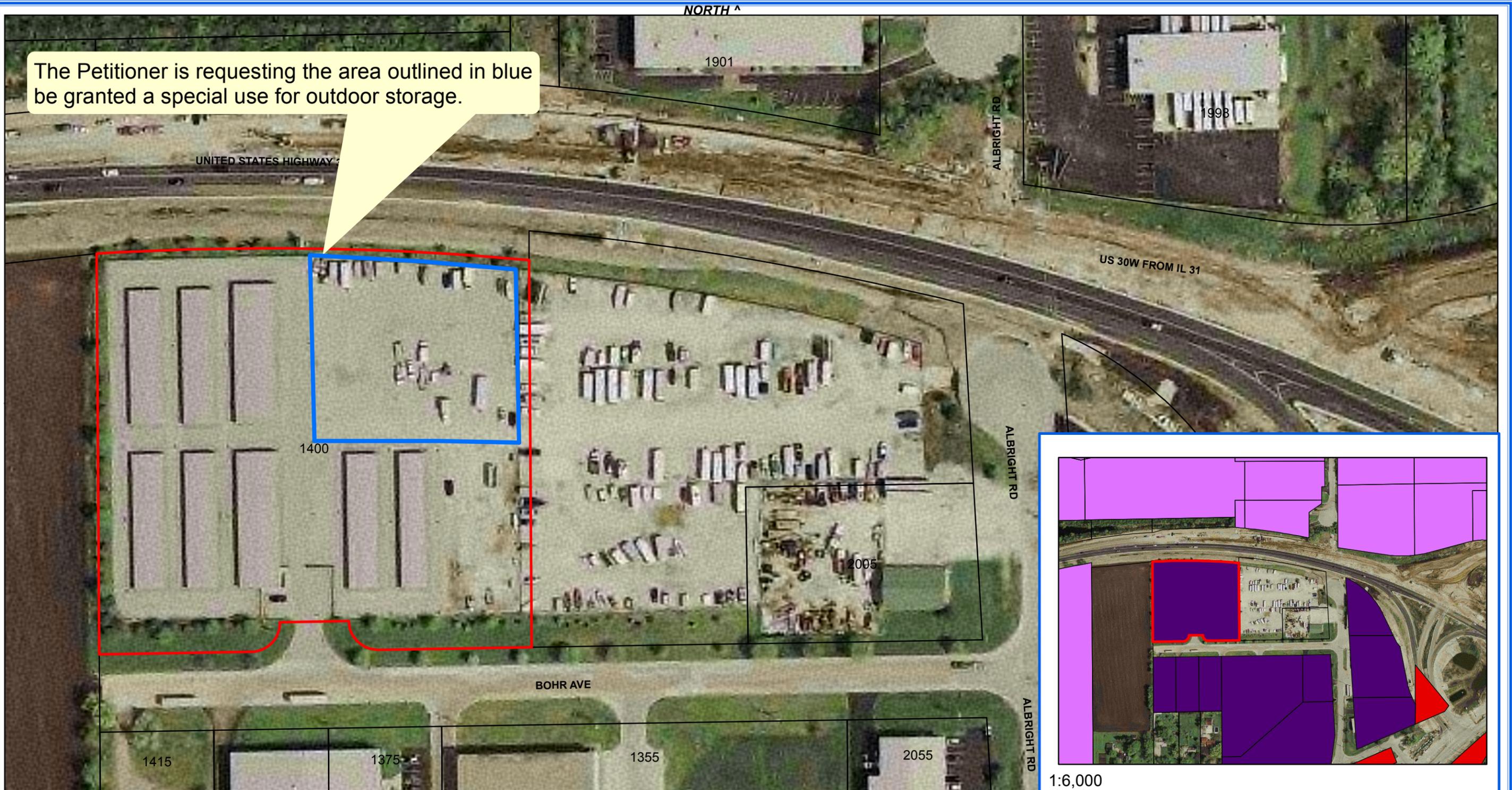
LIST OF EXHIBITS

Exhibit A: Legal Description
Exhibit B: Site Plan

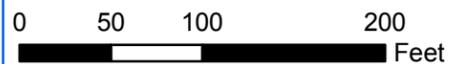
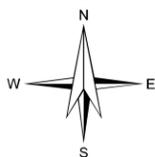
LEGAL DESCRIPTION

LOT 8 IN BOHR INDUSTRIAL PARK, A SUBDIVISION IN PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 38 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE VILLAGE OF MONTGOMERY, KANE COUNTY, ILLINOIS

The Petitioner is requesting the area outlined in blue be granted a special use for outdoor storage.



Village of Montgomery
200 N. River Street
Montgomery, IL 60538
630-896-8080



Print at 11 x 17 for correct scale

North Arrow font may not be compatible with computer see top of page for north label

Plan Commission Case #2016-003 SU Special Use for Outdoor Storage H. Linen & Sons Development/Steve Linden 1400 Bohr Avenue

- Legend**
- MD MILL DISTRICT
 - B-1 LOCAL RETAIL BUSINESS DISTRICT
 - B-2 GENERAL RETAIL BUSINESS DISTRICT
 - B-3 GENERAL AUTOMOTIVE AND WHOLESALE BUSINESS DISTRICT
 - FLOOD
 - M-1 LIMITED MANUFACTURING DISTRICT
 - M-2 GENERAL MANUFACTURING DISTRICT
 - R-2 ONE-FAMILY RESIDENCE DISTRICT
 - R-3 TRADITIONAL NEIGHBORHOOD RESIDENCE DISTRICT
 - R-4 TRADITIONAL NEIGHBORHOOD RESIDENCE DISTRICT
 - R-5A TWO-FAMILY RESIDENCE DISTRICT
 - R-5B ATTACHED SINGLE FAMILY RESIDENCE DISTRICT
 - R-6 MULTIPLE FAMILY RESIDENCE DISTRICT



**VILLAGE OF MONTGOMERY
REQUEST FOR BOARD OF TRUSTEES ACTION
FOR INCLUSION ON BOARD AGENDA**

- Resolution or Ordinance (Blue)
 Recommendation of Boards, Commissions & Committees (Green)
 Other Business (Pink)

To: Village President and Board of Trustees

From: Jeff Zoepfel, Village Administrator

Date: February 5, 2016

B of T Date: February 8, 2016

Subject: Recommendation of the Plan Commission on PC 2016-002 SU Amendment to the Special Use for Outdoor Storage and a Special Use for Alternative Surfaces Located at 1065 and 1079 Sard Avenue – JPC Tree Care, LLC

Submitted By: Jerad Chipman AICP, Senior Planner

Background/Policy Implications:

The Petitioner has requested that the Plan Commission Recommendation and Ordinance be postponed until the February 22, 2016 Village Board Meeting.

Describe Fiscal Impact/Budget Account Number and Cost:

Review:

Village Administrator Jeff Zoepfel

NOTE: All materials must be submitted to and approved by the Village Manager by 12:00 noon, Thursday, prior to the Agenda distribution.

LAW OFFICES
OF

Daniel J. Kramer

1107A SOUTH BRIDGE STREET
YORKVILLE, ILLINOIS 60560
(630) 553-9500
Fax: (630) 553-5764

DANIEL J. KRAMER

**KELLY A. HELLAND
D.J. KRAMER**

February 5, 2016

Jerad Chipman
Village of Montgomery

VIA E-Mail: chipman@ci.montgomery.il.us

Re: Jhon Cordero / JPC Tree

Dear Jerad:

With this letter we would like to formally request that the above referenced project be tabled from the next Village Board meeting, February 8th, and be placed on the following meeting which I believe will be February 22, 2016.

Please let me know if this is agreeable with you and please confirm the dates as well. Thank you!

Very truly yours,

Daniel J. Kramer

Daniel J. Kramer
Attorney at Law

DJK/lgc

Cc Jhon Cordero



**REQUEST FOR BOARD OF TRUSTEES ACTION
FOR INCLUSION ON BOARD AGENDA**

- Resolution or Ordinance (Blue)
 Recommendation of Boards, Commissions & Committees (Green)
 Other Business (Pink)

To: Village President and Board of Trustees

From: Jeff Zoepfel, Village Administrator

Date: February 1, 2016

B of T Date: February 8, 2016

Subject: Ordinance 1712 Declaring Surplus Property

Submitted By: Todd Hoppenstedt, Director of Public Works

Background/Policy Implications:

Public Works, Finance, and Police staff have worked together to identify pieces of equipment that are no longer needed by the Village. We are recommending they be declared surplus so staff can resell or recycle these items as appropriate. The attached ordinance allows for the sale or disposal of these items. Staff recommends a Waiver of First Reading and Passage on Second Reading by the Village Board.

Describe Fiscal Impact/Budget Account Number and Cost:

The sale or scrap value of surplus property will bring in revenue to be used by the Village.

Review:

Village Administrator Jeff Zoepfel

NOTE: All materials must be submitted to and approved by the Village Administrator by 12:00 noon, Thursday, prior to the Agenda distribution.



VILLAGE OF MONTGOMERY
ORDINANCE NO. 1712

**AN ORDINANCE DECLARING SURPLUS PROPERTY
OF THE VILLAGE OF MONTGOMERY,
KANE AND KENDALL COUNTIES, ILLINOIS**

PASSED BY THE PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES, ILLINOIS
THIS 8TH DAY OF FEBRUARY, 2016.

PUBLISHED IN PAMPHLET FORM BY AUTHORITY
OF THE PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES,
ILLINOIS, THIS 8TH DAY OF FEBRUARY, 2016.

ORDINANCE NO. 1712

AN ORDINANCE DECLARING SURPLUS PROPERTY OF THE VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES, ILLINOIS

BE IT ORDAINED by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, as follows:

WHEREAS, the Village of Montgomery is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution and, pursuant to the powers granted to it under 65 ILCS 5/1-1 et seq.; and,

WHEREAS, the Village of Montgomery Board of Trustees had determined that certain items of property are surplus, obsolete, or no longer suitable for use by the Village of Montgomery; and,

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, as follows:

SECTION ONE: SURPLUS PROPERTY

That pursuant to 65 ILCS 5/11-76-4, the President and Board of Trustees find the following described property:

- 2001 GMC 3500 Cab & Chassis with 153,189 miles
- 1996 Chevrolet Caprice with 66,042 miles
- 6'x8' U.S. Cargo enclosed trailer with a bent axel and broken back door
- PowerTilt Swale Bucket, doesn't currently mate with any of the Village's equipment
- Small Honda and Sommer Electric Generators
- 8 Large hydrant meters, inefficient at accurately recording water flow
- 98 Pieces of obsolete phone equipment

now owned by the Village of Montgomery is no longer necessary or useful, and the best interest of the Village will be served by the sale or disposal of said items. These items are hereby declared surplus property and the Village staff is hereby authorized to and directed to sell or dispose of said property.

SECTION TWO: GENERAL PROVISIONS

REPEALER: All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

SEVERABILITY: Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this Ordinance.

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

PASSED AND APPROVED by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois this 8th day of February, 2016.

Matthew Brolley
President of the Board of Trustees of the Village of Montgomery

ATTEST:

Tiffany Francis
Clerk of the Village of Montgomery

	Aye	Nay	Absent	Abstain
Trustee Stan Bond	___	___	___	___
Trustee Peter Heinz	___	___	___	___
Trustee Steve Jungermann	___	___	___	___
Trustee Dennis Lee	___	___	___	___
Trustee Douglas Marecek	___	___	___	___
Trustee Theresa Sperling	___	___	___	___
Village President Matthew Brolley	___	___	___	___

Village of Montgomery
 Surplus Phone Inventory
 January 29, 2016

Phone Maker	Model	Type	Quantity
Nortel	T7316E	Phone	57
Nortel	T7100	Basic Phone	5
Ameritech	M7310	Phone	11
Norstar	M7310	Phone	6
Norstar Polycom	NTAB4213	Conference Speakerphone	2
Nortel	T24	Indicator Module (Extra buttons)	4
Nortel	T7208	Phone	5
Nortel	NT8B91CA-03	Phone	2
Nortel/Norstar	2501-03308-001	Audio Conference Unit	2
Nortel	2501-04551-001	Audio Conference Unit	2
Plantronics	HL10	Receiver Lever	1
Sennheiser	HSL10	Receiver Lever	1

Equipment Surplus Declaration



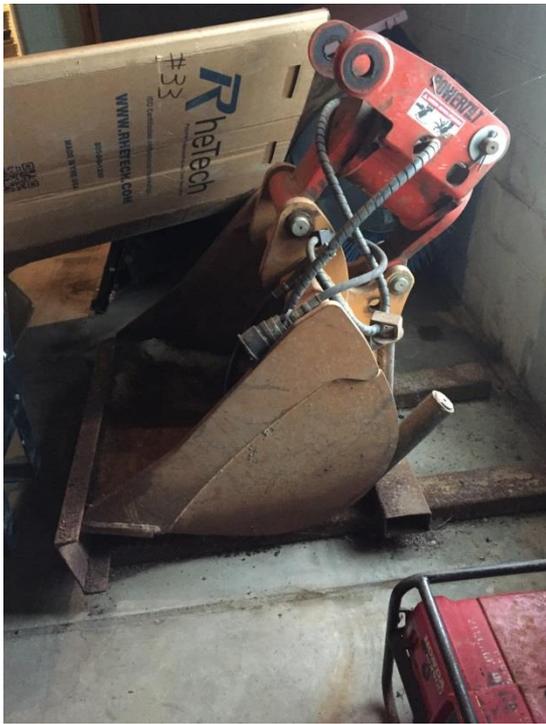
Unit #201 2001 GMC 3500 Cab& Chassis
The truck currently has 153,189 miles, the truck has been taken out of service due to unsafe operating conditions. The Utility box will be removed and retained for possible future use, however the cab and chassis are no longer useable by us. Given that this truck requires thousands of dollars in repair to become eligible to pass the IDOT safety lane certification, I recommend trading it for scrap value versus auction.



Former Chevy Caprice DARE car, has 66,042 miles on it and has sat unused behind Public Works for the better part of the past 5 years. This car should be evaluated to determine if it holds enough value to try an auction or just send it out as scrap. In order to auction it, we would have to spend some time in removing decals and pay the administrative cost for entering into the auction. Therefore pending an evaluation it might be best just to scrap it.



This U.S. Cargo 6'x8' enclosed trailer has sat unused behind Public Works for approximately 5 years. The trailer is in poor condition and currently has a bent axel. This unit should be scrapped.



This old PowerTilt Swale Bucket was likely used years ago to shape and clean out roadside drainage ditches. The implement has been sitting unused inside the Clay Street Storage Facility for many years. We do not currently have a machine that this implement will mate with. There is likely still some residual value in this as it appears gently used even though many years old. I recommend that we auction this off or trade it in to a dealer for a parts credit to be used for future repair parts or service.



Above are two old generators, a small Honda and a small Sommer Electric unit. These too have been sitting unused in the Clay Street Storage facility for a number of years. I suspect these may have some residual value in an auction.



There are a total of 8 large hydrant meters, all with over 1,000,000 gallons usage that are inefficient at accurately accounting for the water that passes through them. Due to changes in the bulk water program, these meters should be scrapped. This leaves water billing 4 large meters that can still be checked out for special projects, if necessary. The remaining 4 meters have been accuracy checked and repainted to identify them as the Village's hydrant meters.



There are a total of 98 pieces of obsolete phone equipment formerly used by the Village in Village Hall, Police Department, and Public Works Departments. This equipment has some residual value and will be auctioned or sold to maximize the Village's return on this no longer needed equipment. An itemized phone inventory is attached for your reference.



**VILLAGE OF MONTGOMERY
REQUEST FOR BOARD OF TRUSTEES ACTION
FOR INCLUSION ON BOARD AGENDA**

- Resolution or Ordinance (Blue)
 Recommendation of Boards, Commissions & Committees (Green)
 Other Business (Pink)

To: Village President and Board of Trustees

From: Jeff Zoepfel, Village Administrator

Date: February 4, 2016

B of T Date: February 8, 2016

Subject: Resolution 16-001 Authorizing Execution of a Recreational Lease Agreement with Commonwealth Edison

Submitted By: Steven A. Andersson & Laura M. Julien, Village Attorneys

Background/Policy Implications:

The attached document is a recreational lease agreement between ComEd and the Village, which will allow the Village to construct, operate, and maintain a recreational public trail and bicycle path on the ComEd right-of-way. The lease term runs from March 1, 2016, through February 28, 2026, with an additional 10 year renewal option.

Describe Fiscal Impact/Budget Account Number and Cost: N/A.

Review:

Village Administrator Jeff Zoepfel

NOTE: All materials must be submitted to and approved by the Village Administrator by 12:00 noon, Thursday, prior to the Agenda distribution.



RESOLUTION No. 16-001

RESOLUTION AUTHORIZING EXECUTION OF A RECREATIONAL LEASE AGREEMENT WITH COMMONWEALTH EDISON

WHEREAS, the Village of Montgomery (“Village”) is a non-home rule municipality, created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, the Village has agreed to enter into a recreational lease agreement (“Agreement”) with Commonwealth Edison (“ComEd”) for various parcels of land on or adjacent to the former rights-of-way of the Plano-Nelson-Electric Junction and more fully described in Exhibits A1-A4 of the Agreement, in Montgomery, Illinois; and,

WHEREAS, the Village desires to use the Property for the construction, operation, and maintenance of a public trail and bicycle path; and,

WHEREAS, the Village finds that entering into such an agreement shall greatly benefit the citizens of the Village; and,

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, as follows:

Section One: That attached hereto and incorporated herein by reference as **Exhibit A** is a Recreational Lease Agreement between ComEd and the Village of Montgomery. The President and Clerk are hereby authorized to execute said agreement on behalf of the Village and to take such further actions as are necessary to fulfill the terms of said agreement.

PASSED by the Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, this _____ day of _____, 2016.

Matthew Brolley,
President of the Board of Trustees of the
Village of Montgomery

ATTEST:

Tiffany Francis,
Clerk of the Village of Montgomery

Aye Nay Absent Abstain

Trustee Pete Heinz	---	---	---	---
Trustee Denny Lee	---	---	---	---
Trustee Stan Bond	---	---	---	---
Trustee Theresa Sperling	---	---	---	---
Trustee Steve Jungermann	---	---	---	---
Trustee Doug Marecek	---	---	---	---
Village President Matthew Brolley	---	---	---	---

RECREATIONAL LEASE
February ____, 2016
by and between
COMMONWEALTH EDISON COMPANY
and
the VILLAGE OF MONTGOMERY

For and including the following described real estate

**R/W Name: PLANO-NELSON-ELECTRIC JUNCTION R/W
PARCELS: T192-9, 10 & 12
N 1/2 SECTION 2 & 3, TOWNSHIP 37N, RANGE 7E
OF THE THIRD PRINCIPAL MERIDIAN
KENDALL COUNTY-OSWEGO TWP, ILLINOIS
COMED REGION: NORTH
PIN: 02-03-200-003, 02-02-100-004, 02-02-100-005 & 02-02-200-002**

RECREATIONAL LEASE

THIS RECREATIONAL LEASE (the “**Lease**”) is made as of February ____, 2016 by and between COMMONWEALTH EDISON COMPANY, an Illinois corporation (“**Landlord**”) and the VILLAGE OF MONTGOMERY, a municipal corporation (“**Tenant**”) whose address is 200 North River Street, Montgomery, IL 60538.

WHEREAS, Landlord is the owner of various parcels of land on or adjacent to the former rights-of-way of the Plano-Nelson-Electric Junction and more fully described on Exhibit A-1 through A-4 (“**Landlord’s Property**”).

NOW THEREFORE, Landlord, for and in consideration of the payment of Rent (as hereinafter defined) by Tenant, and of the covenants, conditions and agreements of Tenant hereinafter set forth, does hereby lease and demise to the Tenant (without warranty of title), and Tenant does hereby lease from Landlord, a portion of Landlord’s property located in Kendall County, Illinois as shown on Exhibit A-1 through A-4 attached hereto and made a part hereof (the “**Leased Premises**”), for the purposes specified in Section 2 below.

1. TERM.

A. The term of this Lease (the “**Term**”) shall begin on March 1, 2016 (the “**Commencement Date**”) and shall terminate on February 28, 2026 unless sooner terminated as provided herein.

B. Subject to the terms and provisions of this Lease, Landlord hereby grants to Tenant one (1) option to renew this Lease on the same terms and conditions (each, a “**Renewal Option**”) for a renewal term of ten (10) years (each, a “**Renewal Term**”). If Tenant desires to exercise a Renewal Option, it shall notify Landlord in writing no earlier than one (1) year and not later than one hundred eighty (180) days prior to the then current expiration date of the Term (before the operation of the Renewal Option being exercised); and, once exercised, shall operate to extend the Term to end concurrently with the Renewal Term set by the Renewal Option so exercised.

C. Subject to Subsection 1.D. below, such notice shall only be effective if delivered at a time when Tenant is not in default hereunder and when to the knowledge of Tenant, no default, breach,

unsatisfied condition or other event has occurred or circumstances exist that constitute or which, with the giving of notice or the passage of time (including the passage of time during which a default has occurred and has not yet been cured during any applicable grace period) or both, would constitute such a default.

D. In addition to any other inspections of the Leased Premises that Landlord may conduct during the Term of this Lease, during the period between the exercise of a Renewal Option and the start of the associated Renewal Term, Landlord shall review the Leased Premises and determine whether Tenant is in compliance with the terms and conditions of the Lease. Landlord shall notify Tenant in writing if any deficiencies in the performance of Tenant's obligations under the Lease are discovered during such review and any actions needed to correct them. Unless otherwise agreed in writing by Landlord, Tenant shall correct any item on such notice prior to the start of the Renewal Term in question.

E. Prior to the beginning of any Renewal Term, the parties shall execute an amendment to this Lease to memorialize such Renewal Term. If Tenant does not exercise a Renewal Option, such Renewal Option and all subsequent remaining Renewal Options (if any) shall thereupon expire.

2. **PURPOSE.** The Leased Premises shall be used by Tenant solely for the purposes of a ten (10) foot recreational trail for pedestrians and bicyclists ("**Tenant's Facilities**"), in compliance with all Legal Requirements (as defined in the next sentence) and the terms and provisions of this Lease, and for no other purposes (the "**Permitted Use**"). For purposes hereof, the term "**Legal Requirements**" shall mean all present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes (including the National Electrical Safety Code), executive orders, court orders, rules of common law, and any judicial interpretations thereof, extraordinary as well as ordinary, of all governmental authorities, and all rules, regulations and government orders with respect thereto, and of any applicable fire rating bureau, or other body exercising similar functions, affecting the Leased Premises or the maintenance, use or occupation thereof, or any street, sidewalk or other property comprising a part thereof, regardless of whether imposed by their terms upon Landlord or Tenant, or the use and occupancy thereof by Tenant. Tenant's use of the Leased Premises shall also be and remain subject to Landlord's superior right to use all or any portion of the Leased Premises for its business purposes, including the installation, use and maintenance of any transmission, distribution or communications improvements, fixtures, facilities, machinery, equipment and/or other property owned by Landlord and now or hereafter installed by Landlord on or near the Leased Premises ("**Landlord's Facilities**").

3. **RENT.**

A. **Base Rent.** Landlord acknowledges its receipt of the payment of "**Base Rent**", a one-time payment by Tenant in the amount of One and No/100 Dollars (\$1.00) and no other Base Rent shall be assessed during the term of this Lease.

B. **Rent.** For purposes of this Lease, the term "**Rent**" shall mean the Base Rent, together with all other amounts due and payable by Tenant to Landlord under this Lease.

C. **Payment of Rent.** All Rent due and payable by Tenant under this Lease shall be paid to the following address:

Commonwealth Edison Company
Real Estate Department, 4th Floor
Three Lincoln Center
Oakbrook Terrace, Illinois 60181
Attn: Lease Payment Department

or to such other place as Landlord may from time to time designate in writing. All payments due from Tenant hereunder which are not paid when due shall bear interest at a rate equal to ten percent (10%) per annum from the date due until paid (the “**Default Rate**”). Such interest shall be compounded monthly. In addition to, and not in lieu of, the foregoing (and any other rights and remedies to which Landlord is entitled under this Lease), in the event that any payment due from Tenant hereunder is not paid within five (5) business days of the date that the same is due, then a late fee in the amount of ten percent (10%) of the unpaid amount shall be due and payable by Tenant to Landlord. All Rent shall be paid by Tenant without notice or demand, and without any set-off, counterclaim, abatement or deduction whatsoever, in lawful money of the United States by bank check or wire transfer of immediately available funds. Tenant’s obligations to pay Rent are independent of each and every covenant contained in this Lease.

E. Net Lease. Except as otherwise provided in this Lease, the Rent herein shall be absolutely net to Landlord, so that this Lease shall yield, net to Landlord, the Rent in each year during the Term of this Lease and any renewals thereof, and that all costs, expenses and obligations of every kind and nature whatsoever, relating to the Leased Premises which may arise or become due during the Term of this Lease or any renewal or extension thereof, or as a result of Tenant’s use or occupancy of the Leased Premises, shall be paid by Tenant, and Tenant agrees to indemnify, defend (with counsel acceptable to Landlord) and hold harmless Landlord from all such costs, expenses and obligations.

4. TAXES. Tenant shall pay the following amounts as “Taxes” to Landlord in each case no later than thirty (30) days after Landlord’s written demand therefor:

A All real estate taxes and other assessments which are allocable to any improvements, structures or fixtures constructed, installed, or placed by Tenant at the Leased Premises for all periods falling within the Term, plus

B Any increase in the real estate taxes and other assessments payable with respect to the Leased Premises (or any tax parcel of which the Leased Premises is a part) which is allocable to this Lease, Tenant’s use or occupancy of the Leased Premises, or any improvements, structures or fixtures constructed, installed or placed by Tenant at the Leased Premises (but without duplication of any amount payable pursuant to clause (A) above), for all periods falling within the Term; plus

C For purposes of this Lease, Taxes “for” or “with respect to” any particular period (or portion thereof) shall mean the Taxes which are payable during the calendar year in which any portion of such period falls, irrespective of the fact that such Taxes may have accrued with respect to a different period.

D Tenant hereby covenants and agrees that Tenant shall, no later than the Tax Exemption Date (as hereinafter defined), at Tenant’s sole cost and expense, execute and deliver all documents, instruments petitions and applications, and take all other actions which may be reasonably necessary and/or appropriate, in order to cause the Leased Premises to be exempted from the payment of real estate taxes, to the extent that it is possible without the transfer of any ownership or change in the property owner name in the records of the applicable taxing jurisdiction, under applicable Legal Requirements. Concurrently with the delivery of any such documents, instruments, petitions and applications, Tenant shall furnish Landlord with copies thereof. In the event that Tenant is successful in obtaining any such real estate tax exemption for the Leased Premises, then Tenant shall thereafter cause such real estate tax exemption to be continued for each tax year (or portion thereof) during which this Lease is in effect (and Tenant shall execute such documents, instruments, petitions and applications, and take such other actions which may be reasonably necessary and/or appropriate, to cause such property tax exemption to be so continued). In the event that Tenant is unsuccessful in obtaining or continuing any such real estate tax exemption with respect to the Leased Premises, then Tenant shall thereafter use commercially reasonable

efforts to continue to seek such exemption (or continuance thereof, as applicable) and shall, from time to time if Landlord so requests, take such actions as may be reasonably necessary to apply for such exemption (or continuation); provided however, in no event shall Tenant have any power or authority to change, alter or modify in any way, the tax parcel number, property owner name or mailing address of the Leased Premises in the records of the applicable taxing jurisdiction. For purposes hereof, the term "Tax Exemption Date" shall mean the date that is the earlier of: (i) sixty (60) days after the date of this Lease, or (ii) the deadline for submitting a real estate tax exemption petition or application for the real estate taxes for the year in which this Lease is executed and delivered. Notwithstanding anything contained in this paragraph, to the extent Tenant fails to obtain a tax exemption with respect to the Leased Premises for any reason, Tenant shall pay the Taxes as required above in this Section 4.

5. CONDITION. Tenant has examined the Leased Premises and knows its condition. Tenant hereby accepts the condition of the Leased Premises in its **AS-IS, WHERE-IS CONDITION, WITH ALL FAULTS.** No representations or warranties as to the condition, repair or compliance with Legal Requirements thereof, and no agreements to make any alterations, repairs or improvements in or about the Leased Premises have been made by or on behalf of Landlord. By accepting possession of the Leased Premises, Tenant shall be conclusively presumed to have accepted the condition thereof and to have unconditionally waived any and all claims whatsoever related to the condition of the Leased Premises.

6. MAINTENANCE; SERVICES AND UTILITIES.

A. Tenant agrees at its sole cost and expense, to keep and maintain Tenant's Facilities and the Leased Premises in a clean, neat, sanitary and sightly condition and repair, and commensurate with the conditions existing at the time this Lease is executed to Landlord's satisfaction at all times during the Term hereof. Without limiting the generality of the foregoing, Tenant shall (subject to the terms and provisions of this Lease) perform any and all necessary paving, grading, landscaping, cutting and mowing of grass and weeds (including all Canadian thistles and other noxious weeds and growths at the Leased Premises) and snow and ice removal except on those portions of the Leased Premises used for winter activities requiring the presence of such snow and ice, all at Tenant's sole cost and expense.

B. Landlord shall not be responsible for furnishing or providing any services or utilities to the Leased Premises (or any costs or expenses associated therewith), but rather, Tenant shall be responsible, at Tenant's sole cost and expense, for providing all such services and utilities. Landlord has made no representation, warranty or covenant of any kind regarding the availability (or future availability) of any such utilities and services, and no failure to provide or interruption of any such services or utilities or services shall give rise to any right or remedy in favor of Tenant under this Lease. Landlord may from time to time, but shall have no obligation to, maintain the Leased Premises in accordance with its customary maintenance program then in effect and Tenant shall have no right to require Landlord to maintain the Leased Premises in any manner.

C. Tenant assumes all of the responsibilities normally identified with the ownership of the Leased Premises, including, but not limited to, responsibility for the condition of the Leased Premises, such as the operation, repair, replacement, maintenance and management of the Leased Premises, including, without limitation, repairs to all buildings, structures, fixtures, equipment and other property thereon; provided, that (except as expressly set forth below) in no event shall Tenant maintain, repair, gain access to or in any way use or operate any of Landlord's Facilities.

7. SURRENDER OF LEASED PREMISES; RESTORATION. Tenant agrees that upon termination of the Term of this Lease, whether by expiration or otherwise, Tenant will peaceably quit and surrender the Leased Premises to Landlord, and will, at its sole cost and expense, remove all Tenant's

personal property, fixtures, structures and improvements, and will, at Landlord's sole and absolute discretion, restore and regrade the Leased Premises to substantially the same condition the Leased Premises were in on the date hereof (other than any improvements, installations and modifications made by Landlord). This Section shall survive the termination or expiration of the Lease.

8. COMPLIANCE WITH LAWS; WASTE; OTHER COVENANTS OF TENANT.

A. General. Tenant, at its sole expense, shall comply, and cause the Leased Premises to comply, with all Legal Requirements, Landlord's vegetation management practices and procedures and all of the requirements listed in Exhibits C-1 and C-2 attached to this Lease and made a part hereof. In addition, Tenant covenants and agrees that it will not commit waste, loss or damage to the Leased Premises or any other property of Landlord.

B. Change in Law. Tenant acknowledges that Landlord may incur costs as a result of the enactment of new Legal Requirements relating to the Leased Premises, and/or changes in Legal Requirements relating to the Leased Premises. Tenant agrees that any such costs incurred by Landlord for complying with such new or changed Legal Requirements and due in whole or in part to Tenant's use and/or occupancy of the Leased Premises shall be an expense recoverable by Landlord from Tenant. To the extent any such expense paid by Tenant to Landlord is subsequently recovered by or reimbursed to Landlord through insurance or recovery from responsible third parties or other action, Tenant shall be entitled to a proportionate share (as reasonably determined by Landlord) of such recovery or reimbursement.

C. Notice of Violations. Tenant shall immediately provide Landlord with written notice: (i) upon Tenant's obtaining knowledge of any potential or known violations of any Legal Requirements relating to the Leased Premises, and/or (ii) of Tenant's receipt of any notice, correspondence, demand or communication of any nature from any governmental authority related to the Leased Premises, including without limitation, any alleged or actual violation of any Legal Requirements or any request for additional information, rejection or confirmation regarding any application for exemption from real estate taxes.

D. Height and Other Limitations. No vehicles, equipment or anything else (including, but not limited to, any equipment attached to vehicles or equipment such as antennas, and/or any trees, shrubs or other plants or vegetation planted or installed per Exhibit E at the Leased Premises by Tenant) having a height which exceeds the maximum allowable height under OSHA's height standards in effect from time to time during the Term, shall be driven, moved or transported on the Leased Premises without Landlord's prior written consent. Tenant shall not allow any activity which could result in a wire to ground electrical contact or damage to towers or poles; such as, flying kites, model airplanes, driving minibikes, go carts and snowmobiles. If Landlord so requests, Tenant will post signs prohibiting such activities.

9. ALTERATIONS.

A. Generally. Tenant shall not make any alterations, installations, improvements, additions or other physical changes (collectively, the "**Alterations**") in or about the Leased Premises without Landlord's prior written consent in each instance, which consent may be granted or denied by Landlord in its sole and absolute discretion. Any Alterations shall be performed: (i) by Tenant, at Tenant's sole cost and expense (and Landlord shall have no duty or obligation with respect thereto), (ii) pursuant to plans and specifications approved in writing by Landlord (in Landlord's sole discretion), (iii) by contractors and subcontractors approved in writing by Landlord (in Landlord's sole discretion), (iv) in compliance with all Legal Requirements, and (v) in a good and workmanlike manner, free of all liens. Tenant shall, at

Tenant's sole cost and expense, obtain any and all permits and approvals necessary for the performance of any Alterations. During the performance of any Alterations, Tenant shall carry, and shall cause its contractors and subcontractors to carry, such insurance as Landlord shall, in its sole discretion, direct. Neither Tenant nor any of Tenant's authorized agents shall, at any time prior to or during the Term, directly or indirectly, employ, or permit the employment of, any contractor, mechanic or laborer in the Leased Premises, or permit any materials to be delivered to or used in the Leased Premises, whether in connection with any Alteration or otherwise, if, in Landlord's sole judgment, such employment, delivery or use will interfere or cause any conflict with other contractors, mechanics or laborers engaged in the construction, maintenance or operation of the Leased Premises (or any other property) by Landlord, Tenant or others, or the use and enjoyment of the Leased Premises by Landlord or other tenants or occupants of the Leased Premises. In the event of such interference or conflict, upon Landlord's request, Tenant shall cause all contractors, mechanics or laborers causing such interference or conflict to leave the Leased Premises immediately. At the sole discretion of Landlord, any proposed Alterations shall be subject to a review fee, the amount of which will be determined by Landlord upon receipt of Tenant's request for consent to such Alterations. Such fee shall be due and payable by Tenant within five (5) days from receipt of notice from Landlord of the amount of such review fee and Landlord shall not be required to consider Tenant's request for Landlord's consent to any Alterations until the review fee for such Alterations is paid.

B. Paving, Filling and Planting. Without limiting the generality of the terms and provisions of Subsection 9.A. above, Tenant acknowledges and confirms that any and all grading, leveling, adding or removing soil and/or paving of the Leased Premises (or any portion thereof), and any and all planting, seeding and similar activities shall constitute "**Alterations**" for purposes of this Lease, and shall be subject to each and all of the terms and provisions relating thereto. In any event, any and all debris from any Alterations of Tenant shall be promptly removed from the Leased Premises by Tenant. In the event that, in connection with Tenant's Alterations, Tenant elects to fill any low spots on the Leased Premises, only clean fill (defined as not containing debris such as gravel, concrete, tree roots, brick or any contaminants) shall be used prior to the spreading of base fill underlying any paving. No paving or grading work (or similar work) of any kind will be undertaken within a ten (10) foot radius of any tower leg (or similar equipment, improvement or facility) of Landlord. Paving shall be well drained, firm and solid blacktop (or other substance approved in writing by Landlord), and shall be neat and clean in appearance. In addition, and not in lieu of the foregoing, any such grading, leveling, paving, filling and/or planting or seeding of the Leased Premises shall comply with the terms and provisions of Section 12 below and Landlord's vegetation management practices and procedures. Tenant shall not cause or permit the existing ground grade on the Leased Premises to be increased or decreased in excess of eight inches (8") without Landlord's prior written consent.

C. Drainage. Tenant covenants and agrees that no Alterations made by Tenant pursuant to this Lease shall cause any surface water drainage problems for Landlord or any adjoining landowners. In the event that any such water drainage problems are caused by Tenant's Alterations, Tenant shall correct such problems immediately at Tenant's sole cost and expense.

D. Fencing and Barriers. Tenant covenants and agrees that, in the event that Tenant installs (or is required (by Landlord or otherwise) to install) any fencing and/or gates in connection with Tenant's Alterations at the Leased Premises (or its use or occupancy of the Leased Premises), Tenant will install, maintain and operate such fences and/or gates in strict compliance with the requirements of Exhibits C-1 and C-2, attached hereto and made a part hereof, and any and all other fencing and locking rules, regulations and guidelines which Landlord may deliver to Tenant from time to time prior to or during the Term. Tenant also acknowledges and confirms that, in connection with Landlord's review and/or approval of the plans and specifications for Tenant's Alterations at the Leased Premises (as provided in

Subsection 9.A. above), Landlord may require, prior to or at any time during the Term of this Lease, that barriers (“**Barriers**”) be installed on the Leased Premises in order to protect Landlord’s Facilities and/or other equipment, improvements and facilities of Landlord and other users and occupants of the Leased Premises. Any such Barriers shall be installed, at Landlord’s sole option, either: (i) by Tenant, at Tenant’s sole cost and expense, in a manner satisfactory to Landlord, or (ii) by Landlord, in which event Tenant shall pay to Landlord, prior to such installation, Landlord’s reasonable estimate of the cost of such installation of the Barriers. Any barriers required to be installed hereunder shall be installed, maintained and operated by Tenant in strict compliance with the requirements of Exhibits C-1 and C-2, attached hereto, and any and all rules, regulations and guidelines regarding barriers which Landlord may deliver to Tenant from time to time prior to or during the Term.

E. Soil Removal. Tenant hereby agrees that it will not remove any soil from the Leased Premises without the prior written consent of Landlord. Any soil removed from the Leased Premises to which Landlord consents (as provided in the preceding sentence) shall become the property of Tenant and shall be: (i) transported and disposed of by Tenant (at its sole cost and expense) in a manner approved in writing by Landlord and in compliance with all Legal Requirements, and (ii) promptly replaced by Tenant at its sole cost and expense, with clean soil not contaminated with Hazardous Materials (as defined in Section 15 below).

F. Third Party Facilities. Tenant hereby acknowledges that the Leased Premises may be used from time to time to accommodate equipment and facilities of other persons and/or entities (including, without limitation, pipeline and utility companies) which are (or will be) located on, above or below the surface of the Leased Premises. Tenant agrees that it will contact any such persons and/or entities holding rights to use and/or occupy the Leased Premises, and provide the proper protection reasonably required by such persons or entities, in connection with Tenant’s use and occupancy of the Leased Premises. Tenant further agrees to furnish Landlord copies of the correspondence between any such persons or entities and Tenant. Tenant agrees that this requirement shall apply to any installations currently located at the Leased Premises and any and all future installations within the Leased Premises. Landlord hereby agrees to use commercially reasonable efforts to notify Tenant of any proposed or pending installation of equipment or facilities by other persons or entities at the Leased Premises; provided however, that Landlord shall have no liability to Tenant in the event that Landlord fails to provide any such notification.

G. Supervision. Landlord shall have the right (but not the obligation) to monitor and observe Tenant’s performance of any Alterations at the Leased Premises (or any component thereof) and, in the event that Landlord so elects, Tenant shall reimburse Landlord for any and all costs of such monitoring and observation, together with a charge for Landlord’s overhead, as determined by Landlord. In the event that Landlord elects to monitor or observe any such work, in no event shall Landlord be deemed to have approved or made any representation or warranty regarding the same.

H. Notification. In addition to and not in lieu of, Tenant’s other obligations under this Section 9, Tenant also agrees to notify Landlord’s Representative, at Telephone Number 866 340-2841, at least seventy two (72) hours prior to the commencement of any Alterations at the Leased Premises. Landlord hereby agrees to use commercially reasonable efforts to notify Tenant of any proposed or pending alterations by Landlord at the Leased Premises (expressly excluding, however, normal maintenance or emergency repairs); provided however, that Landlord shall have no liability to Tenant in the event that Landlord fails to provide any such notification.

10. INDEMNITY. To the maximum extent permitted under Legal Requirements, Tenant agrees to protect, indemnify, defend (with counsel acceptable to Landlord) and hold harmless Landlord and Exelon Corporation, a Pennsylvania corporation, and their respective parents, subsidiaries and affiliates, and their

respective officers, directors, shareholders, employees, representatives, agents, contractors, licensees, lessees, guests, invitees, successors and assigns (collectively, the “**Indemnified Parties**”) from and against any and all losses, costs, damages, liabilities, expenses (including, without limitation, reasonable attorneys’ fees) and/or injuries (including, without limitation, damage to property and/or personal injuries) suffered or incurred by any of the Indemnified Parties (regardless of whether contingent, direct, consequential, liquidated or unliquidated) (collectively, “**Losses**”), and any and all claims, demands, suits and causes of action brought or raised against any of the Indemnified Parties (collectively, “**Claims**”), arising out of, resulting from, relating to or connected with: (i) any act or omission of Tenant or its officers, directors, shareholders, employees, representatives, agents, contractors, licensees, lessees, guests, invitees, successors and assigns (collectively, “**Tenant Group**”) at, on or about the Leased Premises, and/or (ii) any breach or violation of this Lease on the part of Tenant, and notwithstanding anything to the contrary in this Lease, such obligation to indemnify, defend and hold harmless the Indemnified Parties shall survive any termination or expiration of this Lease. This indemnification shall include, without limitation, claims made under any workman’s compensation law or under any plan for employee’s disability and death benefits (including, without limitation, claims and demands that may be asserted by employees, agents, contractors and subcontractors).

11. WAIVER. Any entry onto the Leased Premises by Tenant and, to the extent permitted by law, each and every member of the Tenant Group, shall be at such parties’ sole risk, and Landlord makes (and has heretofore made) no representations or warranties of any kind whatsoever regarding the Leased Premises or the condition of the Leased Premises (including, without limitation, the environmental condition thereof). To the fullest extent permitted by law, Tenant and each member of the Tenant Group hereby waives any and all claims, demands, suits and causes of action against the Indemnified Parties, and fully and forever releases the Indemnified Parties, for any loss, cost, damage, liability or expense (including, without limitation attorneys’ fees) suffered or incurred by Tenant or any member of the Tenant Group in connection with any entry onto the Leased Premises pursuant to this Lease. Without limiting the generality of the foregoing, in no event shall any of the Indemnified Parties be responsible or liable for any loss, damage, destruction, theft or misappropriation of any of the property of Tenant or any member of the Tenant Group. This Section will survive termination or expiration of the Lease.

12 DIGGING WORK. If Tenant performs any grading, leveling, digging or excavation work on the Leased Premises (which work shall be subject to Landlord’s prior written approval), Tenant will notify J.U.L.I.E. at telephone number (800) 892-0123, C.U.A.N. at (312) 744-7000 if the Leased Premises are located in the City of Chicago, or in the event the Leased Premises are located outside J.U.L.I.E.’s or C.U.A.N.’s jurisdiction, any other services required by the utilities in the jurisdiction, at least seventy-two (72) hours prior to the commencement of such work in order to locate all existing utility lines that may be present on the Leased Premises. If Tenant damages any such underground facilities in the course of its work, Tenant will promptly reimburse Landlord or the owner of such equipment or facilities for any and all expense incurred in repairing or replacing such damage.

13. CASUALTY. In the event of any damage to or destruction of the Leased Premises, by fire or other casualty, which materially and adversely affects Tenant’s use and enjoyment of the Leased Premises for the purposes specified in this Lease, then either Landlord or Tenant shall have the right, no later than ninety (90) days after such party becomes aware of such damage or destruction, to terminate this Lease upon sixty (60) days’ prior written notice to the other. In the event of any damage or destruction which is not so extensive, or in the event that Landlord and Tenant elect not to terminate this Lease pursuant to the preceding sentence, then this Lease shall continue in full force and effect, and Tenant will promptly and diligently, at its sole cost and expense, repair, restore, rebuild and replace the Leased Premises (and all improvements, fixtures, equipment and property thereat) as nearly as possible to the condition they were in immediately prior to such damage or destruction. Any such work shall be done in a manner satisfactory to Landlord, and in accordance with all Legal Requirements and the terms and provisions of

this Lease. Landlord shall not be liable or responsible for any loss or damage caused to any property of Tenant or any member of the Tenant Group (including, without limitation, any such loss or damage caused by fire, vandalism or other casualty) at any time during the Term hereof.

14. CONDEMNATION. If the Leased Premises, or a substantial part thereof, or a portion which prevents use of the Leased Premises for the purposes specified herein, shall be taken or condemned by any competent authority for any public use or purpose, the Term shall end on the date when the possession of the part so taken shall be required for such use or purpose, and without apportionment of any condemnation award or proceeds (it being understood that Landlord shall be entitled to the entire amount of any such award or proceeds, and Tenant shall have no right to share therein). Then current Rent shall be apportioned as of the date of such termination.

15. ENVIRONMENTAL PROTECTION.

A. General. Tenant covenants and agrees that Tenant shall conduct its operations on the Leased Premises in compliance with all applicable Environmental Laws (as hereinafter defined) and further covenants that neither Tenant nor any member of the Tenant Group shall use, bring upon, transport, store, keep or cause or allow the discharge, spill or release (or allow a threatened release) in each case of any Hazardous Materials (as hereinafter defined) in, on, under or from the Leased Premises. Without limiting any other indemnification obligations of Tenant contained herein, Tenant hereby agrees to protect, indemnify, defend (with counsel acceptable to Landlord, which acceptance shall not be unreasonably withheld) and hold harmless the Indemnified Parties from and against any and all Losses and Claims (including, without limitation, (i) reasonable attorneys' fees, (ii) liability to third parties for toxic torts and/or personal injury claims, (iii) fines, penalties and/or assessments levied or raised by any governmental authority or court, and (iv) assessment, remediation and mitigation costs and expenses and natural resource damage claims) arising out of, resulting from or connected with any Hazardous Materials used, brought upon, transported, stored, kept, discharged, spilled or released by Tenant, any member of the Tenant Group or any other person or entity (except for any person or entity which is an Indemnified Party) in, on, under or from the Leased Premises. For purposes of this Lease, the term "**Hazardous Materials**" shall mean all toxic or hazardous substances, materials or waste, petroleum or petroleum products, petroleum additives or constituents or any other waste, contaminant or pollutant regulated under or for which liability may be imposed by any Environmental Law. For purposes hereof, the term "**Environmental Laws**" shall mean all federal, provincial, state and local environmental laws, statutes, ordinances, regulations and other requirements (including common law) regulating or imposing standards of care with respect to the handling, storage, use, emitting, discharge, disposal or other release of Hazardous Materials, including, but not limited to, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901 et seq., the Clean Air Act, 42 U.S.C. §§7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 1101, et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq., the Toxic Substances Control Act, 15 U.S.C. §§2601, et seq., the Oil Pollution Control Act, 33 U.S.C. §§2701, et seq., any successor statutes to the foregoing, or any other comparable local, state or federal statute or ordinance pertaining to protection of human health, the environment or natural resources, including without limitation the preservation of wetlands, and all regulations pertaining thereto, as well as applicable judicial or administrative decrees, orders or decisions, authorizations or permits.

B. Wetlands. If there are wetlands on the Leased Premises, or if wetlands should develop on the Leased Premises during the Term, Tenant shall strictly comply with and observe all applicable

Environmental Laws. At Landlord's request, Tenant shall, at Tenant's sole cost, furnish Landlord with a survey of the Leased Premises delineating any wetland areas located on the Leased Premises. Under no circumstances shall Tenant change the physical characteristics of any wetland areas located on the Leased Premises, or any other adjoining land or place any fill material on any portion of the Leased Premises, or any adjoining land, without in each instance obtaining Landlord's prior written consent (which may be granted or withheld in Landlord's sole discretion), and only then in compliance with applicable Environmental Laws.

C. Notice of Violation/Release. Tenant shall provide Landlord with prompt written notice upon Tenant's obtaining knowledge of the existence of any Hazardous Materials on, in or under the Leased Premises in violation of Environmental Laws, or of any potential or known release or threat of release of any Hazardous Materials affecting the Leased Premises.

D. Survival. This Section shall survive the expiration or other termination or expiration of the Lease.

16. **INSURANCE.** Tenant shall comply with the insurance provisions contained in Exhibit D attached hereto and made a part hereof.

17. **ZONING.** Tenant hereby acknowledges that Landlord has made no representations that the Leased Premises may be used or is properly zoned for the Permitted Use, and Tenant further agrees that it will (at its sole cost and expense) obtain all necessary permits and other approvals prior to undertaking the Permitted Use. Tenant assumes all obligations and responsibilities for compliance with all Legal Requirements including, without limitation, all applicable zoning laws and ordinances, building codes and governmental regulations. This Lease is not preconditioned on Tenant obtaining any zoning or use permits or approval. This Lease does not constitute the authority to seek a zoning change to permit the Permitted Use, and in no event shall Tenant seek or apply for any such zoning change to the Leased Premises without Landlord's prior written consent, which consent may be given or withheld in Landlord's sole and absolute discretion.

18. **NO SIGNS.** Tenant shall not place or permit to be placed by any person or entity (other than Landlord) on the Leased Premises any signs or billboards (including, without limitation, any advertising signs or billboards) without the prior written approval of Landlord, which approval Landlord may give or withhold in Landlord's sole and absolute discretion. Tenant may place signs on the Specified Area without the consent of Landlord relating solely to safety and directional matters involving the Permitted Use. Tenant agrees to place a sign in a visible area within the Specified Area that contains an acknowledgment of Landlord's assistance and cooperation with the Tenant with respect to the Permitted Use, all in a manner and form reasonably acceptable to Landlord.

19. **DAMAGE TO LANDLORD'S FACILITIES.** Tenant agrees that in the event any work done by or on behalf of the Tenant on the Leased Premises causes damage to Landlord's Facilities, Tenant will promptly reimburse Landlord for any and all expense incurred for the repairing or replacement of such damage, within thirty (30) days, after presentation to Tenant of Landlord's statement therefor.

20. **DEFAULT.**

A. The occurrence of any of the following shall be considered a "Default":

(i) Tenant shall at any time fail to make any payment of Rent (or any portion thereof) or any other payments required of Tenant hereunder when required, and such failure continues for a period of more than ten (10) days (without necessity of any notice or demand therefor); or

(ii) Tenant shall breach or violate any of its duties or obligations set forth in Section 7 (Surrender of Leased Premises; Restoration), Section 8 (Compliance with Laws), Section 16 (Insurance), Section 22 (Covenants Against Liens), Section 23 (Assignment and Subletting) or Section 30 (Subordination; Estoppel) of this Lease; or

(iii) Tenant shall at any time be in default of any other covenants and conditions of this Lease to be kept, observed and performed by Tenant, which and such default continues for more than thirty (30) days (or such shorter time period as may specifically be set forth in this Lease) after notice from Landlord; or

(iv) this Lease or Tenant's interest therein, or any interest in Tenant, shall be assigned, transferred, mortgaged or pledged, levied on or attempted to be taken by execution, attachment or other process of law, or if any execution or attachment shall be issued against Tenant, or any of Tenant's property in the Leased Premises shall be taken or occupied or attempted to be taken or occupied by someone other than Tenant; or

(v) a receiver, assignee or trustee shall be appointed for Tenant or Tenant's property or if the Tenant shall file bankruptcy, or if involuntary bankruptcy proceedings shall be filed against Tenant; or

(vi) Landlord shall receive notice of any alleged violation of any Legal Requirements resulting from or in any way connected with Tenant's use of the Leased Premises and such violation is not cured (and all liabilities connected therewith fully satisfied) by Tenant prior to the earlier of (a) the last day of the period permitted by law for curing such violation or (b) the first date Landlord becomes subject to any fine, penalty, lien, judgment, order or other liability due to the continued existence of such violation; or

(vii) Tenant shall abandon the Leased Premises or vacate same during the Term hereof.

B. If a Default occurs, Landlord may do any or all of the following (all of which remedies shall be cumulative and not exclusive, and all of which remedies shall be in addition to, and not in lieu of, any other rights and remedies to which Landlord may be entitled under this Lease, at law or in equity):

(i) At its option, at once, without notice to Tenant or to any other person, terminate this Lease and at its option, require payment in full of the Rent due for the unexpired term of the Lease;

(ii) Enter into the Leased Premises, and remove Tenant's property and effects therefrom, and/or take and hold possession thereof, without such entry and/or possession terminating this Lease or releasing Tenant in whole or in part from Tenant's obligations to pay Rent and perform all its other obligations hereunder for the full Term, and to relet the Leased Premises or any part or parts thereof, either in the name of for the account of Landlord or Tenant, for such Rent and for such term and terms as Landlord may see fit, which term may at Landlord's option extend beyond the balance of the Term of this Lease. Except to the extent required under applicable Legal Requirements, Landlord shall not be required to accept any tenant offered by Tenant or to observe any instructions given by the Tenant about such reletting. In any case, Landlord may make such repairs, alterations and additions in or to the Leased Premises as it sees fit. Tenant shall pay Landlord any deficiency between the Rent hereby reserved and covenanted to be paid and the net amount of the rents collected on such reletting, for the balance of the Term of this Lease, as well as any expenses incurred by Landlord in such reletting, including, but not limited to attorney's fees, broker fees, the expenses of repairing, altering the Leased Premises, and otherwise preparing the same for re-rental. All such costs, other than the rental, shall be paid by Tenant upon demand

by Landlord. Any deficiency in rental amounts shall be paid in monthly installments, upon statements rendered by Landlord to Tenant, unless Landlord has declared the entire Rent for the balance of the Term due, as elsewhere in this Lease provided. Any suit brought to collect the amount of the deficiency for any one or more months' Rent shall not preclude any subsequent suit or suits to collect the deficiency for any subsequent month's Rent;

(iii) Require that upon any termination of this Lease, whether by lapse of time, the exercise of any option by Landlord to terminate the same, or in any other manner whatsoever, or upon any termination of Tenant's right to possession without termination of this Lease, the Tenant shall at once surrender possession of the Leased Premises to the Landlord and immediately vacate the same and remove all effects therefrom, except such as may not be removed under other provisions of this Lease. If Tenant fails to do so, Landlord may forthwith re-enter the Leased Premises, with or without process of law, and repossess itself thereof as in its former estate and expel and remove Tenant and any other persons and property therefrom, using such force as may be necessary without being deemed guilty of trespass, eviction or forcible entry, without thereby waiving Landlord's rights to Rent or any other rights given Landlord under this Lease or at law or in equity;

(iv) Remove, at its option if the Tenant shall not remove all effects from the Leased Premises in this Lease as provided, any or all of such effects in any manner that Landlord shall choose and store the same without liability for loss thereof, and Tenant will pay Landlord, upon demand, any and all expenses incurred in such removal and also storage of said effects for any length of time during which the same shall be in Landlord's possession or in storage, or Landlord may at its option, without notice, sell any or all of said effects in such manner and for such price as the Landlord may deem best and apply the proceeds of such sale upon any amounts due under this Lease from the Tenant to Landlord, including the expenses of removal and sale;

(v) Collect from Tenant any other loss or damage Landlord may sustain by reason of any breach (including, without limitation, the unamortized portion of any brokerage fee or commission paid by or on behalf of Landlord to any broker or finder with respect to this Lease) and any diminished value of the Leased Premises resulting from said breach;

(vi) Enjoin any such breach of this Lease by Tenant; and/or

(vii) Take any and all corrective actions Landlord deems necessary or appropriate to cure the default of Tenant in question and charge the cost thereof to Tenant, together with (i) interest at the Default Rate, and (ii) an administrative charge in an amount equal to ten percent (10%) of the cost of the corrective action to defray part of the administrative expense incurred Landlord in administering such cure, such payment to be made by Tenant upon Landlord's presentment and demand therefor.

C. Except as specifically provided in this Section Tenant expressly waives the service of any notice of intention to terminate this Lease or to terminate Tenant's right of possession of the Leased Premises or to re-enter the Leased Premises and waives the service of any demand for payment of Rent or for possession and waives the service of any and every other notice or demand prescribed by any statute, law or ordinance and agrees that the simple breach of any of the covenants of this Lease (beyond any applicable notice and cure periods) shall, of itself, without the service of any additional notice or demand whatsoever, at Landlord's option, constitute a default on the part of Tenant. No receipt of monies by the Landlord from or for the account of Tenant or from anyone in possession or occupancy of the Leased Premises after termination in any way of this Lease or after the giving of any notice, shall reinstate, constitute or extend the Term of this Lease or affect any notice given to the Tenant prior to the receipt of

such money, it being agreed that after the service of notice of the commencement of a suit, or after final judgment for possession of the Leased Premises, Landlord may receive and collect any Rent or other amounts due Landlord and such payment not waive or affect said notice, said suit, or said judgment.

D. Any and all rights and remedies which Landlord may have under this Lease at law or in equity, shall be cumulative and shall not be deemed inconsistent with each other, and any two or more or all of said rights and remedies may be exercised at the same time or at different times and from time to time.

E. If Landlord is required to incur expense, legal, incidental, or consequential, because of the breach of this Lease by Tenant, the Tenant shall promptly reimburse Landlord for such expense upon being given a written itemization and explanation thereof. In the event of commencing a court action as a result of any breach, it is agreed that such expenses are to be considered a part of the damages claimed in said action and any expense incurred in prosecuting that action shall be included. It is agreed that the term "expenses" as used herein shall include, but not be limited to, attorney's fees, court costs, district justice costs, and any and all other costs and expenses reasonably related to such breach.

F. The failure of Landlord to enforce rights under this Lease on one or numerous occasions shall not affect the Landlord's ability to enforce that right on any subsequent occasion or occasions.

G. Upon the occurrence of a Default or any breach or default under this Lease by Tenant, Tenant shall be liable for and shall reimburse Landlord upon demand for all reasonable attorney's fees and costs incurred by Landlord in enforcing Tenant's obligations under this Lease, whether or not Landlord files legal proceedings in connection therewith.

H. In the event that a Default shall occur and Landlord elects to terminate this Lease, or upon expiration of this Lease, Tenant shall not be relieved of its duties or obligations under this Lease so long as Tenant or any of Tenant's property remains on the Leased Premises. Additionally, any rights and obligations created under or by this Section shall survive termination or expiration of this Lease.

I. In the event of a threatened breach by Tenant of any of the covenants or provisions of this Lease, Landlord shall (without limiting any of Landlord's other rights or remedies hereunder, at law or in equity) have the right to enjoin any such threatened breach.

21. LIMITATION ON LIABILITY. It is expressly understood and agreed by Tenant that none of Landlord's covenants, undertakings or agreements continued in this Lease are made or intended as personal covenants, undertakings or agreements by Landlord or any entity which is affiliated with Landlord its parent or subsidiaries. Tenant specifically agrees to look solely to Landlord's interest in the Leased Premises for the recovery of any sums, damages, awards or judgments from Landlord. It is agreed that neither Landlord, nor any entity which is affiliated with Landlord (nor any of their respective parents or subsidiaries, nor any of their respective shareholders, venturers, officers, directors or employees) shall be personally liable for any such sums, damages, awards or judgments. This Section will survive termination or expiration of the Lease.

22. COVENANTS AGAINST LIENS. Tenant hereby covenants and agrees that it will not cause or permit any lien (including, without limitation, any mechanic's lien) or claim for lien to be asserted against the Leased Premises or any interest therein, whether such lien or claim for lien results from or arises out of any act or omission of Tenant or any member of the Tenant Group or otherwise. In the event any such lien or claim for lien is filed, Tenant will immediately pay and release the same. In the event such lien or claim of lien is not released and removed within five (5) days after notice from Landlord, Landlord, at its sole option and in addition to any of its other rights and remedies, may take any and all action necessary

to release and remove such lien or claim of lien (it being agreed by Tenant that Landlord shall have no duty to investigate the validity thereof), and Tenant shall promptly upon notice thereof reimburse Landlord for all sums, costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Landlord in connection with such lien or claim of lien. Tenant hereby agrees to indemnify, defend and hold harmless Landlord from and against any and all liens or claims for lien arising out of or in any way connected with Tenant's use and occupancy of the Leased Premises. Any rights and obligations created under or by this Section shall survive termination or expiration of this Lease.

23. ASSIGNMENT AND SUBLETTING. Tenant shall not, directly or indirectly, assign, mortgage, pledge, encumber, or otherwise transfer this Lease (or any interest of Tenant herein), whether by operation of law or otherwise, and shall not sublet (or underlet), or permit, or suffer the Leased Premises or any part thereof to be used or occupied by others, without Landlord's prior written consent in each instance, which consent may be granted or denied by Landlord in its sole and absolute discretion. Any assignment, sublease, mortgage, pledge, encumbrance or transfer by Tenant in contravention of the provisions of this Section shall be void. For purposes of this Lease any transfer, directly, indirectly or by operation of law, of a "controlling" interest in Tenant shall constitute an assignment of this Lease, and shall be subject to the terms and provisions of this Section. For purposes hereof, a "controlling" interest in Tenant shall mean: (a) the ownership, directly or indirectly, of a majority of the outstanding voting stock or interests of Tenant, or (b) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of Tenant, whether through the ownership of voting securities or other ownership interests, by statute, or by contract.

24. TERMINATION. Prior to the end of the Term, this Lease may be terminated at any time by either of the parties hereto by giving ninety (90) days prior written notice to the other party of such termination, provided, that if Landlord terminates this Lease in accordance with this sentence and Tenant is not in Default, then Tenant shall not have the obligation to restore the Leased Premises in accordance with Section 7 herein. This Lease may also be terminated by Landlord, if Landlord is required to do so by a regulatory body, by a court of competent jurisdiction or Legal Requirements. In the event this Lease is terminated for any reason, any Rent paid in advance shall be prorated to the effective date of such termination and the unearned portion thereof refunded to Tenant.

25. LANDLORD'S RIGHTS. The rights of the Landlord to utilize the Leased Premises in its utility business, at all times, will be and remain paramount to the rights herein granted to Tenant by Landlord and nothing stated herein is to be construed as restricting Landlord from granting rights to other parties or persons in, upon or under the Leased Premises. Without limiting the generality of the foregoing, the parties specifically refer to rights relating to sewers, water pipes and mains, drainage tiles and pipes, gas main and pipelines and other associated uses. In addition, Landlord shall have the right to enter upon the Leased Premises at any time and from time to time during the Term to (a) show the same to prospective tenants, mortgagees and/or purchasers, and to place "For Rent" and/or "For Sale" signs thereon and (b) to conduct any and all vegetation management in, on, or about the Leased Premises in accordance with Landlord's then current vegetation management practices and procedures.

26. RIGHT OF ENTRY. Tenant agrees that Landlord and Landlord's agents, representatives, employees, contractors, licensees, invitees, tenants, successors and assigns (collectively, "**Landlord Parties**"), shall have the right to enter the Leased Premises at any time Landlord deems necessary, to alter, modify, augment, supplement, improve, upgrade, use, operate, repair, replace, install, construct, maintain or protect Landlord's Facilities and to conduct vegetation management activities, including the right to cut down, trim and remove any trees, brush or other vegetation that interferes with or potentially interferes with Landlord's Facilities on the Leased Premises as Landlord deems necessary in its sole discretion. Tenant shall not plant any trees or other vegetation on the Leased Premises without the prior

written consent of Landlord which it may withhold in its sole discretion. Landlord has the right to require Tenant to remove and relocate any paving, improvements or property owned or used by Tenant at the Leased Premises, in connection with the use, operation, maintenance, repair, installation and/or removal of Landlord's Facilities by any Landlord Party, and/or or in connection with any other use (present or future) of the Leased Premises by the Landlord Parties, all of which removal and relocation shall be at Tenant's sole cost and expense. In the event that Tenant fails to remove and/or relocate any such paving, improvements or property upon notice from Landlord, then Landlord shall have the right (but not the obligation) to remove such paving, improvements or property on Tenant's behalf, and at Tenant's cost, and Tenant shall promptly reimburse Landlord for any costs and expenses paid or incurred by Landlord in connection therewith. Tenant agrees that it will cooperate with Landlord in connection with any entry on, and work at, the Leased Premises by the Landlord Parties, and shall coordinate Tenant's use of the Leased Premises with any use of the Leased Premises by any of the Landlord Parties, including but not limited to vegetation management. Landlord shall not in any event be liable for inconvenience, disruption, disturbance, loss of business or other damage to Tenant by reason of any entry on, or work at, the Leased Premises by any Landlord Party, or on account of bringing materials, supplies, and equipment into or through the Leased Premises. Tenant understands that the business of the Landlord involves, among other things, the construction, installation, maintenance, operation, and use of Landlord's Facilities now or which may hereafter be erected or installed upon, along, on, over, across or under the Leased Premises, or property adjacent thereto, which are used or useful in connection with the generation, conversion, transmission or distribution of electricity and gas and communications services. Tenant covenants and agrees (as a specific condition of this Lease) that Tenant and each member of the Tenant Group will not, under any circumstances whatsoever, touch, handle, tamper with or contact, directly or indirectly, any of the Landlord's Facilities, nor damage, destroy, interfere with, obstruct or otherwise adversely affect, Landlord's Facilities.

27. LANDLORD'S RIGHT TO TRANSFER. This Lease shall not in any manner or to any extent limit or restrict the right of Landlord to use or dispose of the Leased Premises as Landlord may in its discretion desire, subject to rights of Tenant hereunder. Landlord shall have the right, without notice to or consent from Tenant, to assign this Lease to any person or entity that succeeds (directly, indirectly or by operation of law) to any of Landlord's right, title or interest in or to the Leased Premises.

28. TENANT'S PROPERTY. It is expressly understood and agreed that all equipment and other personal property that Tenant may install upon the Leased Premises during the Term shall remain the property of Tenant and shall be removed by Tenant (as set forth in Section 7 hereof), at its sole cost and expense, at the expiration of the term of this Lease or at any time prior thereto.

29. HOLDING OVER. Tenant shall have no right to remain in possession of all or any part of the Leased Premises after the expiration of the Term. In the event that Tenant remains in possession of all or any part of the Leased Premises after the expiration or earlier termination of the Term, at Landlord's option (exercised by giving Tenant written notice): (a) such tenancy shall be deemed to be either (at Landlord's sole option) a periodic tenancy from month-to-month only, or a tenancy at sufferance terminable at will by Landlord; (b) such tenancy shall not, unless Landlord otherwise elects (as set forth above), constitute a renewal or extension of this Lease for any further Term; and (c) such tenancy may be terminated by Landlord upon the earlier of thirty (30) days' prior written notice or the earliest date permitted by law. In the event Tenant remains in possession after the expiration or earlier termination of the Term, then: (i) Landlord shall have the right to charge Tenant a monthly Base Rent equal to Landlord's estimate (as determined by Landlord in its sole discretion) of two hundred percent (200%) of the fair market monthly rental value of the Leased Premises, and any other sums due under this Lease shall be payable in the amount and at the times specified in this Lease, and (ii) Tenant agrees to the extent permitted by law to indemnify, defend (with counsel acceptable to Landlord, which acceptance shall not be unreasonably withheld) and hold the Indemnified Parties harmless from and against any and all Losses

and Claims sustained, incurred and/or brought against any of the Indemnified Parties by reason of such retention of possession of the Leased Premises (which may include, without limitation, any Claims made by any actual or prospective subsequent lessee or other user or occupant of the Leased Premises or any portion thereof). Any such month-to-month tenancy or tenancy at sufferance shall be subject to every other term, condition, and covenant contained in this Lease.

30. SUBORDINATION; ESTOPPEL.

A. This Lease and the rights of Tenant hereunder shall be and are hereby made expressly subject and subordinate at all times to the lien of any mortgage now or hereafter existing against all or any portion of the Leased Premises. Tenant acknowledges that its title is and always shall be subordinate to the title of the owner of the Leased Premises and nothing herein contained shall empower Tenant to do any act which can, shall or may encumber the title of the owner of the Leased Premises. In confirmation of such subordination, Tenant shall promptly execute and deliver any instrument that Landlord or any mortgagee of Landlord may request to evidence such subordination no later than ten (10) business days after Landlord's request therefor. If any mortgagee of Landlord (or its successors or assigns), or any other person or entity, shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, then at the request of such party so succeeding to Landlord's rights ("**Successor Landlord**") and upon Successor Landlord's written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize Successor Landlord as Tenant's Landlord under this Lease, and shall promptly execute and deliver any instrument that Successor Landlord may reasonably request to evidence such attornment. Upon such attornment this Lease shall continue in full force and effect as, or as if it were, a direct lease between Successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease and shall be applicable after such attornment.

B. Tenant agrees, at any time and from time to time, as requested by Landlord, upon not less than ten (10) days' prior notice, to execute and deliver to Landlord a written statement executed and acknowledged by Tenant, (a) stating that this Lease is then in full force and effect and has not been modified (or if modified, setting forth all modifications), (b) setting forth the Base Rent, (c) setting forth the date to which the Rent has been paid, (d) stating whether or not, to the best knowledge of the Tenant, Landlord is in default under this Lease, and if so, setting forth the specific nature of all such default, (e) stating whether there are any subleases affecting the Leased Premises, (f) stating the address of Tenant to which all notices and communication under the Lease shall be sent, and the Commencement Date, and (g) containing any other matters reasonably requested by Landlord. Tenant acknowledges that any statement delivered pursuant to this paragraph may be relied upon by others with whom Landlord may be dealing, including any purchaser or owner of the Leased Premises, or of Landlord's interest in the Leased Premises or any lender or mortgagee of Landlord. If Tenant fails to execute and return such written statement to Landlord within such ten (10) day period, such failure shall constitute Tenant's agreement as to the accuracy of the information contained in the written statement submitted to Tenant by Landlord.

31. MISCELLANEOUS.

A. Illinois Commerce Commission Approval. Landlord and Tenant acknowledge that Landlord is a public utility regulated by the Illinois Commerce Commission ("**Commission**") and other governmental authorities, and this Lease and the obligations of the parties hereto are subject to all Legal Requirements applicable to Landlord as a public utility. Although it is not expected that the Commission's or other governmental authorities' approval will be required for this Lease, the rights and obligations of the parties hereunder are conditioned upon the Commission's and any other applicable governmental authorities' approval of this Lease, under any circumstances in which such approval is

required. It is further agreed and understood that this Lease may be terminated by Landlord immediately at any time in the event that Landlord is required to do so by the Commission or some other governmental authority.

B. Notices. Whenever notice is required to be given pursuant to this Lease, the same shall be either personally delivered, sent by a nationally recognized overnight delivery service, postage prepaid, or sent via United States certified mail, return receipt requested, postage prepaid, and addressed to the parties at their respective addresses as follows:

If to Landlord:

Commonwealth Edison Company
Three Lincoln Centre 4th Floor
Oakbrook Terrace, IL 60181
Attn: Real Estate Asset Management

with a copy to:

Exelon Business Services Company, LLC
Law Department
10 South Dearborn Street, 49th Floor
Chicago, Illinois 60603
Attn: Assistant General Counsel – Real Estate

If to Tenant:

Village of Montgomery
200 North River Street
Montgomery, Illinois 60538
Attn: Executive Director

or at such other addresses as any party, by written notice in the manner specified above to the other party hereto, may designate from time to time. Unless otherwise specified to the contrary in this Lease, all notices shall be deemed to have been given upon receipt (or refusal of receipt) thereof.

C. Prohibition on Recording. To the maximum extent permitted under Legal Requirements, Tenant agrees not to record this Lease. Upon Tenant's reasonable request and at Tenant's sole cost and expense, the parties will file of record a memorandum of this Lease substantially in the form attached hereto as Exhibit F. This Section will survive the termination or expiration of this Lease.

D. Waiver of Jury Trial. Landlord and Tenant, by this Section, waive trial by jury in any action, proceeding, or counterclaim brought by either of the parties to this Lease against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Leased Premises, or any other claims, and any emergency statutory or any other statutory remedy.

E. Captions. The section headings appearing in this Lease are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

F. Binding Effect. The covenants, conditions, and agreements contained in this Lease will bind and inure to the benefit of Landlord and Tenant and their respective heirs, distributees, executors, administrators, successors and permitted assigns. In the event that Tenant is comprised of more than one individual or entity, the obligations of such individuals or entities under this Lease shall be joint and several.

G. Entire Agreement. This Lease, the exhibits and addenda, if any, contain the entire agreement between Landlord and Tenant regarding the subject matter hereof, and fully supersede all prior written or oral agreements and understandings between the parties pertaining to such subject matter. No promises or representations, except as contained in this Lease, have been made to Tenant respecting the condition or the manner of operating the Leased Premises.

H. Further Assurances. Each party agrees that it will execute and deliver such other documents and take such other action as may be reasonably requested by the other party to effectuate the purposes and intention of this Lease.

I. No Waiver. The failure of either party to enforce at any time any provision of this Lease shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Lease or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Lease shall be held to constitute a waiver of any other or subsequent breach.

J. No Third Party Beneficiaries. Landlord and Tenant agree and acknowledge that, except as expressly set forth herein, there are no intended third party beneficiaries of this Lease nor any of the rights and privileges conferred herein.

K. Governing Law. The terms and provisions of this Lease shall be governed by and construed in accordance with the laws of the State of Illinois. With respect to any suit, action or proceeding relating to this Lease (each a "**Proceeding**"), the parties hereto each irrevocably: (a) agree that any such Proceeding shall be commenced, brought, tried, litigated and consummated in the courts of the State of Illinois located in the County of Cook or (as applicable) in the United States District Court for the Northern District of Illinois, (b) submit to the exclusive jurisdiction of the courts of the State of Illinois located in the County of Cook and the United States District Court for the Northern District of Illinois, and (c) waive any objection which they may have at any time to the laying of venue of any Proceeding brought in any court, waive any claim that any Proceeding brought in any such court has been brought in an inconvenient forum, and further waive the right to object, with respect to such Proceeding, that any such court does not have jurisdiction over such party.

L. Counterparts. This Lease may be executed by the parties in counterparts. Each such counterpart shall be deemed an original and all such counterparts, taken together, shall constitute one and the same agreement.

M. Subordinate. This Lease, and all of Tenant's rights and interests hereunder, are subject and subordinate to any and all recorded and unrecorded easements, licenses, leases and permits, and all other matters (whether recorded or unrecorded) affecting the Leased Premises (or title thereto) dated prior to the date of this Lease.

N. Severability. If any term, provision or condition in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease (or the application of such term, provision or condition to persons or circumstances other than in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Lease shall be valid and enforceable to the fullest extent permitted by law.

O. Time of the Essence. Time is of the essence of this Lease, and each and every term and provision hereof.

P. No Partnership. None of the terms or provisions of this Lease shall be deemed to create a partnership between or among the parties hereto in their respective businesses or otherwise, nor shall any of the terms or provisions of this Lease cause them to be considered joint venturers or members of any joint enterprise.

Q. Not an Employee. By signing this Lease, Tenant affirms and states that it is not an employee of Commonwealth Edison Company nor Exelon Corporation, nor any of their respective parents, subsidiaries or affiliates, nor does Tenant have any affiliated interest in any such entities.

R. No Oral Change. This Lease cannot be changed orally or by course of conduct, and no executory agreement, oral agreement or course of conduct shall be effective to waive, change, modify or discharge it in whole or in part unless the same is in writing and is signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

S. Tenant's Authority. Tenant represents and warrants that it has full right, power and authority to execute and deliver this Lease, and to perform each and all of its duties and obligations hereunder. If Landlord so requests, Tenant shall provide Landlord with reasonable written evidence of such right, power and authority.

T. Termination of Lease Based Upon Change In Law. If any Legal Requirement is enacted or modified during the Term, and such enactment or modification places any additional material burden on Landlord (as determined by Landlord) as a result of Tenant's use or occupancy of the Leased Premises for any purpose, or if the use of the Leased Premises by Tenant would violate any Legal Requirements hereinafter enacted or modified, then (without limiting any other rights or remedies of Landlord hereunder) Landlord shall have the right to terminate this lease effective as of the effective date of such Legal Requirement is so enacted or modified.

U. Negotiated. The parties acknowledge that the parties and their counsel have reviewed and revised this Lease and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any exhibits or amendments hereto.

V. Brokers. Tenant represents and warrants to Landlord that Tenant has dealt with no broker, finder or similar person or entity in connection with this Lease, or Tenant's use or occupancy of the Leased Premises. Tenant agrees to indemnify, defend (with counsel acceptable to Landlord) and hold Landlord harmless from and against any and all Claims and Losses brought against, sustained or incurred by Landlord by reason of Tenant's breach of the foregoing representation and warranty.

W. Tenant's Authority to Act. This Lease shall be executed for and on behalf of the Tenant pursuant to a resolution adopted by the County Board of Tenant, at a regular meeting held _____, 20__, and signed by the officers therein designated as signatories and attested by the clerk of Tenant.

X. Confidentiality. Tenant acknowledges and agrees that the terms and conditions of this Lease, including, without limitation, the Rent, and all other books, records, documents, files and other information, whether computerized, written or oral, pertaining to Landlord, Landlord's affiliates or the Leased Premises which was or shall be provided to Tenant from the negotiations of this Lease throughout

the term of the Lease (collectively, “**Confidential Information**”) is nonpublic, confidential or proprietary relating to Landlord, its business operations and the Leases Premises, and that Landlord would be irreparably damaged if Tenant’s confidential knowledge of such information were disclosed to or utilized on behalf of any other person, firm, corporation or any other tenant of Landlord. Tenant agrees that any Confidential Information provided to Tenant is, and shall remain, property owned by Landlord, and Tenant shall have no right in or to such information other than to use the Confidential Information for the purposes set forth in the Lease. Tenant agrees to keep confidential and agrees to cause its respective employees, associates, agents, attorneys and advisors to keep confidential any and all of Confidential Information to the maximum extent permissible under applicable Legal Requirements. Landlord acknowledges that Tenant is a municipal corporation, and information is permitted to be disclosed only to the extent applicable Legal Requirements (including, the Open Meetings Act and Freedom of Information Act) requires such disclosure.

Y. Additional Requirements. Tenant shall comply the Additional Requirements listed on Exhibit E attached hereto and made a part hereof.

[REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the date first written above.

LANDLORD:

COMMONWEALTH EDISON COMPANY

By: _____
Name: Timothy Hughes
Title: Director of Real Estate and Facilities

TENANT:

VILLAGE OF MONTGOMERY

By _____
Name:
Title:

ATTEST:

By: _____

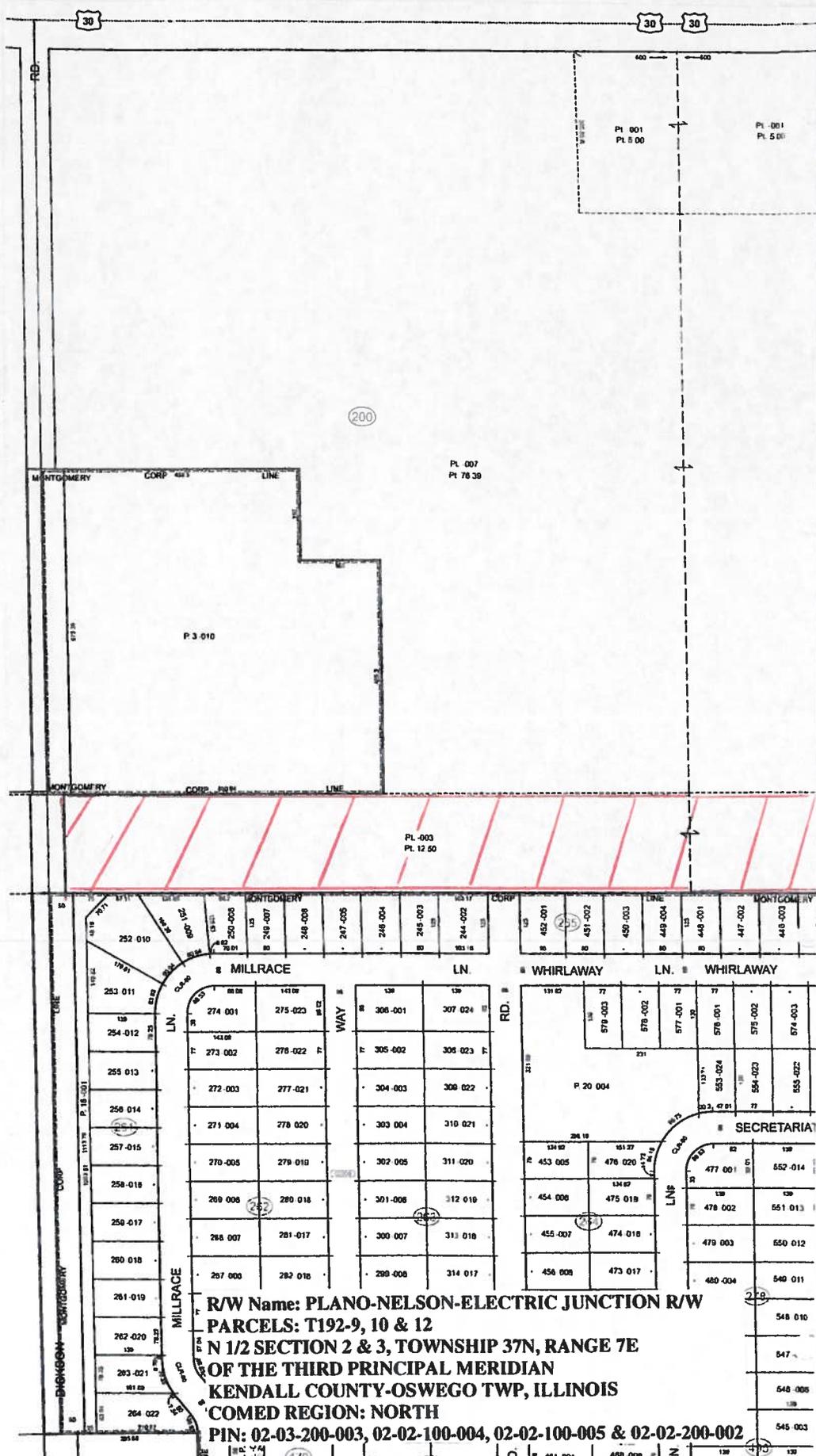
EXHIBITS

- A Leased Premises
- B Rent Base Schedule
- C-1 & C-2 Fencing and Barrier Requirements
- D Insurance Requirements
- E Additional Requirements
- F Form of Memorandum

EXHIBIT A

Leased Premises

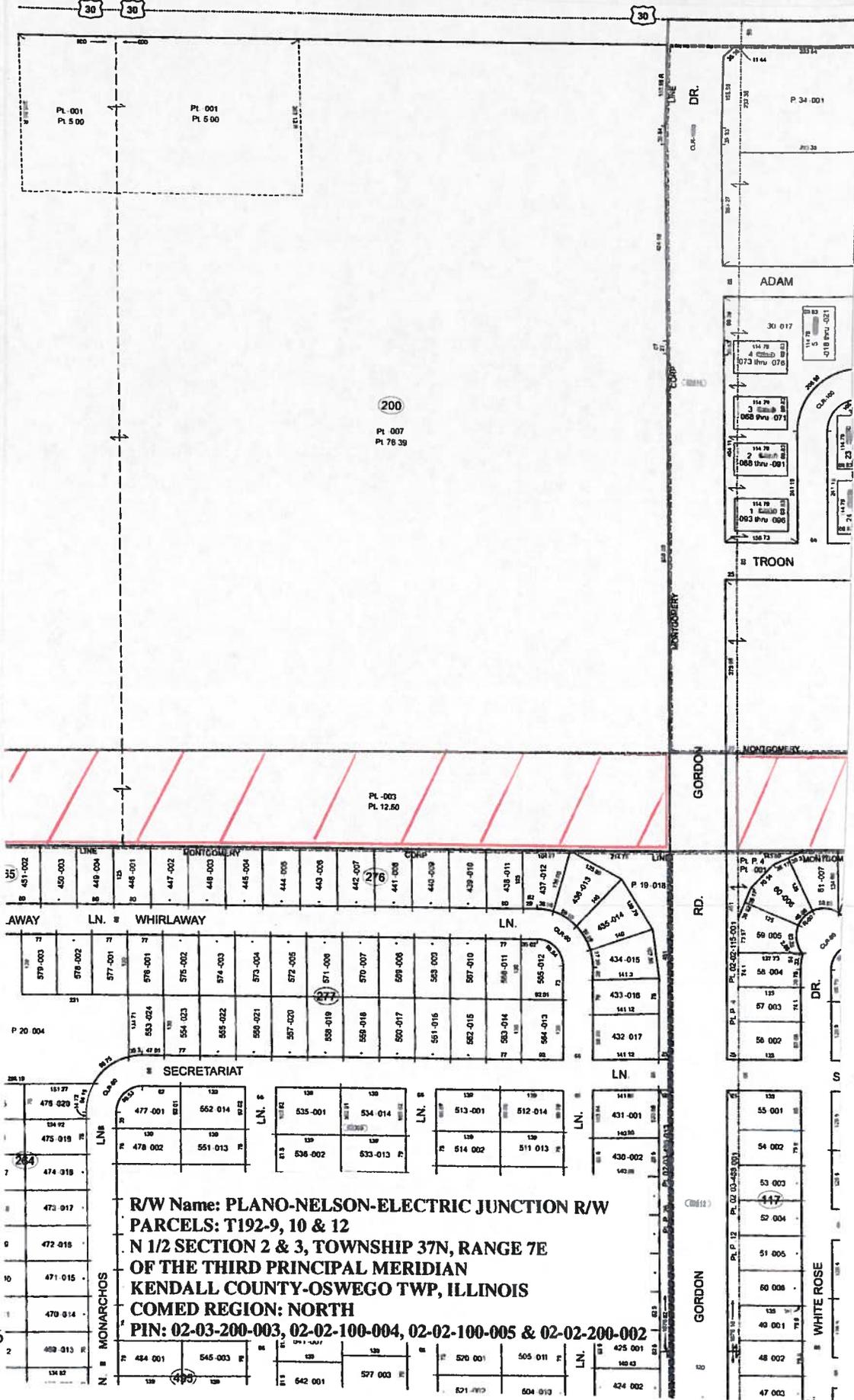
EXHIBIT A-1



R/W Name: PLANO-NELSON-ELECTRIC JUNCTION R/W
PARCELS: T192-9, 10 & 12
N 1/2 SECTION 2 & 3, TOWNSHIP 37N, RANGE 7E
OF THE THIRD PRINCIPAL MERIDIAN
KENDALL COUNTY-OSWEGO TWP, ILLINOIS
COMED REGION: NORTH
PIN: 02-03-200-003, 02-02-100-004, 02-02-100-005 & 02-02-200-002

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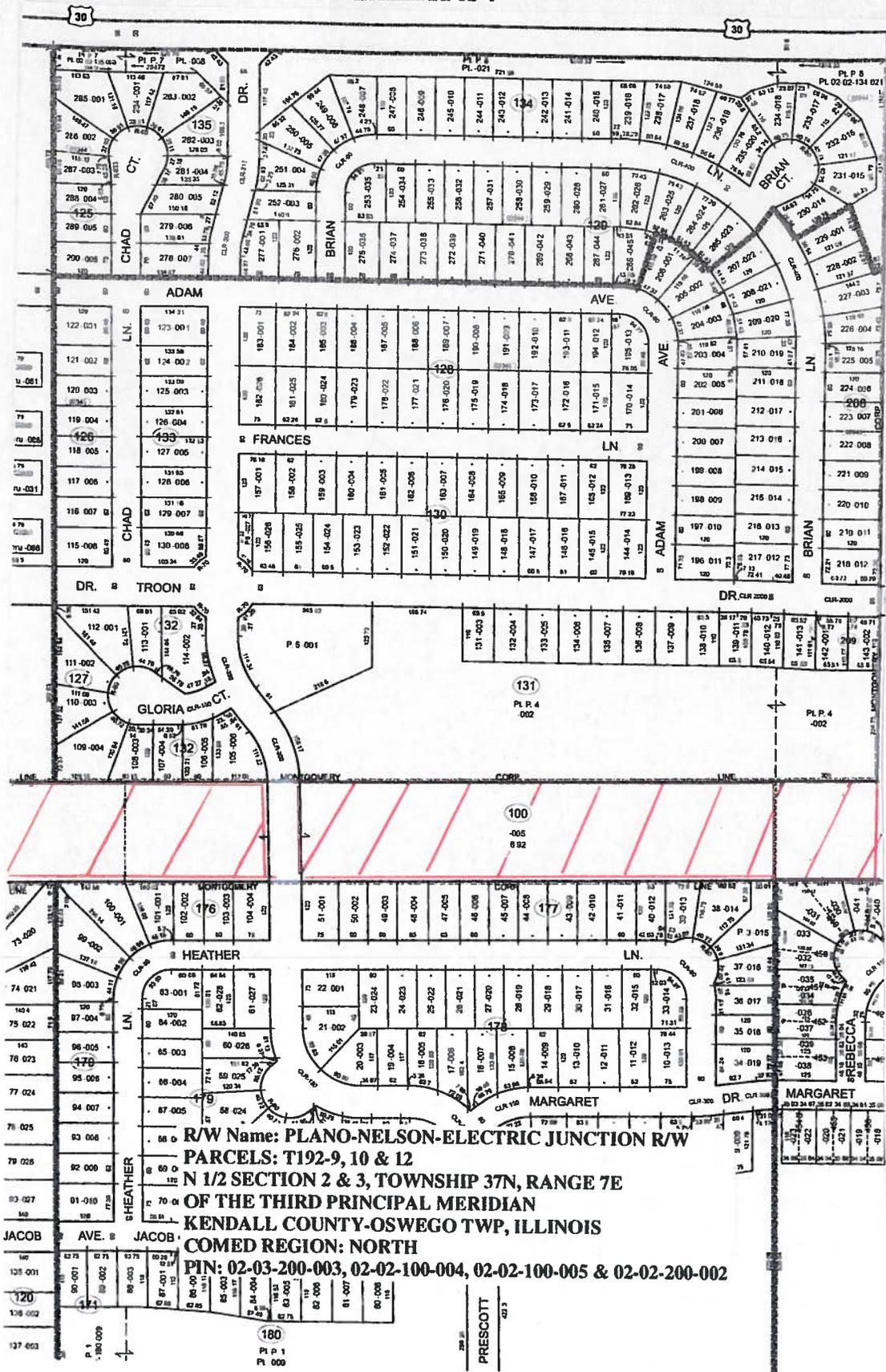
EXHIBIT A-2



**R/W Name: PLANO-NELSON-ELECTRIC JUNCTION R/W
 PARCELS: T192-9, 10 & 12
 N 1/2 SECTION 2 & 3, TOWNSHIP 37N, RANGE 7E
 OF THE THIRD PRINCIPAL MERIDIAN
 KENDALL COUNTY-OSWEGO TWP, ILLINOIS
 COMED REGION: NORTH
 PIN: 02-03-200-003, 02-02-100-004, 02-02-100-005 & 02-02-200-002**

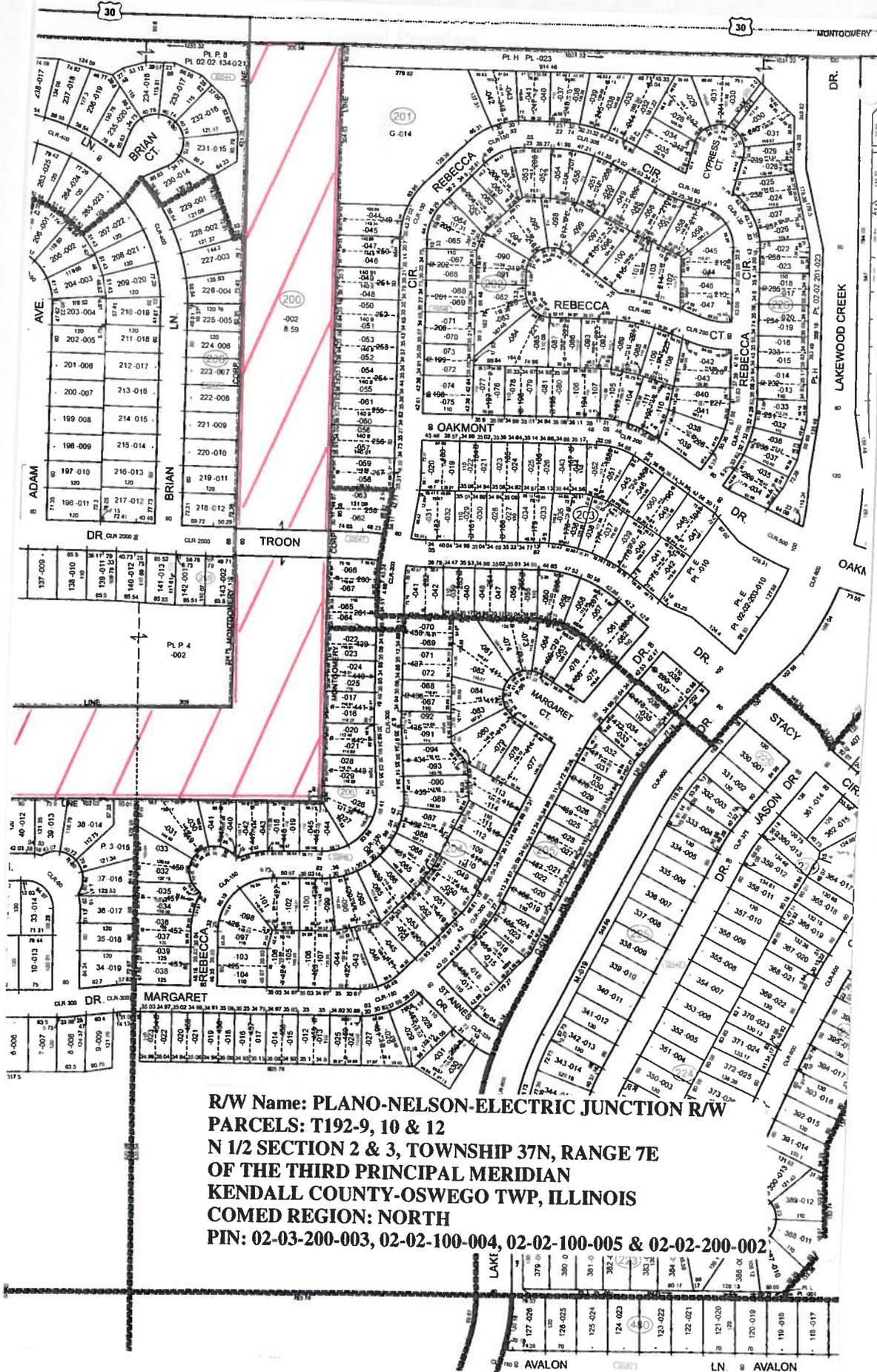
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EXHIBIT A-4



**R/W Name: PLANO-NELSON-ELECTRIC JUNCTION R/W
 PARCELS: T192-9, 10 & 12
 N 1/2 SECTION 2 & 3, TOWNSHIP 37N, RANGE 7E
 OF THE THIRD PRINCIPAL MERIDIAN
 KENDALL COUNTY-OSWEGO TWP, ILLINOIS
 COMED REGION: NORTH
 PIN: 02-03-200-003, 02-02-100-004, 02-02-100-005 & 02-02-200-002**

EXHIBIT A-5



R/W Name: PLANO-NELSON-ELECTRIC JUNCTION R/W
PARCELS: T192-9, 10 & 12
N 1/2 SECTION 2 & 3, TOWNSHIP 37N, RANGE 7E
OF THE THIRD PRINCIPAL MERIDIAN
KENDALL COUNTY-OSWEGO TWP, ILLINOIS
COMED REGION: NORTH
PIN: 02-03-200-003, 02-02-100-004, 02-02-100-005 & 02-02-200-002

EXHIBIT B

Base Rent Schedule

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EXHIBIT C-1 and C-2 Fencing and Barrier Requirements

6-16-94
C9522
PAGE 1 OF 1

REVISES SPEC. DATED 3-9-81

6-16-94
C9522
PAGE 1 OF 1

LOCKING ARRANGEMENTS FOR TRANSMISSION RIGHT-OF-WAY GATES & TRANSMISSION LINE TERMINALS

VARIES 14' MINIMUM VARIES

TYPICAL RIGHT OF WAY GATE

C9522.1
SINGLE LOCK ARRANGEMENT

C9522.2
ARRANGEMENT FOR TWO OR MORE LOCKS

PETITIONER'S LOCK

ITEM	DESCRIPTION	EM	S.I.	UNIT	QUANTITY	
					.1	.2
A	LOCK, PADLOCK, SHACKLE OPENING 1 1/2" IN. X 3/8 IN. PLATED STEEL	-	716027	EA.	1	1
B	STRAIGHT LINK CHAIN, HOT DIPPED GALVANIZED (1)	-	786756	FT.	3	3

ENGINEERING INFORMATION

1. CHAIN ORDERING DESCRIPTION STRAIGHT LINK CHAIN, TRADE SIZE 5/0. MATERIAL DIAMETER 0.26 IN., LINK WIDTH 0.44 IN. X LINK LENGTH 1.52 IN.

TRANSMISSION RELIABILITY AND STANDARDS

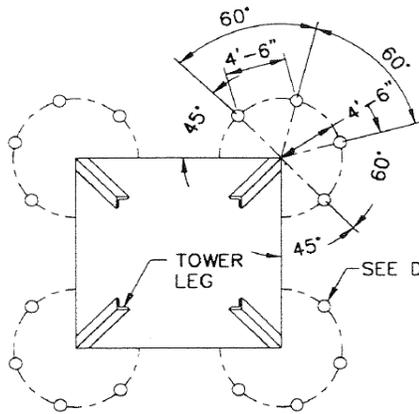
COMMONWEALTH EDISON COMPANY
SYSTEM STANDARD

X T L S C O E
REVISION

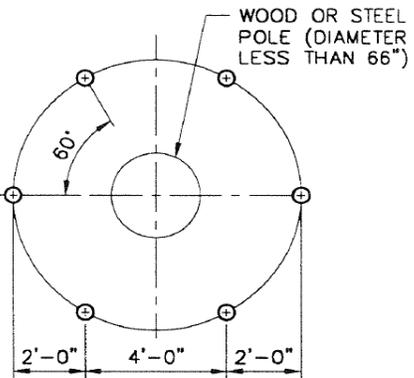
ACAD

PROTECTIVE BARRIERS FOR TRANSMISSION STRUCTURES (69KV AND ABOVE)

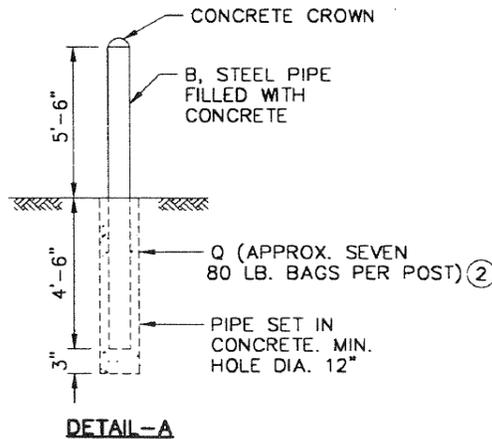
PROTECTIVE BARRIERS FOR TRANSMISSION STRUCTURES
ADJACENT TO PARKING AREAS (USING CONCRETE-FILLED STEEL PIPES)
C9520.1_



PLAN
TYPICAL TOWER LEG PROTECTION
C9520.11

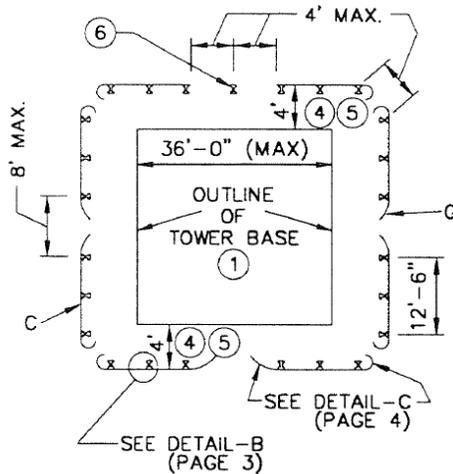


PLAN
TYPICAL WOOD OR STEEL POLE PROTECTION
C9520.12

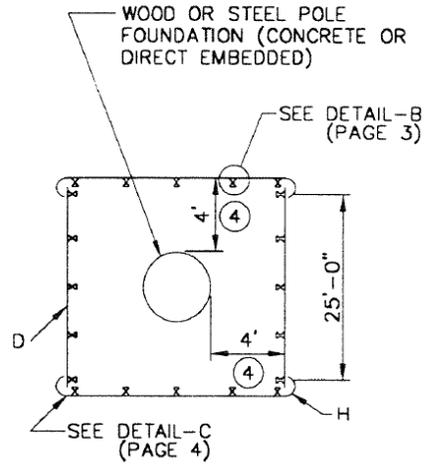


DETAIL-A

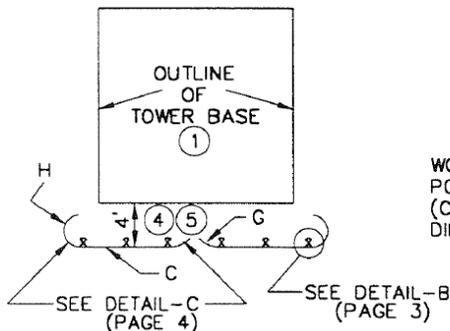
**PROTECTIVE BARRIERS FOR TRANSMISSION STRUCTURES
 NEAR ROADWAYS (USING HIGHWAY GUARDRAIL)
 C9520.2_**



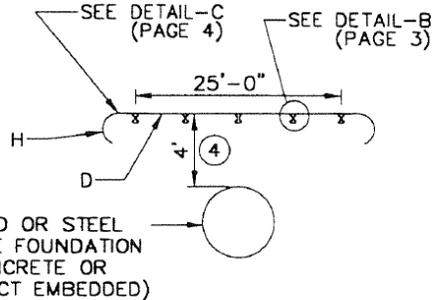
PLAN
 TYPICAL TOWER PROTECTION
 ON ALL SIDES
 C9520.21



PLAN
 TYPICAL POLE PROTECTION
 ON ALL SIDES
 C9520.22

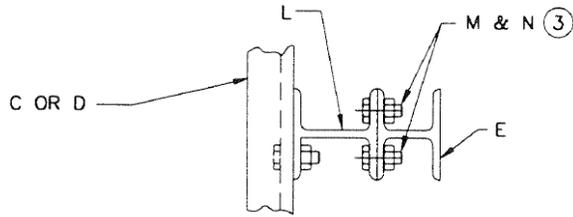


PLAN
 TYPICAL TOWER PROTECTION
 ON ONE SIDE
 C9520.23

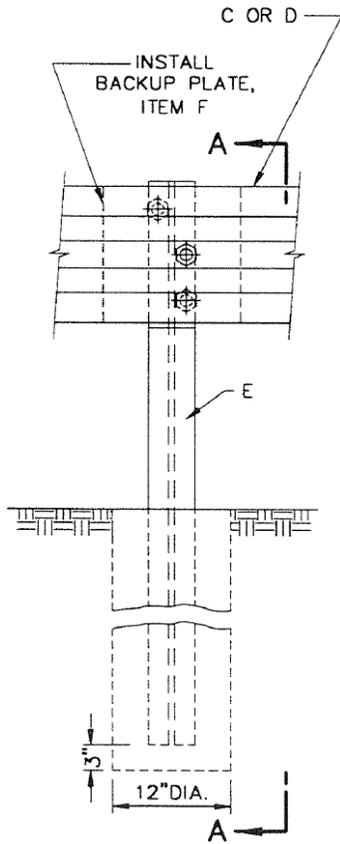


PLAN
 TYPICAL POLE PROTECTION
 ON ONE SIDE
 C9520.24

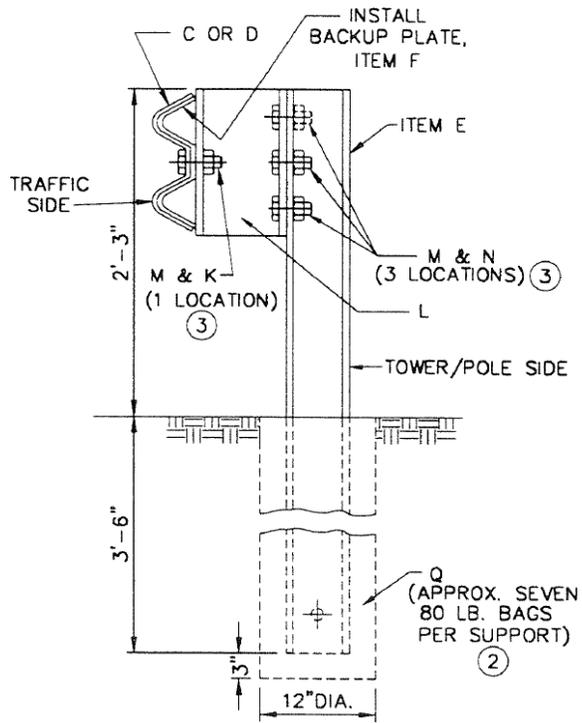
GUARDRAIL SUPPORT DETAILS, C9520.2_



DETAIL-B. PLAN

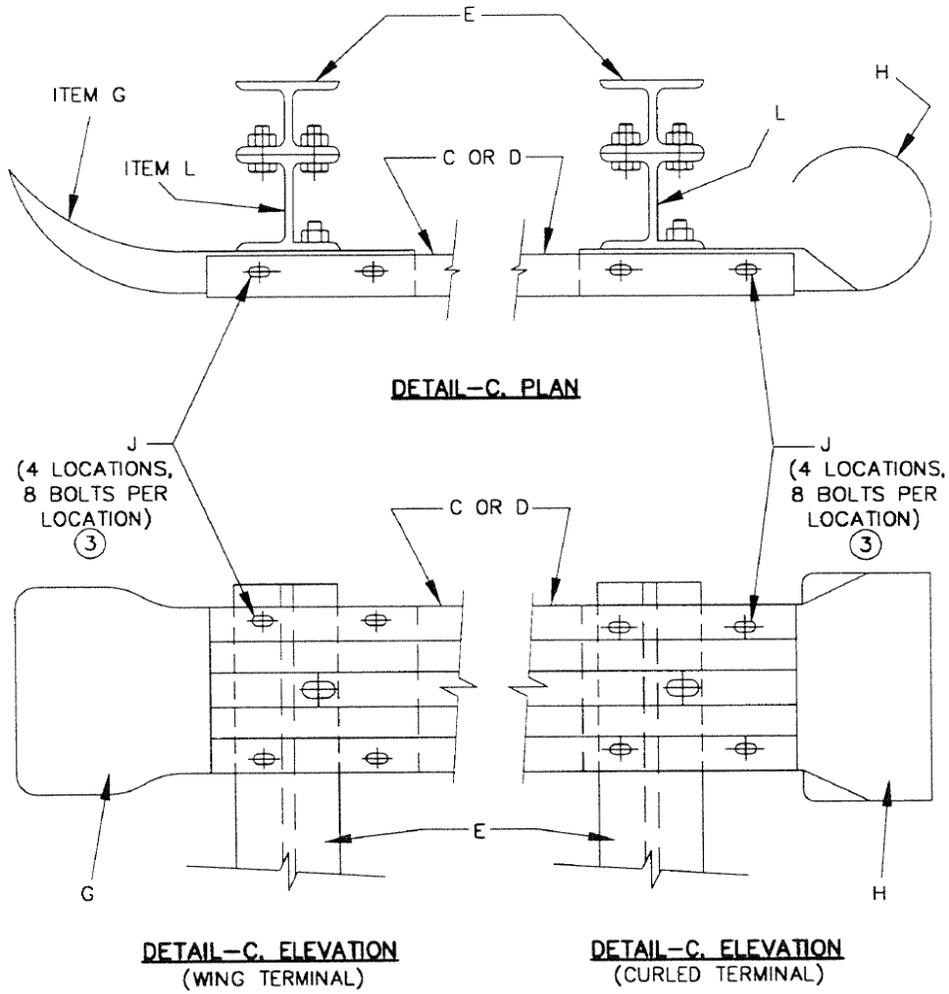


DETAIL-B. ELEVATION

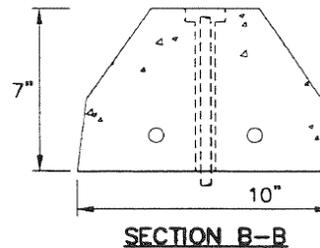
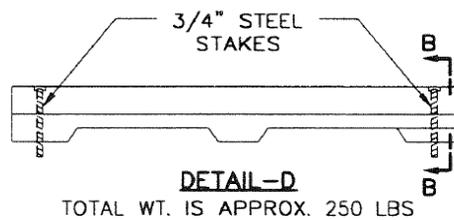
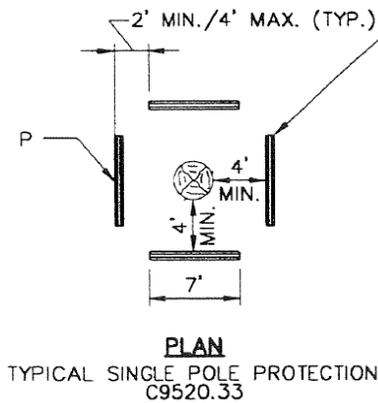
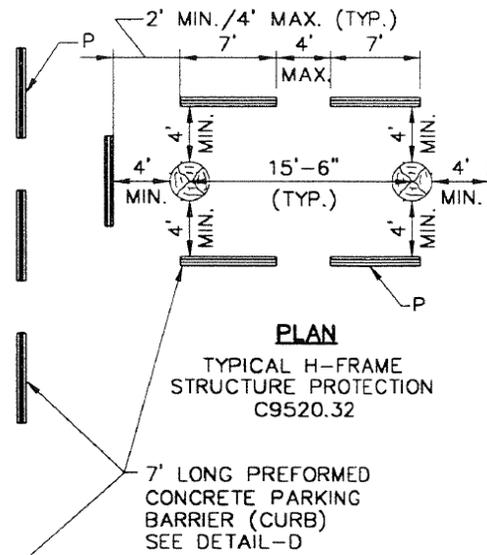
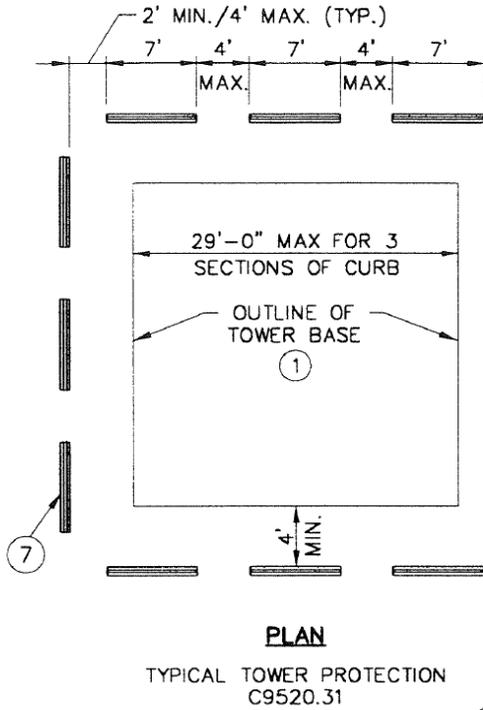


SECTION A-A

GUARDRAIL END SUPPORT/TERMINAL SECTION DETAILS, C9520.2_



**PROTECTIVE BARRIERS FOR TRANSMISSION STRUCTURES
 ADJACENT TO PARKING AREAS (USING PARKING CURBS)**
 C9520.3_



APPLICATION

- THIS STANDARD SHALL BE USED FOR INSTALLATION OF VEHICLE BARRIERS AROUND TRANSMISSION STRUCTURES AND ILLUSTRATES THE DIFFERENT TYPES OF VEHICLE BARRIERS WHICH MAY BE USED FOR TRANSMISSION STRUCTURE PROTECTION.

INFORMATION

- ① ACTUAL STRUCTURE TYPE, SHAPE & BASE DIMENSIONS MAY VARY. DETAILS WILL BE FURNISHED ON THE PROJECT DRAWINGS WHERE DIFFERENT THAN SHOWN.
- ② ITEM "Q", (S.I.#701129) CAN BE REPLACED WITH 4000 PSI READY-MIX CONCRETE PER EM48003. ONE CONCRETE TRUCK WITH 7 CUBIC YARD CAPACITY IS APPROXIMATELY EQUIVALENT TO 220 BAGS OF S.I.#701129 AFTER ADDING WATER AND MIXING.
- ③ NUTS ON GUARDRAIL BARRIER SHALL BE TIGHTENED WITH A TORQUE WRENCH TO A TORQUE VALUE OF 75 FOOT-POUNDS.
- ④ SPACING OF BARRIERS FROM STRUCTURE OUTLINE AS SHOWN IS MINIMUM AND MAY BE INCREASED WHERE NECESSARY.
- ⑤ THE TOWER PROTECTIVE BARRIER SPACING SHALL BE BASED ON ACTUAL TOWER BASE DIMENSIONS. DETAILS SHOWN ARE APPLICABLE TO A TOWER WITH A MAXIMUM BASE DIMENSION OF 36'-0". ADD ONE UNIT AT EACH SIDE IF THE TOWER BASE DIMENSION EXCEEDS 36'-0".
- ⑥ WHERE THIS DIMENSION CAN BE KEPT AT 4 FEET OR LESS, WITH CORNER OPENING NO MORE THAN 4 FEET. THE INTERMEDIATE POST SHOWN HERE CAN BE ELIMINATED.
- ⑦ NUMBER OF UNITS DEPENDENT ON SIZE OF TOWER BUT SPACES BETWEEN UNITS SHALL NOT EXCEED THE 4 FEET SHOWN, NOR SHALL THE MINIMUM DISTANCE FROM TOWER BE CHANGED. ADD ONE UNIT AT EACH SIDE IF THE TOWER BASE DIMENSION EXCEEDS 25'-0".
- ⑧ THE LOCATIONS OF THE PROTECTIVE BARRIERS WILL BE STAKED BY THE OWNER UNLESS OTHERWISE INDICATED ON THE PROJECT DRAWINGS.
- ⑨ CARE SHALL BE TAKEN TO AVOID DISTURBANCE OF ALL AREAS OUTSIDE OF THE IMMEDIATE WORK AREA. ANY DAMAGE TO PROPERTY SHALL BE IMMEDIATELY REPAIRED. ALL ADJACENT PROPERTY SHALL BE RESTORED TO ITS ORIGINAL CONDITION IMMEDIATELY AFTER THE INSTALLATION OF THE VEHICLE BARRIERS.

ITEM	DESCRIPTION	EM	SI	UNIT	QUANTITY															
					.11	.12	.21	.22	.23	.24	.31	.32	.33							
A																				
B	CONDUIT, RIGID, STEEL, 5 IN. IPS, GALV., 10 FT. LONG.		376232	EA	16	6														
C	GUARD RAIL, BEAM TYPE, 13'-6 1/2" LONG, 10 GAGE STEEL, HOT DIP GALVANIZED (AASHTO M-180).	10220 ITEM 1	386003	EA			8	2												
D	GUARD RAIL, BEAM TYPE, 26'-1/2" LONG, 10 GAGE STEEL, HOT DIP GALVANIZED (AASHTO M-180).	10220 ITEM 2	386004	EA				4	1											
E	I BEAM POST SUPPORT, 4" X 6" X 5'-9" LONG, 9 LBS./FT., A36, CARBON STEEL, HOT DIPPED GALVANIZED W6 X 9.	10220 ITEM 3	386005	EA			25	20	6	5										
F	BACKUP PLATE 12 1/4" X 12 1/2" LONG, 10 GAGE STEEL, HOT DIP GALVANIZED.	10220 ITEM 4	386006	EA			8	12	2	3										
G	WING, TERMINAL SECTION, 10 GAGE STEEL, HOT DIP GALVANIZED (AASHTO M-180)	10220 ITEM 5	386007	EA			8	2												
H	CURLED, TERMINAL SECTION, 10 GAGE STEEL, HOT DIP GALVANIZED (AASHTO M-180)	10220 ITEM 6	386008	EA			8	4	2	2										
J	BOLT, CARRIAGE 5/8" DIA. x 1 1/4" LONG, A307 BOLT WITH NUT WASHER, HOT DIPPED GALVANIZED	10220 ITEM 7	386009	EA			128	32	32	16										
K	WASHER 3" X 1 3/4" X 3/16" THICK (8 GAGE WASHER) A36 STEEL HOT DIPPED GALV.	10220 ITEM 8	386011	EA			24	20	6	5										
L	I BEAM BOLTS W 8 X 10 X 1'-1" LONG, A36 CARBON STEEL, HOT DIPPED GALV., 10# PER FT.	10220 ITEM 9	386010	EA			24	20	6	5										
M	MACHINE BOLTS 5/8" DIA. X 2" LONG A307 BOLT HOT DIPPED GALVANIZED WITH NUT A563	10257	621602	EA			96	80	24	20										
N	5/8" DIA. FLAT WASHER (HOT DIPPED GALVANIZED)	10220 ITEM 11	532666	EA			168	140	42	35										
P	CURB, PARKING, 7 FT. LONG X 7 IN. HIGH X 10 IN. WIDE, W/TWO 3/4" X 18" STEEL STAKES		247982	EA							12	6	4							
Q	MIXTURE, CONCRETE 80 LB. (2)		701129	BC	112	42	175	140	42	35										

EXHIBIT D
Insurance Requirements

A. Tenant agrees to require its contractors, before commencing any work on the Leased Premises to purchase and maintain a policy or policies of insurance issued by insurance companies authorized to do business in the State of Illinois, having ratings of A-/VII or better in the Best's Key Rating Insurance Guide (latest edition in effect at the latest date stated in the Certificates of Insurance) and in a form satisfactory to Landlord as follows:

B. Tenant agrees to require its contractors, before commencing any work on the Leased Premises to purchase and maintain a policy or policies of insurance issued by insurance companies authorized to do business in the State of Illinois, having ratings of A-/VII or better in the Best's Key Rating Insurance Guide (latest edition in effect at the latest date stated in the Certificates of Insurance) and in a form satisfactory to Landlord as follows:

COVERAGE #1

Workers' Compensation Insurance with statutory limits, as required by the state in which the work is to be performed, and Employers' Liability Insurance with limits not less than One Million dollars (\$1,000,000.00) each accident for bodily injury by accident, one million dollars (\$1,000,000) each employee for bodily injury by disease, and one million dollars (\$1,000,000) policy limit.

COVERAGE #2

Commercial General Liability (CGL) Policy or Policies (with coverage consistent with ISO CG 0001 (12 07 or its equivalent)) covering all contractors, subcontractors and all their subcontractors with limits of not less than two million dollars (\$2,000,000.00) per occurrence and per project or per location aggregate covering liability for bodily injury and property damage arising from premises, operations, independent contractors, personal injury/advertising injury, blanket contractual liability and products/ completed operations for not less than three (3) years from the date Landlord and Tenant terminate the lease. (CGL insurance includes, but is not limited to coverage for claims against Landlord for injuries to employees of Tenant and its contractors or any subcontractors).

Additional Insured Endorsement. All liability insurance policies shall name Landlord, its officers, directors, employees, agents, representatives, Affiliates, subsidiaries, successors, and assigns, as additional insureds, shall be primary to any other insurance carried by Landlord, and shall provide coverage consistent with ISO Form CG 2026 (11/85), or the combination of ISO Form CG 20 10 07 04 and CG 20 37 07 04, or their equivalents, and shall maintain the required coverages (including but not limited to coverage for claims against Landlord for injuries to employees of Tenant and its contractors or any subcontractors), for a period of not

less than three (3) years from the date the Lease is terminated.

COVERAGE #3

Automobile Liability coverage (including coverage for claims against Landlord for injuries to employees of Tenant and its contractors or any subcontractors in an amount of not less than one million dollars (\$1,000,000) per accident for bodily injury and property damage, for owned non-owned and hired, vehicles.

COVERAGE 4

Excess or Umbrella liability insurance coverage in an amount that in combination with Commercial General Liability coverage and Automobile Liability coverage totals six million dollars (\$6,000,000) of liability insurance per occurrence.

Tenant's Insurance during the Term shall be the following:

Tenant self-insures for losses which are not greater than \$2,000,000 and shall continue to do so as long as this agreement is in effect. The Tenant carries excess liability insurance in an amount of not less than \$5,000,000 per occurrence and, with an aggregate of not less than \$10,000,000 per annual period and shall maintain such insurance so long as this agreement is in effect.

These policies do not contain any provisions excluding coverage for injury, loss, or damage arising out of or resulting from (a) doing business on, near, or adjacent to Landlord's facilities, or (b) surface or subsurface pollution, contamination or seepage, or from handling treatment, disposal, or dumping of waste materials or substances. There shall be furnished to Landlord, prior to commencing the work above described a certificate of insurance evidencing the foregoing coverage.

All policies shall contain a provision that coverages afforded under the policies will not be canceled or materially changed until at least thirty (30) days prior written notice (ten (10) days in the case of nonpayment of premium) has been given to Landlord.

Tenant shall provide evidence of the required insurance coverage which shall be delivered to Landlord upon execution of this document. The insurance shall be kept in force through the Term hereof through the above-referred policy, or such subsequent or substitute policy or policies as Tenant may, at its discretion, obtain. Tenant shall also provide Landlord with evidence of all of the insurance required hereunder prior to the effective date of the Lease whenever any insurance policy procured by Tenant hereunder is renewed and whenever Tenant obtains a new insurance policy hereunder.

If any policy is written on a claims made basis, the retroactive date may not be advanced beyond the date of the Lease and coverage shall be

maintained in full force and effect for two (2) years after termination of the Lease, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the parties.

Insurance coverage provided by Tenant shall not include any claims made insurance policy or any policy or endorsement language that limits the scope of coverage for liability assumed under a contract.

To the extent permitted by applicable Laws, all above-mentioned insurance policies shall provide the following:

(2) (1) Provide for a waiver of all rights of subrogation which Tenant's insurance carrier might exercise against Landlord; and

(2) Any Excess or Umbrella liability coverage will not require contribution before it will apply

Landlord hereby reserves the right to amend, correct and change from time-to-time the limits, coverages and forms of policies as may be required from Tenant's contractors. If Tenant receives notice that Landlord has amended, corrected or changed the limits, coverages, and forms of policies, Tenant will require agreements with Contractors, signed subsequent to said notice to include such changes. In no event will notice of changes to insurance requirements affect the agreements that Tenant is currently bound to with Contractors.

WAIVER OF SUBROGATION

Tenant and its contractors shall waive all rights of subrogation against Landlord under those policies procured in accordance with this Lease.

EXHIBIT E

Additional Requirements

Tenant shall adhere to the following requirements:

- 1.** Tenant shall maintain Tenant's Facilities and the Leased Premises (which includes the open grass way area) of the Landlord right of way property.
- 2.** The metallic goal structures are not to be permanent fixtures and must be removed after each use. It is suggested the metallic structures be grounded to guard against induced voltages.
- 3.** No part of the field or goal structures shall be located within ten (10) feet of any Landlord equipment or facilities.
- 4.** Care must be used when mowing the fields such that no Landlord structures are touched.
- 5.** If lighting and landscaping is required, plans and details must be provided to ComEd for review to ensure safety clearances are not violated.
- 6.** Tenant's facilities on Landlord's property should be designed for HS20 axle loading per AASHTO highway specifications in order to withstand Landlord's construction traffic.
- 7.** Tenant must not excavate and /or store material or construction equipment within 10 feet of the existing metallic and/or wood structures installed on Landlord property. Tenant shall contact the Overhead Transmission Engineering department with any questions concerning this request.
- 8.** Tenant must use care when working on Landlord property to avoid damage to existing facilities and equipment. The owners of the various pipelines and /or owners of underground facilities shall be contacted by the Tenant to provide any restrictions such as grade cover and/ or specific protection and/or restrictions during any penetration and/or disturbing of the Landlord property and surface.
- 9.** There are existing buried hand holes for the LLR fiber in the area. If these hand holes were paved over during the installation of the bike path it poses a maintenance concern. Slack coils exist in the hand holes for emergency restoration purposes. The cable route should be located to verify the newly installed bike path is not over the cable or hand holes. If it is over the hand holes access to those hand holes needs to be addressed by either rerouting the path or other means. This applies to plan se 05-655 and 06-689.
- 10.** Staging and stockpiling of material during construction must not exceed ten (10) feet in elevation above grade. Construction equipment shall not be placed on the upper-most sections of the stockpiles.
- 11.** Tenant must remove all scrub brush, limbs and/or tree trunks from the Leased Premises. Burning of vegetation, scrub brush, limbs and/or tree trunks is not permitted.
- 12.** Tenant must not plant trees within fifteen (15) feet of existing overhead transmission facilities, distribution structures or other Landlord's Facilities.
- 13.** Tenant shall only plant vegetation and /or trees that will not exceed ten (10) feet in elevation at maturity.
- 14.** Landlord reserves the right to trim vegetation and /or trees and remove any vegetation or trees to (i) assure National Electrical Safety Code (NESC) electrical clearances are met (ii) perform maintenance and/or repairs to Landlord's Facilities.
- 15.** The path shall not meander, but it may curve around existing structures and shall maintain fifteen (15) foot spacing from all existing transmission structures.
- 16.** At all path access points, Tenant must post highly visible signs indicating that motorized vehicular use of the path is prohibited. Further, Tenant shall take responsibility to ensure that motorized vehicular use does not occur.
- 17.** The path surface for Tenant's project cannot use aggregate concrete or curbs. A crushed limestone or asphalt surface is acceptable.

- 18.** Tenant's proposed grade change cannot exceed eight (8) inches within the Landlord's property, without Landlord's prior written consent, and must ensure that the existing drainage and storm water will not pool on the Leased Premises or adjacent properties.
- 19.** Any damage to Landlord's property caused by Tenant shall be repaired at Tenant's expense.
- 20.** Tenant shall not place obstructions on the Leased Premises that may restrict Landlord's ability to access, operate and maintain existing and future transmission and distribution facilities. Tenant shall not leave trenches open overnight.
- 21.** Due to the presence of Landlord's electrical wires located on the Leased Premises, no vehicles, equipment or anything else having a height more than fourteen (14) feet from grade level including, but not limited to any equipment attached to vehicles or equipment such as antennas, shall be placed, driven, moved or transported thereon. Tenant shall not permit any activity which could result in a wire to ground electrical contact or damage to Landlord's Facilities. Such activities include, but are not limited to flying kites, model airplanes, driving minibikes, go carts and snowmobiles.
- 22.** Tenant shall not leave construction equipment and materials on Leased Premises when there is no work activity actually in progress, including overnight.
- 23.** When working in the vicinity of Landlord's electric distribution/transmission lines during installation, operation, maintenance or otherwise, Tenant shall comply with OSHA requirements of a minimum twenty (20) feet working clearance distance to be maintained between the booms, arms or other parts that can be raised on the equipment of Tenant or Tenant's contractor and Landlord's existing 138,000 and 345,000 volt electric transmission conductors. Under no circumstances shall truck beds be raised underneath Landlord's distribution and /or transmissions lines. This paragraph shall be added to any construction drawings.
- 24.** Tenant acknowledges that the Landlord does use heavy equipment and that Landlord will not be responsible for any damage to the Tenant's facilities that may occur due to the Landlord's right to access Landlord's property to operate and maintain new and existing transmission and distribution facilities.
- 25.** Upon completion of Tenant's project, Tenant must remove any equipment, construction debris and material from Landlord's property and restore any other disturbed areas of the Landlord's property to their pre-construction condition.
- 26.** All applicable environmental permits must be obtained by Tenant at Tenant's sole cost, including, if required, Wetlands and National Pollutant Discharge Elimination System (NPDES) stormwater permits as required under the Clean Water Act as well as any other applicable environmental permits.
- 27.** Tenant shall comply with requirements of all permits, which may include site monitoring, reporting and restoration extending well beyond the construction time period.
- 28.** Tenant shall comply with all applicable regulations including implementation of a Stormwater Pollution Prevention Plan (SWPPP) and a Soil Erosion and Sediment Control Plan (SESC) to minimize sediment pollution in stormwater runoff as well as any other required practices.
- 29.** If the project requires excavation of soil on the Leased Premises, such work shall be performed at Tenant's cost with a contractor selected by Landlord.
- 30.** If the project requires additional soil, only clean fill shall be used.
- 31.** No hazardous materials may be stored on Landlord's property including in any vehicle.
- 32.** Landlord prefers that pervious materials be used in the construction of any paths on the Leased Premises.
- 33.** A high level summary of the project plans shall be provided by Tenant to Landlord for Landlord's review and approval prior to any construction, including the following:
 - A letter that summarizes the results of Tenant's analysis of what types of environmental permits, plans, and controls are required (e.g., wetlands, SWPPP, SESC, threatened and endangered species impacts, etc.)
 - A copy of any required environmental permits
 - A copy of any environmental reports required by the permits

- 34.** Tenant shall, at its expense, pay for all costs associated with any of the above items (consulting, permitting, cleanup, audit, etc.).
- 35.** Prior to and at the completion of the project, the Petitioner shall contact ComEd representative Larry Marshall at 630-955-6256.
- 36.** Any activity on CE ROW needs to be coordinated through Tina Kowalczyk at 224-244-1826.

EXHIBIT F

Form of Memorandum

See attached.

This instrument was prepared by:

When recorded, return to:

MEMORANDUM OF RECREATIONAL LEASE

THIS MEMORANDUM OF RECREATIONAL LEASE (“Memorandum”) is made as of the ____ day of _____, 20____, by and between COMMONWEALTH EDISON COMPANY, an Illinois corporation (“Landlord”), and _____, a _____ (“Tenant”). Capitalized terms used in this Memorandum that are not otherwise defined herein shall have the meanings set forth in that certain Recreational Lease dated as of the date hereof (as amended, restated, or supplemented from time to time, the “Lease”) by and between Landlord and Tenant for space located at _____, Illinois (the “Leased Premises”), the legal description of which is set forth on Exhibit A attached hereto and made a part hereof.

1. Demise. Pursuant to the Lease, Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the Leased Premises from Landlord.
2. Term. The term of the Lease commences on _____, 20____, and, unless the Lease is extended or terminated sooner as provided in the Lease, shall expire on _____, 20____.
3. [Renewal Options. Subject to the terms of the Lease, Tenant has _____ (____) renewal options, each option being for five (5) years, which options are more particularly set forth in the Lease.]
4. [Expansion Options. Subject to the term of the Lease, Tenant has certain rights of expansion in the Leased Premises, as more particularly set forth in the Lease.]
5. [Contraction Options. Subject to the terms of the Lease, Tenant has several contraction options with respect to the Leased Premises, as more particularly set forth in the Lease.]
6. [Right of First Offer (Additional Space). Subject to the terms of the Lease, Tenant has certain rights of first offer with respect to the leasing of space located at _____, as more particularly set forth in the Lease.]

7. [Right of First Offer (Leased Premises)]. Subject to the terms of the Lease, Tenant has certain rights of first offer in the event Landlord desires to sell the Leased Premises, as more particularly set forth in the Lease.]
8. [Leasing Restrictions]. Landlord cannot, without the express written consent of Tenant (which may be withheld in Tenant's sole discretion), _____.]
9. Interpretation; Conflicts. This Memorandum does not alter, amend, modify or change the Lease in any respect. This Memorandum is executed by the parties solely for the purpose of recordation in the real estate records of _____ County, Illinois, and it is the intent of the parties that it shall give notice to and confirm the Lease to the same extent as if all of the provisions of the Lease were fully set forth herein. The Lease is hereby incorporated by reference into this Memorandum, and the parties hereby ratify and confirm all of the terms and provisions of the Lease. In the event of any conflict or inconsistency between the provisions of this Memorandum and the provisions of the Lease, the provisions of the Lease shall control.
10. Counterparts. This Memorandum may be executed by the parties in counterparts. Each such counterpart shall be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum on the first date written above.

LANDLORD:

TENANT:

COMMONWEALTH EDISON COMPANY,
an Illinois corporation

a_ _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned a Notary Public in and for the County and State aforesaid, do hereby certify that on this day personally appeared before me _____ personally known to me to be the same person whose name is subscribed to the foregoing instrument and personally known to me to be _____ of COMMONWEALTH EDISON COMPANY, an Illinois corporation, and acknowledged that he/she signed and delivered said instrument as his/her free and voluntary act _____ of said corporation, and that the said instrument was signed and delivered in the name and on behalf of said corporation as the free and voluntary act and deed of said corporation.

GIVEN under my hand and notarial seal this _____ day of _____, 20_____.

My Commission Expires:

Notary Public

EXHIBIT A

(Legal Description)

[to be attached]



REQUEST FOR BOARD OF TRUSTEES ACTION FOR INCLUSION ON BOARD AGENDA

- Resolution or Ordinance (Blue)
 Recommendation of Boards, Commissions & Committees (Green)
 Other Business (Pink)

To: Village President and Board of Trustees
From: Jeff Zoepfel, Village Administrator
Date: February 5, 2016 **B of T Date:** February 8, 2016
Subject: Discussion of Audit Proposal Results
Submitted By: Justin VanVooren, Director of Finance

Background/Policy Implications:

The Village released a Request for Proposals (RFP) for professional auditing services for the fiscal years ending April 30, 2016 through 2020 due to our expiring contract with Sikich. The RFP was posted on the Village website and sent to 11 auditing firms (10 listed on IGFOA website and one who asked to be added). The proposals from each firm were due to the Village on January 29, 2016 at 12:00 pm.

The results are as follows:

- 5 firms submitted proposals by the deadline
- 1 firm submitted a proposal after the deadline
- 3 firms submitted letters stating they would not bid
- 2 firms did not respond

One of the 5 firms does not have experience with Illinois governments, which staff feels would not allow them to provide an adequate service level to the Village.

The remaining 4 firms have:

- Independence from the Village and a license to practice in Illinois;
- Personnel who have received adequate continuing professional education (CPE);
- Submitted the most recent external quality control review;
- Adhered to the instructions in the RFP; and
- Expertise and experience with Illinois government entities.

Therefore, staff feels the 4 firms would be qualified to provide audit services to the Village. The firms and applicable fees are shown in the attached. Staff would ask for direction to approve a proposal at the February 22, 2016 Village Board meeting.

Describe Fiscal Impact/Budget Account Number and Cost:

The Village will pay the applicable audit fees throughout the life of the contract ranging from \$120,000 to \$168,850, which will be included in the budget each year.

Village Administrator Jeff Zoepfel

NOTE: All materials must be submitted to and approved by the Village Administrator by 12:00 noon, Thursday, prior to the Agenda distribution.

Village of Montgomery
2016 Audit Proposal Results

Qualified

Firm	Contact	Email	Section	FY2016	FY2017	FY2018	FY2019	FY2020	Total Cost
Lauterbach & Amen, LLP	Jamie Wilkey	jwilkey@lauterbachamen.com	Audit	18,400	18,800	19,200	19,600	20,000	96,000
			CAFR	-	-	-	-	-	-
			Comptroller	-	-	-	-	-	-
			IDOI pension	1,200	1,220	1,240	1,260	1,280	6,200
			TIF report	700	720	740	760	780	3,700
			Single audit	2,700	2,760	2,820	2,880	2,940	14,100
			Total	23,000	23,500	24,000	24,500	25,000	120,000
Baker Tilly Virchow Krause, LLP	Jason Coyle	jason.coyle@bakertilly.com	Audit	17,000	17,340	17,690	18,250	18,830	89,110
			CAFR	3,000	3,060	3,120	3,180	3,240	15,600
			Comptroller	500	510	520	540	560	2,630
			IDOI pension	1,000	1,020	1,040	1,070	1,100	5,230
			TIF report	1,000	1,020	1,040	1,070	1,100	5,230
			Single audit	4,000	4,080	4,160	4,280	4,410	20,930
			Total	26,500	27,030	27,570	28,390	29,240	138,730
Sikich LLP	Brian LeFevre	BLEFevre@sikich.com	Audit	23,500	22,500	22,950	23,639	24,438	117,027
			CAFR	1,000	1,020	1,040	1,072	1,104	5,236
			Comptroller	600	612	624	643	662	3,141
			IDOI pension	1,700	1,734	1,769	1,822	1,876	8,901
			TIF report	1,250	1,275	1,301	1,340	1,380	6,546
			Single audit	3,000	3,060	3,121	3,215	3,311	15,707
			Total	31,050	30,201	30,805	31,731	32,771	156,558
BKD LLP - Scott Termine	Scott Termine	stermine@bkd.com	Audit	21,250	22,100	23,000	24,000	25,000	115,350
			CAFR	2,500	2,500	2,500	2,500	2,500	12,500
			Comptroller	500	500	500	500	500	2,500
			IDOI pension	2,100	2,100	2,100	2,100	2,100	10,500
			TIF report	1,900	1,900	1,900	1,900	1,900	9,500
			Single audit	3,500	3,600	3,700	3,800	3,900	18,500
			Total	31,750	32,700	33,700	34,800	35,900	168,850

Not Qualified

Firm	Contact	Email	Section	FY2016	FY2017	FY2018	FY2019	FY2020	Total Cost
Gabridge & Company, PLC	Justin VanFulpen	jvanfulpen@gabridgeco.com	Audit	16,820	17,250	17,750	18,250	18,750	88,820
			CAFR	2,000	2,000	2,000	2,000	2,000	10,000
			Comptroller	5,000	5,000	5,000	5,000	5,000	25,000
			IDOI pension	1,500	1,500	1,500	1,500	1,500	7,500
			TIF report	1,000	1,000	1,000	1,000	1,000	5,000
			Single audit	3,500	3,500	3,500	3,500	3,500	17,500
			Total	29,820	30,250	30,750	31,250	31,750	153,820
Klein Hall CPAs (DSQ - submitted after deadline)	Tim Gavin	tgavin@kleinhallcpa.com	Audit	DSQ	DSQ	DSQ	DSQ	DSQ	-
			CAFR	DSQ	DSQ	DSQ	DSQ	DSQ	-
			Comptroller	DSQ	DSQ	DSQ	DSQ	DSQ	-
			IDOI pension	DSQ	DSQ	DSQ	DSQ	DSQ	-
			TIF report	DSQ	DSQ	DSQ	DSQ	DSQ	-
			Single audit	DSQ	DSQ	DSQ	DSQ	DSQ	-
			Total	-	-	-	-	-	-

Did not bid										
Firm	Contact	Email	Section	FY2016	FY2017	FY2018	FY2019	FY2020	Total Cost	
CliftonLarsonAllen LLP (DNS - did not submit)	Hope Wheeler	hope.wheeler@claconnect.com	Audit	DNS	DNS	DNS	DNS	DNS	-	
			CAFR	DNS	DNS	DNS	DNS	DNS	-	
			Comptroller	DNS	DNS	DNS	DNS	DNS	-	
			IDOI pension	DNS	DNS	DNS	DNS	DNS	-	
			TIF report	DNS	DNS	DNS	DNS	DNS	-	
			Single audit	DNS	DNS	DNS	DNS	DNS	-	
			Total	-	-	-	-	-	-	-
GW & Associates, PC (DNS - did not submit)	David Gonzalez	david.gonzalez@cpagwa.com	Audit	DNS	DNS	DNS	DNS	DNS	-	
			CAFR	DNS	DNS	DNS	DNS	DNS	-	
			Comptroller	DNS	DNS	DNS	DNS	DNS	-	
			IDOI pension	DNS	DNS	DNS	DNS	DNS	-	
			TIF report	DNS	DNS	DNS	DNS	DNS	-	
			Single audit	DNS	DNS	DNS	DNS	DNS	-	
			Total	-	-	-	-	-	-	-
Crowe Horwath LLP (N/A - letter not bidding)	Christine Torres	christine.torres@crowehorwath.com	Audit	N/A	N/A	N/A	N/A	N/A	-	
			CAFR	N/A	N/A	N/A	N/A	N/A	-	
			Comptroller	N/A	N/A	N/A	N/A	N/A	-	
			IDOI pension	N/A	N/A	N/A	N/A	N/A	-	
			TIF report	N/A	N/A	N/A	N/A	N/A	-	
			Single audit	N/A	N/A	N/A	N/A	N/A	-	
			Total	-	-	-	-	-	-	-
Miller Cooper & Co., Ltd (N/A - letter not bidding)	Susan Jones	sjones@millercooper.com	Audit	N/A	N/A	N/A	N/A	N/A	-	
			CAFR	N/A	N/A	N/A	N/A	N/A	-	
			Comptroller	N/A	N/A	N/A	N/A	N/A	-	
			IDOI pension	N/A	N/A	N/A	N/A	N/A	-	
			TIF report	N/A	N/A	N/A	N/A	N/A	-	
			Single audit	N/A	N/A	N/A	N/A	N/A	-	
			Total	-	-	-	-	-	-	-
Plante Moran (N/A - letter not bidding)	Stacey Reeves	stacey.reeves@plantemoran.com	Audit	N/A	N/A	N/A	N/A	N/A	-	
			CAFR	N/A	N/A	N/A	N/A	N/A	-	
			Comptroller	N/A	N/A	N/A	N/A	N/A	-	
			IDOI pension	N/A	N/A	N/A	N/A	N/A	-	
			TIF report	N/A	N/A	N/A	N/A	N/A	-	
			Single audit	N/A	N/A	N/A	N/A	N/A	-	
			Total	-	-	-	-	-	-	-