

ORDINANCE NO. 5-2012

**AN ORDINANCE OF THE VILLAGE OF EVERGREEN PARK
APPROVING A REAL ESTATE EXCHANGE AGREEMENT
WITH EVERGREEN PARK DEVELOPMENT, LLC FOR THE
WEST DETENTION BASIN ON THE PROPERTY LOCATED
WEST OF THE B&O RAILROAD TRACKS**

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Evergreen Park, Cook County, Illinois, as follows:

Section 1

That the Real Estate Exchange Agreement dated March 5, 2012 between the Village of Evergreen Park and Evergreen Park Development, LLC for the West Detention Basin property located west of the B&O railroad tracks, Evergreen Park, Illinois, in substantially the form attached hereto, is hereby approved for and on behalf of the Village. The Mayor and Village Clerk are hereby authorized to execute the same for and on behalf of the Village and all other documents approved therein.

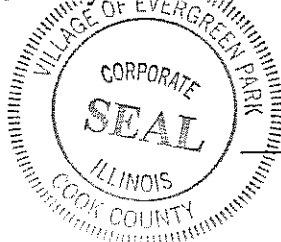
Section 2

All statutes of the State of Illinois or any parts thereof which are in conflict with the provisions of this ordinance are hereby superseded by this ordinance enacted under the home rule power of the Village of Evergreen Park.

Section 3

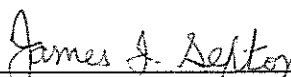
This ordinance shall be immediately in full force and effect after passage and approval.

This ordinance was passed and deposited in the office of the Village Clerk of the Village of Evergreen Park this 5th day of March, 2012.




CATHERINE T. APARO, Village Clerk

APPROVED by me this 5th
day of March, 2012.


JAMES J. SEXTON, Mayor

REAL ESTATE EXCHANGE AGREEMENT

THIS REAL ESTATE EXCHANGE AGREEMENT (this "Agreement") is made and entered into effective as of March 5, 2012, by and between EVERGREEN PARK DEVELOPMENT, LLC, a Delaware limited liability company ("EVP"), and THE VILLAGE OF EVERGREEN PARK, a municipal corporation duly organized under the laws of the State of Illinois (the "Village").

Preliminary Statements

A. EVP is currently the fee owner of approximately 49.46 acres of land located between and adjacent to Western Avenue and the B&O Railroad tracks in Evergreen Park, Cook County, Illinois, legally described on Exhibit A attached hereto (the "EVP Parcel").

B. The Village is currently the fee owner of approximately 45.807 acres of land located between California Avenue and the B&O Railroad tracks in Evergreen Park, Cook County, Illinois, legally described on Exhibit B attached hereto (the "Village Parcel").

C. In order to develop the EVP Parcel as intended, EVP desires to acquire a portion of the Village Parcel consisting of approximately 0.945 acres legally described on Exhibit C attached hereto and approximately shown and identified as the "Village Exchange Tract" on the drawing attached hereto as Exhibit D.

E. In full consideration of the Village's conveyance of the Village Exchange Tract to EVP, EVP has agreed to exchange a portion of the EVP Parcel consisting of approximately 0.945 acres legally described on Exhibit E attached hereto and approximately shown and identified as the "EVP Exchange Tract" on Exhibit D. The Village Exchange Tract and the EVP Exchange Tract are sometimes hereinafter individually referred to as a "Tract" and collectively referred to as the "Tracts."

F. EVP and the Village now desire to exchange the Village Exchange Tract and the EVP Exchange Tract in accordance with the terms, conditions and provisions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals (which by this reference are hereby incorporated into this Agreement), the mutual covenants and agreements hereinafter set forth, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Exchange.

(a) Subject to all of the terms, conditions and provisions of this Agreement, on the Closing Date (as hereinafter defined), EVP shall convey the EVP Exchange Tract (as hereinafter defined) to the Village and, in exchange, the Village shall convey the Village Exchange Tract (as hereinafter defined) to EVP. EVP and the Village have determined that, at the time of the exchange contemplated hereby, the fair market value of the EVP Exchange Tract will equal the

fair market value of the Village Exchange Tract. Therefore, it is the intent of the parties that no cash consideration shall be paid by either party at Closing (as hereinafter defined), and the only cash that will be paid at Closing will be those amounts specifically required under other provisions of this Agreement.

(b) For purposes of this Agreement the term "EVP Exchange Tract" shall mean and include of all of EVP's right, title, estate and interest in and to the EVP Exchange Tract and all improvements, if any, located thereon, together with all rights, privileges, easements and interests appurtenant thereto owned by EVP.

(c) For purposes of this Agreement the term "Village Exchange Tract" shall mean and include of all of the Village's right, title, estate and interest in and to the Village Exchange Tract and all improvements, if any, located thereon, together with all rights, privileges, easements and interests appurtenant thereto owned by the Village.

2. Tract Investigations.

(a) The Village, its agents and representatives, shall at all times before the Closing have the privilege, opportunity and right of entering upon the EVP Exchange Tract in order to conduct such investigations of the EVP Exchange Tract, including, but not limited to, the physical and environmental conditions thereof, as the Village deems necessary or desirable to satisfy itself as to the condition of the EVP Exchange Tract, and the Village will rely solely upon same and not upon any information (including without limitation environmental studies or reports of any kind) provided by or on behalf of EVP or its agents or employees with respect thereto (if any), other than such representations, warranties and covenants of EVP as are expressly set forth in this Agreement. The Village agrees to indemnify, defend and hold harmless EVP from and against (i) any and all damages to person or property, and (ii) any and all liabilities, damages, costs and expenses (including without limitation reasonable attorneys' fees and court costs), which arise as a result of or in connection with Village's exercise of its rights pursuant to this Section. This indemnity shall survive any termination of this Agreement regardless of the reason for such termination.

(b) EVP, its agents and representatives, shall at all times before the Closing have the privilege, opportunity and right of entering upon the Village Exchange Tract in order to conduct such investigations of the Village Exchange Tract, including, but not limited to, the physical and environmental conditions thereof, as EVP deems necessary or desirable to satisfy itself as to the condition of the Village Exchange Tract, and EVP will rely solely upon same and not upon any information (including without limitation environmental studies or reports of any kind) provided by or on behalf of the Village or its agents or employees with respect thereto (if any), other than such representations, warranties and covenants of the Village as are expressly set forth in this Agreement. EVP agrees to indemnify, defend and hold harmless the Village from and against (i) any and all damages to person or property, and (ii) any and all liabilities, damages, costs and expenses (including without limitation reasonable attorneys' fees and court costs), which arise as a result of or in connection with EVP's exercise of its rights pursuant to this Section. This indemnity shall survive any termination of this Agreement regardless of the reason for such termination.

3. **Price.** The Village hereby agrees to sell, and EVP agrees to buy, the Village Exchange Tract in exchange for EVP's conveyance to the Village of the EVP Exchange Tract, without further compensation unless expressly set forth in this Agreement.

4. **Title and Release of Removal Monetary Encumbrances.** Subject to the terms of this Agreement, EVP agrees to convey the EVP Exchange Tract to the Village by special warranty deed subject to all covenants, conditions, restrictions, easements and matters of record other than Removal Monetary Encumbrances (as hereinafter defined). Subject to the terms of this Agreement, the Village agrees to convey the Village Exchange Tract to EVP by special warranty deed subject to all covenants, conditions, restrictions, easements and matters of record other than Removal Monetary Encumbrances. As a condition to Closing, Chicago Title Insurance Company (the "**Title Company**") shall be prepared to issue to each grantee party hereto at Closing either an update or a date down endorsement to its existing title policy (in the case of EVP, its EVP Parcel title policy, and in the case of the Village, its Village Parcel title policy) reflecting the conveyance of such Tracts and containing no exceptions with respect to the Tract conveyed to such granting party other than the permitted exceptions set forth above with respect to such Tract and insuring all insurable appurtenant easements benefiting such Tract. Any additional endorsements required by the parties hereto shall be obtained by such party at its sole cost and expense; provided, however, the issuance of any such required endorsement shall in no event be deemed a condition of Closing or of such party's obligation to Close the transactions contemplated herein. The parties hereto, at no cost or expense to the cooperating party, agree to cooperate and take all actions and execute all documents reasonably required by the Title Company to enable the Title Company to issue the foregoing title policies and requested endorsements. For purposes of this Agreement, "**Removable Monetary Encumbrances**" shall mean (a) mortgages, deeds of trust, deed to secure debt and similar security interests, liens or encumbrances upon a Tract, (b) mechanics' or materialmen's liens filed against a Tract prior to Closing and (c) any other lien or other monetary encumbrance that encumbers a Tract, and that may be removed by the payment of a sum certain, such as (without limitation) judgment liens, tax liens and the like. On or before the Closing, each party hereto shall cause, at its expense, all Removable Monetary Encumbrances, as well as any tenancies affecting such party's Tract, to be released so that they no longer encumber such party's Tract.

5. **Closing.** Conveyances of title as contemplated under this Agreement (the "**Closing**") shall be held not later than thirty (30) days following the date hereof or on such earlier date mutually acceptable to EVP and the Village (the "**Closing Date**"). Closing shall be held at office of Title Company in Chicago, Illinois, but may also be effectuated by courier delivery of the Closing documents and other Closing items to Title Company with instructions as to disposition. EVP shall deliver possession of the EVP Exchange Tract to the Village at Closing, and the EVP Exchange Tract shall be vacant and subject to no claim of possession by any party other than the Village. The Village shall deliver possession of the Village Exchange Tract to EVP at Closing, and the Village Exchange Tract shall be vacant and subject to no claim of possession by any party other than EVP.

6. **Conveyance of Title.**

(a) Except as expressly provided herein, each conveying party shall convey good and marketable fee simple title to its Tract to the grantee party by a recordable statutory form special

warranty deed together with any required real estate transfer tax return. "**Good and marketable title**" as used herein shall mean ownership insurable by the Title Company in favor of the grantee parties under their respective title policies at standard rates, free of all exceptions other than the permitted exceptions set forth in this Agreement with respect to the applicable Tract, and providing affirmative coverage of all appurtenant easements benefiting such Tract, if any.

(b) Each conveying party shall deliver to the grantee party at Closing an affidavit acceptable to such grantee party and to the Title Company to delete the standard exceptions from the title policies, stating that such conveying party has sole and exclusive possession of the Tract being conveyed and stating, among other things reasonably required by the grantee party and Title Company, that either (i) there have been no improvements, repairs or changes to such Tract between the conveying party's date of acquisition of such Tract and the Closing, or (ii) if there have been any such improvements, repairs or changes, all lienors or potential lienors in connection with such improvements, repairs or changes have been paid in full, together with such other documentation reasonably required by the grantee party and the Title Company, including, without limitation, evidence of authority to consummate the exchange, in form and substance acceptable to the grantee party and the Title Company.

(c) EVP and the Village shall execute and deliver such other customary closing documents as may be reasonably necessary to accomplish the Closing if such documents are required by the Title Company to consummate the Closing.

7. **Closing Costs.** EVP shall pay one-half of any Closing escrow fee and one-half of any transfer, documentary, conveyance or similar taxes in connection with the conveyance of the Tracts; recording fees on the Village Exchange Tract deed; the expense of the title policy for the Village Exchange Tract and all title insurance endorsements required by EVP; and EVP's attorney's fees. The Village shall pay one-half of any Closing escrow fee and one-half of any transfer, documentary, conveyance or similar taxes in connection with the conveyance of the Tracts; recording fees on the EVP Exchange Tract deed; the expense of the title policy for the EVP Exchange Tract and all title insurance endorsements required by the Village; and the Village's attorney's fees.

8. **Prorations.** All real property ad valorem taxes on the Tracts shall be prorated (on a 365-day year basis) between EVP and the Village as of Closing based upon the most recently available property assessment valuation and tax rate, which proration shall be final and not subject to any further adjustment or re-proration. All installments of special assessments levied against a Tract and due and payable as of Closing shall be paid by the grantor of such Tract. All subsequent installments shall be the responsibility of the grantee of such Tract.

9. **Representations and Warranties.** Each party making a representation, warranty or covenant below (the "**Warranting Party**") shall defend, indemnify and hold the party to whom such representation, warranty or covenant is directed (the "**Indemnified Party**") harmless from and against any and all claims, actions, loss, cost, damage and expense (including reasonable attorneys' fees) resulting from any inaccuracy in any Warranting Party's representations, warranties and covenants in this Agreement. All representations, warranties, and covenants made herein by a Warranting Party shall be deemed to be repeated as of Closing and shall

survive the Closing. EVP represents, warrants and covenants to the Village, and the Village represents, warrants and covenants to EVP, that:

(a) Each Warranting Party has complete and full authority to execute this Agreement and convey to the other good and marketable fee simple title to its Tract in accordance with this Agreement. The individual executing this Agreement on behalf of each Warranting Party is authorized to do so, and all necessary action has been taken to authorize such execution and performance of this Agreement. Each Warranting Party will execute and deliver such other documents, instruments and agreements including, but not limited to, affidavits and certificates necessary to effectuate the transactions contemplated by this Agreement.

(b) Neither Warranting Party has received any notice of and has no knowledge of any pending or threatened action, litigation, or proceeding against such Warranting Party or its Tract that could affect its ability to perform its obligations under this Agreement, or taking or condemnation of its Tract or any portion thereof.

(c) Neither Warranting Party has received any notice of any violation of any law, ordinance, regulation or other legal requirement pertaining to its Tract that has not been disclosed to the Indemnified Party.

(d) Neither Warranting Party's execution of this Agreement and Closing will violate or breach any judgment, order, writ, injunction or decree issued against or imposed upon the Warranting Party, or result in a violation of any applicable law, order, rule or regulation of any governmental authority. There is no action, suit, proceeding or investigation pending in any court or before or by any federal, district, county, or municipal department, commission, board, bureau, agency or other governmental instrumentality which would affect title to the Warranting Party's Tract or any portion thereof or which questions the validity or enforceability of the transactions contemplated by this Agreement or any actions which will be taken pursuant to this Agreement.

(e) There is no unrecorded agreement which affects title to, or use or possession of, the Warranting Party's Tract, and during the pendency of this Agreement, neither Warranting Party will contract to or actually sell, convey, assign, pledge, encumber or lease all or any part of its Tract, or (without the consent of the Indemnified Party) restrict the use of all or any part of its Tract, or take or cause to be taken any action in conflict with this Agreement at any time between the date of this Agreement and (i) the Closing, or (ii) the earlier termination of this Agreement pursuant to its terms.

(f) All liens against the Tract of the Warranting Party are shown in the official records of the taxing authorities or the office of the recorder of deeds in whose jurisdiction such Tract is located.

10. Default. If this transaction is not consummated due to the default of a party, the other party shall be entitled to exercise all of its legal or equitable rights or remedies against such defaulting party, including claims for specific performance and damages. The parties acknowledge that a breach of this Agreement could result in irreparable injury to the non-defaulting party, that there may be no adequate remedy at law for such non-defaulting party, and

that specific performance, injunctive relief or other equitable remedies may be sought in the event of a breach of this Agreement.

11. Brokers. EVP and the Village represent and warrant to each other that they have dealt with no real estate broker, agent or finder with respect to the transactions contemplated by this Agreement. Each Warranting Party shall indemnify and save the other party harmless from any loss, cost, or damages, including reasonable attorney's fees, arising from the Warranting Party's breach of its warranty. The foregoing warranties shall survive the Closing or the termination of this Agreement for any reason for the maximum period provided by law.

12. "AS-IS" Exchange.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED THAT NEITHER PARTY IS MAKING AND HAS NOT AT ANY TIME MADE ANY ASSURANCES, GUARANTIES, WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE WITH RESPECT TO ITS TRACT OR ANY MATERIALS DELIVERED TO EITHER PARTY IN CONNECTION THEREWITH INCLUDING, WITHOUT LIMITATION (1) ENVIRONMENTAL MATTERS OF ANY KIND OR NATURE WHATSOEVER RELATING TO THE TRACTS OR ANY PORTION THEREOF INCLUDING, WITHOUT LIMITATION, COMPLIANCE OF THE TRACTS WITH ANY ENVIRONMENTAL LAWS OR THE EXISTENCE IN, ON OR UNDER THE TRACTS OF ANY HAZARDOUS OR TOXIC MATERIAL, SUBSTANCE OR MATTER REGULATED BY ANY ENVIRONMENTAL LAWS; (2) GEOLOGICAL CONDITIONS INCLUDING, WITHOUT LIMITATION, SOIL CONDITIONS, SUBSIDENCE, SUBSURFACE CONDITIONS, WATER TABLE, UNDERGROUND WATER RESERVOIRS AND LIMITATIONS REGARDING WITHDRAWAL OF WATER THEREFROM; (3) WHETHER OR NOT AND TO THE EXTENT TO WHICH THE TRACTS OR ANY PART THEREOF IS AFFECTED BY A STREAM (SURFACE OR UNDERGROUND), BODY OF WATER, FLOOD PRONE AREA, FLOOD PLAIN, FLOODWAY OR SPECIAL FLOOD HAZARD; (4) TITLE, SURVEY, SUBDIVISION, ZONING, DEVELOPMENT, LAND USE, BUILDING AND OTHER MATTERS, CONDITIONS, RESTRICTIONS AND EASEMENTS TO WHICH THE TRACTS OR ANY PORTION THEREOF MAY NOW BE SUBJECT OR TO WHICH THE TRACTS MAY BECOME SUBJECT PURSUANT TO THE DEVELOPMENT THEREOF; (5) ANY MATTERS RELATED TO ANY ADJACENT PROPERTIES; (6) ACCESS TO THE TRACTS OR ANY PORTION THEREOF; (7) THE COMPLIANCE OR NON-COMPLIANCE OF THE TRACTS WITH ANY APPLICABLE LAWS; (8) THE VALUE, LOCATION, USE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PHYSICAL CONDITION, QUALITY, DESCRIPTION, DURABILITY, SUITABILITY OR FEASIBILITY OF THE TRACTS OR ANY PART THEREOF, OR THE ABILITY TO DEVELOP ANY PART THEREOF OR OBTAIN ALL NECESSARY PERMITS AND APPROVALS FOR THE DEVELOPMENT THEREOF; (9) TAX CONSEQUENCES; (10) THE TRUTH, ACCURACY OR COMPLETENESS OF ANY MATERIALS OR ANY OTHER INFORMATION OR MATTER PERTAINING TO OR REGARDING THE TRACTS PROVIDED BY OR ON BEHALF OF EITHER PARTY TO THE OTHER; AND (11) ANY OTHER MATTER, THING, EVENT OR CONDITION RELATED TO THE TRACTS.

THE PARTIES HERETO ACKNOWLEDGE AND AGREE THAT UPON CLOSING AND THE CONVEYANCE OF THE TRACTS TO THE OTHER, THAT THE GRANTEE PARTY SHALL ACCEPT THE TRACT IN ITS "AS-IS, WHERE-IS CONFIGURATION AND CONDITION, WITH ALL FAULTS OF ANY NATURE WHATSOEVER". THE PARTIES HERETO HAVE NOT RELIED AND WILL NOT RELY ON, AND NEITHER PARTY IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, WARRANTIES, REPRESENTATIONS OR INFORMATION PERTAINING TO THE TRACTS OR RELATING TO ANY OF THE MATTERS DESCRIBED IN THIS SECTION 12 MADE OR FURNISHED BY EITHER OF THE PARTIES HERETO OR ANY AGENT REPRESENTING OR PURPORTING TO REPRESENT EITHER OF THE PARTIED HERETO, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, VERBALLY OR IN WRITING, UNLESS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

13. Notices. All notices, requests, demands or other communications ("Notices") hereunder shall be in writing and given by national overnight courier (e.g., Fed Ex, UPS, Airborne) and shall be effective as of the date of delivery to the intended recipient as shown on the courier's records; delivery shall be deemed to have been made if the courier was not able to deliver due to change of address for which no notice was given. Notices (and copies as shown) shall be addressed as shown below or to such other address as may be specified from time to time in writing by either party:

To EVP: Evergreen Park Development, LLC
 C/o Sterling Bay Companies
 600 W. Jackson Blvd., Suite 300
 Chicago, Illinois 60661
 Attention: Scott Goodman

with a copy to: Levick Legal Group, LLC
 350 W. Hubbard Street, Suite 620
 Chicago, Illinois 60654
 Attention: Michael Levick

To the Village: Village of Evergreen Park
 9418 S. Kedzie Avenue
 Evergreen Park, Illinois 60805-2324
 Attention: Mayor

with a copy to: Vincent Cainkar
 Louis F. Cainkar, Ltd.
 6215 West 79th Street, Suite 2A
 Burbank, Illinois 60459

14. **Miscellaneous.** No amendment to this Agreement shall be effective unless in writing and signed by both parties. This Agreement shall be construed and enforced in accordance with the laws of the state in which the Tracts are located. Failure of a party to exercise any right under this Agreement or to insist upon strict compliance with regard to any term, condition or covenant specified herein shall not constitute a waiver of that right nor of strict compliance by the other party with any term, condition or covenant under this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same agreement. All captions and headings are for reference purposes and shall not be deemed to modify the text of this Agreement. The invalidity or unenforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if that invalid or unenforceable provision were omitted. This Agreement constitutes the sole and entire agreement of the parties and is binding upon the parties hereto, their heirs, successors, legal representatives and assigns. Time is of the essence of this Agreement. If the time for the performance of any act, giving of Notice, or making any payment falls on a Saturday, Sunday or legal holiday, such time for performance shall be extended to the next business day. If this Agreement is not signed simultaneously by both parties, the first party to execute it ("**Offeror**") shall send an executed copy to the other party ("**Offeree**") in the manner provided for Notices, and it shall be deemed an offer which Offeree may accept only if Offeree delivers to an overnight courier for next day delivery a fully executed copy on or before the fifth (5th) day after the day on which Offeree received the executed copy.

15. **Stockpile.**

(a) For the period of one year following the Closing Date, the Village shall make available to EVP, for EVP's use as provided in this Section, the area designated on **Exhibit F** attached hereto as the "Proposed Stockpile Location" (the "**Stockpile Area**"). During such period, EVP shall be permitted to remove the general site and building spoils from the EVP Parcel and the EVP Exchange Tract and deposit them on the Stockpile Area. All general site and building spoils remaining on the Stockpile Area after such one year period shall be the property of the Village.

(b) During such one year period, EVP shall have pedestrian and vehicular access to the Stockpile Area from one or more points as EVP shall designate on the Village Exchange Tract and/or the temporary railroad crossing, over and along the portion of the Village Parcel remaining after conveyance by the Village of the Village Exchange Tract.

(c) EVP makes no representation or warranty as to the condition of the spoils to be deposited in the Stockpile Area, all such spoils being accepted by the Village in "as is" condition and without warranties of any kind, including fitness for a particular purpose, and Village hereby releases EVP from any liability in connection therewith.

(d) EVP shall give written notice to the Village when it has substantially finished depositing spoils on the Stockpile Area, although nothing herein shall prohibit EVP from continuing to depositing spoils on the Stockpile Area from time to time following the giving of such notice. At all times, the Village shall have the sole responsibility to institute a storm water

management plan as to the Stockpile Area, install silt fences, seed the area and take such other measures as are reasonably necessary to maintain the Stockpile Area, EVP having no liability therefor.

(e) The provisions of this Section shall survive the Closing.

16. Outfall Pipe.

(a) Prior to the Closing Date, the Village shall cause to be installed a twenty-four (24) inch outfall pipe (the "**Outfall Pipe**") across the Village Parcel for the purpose of draining storm water from that portion of the EVP Parcel and the EVP Exchange Tract designated on said **Exhibit F** as the "West Detention Basin" to the municipal storm main located in 91st Street (the "**Storm Main**"). Following the Closing Date, within thirty (30) days after EVP has obtained the necessary permit from the Metropolitan Water Reclamation District, the Village shall cause the Outfall Pipe to be connected to the Storm Main. The installation of the Outfall Pipe and connection to the Storm Main shall be completed in accordance with the plans and specifications prepared by Manhard Consulting Inc. and identified in **Exhibit G** attached hereto (the "**Plans**").

(b) All work, whether performed before or after the Closing Date, shall be paid for in full by the Village and shall be free of liens encumbering all or any portion of the Village Exchange Tract. From time to time, upon the request of EVP, the Village shall provide evidence of the same to EVP, including without limitation a sworn owner's statement, sworn contractor's statements, subcontractor's statements and waivers of lien from each supplier of labor or materials for the work required under this Section.

(c) The Village hereby warrants to EVP that all work required under this Section has been or will be completed in a good and workmanlike manner, in accordance with the Plans, and will be free from all defects.

(d) At the Closing, the Village will grant EVP an easement permitting storm water drainage over, under and along the location of Outfall Pipe, in the form of **Exhibit H** attached hereto.

(e) In consideration of the foregoing, EVP shall pay the Village of the sum of \$59,903 at the Closing.

(f) The provisions of this Section shall survive the Closing.

[TEXT OF AGREEMENT ENDS HERE; SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, EVP and the Village have each duly executed this Agreement as of the dates shown adjacent to their signatures below.

EVP: **EVERGREEN PARK DEVELOPMENT, LLC,**
a Delaware limited liability company

By: _____
Print Name: _____
Title: _____

Date of Execution by EVP: January __, 2012

VILLAGE: **VILLAGE OF EVERGREEN PARK,**
an Illinois municipal corporation

By: _____
Printed Name: James J. Sexton
Title: Mayor

Attest: _____
Printed Name: Catherine T. Aparo
Title: Village Clerk

Date of Execution by the Village: March 5, 2012

EXHIBIT A

Legal Description of EVP Parcel

THAT PART OF LOTS 3, 4 AND 6 IN CHAMBERS AND KELLOGGS SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, TOGETHER WITH THAT PART OF 93RD STREET (ASHTON PLACE) LYING EAST OF THE WEST LINE OF LOTS 4 AND 5 IN CHAMBERS AND KELLOGGS SUBDIVISION AFORESAID AND LYING WEST OF THE EAST LINE OF LOTS 4 AND 6 IN CHAMBERS AND KELLOGGS SUBDIVISION AFORESAID, ALL IN COOK COUNTY, ILLINOIS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF LOT 7 IN SAID CHAMBERS AND KELLOGGS SUBDIVISION, THENCE NORTH 01 DEGREES 39 MINUTES 26 SECONDS WEST, ALONG THE EAST LINE OF SAID LOTS 6 AND 7, A DISTANCE OF 296.53 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 88 DEGREES 20 MINUTES 34 SECONDS WEST, A DISTANCE OF 248.50 FEET TO A LINE THAT IS 248.50 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOTS 3, 4 AND 6; THENCE NORTH 01 DEGREES 39 MINUTES 26 SECONDS WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 500.00 FEET; THENCE NORTH 88 DEGREES 20 MINUTES 34 SECONDS EAST, A DISTANCE OF 248.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 3; THENCE SOUTH 01 DEGREES 39 MINUTES 26 SECONDS EAST, ALONG THE EAST LINE OF SAID LOTS 3, 4 AND 6, A DISTANCE OF 500.00 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH LOTS 1, 2, 3, 12, 13 AND 14 IN BARRETT, CHAMBERS AND THAYER'S SUBDIVISION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS;

TOGETHER WITH THAT PART OF LOT 11 IN BARRETT, CHAMBERS AND THAYER'S SUBDIVISION AFORESAID LYING NORTH OF A LINE 533 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF THE SOUTH 15 ACRES OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 1 AFORESAID;

TOGETHER WITH THAT THAT PART OF LOT 4 IN BARRETT, CHAMBERS AND THAYER'S SUBDIVISION AFORESAID LYING NORTH OF A LINE 533 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF THE SOUTH 15 ACRES OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 1 AFORESAID;

TOGETHER WITH THE NORTH 25 FEET OF THE EAST 240 FEET THEREOF OF SAID LOT 4, LYING SOUTH OF A LINE 533 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF THE SOUTH 15 ACRES OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 1 AFORESAID;

TOGETHER WITH THAT PART OF 93RD STREET (ASHTON PLACE) AND CLIFTON PLACE LYING EAST OF THE WEST LINE OF LOTS 12 AND 13 IN BARRETT, CHAMBERS AND THAYER'S SUBDIVISION AFORESAID AND LYING WEST OF THE EAST LINE OF LOTS 2 AND 3 IN BARRETT, CHAMBERS AND THAYER'S SUBDIVISION AFORESAID AND LYING SOUTH OF THE NORTH LINE OF LOTS 1 AND 14 IN BARRETT, CHAMBERS AND THAYER'S SUBDIVISION AFORESAID, AND LYING NORTH OF A LINE 533 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF THE SOUTH 15 ACRES OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 1 AFORESAID, ALL IN COOK COUNTY, ILLINOIS.

CONTAINING 2,154,327 SQUARE FEET (49.457 ACRES) MORE OR LESS.

PREPARED BY:
MANHARD CONSULTING, LTD.
900 WOODLANDS PARKWAY
VERNON HILLS, ILLINOIS 60061
847.634.5550

EXHIBIT B

Legal Description of Village Parcel

LOTS 1, 2, 3, 4, 5, 6 AND 7 IN CHAMBERS AND KELLOGGS SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, TOGETHER WITH THAT PART OF 93RD STREET (ASHTON PLACE) LYING EAST OF THE WEST LINE OF LOTS 4 AND 5 IN CHAMBERS AND KELLOGGS SUBDIVISION AFORESAID AND LYING WEST OF THE EAST LINE OF LOTS 4 AND 6 IN CHAMBERS AND KELLOGGS SUBDIVISION AFORESAID, ALL IN COOK COUNTY, ILLINOIS, EXCEPTING THEREFROM THAT PART DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 7, THENCE NORTH 01 DEGREES 39 MINUTES 26 SECONDS WEST, ALONG THE EAST LINE OF SAID LOTS 6 AND 7, A DISTANCE OF 296.53 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 88 DEGREES 20 MINUTES 34 SECONDS WEST, A DISTANCE OF 248.50 FEET TO A LINE THAT IS 248.50 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOTS 3, 4 AND 6; THENCE NORTH 01 DEGREES 39 MINUTES 26 SECONDS WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 500.00 FEET; THENCE NORTH 88 DEGREES 20 MINUTES 34 SECONDS EAST, A DISTANCE OF 248.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 3; THENCE SOUTH 01 DEGREES 39 MINUTES 26 SECONDS EAST, ALONG THE EAST LINE OF SAID LOTS 3, 4 AND 6, A DISTANCE OF 500.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,995,375 SQUARE FEET (45.807 ACRES) MORE OR LESS

PREPARED BY:
MANHARD CONSULTING, LTD.
900 WOODLANDS PARKWAY
VERNON HILLS, ILLINOIS 60061
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EXHIBIT C

Legal Description of Village Exchange Tract

THAT PART OF LOT 6 IN CHAMBERS AND KELLOGGS SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 7 IN SAID CHAMBERS AND KELLOGGS SUBDIVISION, THENCE NORTH 01 DEGREES 39 MINUTES 26 SECONDS WEST, ALONG THE EAST LINE OF LOTS 6 AND 7 IN SAID CHAMBERS AND KELLOGGS SUBDIVISION, A DISTANCE OF 130.94 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 88 DEGREES 20 MINUTES 34 SECONDS WEST, A DISTANCE OF 248.50 FEET TO A LINE THAT IS 248.50 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT 6; THENCE NORTH 01 DEGREES 39 MINUTES 26 SECONDS WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 165.59 FEET; THENCE NORTH 88 DEGREES 20 MINUTES 34 SECONDS EAST, A DISTANCE OF 248.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 6; THENCE SOUTH 01 DEGREES 39 MINUTES 26 SECONDS EAST, ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 165.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 41,149 SQUARE FEET (0.945 ACRES) MORE OR LESS

PREPARED BY:
MANHARD CONSULTING, LTD.
900 WOODLANDS PARKWAY
VERNON HILLS, ILLINOIS 60061
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EXHIBIT D

Site Plan

[See following page]

EXHIBIT E

Legal Description of EVP Exchange Tract

THAT PART OF LOTS 3 AND 4 AND IN CHAMBERS AND KELLOGGS SUBDIVISION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 7 IN SAID CHAMBERS AND KELLOGGS SUBDIVISION, THENCE NORTH 01 DEGREES 39 MINUTES 26 SECONDS WEST, ALONG THE EAST LINE OF LOTS 3, 4, 6 AND 7 IN SAID CHAMBERS AND KELLOGGS SUBDIVISION, A DISTANCE OF 630.94 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 88 DEGREES 20 MINUTES 34 SECONDS WEST, A DISTANCE OF 248.50 FEET TO A LINE THAT IS 248.50 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOTS 3, 4 AND 6; THENCE NORTH 01 DEGREES 39 MINUTES 26 SECONDS WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 165.59 FEET; THENCE NORTH 88 DEGREES 20 MINUTES 34 SECONDS EAST, A DISTANCE OF 248.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 3; THENCE SOUTH 01 DEGREES 39 MINUTES 26 SECONDS EAST, ALONG THE EAST LINE OF SAID LOTS 3 AND 4, A DISTANCE OF 165.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 41,149 SQUARE FEET (0.945 ACRES) MORE OR LESS

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EXHIBIT F

Proposed Stockpile Location

EXHIBIT G

Plans and Specifications for Outfall Pipe