

**INTERGOVERNMENTAL LEASE AGREEMENT BY AND BETWEEN  
THE VILLAGE OF OAK PARK AND  
THE BOARD OF EDUCATION OF OAK PARK  
ELEMENTARY SCHOOL DISTRICT NUMBER 97**

**THIS INTERGOVERNMENTAL LEASE AGREEMENT** (“Lease”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by the Village of Oak Park, an Illinois home rule municipal corporation, (hereinafter referred to as “Village”) and the Board of Education of Oak Park Elementary School District Number 97, a school district organized under the Illinois School Code, 105 ILCS 5/1-1 *et seq.* (hereinafter referred to as the “District”).

**RECITALS**

**WHEREAS**, the Village and the District (collectively referred to as the “Parties”) entered into a Memorandum of Understanding dated October 20, 2014, attached hereto and incorporated herein by reference as Exhibit A; and

**WHEREAS**, pursuant to the Memorandum of Understanding, it is contemplated that the District will move its Maintenance Facility operations, currently located at the property commonly known as 541 Madison Street, Oak Park, Illinois (hereinafter referred to as the “District Facility”) to the Village’s Public Works Center located at the property commonly known as 201 South Boulevard, Oak Park, Illinois (hereinafter referred to as the “Public Works Center”) upon the District’s sale of the District Facility; and

**WHEREAS**, the District Facility is located within the Village’s Madison Street Business Corridor Tax Increment Financing Redevelopment Plan and Project (“TIF District”) for the Village’s Madison Street Business Corridor Redevelopment Project Area; and

**WHEREAS**, pursuant to this Lease, the District will rent from the Village a portion of the Public Works Center, totaling approximately 7,685 square feet of space for exclusive District use and unfettered access to 37,630 square feet of shared common space, not inclusive of 22,344 square feet for Village fleet and 77,631 square feet for Village exclusive use only, as depicted in Exhibit B, attached hereto and incorporated herein by reference (hereinafter referred to as “Premises”); and

**WHEREAS**, under Section 11-74.4-3(q)(7) of the Tax Increment Allocation Redevelopment Act (“TIF Act”), 65 ILCS 5/11-74.4-3(q)(7), increment from the TIF District may be used to pay all or a portion of a taxing district’s capital costs resulting from a redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs; and

**WHEREAS**, under Section 11-74.4-3(q)(8) of the TIF Act, 65 ILCS 5/11-74.4-3(q)(8), such Increment may be used to pay all or a portion of a taxing district’s “[r]elocation costs to the extent that a municipality determines that relocation costs shall be paid;” and

**WHEREAS**, the District is a taxing district under the TIF Act; and

**WHEREAS**, Article VII, Section 10 of the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, authorizes units of local government to contract or otherwise associate among themselves to obtain or share services, to exercise, combine or transfer any power or function, in any manner not prohibited by law; and

**WHEREAS**, the Village and the District are public agencies as that term is defined in the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

**WHEREAS**, pursuant to Section 3.1 of the Local Government Property Transfer Act, 50 ILCS 605/3.1, the Village may lease for a term “not exceeding 50 years” real property owned by the Village to a “transferee municipality” upon such terms and conditions that may be agreed by the parties; and

**WHEREAS**, the Village is a transferor municipality and the District is a transferee municipality and both the Village and the District are proper parties to this Lease pursuant to Section 1 of the Local Government Property Transfer Act, 50 ILCS 605/1; and

**WHEREAS**, pursuant to the terms set forth herein, the Parties have determined to enter into this Lease to provide for the terms by which the District shall rent the Premises, all pursuant to Article VII, Section 10 of the Illinois Constitution of 1970, the Intergovernmental Cooperation Act, the Local Government Property Transfer Act and the TIF Act.

**NOW, THEREFORE**, pursuant to the authority set forth above and any and all other applicable laws, and in consideration of the mutual covenants and obligations contained herein, it is agreed between the Village and the District as follows:

**SECTION 1. RECITALS INCORPORATED.**

1.1. The above recitals are incorporated herein by reference as though fully set forth.

**SECTION 2. SALE OF DISTRICT FACILITY PROPERTY AND RELOCATION COSTS.**

2.1. The District shall immediately market the District Facility property for sale upon the effective date of this Lease and shall use its best efforts to sell the District Facility property pursuant to terms satisfactory to the District.

2.2. The District shall be entitled to retain the proceeds from the sale of the District Facility property.

2.3. The Village shall reimburse the District for the District’s relocation costs from the District Facility to the Premises to the extent permissible under the TIF Act within thirty (30) days after the District’s submission of such costs in writing to the Village pursuant to Section 15 of this Lease.

**SECTION 3. TERM OF LEASE AND RENT.**

3.1. The District shall relocate its maintenance operations currently located at the District Facility to the Premises upon the closing of the sale of the District Facility or by December 31, 2017, whichever comes first ("Commencement Date"). The District shall be authorized pursuant to this Lease to conduct any and all of its maintenance operations at the Premises.

3.2. The District shall lease the Premises for one dollar (\$1.00) for a period of forty (40) years.

3.3. The forty (40) year term set forth in Section 3.2 above shall commence upon the Commencement Date. The District shall provide the Village with notice of the closing of the sale of the District Facility pursuant to Section 15 of this Lease, and the date of said notice shall be considered as the Commencement Date of the term of this Lease at 12:01 a.m. and shall end at 11:59 p.m. on the date of completion of the forty (40) year term set forth herein, unless terminated earlier by the mutual consent of the parties as set forth in Section 10 below.

**SECTION 4. LEASED PROPERTY.**

4.1. The District shall lease the Premises from the Village, which includes 7,685 square feet of space and consists of approximately 7,300 square feet in the lower level of the Public Works Center and 385 square feet of office space, including Room 220 and two cubicles on the second level of the Public Works Center, as depicted on Exhibit B. The Premises shall be and remain the sole property of the Village and the District shall have only the privilege of use of the Premises provided in this Lease. The Parties may mutually agree to equal alternative space arrangements for the District within the Public Works Center.

4.2. The District shall comply in every respect with all rules, orders, regulations, ordinances, statutes, and laws of all governmental units having jurisdiction over the Premises and the District's use of the Premises and with all requirements of any insurance company insuring either the Village or the District.

4.3. The District shall not vacate or abandon the Premises at any time during the lease term unless this Lease is terminated by the mutual consent of the parties pursuant to Section 10 below.

4.4. The District shall not permit the Premises to be used at any time or in any manner for the storage, use, or disposal, whether temporary or permanent, of any highly flammable or any hazardous material as such term is defined in any federal, state, or local rules, orders, regulations, ordinances, statutes, and laws relating in any way to the protection of the environment including, but not limited to, the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 *et seq.*, the Resource Conservation and Recovery Act, 49 U.S.C. § 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*, and the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, and regulations

promulgated thereto. The District shall comply with such reasonable rules and regulations as the Village may adopt from time to time for the usage of the Premises and which are otherwise applicable to properties leased by the Village and shall provide to the Village any all material safety data sheets for any permitted substances that are stored or brought on the Premises. Copies of such rules and regulations shall be furnished by the Village to District promptly upon their adoption by the Village from time to time.

4.5. All improvements and all plumbing, heating, lighting, electrical and air-conditioning fixtures and related equipment now or hereafter located upon the Premises or the Public Works Center, whether or not attached or affixed, shall be and remain a part of the Premises and the Public Works Center and shall constitute the Village's property and shall not be altered by the District during the term of this Lease without the written permission of the Village Manager or the Village Manager's designee.

## **SECTION 5. UTILITY SERVICE AND OTHER COSTS.**

5.1. The Village shall provide or cause to be provided the following utility and other services or payments: (1) payment of all real estate taxes and special assessments, if applicable; (2) snow removal for at the Public Works Center; and (3) any utilities not listed in Sections 5.2 and 5.5.

5.2. The District shall be responsible for the payment of all telephone, data transmission, electronic and computer services and any other specialized services for the District's operations at the Premises. The District shall provide its own telephone, facsimile, and copying equipment.

5.3. The District shall pay for any and all utility service costs, including all costs associated with bringing utility service to the Premises, if applicable, and any applicable deposits. The District shall continuously maintain in effect at all times such required utility services for the Premises that are separately metered and shall pay for such utility services on or before any applicable due dates.

5.4. All necessary build-out work with respect to the Premises shall be performed by the District and shall be subject to the prior written approval of the Village Manager or the Village Manager's designee. Said build-out work shall be performed pursuant to all Village Code requirements, including Village building permit requirements. The District's work shall be performed at its own cost and expense and shall be considered the District's work.

5.5. The District shall be responsible for refuse removal for the Premises. The District shall be permitted to have one (1) two (2) yard dumpster at the Public Works Center in a location to be determined by the Village Manager or the Village Manager's designee at the District's own cost and expense. The District may request that it be permitted to have additional dumpsters at the Public Works Center, subject to the written approval of the Village Manager or Village Manager's designee.

5.6. Any other services to be provided by the Village to the District other than those set forth herein shall be pursuant to a separate intergovernmental agreement, including, but not limited to, the purchase of fuel from the Village by the District for the District's fleet.

**SECTION 6. PARKING OF DISTRICT VEHICLES AND SIGNAGE.**

6.1. During the lease term, the District shall have the right to park District vehicles at the Premises. During the Lease term, District shall have the right to place, maintain, and erect on the exterior walls of the Premises signage of the District subject to the Village's review and written approval and shall not include the common areas of the Property. All such signage shall be removed from the exterior walls of the Premises upon the expiration or termination of this lease.

6.2. The District's employees shall park their own personal vehicles in permit parking spaces as they are available pursuant to the Village's permit parking system in a number mutually agreeable to the parties. If permit parking spaces are not available, the Village shall provide the District's employees with stickers or other mutually agreeable identification for their personal vehicles, which shall exempt the vehicle from any date and time restrictions for street parking at the locations set forth in this Section in a number mutually agreeable to the parties. Such stickers or other mutually agreeable identification shall apply to street parking at the 100 and 200 blocks of South Harvey Avenue, South Cuyler Avenue, and South Taylor Avenue in the Village. The District may request of the Village alternative parking arrangements for its employees if the street parking set forth herein is inadequate.

**SECTION 7. DISTRICT'S MAINTENANCE.**

7.1. The District shall be at all times responsible for the maintenance and repair of the interior of the Premises of whatsoever kind or nature. The District shall maintain the Premises in a clean, neat, and orderly condition at all times and shall otherwise perform all repairs of a housekeeping nature at the Premises.

7.2. The Village shall at all times be responsible for the maintenance and repair of the Public Works Center, including the common areas.

7.3. The District shall secure the Premises from access by unauthorized persons. The District shall be provided an allotment of key cards in a number to be determined by the mutual agreement of the District and the Village for access to the Premises and common areas of the Public Works Center, excluding the Village's fleet maintenance area, and shall reimburse the Village for the Village's costs for the key cards. The District shall abide by any and all Village requirements, rules and policies regarding access to the Public Works Center. Provided, however, that such requirements, rules, and policies shall not restrict the District's ability to access the Public Works Center twenty-four (24) hours per day.

7.4. The Village and the District agree that the Premises shall be delivered "as is." All work not provided herein shall be performed by the District at the District's expense.

7.5. The District shall not, without the prior written consent of the Village, make any alterations, improvements, or additions to the Premises, except as set forth herein.

7.6. The District shall at all times keep the Premises in good order, condition and repair and clean, sanitary and safe condition, including, but not limited to, doing such things as are necessary to cause the Premises to comply with applicable laws, ordinances, rules, regulations and orders of governmental and public bodies and agencies. The District shall be responsible for any and all damages due to its use of the Premises or the Public Works Center during the term of this Lease or any construction activities at the Premises.

7.7. The Village shall maintain in good condition and repair at all times the electrical, plumbing, water, heating, and air conditioning systems or other items serving the Premises, the building exterior, structure, including the walls, roof, and glass, and the parking lot and sidewalks on the Property. However, if any of such maintenance, repairs, replacements, or alterations required to be made by the Village shall be made necessary by reason of: (a) repairs, installations, alterations, additions, or improvements made by the District or anyone claiming under the District; (b) the fault or negligence of the District, the District's agents, employees, or invitees; (c) a default in the performance or observance of any of the terms, covenants, or conditions on the part of the District to be performed or observed in this Lease; or (d) any special use to which the Premises may be put by the District, the District shall reimburse the Village on demand for all costs of such maintenance, repairs, replacements, or alterations. The District shall not authorize the making of any maintenance or repairs to be paid for by the Village without the prior written consent of the Village.

## **SECTION 8. LIABILITY, INDEMNIFICATION AND LIENS**

8.1. The District or the Village ("Indemnifying Party") shall each indemnify, hold harmless and defend the other party, its officers, employees, agents and volunteers from any and all claims, suits, losses, liabilities, actions, costs and fees, including reasonable attorneys' fees, of every nature or description arising from, growing out of, or because of any act or omission, neglect, or misconduct of the Indemnifying Party, its officers, employees, agents, volunteers, contractors or subcontractors. Such indemnification shall not be limited by reason of the enumeration of any insurance coverage herein provided.

8.2. The District shall contractually require all contractors and subcontractors doing any work, in, on or about the Premises or the Public Works Center to indemnify, hold harmless and defend the Village, its officers, employees, agents and volunteers from any and all claims, suits, losses, liabilities, actions, costs and fees, including reasonable attorneys' fees, caused or occasioned by or in connection with or arising out of any acts or omissions of the District's contractors or subcontractors. The District shall require all such contractors and subcontractors to provide the Village with commercial general liability insurance coverage no less broad and with no lower limits than that provided for in Section 9 of this Lease naming the Village, its officers, employees, agents and volunteers as additional insureds.

8.3. Nothing contained herein shall be construed as prohibiting the Village or the District, their officers, employees, agents and volunteers from defending, through the selection

and use of their own agents, attorneys, and experts, any claims, actions, or suits brought against them. The District or the Village shall be liable for the costs, fees and expenses incurred in the defense of any such claims, actions or suits.

8.4. The District shall keep the Premises and the Public Works Center free and clear of any mechanic's and other liens arising out of or in connection with work or labor done, services performed, or materials furnished in connection with any maintenance or repair and in connection with any business of the District conducted at the Premises. The District shall at all times promptly and fully pay and discharge all such liens or claims for liens and indemnify the Village against such liens and claims of liens, suits, or other proceedings relative to them. If the District desires in good faith to contest any such lien or related matter, the District shall notify the Village in writing of the District's intention to do so and shall provide to the Village a surety bond or other indemnity in a form satisfactory to the Village against such lien or claim for lien and any cost, liability, or damage arising out of such contest.

8.5. No covenant or term contained in this Agreement shall be deemed to be the agreement of any official, agent, employee, consultant or attorney of the Village or of the District, in his or her individual capacity, and no official, employee, consultant or attorney of the Village or of the District shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out the execution, delivery, and performance of this Agreement, or any failure in connection therewith. This Section shall not be construed to limit or waive any immunity available to the Village pursuant to applicable law.

8.6. The obligations set forth in this Section 8 shall survive the expiration or termination of this lease.

## **SECTION 9. INSURANCE.**

9.1. The District shall procure and maintain policies of insurance or self-insurance during the entire term of this Lease and, from time to time at the request of the Village, furnish proof of such insurance to the Village. The insurance coverage described below is the minimum insurance coverage that the District must obtain and continuously maintain:

9.1.1. Property and casualty insurance covering all of the equipment, supplies, furnishings, and other personal property of the District, including cash and valuable documents, contained in the Premises and any personal property of the District stored elsewhere on the Property for the full replacement cost of such items.

9.1.2. Worker's Compensation. Worker's compensation insurance, with statutory coverage, only to the extent applicable.

9.1.3. General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate for bodily injury, and property damage liability. Coverages shall include the following: all premises and operations,

products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement).

9.1.4. Automobile Liability (Primary and Umbrella). Automobile liability Insurance with limits of not less than \$1,000,000 combined single limit.

9.1.5. Professional Liability. When any architects, engineers or professional consultants perform work in connection with the build-out of the Premises under this Lease, the District shall cause to be provided, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000.

9.2. Village's Insurance. The Village shall procure and maintain policies of insurance or self-insurance during the entire term of this Lease and, from time to time at the request of the District, furnish proof of such insurance to the District. The insurance coverage described below is the minimum insurance coverage that the Village must obtain and continuously maintain:

9.2.1. Worker's Compensation. Worker's compensation insurance, with statutory coverage, only to the extent applicable.

9.2.2. General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, and property damage liability. Coverages shall include the following: all premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement).

9.2.3. Automobile Liability (Primary and Umbrella). Automobile liability Insurance with limits of not less than \$1,000,000.

9.2.4. Property insurance covering the full replacement cost of the Public Works Center.

9.3. Insurer Ratings. If either the District or the Village purchase insurance pursuant to this Section 9, such insurance shall be obtained and continuously maintained with responsible insurance companies selected by the District or the Village or their successors having at a minimum of a Best rating of "A" and a financial size category of Class M or better in Best's Insurance Guide that are authorized under the laws of the State of Illinois to assume the risks covered by such policies. Each policy must contain a provision that the insurer will not cancel nor materially modify the policy without giving written notice to the insured and the Village or the District as applicable at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the District or the Village or their successors, must renew the existing policy or replace the policy with another policy conforming to the provisions of this Section 9. In lieu of separate policies, the District or the Village or their successors, may



maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

9.4. District Contractors. Any contracts made by the District with any general contractor or independent contractor or any other person in connection with the build-out for the Premises shall contain language similar to that recited in this Section 9.

**SECTION 10. TERMINATION.**

10.1. Except as provided herein, the Village and the District may mutually consent in writing to the termination of this Lease.

**SECTION 11. ACCEPTANCE OF PREMISES BY DISTRICT.**

11.1. The taking of possession of the Premises by District shall be conclusive evidence that the Premises are in good and satisfactory condition when possession of the same is taken, latent defects excepted.

**SECTION 12. WAIVER.**

12.1. No waiver of any breach of any one or more of the conditions or covenants of this Lease by the Village or by the District shall be deemed to imply or constitute a waiver of any succeeding or other breach under this Lease. All of the remedies conferred on either the Village or the District in this lease and by law shall be deemed cumulative and not exclusive of the other.

**SECTION 13. AMENDMENT OR MODIFICATION.**

13.1 Both parties acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties, except such as are expressed here, and that no amendment or modification of this Lease shall be valid or binding unless expressed in writing and executed by the parties in the same manner as the execution of this Lease.

**SECTION 14. QUIET POSSESSION.**

14.1 The Village shall warrant and defend the District in the enjoyment and peaceful possession of the premises during the term of this Lease.

**SECTION 15. NOTICES.**

15.1. All notices required to be given under the terms of this Lease shall be given by certified or registered mail or by personal service, addressed to the applicable party as follows:

If to the Village: Village Manager  
Village of Oak Park  
123 Madison Street

Oak Park, Illinois 60302  
Facsimile: (708) 358-5101  
Email: villagemanager@oak-park.us

If to the District: Superintendent  
Oak Park School District No. 97  
970 Madison Street  
Oak Park, Illinois 60302  
Facsimile: (708) 524-3019  
Email: aroberts@op97.org

15.2. Mailing of such notice as and when provided above shall be equivalent to personal notice and shall be deemed to have been given at the time of mailing. Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

**SECTION 16. IMPAIRMENT OF VILLAGE'S TITLE.**

16.1. Nothing in this Lease and no action or inaction by Village shall be deemed or construed to mean that the Village has granted to the District any right, power, or permission to do any act or make any agreement which may create any right, title, interest, lien, charge, or other encumbrance upon the estate of the Village in the Property or the Premises. Without limiting the generality of the foregoing, the District shall not permit any portion of the Property or the Premises to be used by any person or persons at any time during the term of this Lease in such a manner as might reasonably tend to impair the Village's title or interest in the Property or the Premises or in such manner as might reasonably make possible a claim of adverse use, adverse possession, prescription, dedication, or similar claim with respect to the Property or the Premises. The Village may from time to time impose upon the District such rules and regulations governing the use or possession of the Premises as may be reasonably consistent with the Village's protection against any such possible claim.

16.2. The District acknowledges that the Village has issued general obligation bonds for the Public Works Center and that said bonds remain outstanding and that this Lease shall in no way impair the Village's rights, responsibilities and duties with regard to the bonds and the District shall take no action that in any way impairs the Village's rights, responsibilities and duties. The Village warrants and represents that it shall promptly pay bonds so as not to threaten the District's interest under this Lease.

**SECTION 17. EMINENT DOMAIN.**

17.1. If the entire Premises is appropriated or taken under the power of eminent domain by any public or quasi-public authority, this Lease shall terminate as of the date of such taking. If a portion of the Premises is so appropriated or taken and the remainder of the space is not suited for its intended purposes, the District shall have the right to terminate this Lease as of the date of such taking by giving to the Village written notice of such termination within thirty (30) days after such taking. If there is such a partial taking

and the District does not elect to terminate this Lease, then the Lease shall continue in full force and effect. If this Lease is terminated by reason of the total or partial taking of the Premises by eminent domain, then in any such condemnation proceedings, the Village and the District shall be free to make claim against the condemning or taking authority for the amount of any damage done to each of them respectively.

**SECTION 18.            DAMAGE BY FIRE OR OTHER CASUALTY.**

18.1. If the Premises is damaged by fire, the elements, or other casualty but is not rendered uninhabitable in whole or in part and such damage is not caused by the act or failure to act of the District or the District's agents, employees, or invitees, the Village shall, at its own expense, cause the damage to be repaired promptly and the rent shall not be abated. If by reason of such occurrence the Premises is rendered uninhabitable to an extent that no longer makes the Premises suited for its intended purposes or is rendered wholly uninhabitable, the Village must reconstruct the Premises to the same condition it was in prior to the damage or destruction and provide the District with a space that is of substantially equal size and quality as the Premises. The Lease term shall be tolled during any period in which the Premises are uninhabitable under this Section 18.1. After year thirty (30) of this Lease, the Village and the District may mutually agree to an alternative remedy.

**SECTION 19.            ASSIGNMENT OR SUBLETTING.**

19.1. The District shall not assign or transfer this Lease, or sublet the Premises or any portion of this Lease, the leasehold interest of the District, and any other interest of the District under this Lease or in the Premises. This Lease shall not be subject to involuntary assignment, transfer, or sale or to assignment, transfer, or sale by operation of law in any manner whatsoever. Any such attempted involuntary assignment, transfer, or sale shall be void and shall, at the option of the Village, be an event of default under this Lease.

**SECTION 20.            SURRENDER OF THE PREMISES.**

20.1. At the expiration or termination of this Lease, the District shall surrender the Premises in the same condition as it existed on the Commencement Date, reasonable wear and tear and damage by unavoidable casualty excepted, and deliver all keys for the Premises and all keys or combinations for all locks, safes and (or) vaults left in the Premises by the District (if any), to the Village at the Village's Notice Address set forth in Section 15 above. No receipt of money by the Village from the District after the termination or expiration of this Lease, after the service of any notice of default, after the commencement of any suit seeking possession of the Premises, or after any final judgment of possession of the Premises shall renew, reinstate, continue, or extend the term of this Lease or affect any such notice, demand, or suit.

**SECTION 21.            SUBORDINATION.**

21.1. The Village may from time to time during the term of this Lease encumber by mortgage or other security instrument the title to the Property or the Village's interest under

this Lease. Upon request by the Village, the District shall execute such documents as are reasonably required in order to evidence the subordination of the interest of the District in the Premises to the lien of the mortgage or other security instrument on the title to the Property. However, the District shall not be required to so subordinate its interest unless the holder of the mortgage or other security instrument agrees in writing with the District that if the District fully complies with all of its obligations under this Lease, the District will be allowed to remain in undisturbed possession of the Premises during the Lease term.

**SECTION 22. ESTOPPEL CERTIFICATES.**

22.1. The Village and the District shall upon the request of the other party and at the reasonable cost and expense to the party requesting the same, execute, acknowledge, and deliver to the other party a certificate evidencing the following: (a) whether this Lease is in full force and effect; (b) whether this Lease has been modified or amended in any respect and identifying all such modifications or amendments; and (c) whether there are any existing defaults under this Lease to the knowledge of the party executing the certificate and specifying the nature of such defaults.

**SECTION 23. VILLAGE'S RIGHT OF ENTRY.**

23.1. The District shall permit the Village and its agents and employees to enter into and upon the Premises at all reasonable times for the purpose of inspecting the Premises, making repairs, gaining access to mechanical or utility rooms or installations, or any other reasonable purpose. Provided, however, that the Village's right of entry shall not entitle the Village to access confidential records of the District that are present on the Premises nor shall it impair or restrict the District's right to use the Premises. The District's presence on the Premises shall not entitle it to access confidential records of the Village that are present on the Premises.

23.2. If either the Village or the District fails to do any of the obligations or actions required of them by this Lease and such failure continues for a period of ten (10) days or more after written notice pursuant to Section 15 from the other party specifying the nature of anything required to be done, the other party may, but shall not be required to, do or perform or cause to be done or performed such obligation or action required of the defaulting party. The Village Manager and the District Superintendent shall meet and confer to resolve the matter prior to formal notice being provided pursuant to this Section.

23.3. The party performing such obligation or action shall not be in any way responsible for any loss, inconvenience, annoyance, or damage resulting to the defaulting party from such performance by the other party on behalf of the defaulting party. The defaulting party shall repay to the other party on demand the entire reasonable expense, including reasonable compensation to the agents and employees of the other party, incurred by the other party in performing such thing. If payment is not made within ten (10) days of such demand, the amount due to the other party shall bear interest from the date of the demand until repaid at the rate of 10% per annum. Any act or thing done by the other party pursuant to the provisions of this paragraph shall not be construed as a waiver of any default

by the defaulting party or as a waiver of any other right or remedy of the other party under this Lease or otherwise.

**SECTION 24.**            **DEFAULT.**

24.1. If the District is in material breach of this Lease and such default is not cured within thirty (30) days after notice of such default is given by the Village to the District, the Village may cancel and terminate this Lease and immediately reenter and take possession of the Premises without the requirement of any previous notice of intention to reenter, and to remove all persons and their property therefrom using such force and assistance in effecting and perfecting such removal as the Village may deem reasonably necessary to recover full and exclusive possession of the Premises. The Village may also take any other action as authorized by this Lease or by law. Prior to the Village providing notice of default and taking possession of the Premises or instituting any litigation pursuant to this Lease, the Village shall provide written notice of the potential default to the District and the Village Manager and the District Superintendent shall meet and confer to resolve the default.

24.2. If the Village reenters and takes possession of the Premises, the Village may, from time to time, bring such actions or proceedings to enforce any other covenant or condition contained in this Lease as it may deem advisable without being obligated to wait until the end of the term of this Lease or for a final determination of the District's account. The commencement or maintenance of one or more actions shall not bar the Village from bringing other or subsequent actions for further accruals or defaults under and pursuant to the provisions of this Lease.

24.3. If the Village is in material breach of this Lease and such default is not cured within thirty (30) days after notice of such default is given by the District to the Village, the Village shall be in default under this Lease. Prior to the District providing notice of default or instituting any litigation pursuant to this Lease, the District shall provide written notice of the potential default to the Village and the Village Manager and the District Superintendent shall meet and confer to resolve the default. Upon the occurrence of a default by the Village, the District may cancel and terminate this Lease by written notice to the Village and the Village will be liable to the District for the amount of reasonable rent that the District actually paid or would have paid to lease a new facility for the remainder of the Lease Term, unless the District is in default under this Lease. The District may also take any other action as authorized by this Lease or by law.

**SECTION 25.**            **GOVERNING LAW.**

25.1. The laws of the State of Illinois shall apply to the interpretation of this Lease.

**SECTION 26.**            **ENTIRE AGREEMENT.**

26.1. This Lease constitutes the entire agreement and there are no representations, conditions, warranties or collateral agreements, express or implied, statutory or otherwise, with respect to this agreement other than as contained herein.

26.2. This Lease may not be modified, omitted or changed in any way except by written agreement duly signed by persons authorized to sign agreements on behalf of the Village and the District.

**SECTION 27.**            **VENUE.**

27.1. Venue for any action taken by either the Village or the District, whether in law or in equity, to enforce the terms of this Lease shall be in the Circuit Court of Cook County, Illinois.

**SECTION 28.**            **SEVERABILITY.**

28.1. If any of the provisions of this Lease shall be deemed illegal, invalid, unconstitutional or unenforceable by any court of law having competent jurisdiction, such decisions shall not invalidate or negate the other remaining provisions of this Lease.

**SECTION 29.**            **SECTION HEADINGS.**

29.1. The section headings provided in this Lease are for convenience only and shall not be deemed a part of this Lease.

**SECTION 30.**            **BINDING AUTHORITY.**

30.1. The individuals executing this Lease on behalf of the Village and the District represent that they have the legal power, right, and actual authority to bind their respective parties to the terms and conditions of this Lease.

**SECTION 31.**            **REPRESENTATIONS AND WARRANTIES.**

31.1. **By the Village.** The Village represents, warrants and agrees as the basis for the undertakings on its part contained in this Lease that:

31.1.1. The Village is a municipal corporation duly organized and validly existing under the laws of the State of Illinois and has all requisite corporate power and authority to enter into this Lease; and

31.1.2. The execution, delivery and the performance of this Lease and the consummation by the Village of the transactions provided for herein and the compliance with the provisions of this Lease: (i) have been duly authorized by all necessary action on the part of the Village; (ii) require no other consents, approvals or authorizations on the part of the Village in connection with the Village's execution and delivery of this Lease; (iii) shall not, by lapse of time, giving of notice or otherwise, result in any breach of any term, condition or provision of any indenture, agreement or other instrument to which the Village is subject; and (iv) that the Village is the title holder of the Public Works Center; and

31.1.3. To the best of the Village's knowledge, there are no proceedings pending or threatened against or affecting the Village or the Public Works Center property in any court or before any governmental authority that involves the possibility of materially or adversely affecting the ability of the Village to perform its obligations under this Lease.

31.2. **By the District.** The District represents, warrants and agrees as the basis for the undertakings on its part contained in this Lease that:

31.2.1. The District is a school district duly organized and validly existing under the laws of the State of Illinois and has all requisite corporate power and authority to enter into this Lease; and

31.2.2. The execution, delivery and the performance of this Lease and the consummation by the District of the transactions provided for herein and the compliance with the provisions of this Lease: (i) have been duly authorized by all necessary action on the part of the District; (ii) require no other consents, approvals or authorizations on the part of the District in connection with the District's execution and delivery of this Lease; and (iii) shall not, by lapse of time, giving of notice or otherwise, result in any breach of any term, condition or provision of any indenture, agreement or other instrument to which the District is subject; and

31.2.3. To the best of the District's knowledge, there are no proceedings pending or threatened against or affecting the District or the District Facility property in any court or before any governmental authority that involves the possibility of materially or adversely affecting the ability of the District to perform its obligations under this Lease.

**SECTION 32. THIRD PARTIES.**

32.1. Nothing in this Lease, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Lease on any other person or entity other than the Village and the District, nor is anything in this Lease intended to relieve or discharge the obligation or liability of any third persons to either the Village or District, nor shall any provision give any third parties any rights or subrogation or action over or against either the Village or the District. This Lease is not intended to and does not create any third party beneficiary rights whatsoever.

**SECTION 33. DISTRICT EMPLOYEES.**

33.1. The District's employees shall not be deemed to be employees of the Village nor shall the District's employees be entitled to any separate payment of salary, wages, or any employee benefits available to employees of the Village. The District shall solely be responsible for the payment of any salary, wages or employee benefits for its employees.

33.2. Any injury incurred by a District employee for which that employees would be entitled to benefits pursuant to the Worker's Compensation Act, 820 ILCS 305/1 et seq., shall

be the obligation of the District and the employee shall, at all times, be considered, for worker's compensation purposes, to be an employee of the District.

**SECTION 34. EFFECTIVE DATE.**

34.1. The effective date of this Lease as reflected above shall be the later date that either the District or the Village executes this Lease.

**SECTION 35. COUNTERPARTS.**

35.1. This Lease may be executed in counterparts, each of which shall be considered an original and together shall be one and the same Lease.

**IN WITNESS WHEREOF**, the Parties hereto have each caused this Lease to be executed by proper officers duly authorized to execute the same as of the date set forth beneath the signatures of their respective officers set forth below.

**VILLAGE OF OAK PARK**

**BOARD OF EDUCATION OF OAK PARK  
ELEMENTARY SCHOOL DISTRICT NUMBER  
97**

\_\_\_\_\_  
By: Cara Pavlicek  
Its: Village Manager

\_\_\_\_\_  
By: Bob Spatz  
Its: Board President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST**

**ATTEST**

\_\_\_\_\_  
By: Teresa Powell  
Its: Village Clerk

\_\_\_\_\_  
By: Sheryl Marinier  
Its: Board Secretary

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT A – MEMORANDUM OF UNDERSTANDING**

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE VILLAGE OF OAK PARK AND THE BOARD OF EDUCATION  
OF OAK PARK ELEMENTARY SCHOOL DISTRICT NUMBER 97

THIS MEMORANDUM OF UNDERSTANDING is entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, between the Village of Oak Park, an Illinois home rule municipal corporation (hereinafter referred to as the "Village") and the Board of Education of Oak Park Elementary School District Number 97, a school district organized under the Illinois School Code, 105 ILCS 5/1-1 *et seq.* (hereinafter referred to as the "District").

RECITALS

WHEREAS, the Village previously adopted in February of 1995 the Madison Street Business Corridor Tax Increment Financing Redevelopment Plan and Project ("Madison Plan") for the Village's Madison Street Business Corridor Redevelopment Project Area ("Madison TIF District") pursuant to the Tax Increment Allocation Redevelopment Project Act, 65 ILCS 5/11-74.4-1 *et seq.* ("TIF Act"); and

WHEREAS, as a result of the creation of the Madison TIF District, the Village entered into an Intergovernmental Agreement with the District dated February 6, 1995 ("1995 Agreement") and an Intergovernmental Agreement dated April 25, 2007 with the District ("2007 Agreement") concerning annual payments and other matters pertaining to the Madison TIF District, which agreements are limited to the Madison TIF District through tax year 2018 to be paid in 2019, and these agreements shall be held in abeyance and not be enforced as more fully set forth herein; and

WHEREAS, the Madison Plan includes the following activities which may be undertaken by the Village to promote the goals and objectives of the Madison Plan:

1. Enter into contracts necessary to implement the Madison Plan;
2. Acquire property and assemble redevelopment sites;
3. Clear any area by demolition or removal of existing buildings and structures;
4. Install, repair, construct, reconstruct or relocate streets, utilities, and site improvements essential to the preparation of the redevelopment area;
5. Construct public facilities; and
6. Exercise any and all other powers necessary to effectuate the purposes of the TIF Act; and

WHEREAS, it is necessary that the Madison Plan be amended pursuant to this Memorandum of Understanding to add the construction of a school facility, i.e., a new District

administration building, as an activity that may be undertaken by the Village pursuant to the Madison Plan so that the Village may fund the construction of a new District administration building on property owned by the Village at the property commonly known as 260 Madison, Oak Park, Illinois ("260 Madison") located within the Madison TIF District; and

**WHEREAS**, the Village shall transfer ownership of 260 Madison to the District and the District shall transfer ownership of the District's property commonly known as 970 Madison, Oak Park, Illinois ("970 Madison"), located within the Madison TIF District, to the Village so that the Village may effectuate the private redevelopment of 970 Madison; and

**WHEREAS**, pursuant to this Memorandum of Understanding, it is contemplated that the District will relocate its Maintenance Facility at the property commonly known as 541 Madison, Oak Park, Illinois ("541 Madison"), located within the Madison TIF District, to a portion of the Village's Public Works Center located at the property commonly known as 201 South Boulevard, Oak Park, Illinois ("Public Works Center") and that the District will use its best efforts to sell 541 Madison pursuant to State law; and

**WHEREAS**, Section 11-74.4-3(q) of the TIF Act, 65 ILCS 5/11-74.4-3(q), authorizes the Village to incur "redevelopment project costs," which include "the sum total of all reasonable or necessary costs incurred or estimated to be incurred, and any such costs incidental to a redevelopment plan and a redevelopment project;" and

**WHEREAS**, under Section 11-74.4-3(q)(3) of the TIF Act, 65 ILCS 5/11-74.4-3(q)(3), such incremental ad valorem taxes which have been collected and are allocated to pay redevelopment project costs and obligations incurred in the payment thereof ("Increment") may be used to pay all or a portion of a taxing district's "cost of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;" and

**WHEREAS**, under Section 11-74.4-3(q)(7) of the TIF Act, 65 ILCS 5/11-74.4-3(q)(7), such Increment may be used to pay all or a portion of a taxing district's capital costs resulting from a redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs; and

**WHEREAS**, under Section 11-74.4-3(q)(8) of the TIF Act, 65 ILCS 5/11-74.4-3(q)(8), such Increment may be used to pay all or a portion of a taxing district's "[r]elocation costs to the extent that a municipality determines that relocation costs shall be paid;" and

**WHEREAS**, the District is a taxing district under the TIF Act; and

**WHEREAS**, with the amendment of the Madison Plan set forth above, the activities contemplated herein to be undertaken by the Village shall be authorized by the Madison Plan and are TIF eligible redevelopment project costs pursuant to the provisions of the TIF Act cited above; and

WHEREAS, Article VII, Section 10 of the Illinois Constitution of 1970 and the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*, authorize units of local government to contract or otherwise associate among themselves to obtain or share services, to exercise, combine or transfer any power or function, in any manner not prohibited by law; and

WHEREAS, the Village and the District (collectively referred to as “the Parties”) are public agencies as that term is defined in the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

WHEREAS, the Local Government Property Transfer Act, 50 ILCS 605/0.01 *et seq.*, further provides the Village and the District with the authority “to transfer all of the right, title and interest” held by either Party to the other Party upon such terms as are agreeable to the Parties; and

WHEREAS, pursuant to the terms set forth herein, the Parties have determined to enter into this Memorandum of Understanding to provide for the terms by which the Parties shall exchange certain parcels of property located within the Madison TIF District, and the Village shall reimburse the District for redevelopment project costs, all pursuant to Article VII, Section 10 of the Illinois Constitution of 1970, the Intergovernmental Cooperation Act, the Local Government Property Transfer Act and the TIF Act.

NOW, THEREFORE, pursuant to the authority set forth above and any and all other applicable laws, and in consideration of the mutual covenants and obligations contained herein, it is agreed between the Village and the District as follows:

1. **Recitals Incorporated.** The above recitals are incorporated herein as though fully set forth.

2. **Prior Intergovernmental Agreements.** The 1995 Agreement and the 2007 Agreement shall be held in abeyance and not be enforced until such time as the parties enter into a new intergovernmental agreement pursuant to Section 6.2 below. If the parties are unable to enter into a new intergovernmental agreement within the time set forth in Section 6.2, the Parties shall comply with, and fulfill, the terms of the 1995 Agreement and the 2007 Agreement.

3. **Construction of a new District Administration Building.** The Village shall fund the construction of a new District Administration Building (“Building”), subject to the following:

3.1. The Building shall be constructed at 260 Madison;

3.2. The Village will pay the costs of demolition of the current existing building at 260 Madison, estimated to be \$250,000, and the costs of environmental remediation at 260 Madison in preparation for construction, estimated to be \$100,000, as TIF eligible redevelopment project costs;

- 3.3. The District shall be responsible for the construction of the Building, generally to include architectural, engineering, and construction costs, upon the Village's completion of the demolition of the existing building at 260 Madison and the environmental remediation of the property;
- 3.4. The Village shall reimburse the District for the costs of the Building set forth in Section 3.3 above, not to exceed \$6,300,000, as TIF eligible redevelopment project costs; and
- 3.5. The Village shall establish an escrow account in the amount of \$6,300,000 to reimburse the District for the costs of the Building. The Parties shall establish a process for payments to be made from the escrow account in the new intergovernmental agreement between the Parties which shall include approvals by the Parties' authorized representatives and a list by categories of approved expenses.

4. **Exchange of Properties Located within the Madison TIF District.** In exchange for the Village's commitments set forth in Sections 2 and 3 above, the District shall transfer ownership of 970 Madison to the Village. The transfer of 970 Madison shall occur after the issuance of an occupancy permit for the District's Building pursuant to Section 3 above. In advance of the exchange of the properties set forth in this Section 4, the District shall execute a letter of representation to allow the Village to market 970 Madison for private sale and redevelopment. Upon the effective date of this Memorandum of Understanding and the District's engagement of an architect for the design of its Building and notice to the Village of such engagement, the Village shall use best efforts to begin the environmental remediation of 260 Madison.

5. **Relocation of District Maintenance Facility located within the Madison TIF District.** Immediately upon the satisfaction of the contingencies set forth in Section 6 below, the District shall use its best efforts to sell 541 Madison pursuant to terms satisfactory to the District. The District shall immediately market 541 Madison for sale upon the effective date of a new intergovernmental agreement between the parties. The District shall be entitled to retain the proceeds from the sale of 541 Madison. Prior to the completion of the sale of 541 Madison, the Village and the District shall enter into an intergovernmental agreement for the relocation of the District's Maintenance Facility to a portion of the Village's Public Works Center located outside the Madison TIF District rent free for a period of 40 years. The District shall be permitted to relocate its Maintenance Facility to a portion of the Village's existing Public Works Center upon the sale of 541 Madison or by December 31, 2017, whichever comes first. The District's relocation of its Maintenance Facility to a portion of the Village's Public Works Center must occur prior to the termination of the designation of the Madison TIF District.

6. **Contingencies.** The terms of this Memorandum of Understanding shall be contingent upon the following:

- 6.1. The successful amendment of the Madison Plan to include the construction of a school facility as a TIF eligible redevelopment project cost pursuant to the required process under the TIF Act; and
- 6.2. The entry by the Parties into a new intergovernmental agreement consistent with the terms of this Memorandum of Understanding, which shall include a provision that the 1995 Agreement and the 2007 Agreement between the Parties concerning annual payments and other matters pertaining to the Madison TIF District shall be superseded and replaced by the intergovernmental agreement to be entered into between the Parties pursuant to this Memorandum of Understanding. The new intergovernmental agreement shall be approved by the Village concurrent with the amendment of the Madison Plan as set forth in Section 6.1 above, and the District shall approve the new intergovernmental agreement within seven (7) days thereafter or within a time period as agreed to in writing by the Parties.

7. **Binding Authority.** The individuals executing this Memorandum of Understanding on behalf of the Village and the District represent that they have the legal power, right, and actual authority to bind the Village and the District to the terms and conditions set forth herein.


8. **Effective Date.** The effective date of this Memorandum of Understanding as reflected above shall be the last date that it is executed by one of the Parties as reflected below.

9. **Counterparts.** This Memorandum of Understanding may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same document.

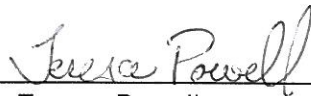
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SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have each caused this Memorandum of Understanding to be executed by proper officers duly authorized to execute the same as of the date set forth beneath the signatures of their respective officers set forth below.

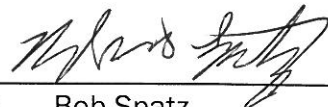
VILLAGE OF OAK PARK

  
By: Cara Pavlicek  
Its: Village Manager  
Date: 10-21-14


ATTEST

  
By: Teresa Powell  
Its: Village Clerk  
Date: 10-21-14


BOARD OF EDUCATION OF OAK PARK  
ELEMENTARY SCHOOL DISTRICT NUMBER  
97

  
By: Bob Spatz  
Its: Board President  
Date: 10/21/2014

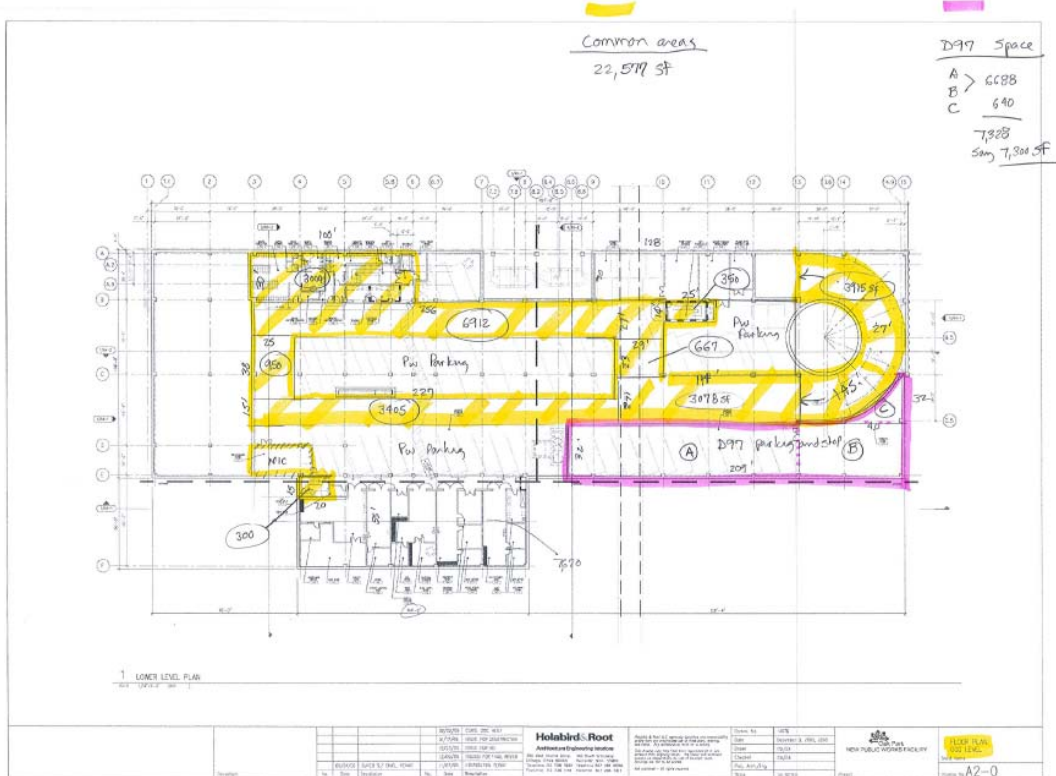
ATTEST

  
By: Sheryl Marinier  
Its: Board Secretary  
Date: 10-21-2014

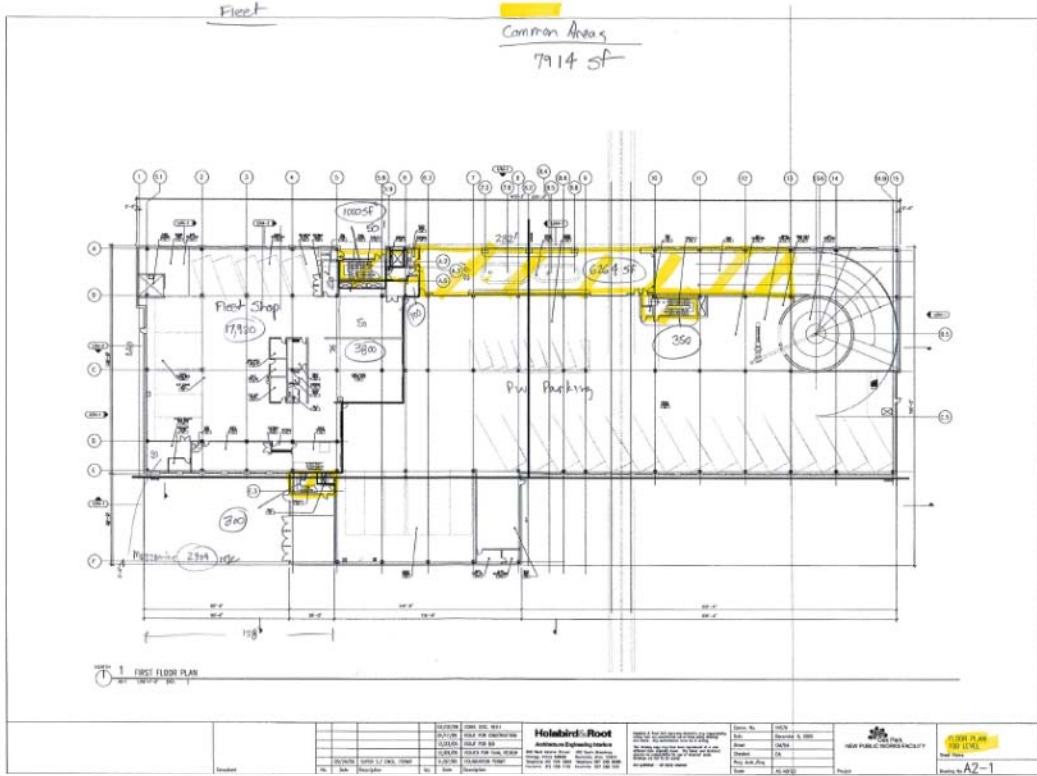
REVIEWED AND APPROVED  
AS TO FORM

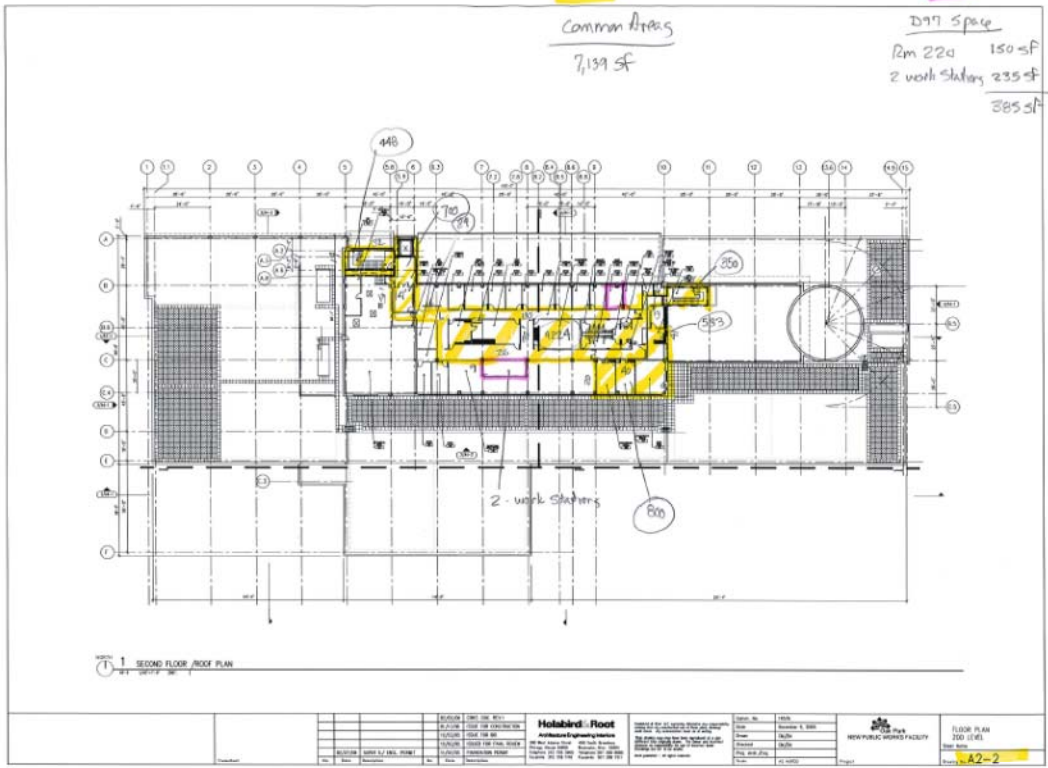
  
OCT 20 2014  
LAW DEPARTMENT

# EXHIBIT B









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