

Unfinished Business 5

**WHEATON PARK DISTRICT
RESOLUTION NO. 2013-10**

**A RESOLUTION APPROVING THE TERMS OF THE ACKNOWLEDGEMENT OF
COMMISSION TERMINATION AND AUTHORIZING ITS EXECUTION**

WHEREAS, on June 22, 1981, Wheaton Park District ("Park District"), Glen Ellyn Park District, and Carol Stream Park District (collectively, "Districts") entered into an intergovernmental agreement ("Intergovernmental Agreement") that, among other things, created a Community Park Joint Commission ("Commission"); and

WHEREAS, the Commission was comprised of the Districts and was created, among other reasons, to develop, operate, control, and maintain a certain tract of real estate consisting of approximately 68 acres that had been recently acquired by the Village of Carol Stream ("Property") and was situated between the Districts; and

WHEREAS, on December 14, 1982, the Commission entered into a 30 year lease agreement for the Property with the Village of Carol Stream ("Lease") to carry out the intent of the Intergovernmental Agreement and the purpose of the Commission; and

WHEREAS, the Lease expired by its own terms on January 1, 2013; and

WHEREAS, following the Lease's expiration, the Districts wound up the business of the Commission pursuant to the terms of the Intergovernmental Agreement, including the payment, in equal parts, of all net debts and liabilities of the Commission, and the distribution, in equal parts, of all property and net cash funds of the Commission remaining after payment of all debts and liabilities; and

WHEREAS, based on the expiration of the Lease and the successful winding up of the Commission, the Districts have determined that it is in their respective best interests to terminate the Intergovernmental Agreement and dissolve the Commission.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Park Commissioners ("Park Board") of the Wheaton Park District, DuPage County, Illinois as follows:

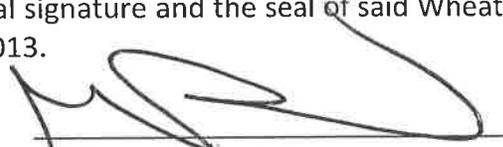
1. The foregoing recitals to this Resolution are hereby determined to be true and correct and are hereby incorporated in and made part of this Resolution.
2. The form, terms and provisions of the proposed Acknowledgement of Commission Termination are hereby in all respects approved in the form as presented to the Park Board at this meeting.
3. The President and Secretary of the Board are hereby authorized and directed to execute and deliver the Acknowledgement of Commission Termination, in the name and on

SECRETARY'S CERTIFICATE

I, Michael J. Benard, do hereby certify that I am Secretary of the Board of Park Commissioners of the Wheaton Park District, DuPage County, Illinois, and as such official, I am keeper of the records, ordinances, files and seal of said Park District; and I hereby certify that the foregoing instrument is a true and correct copy of: A RESOLUTION APPROVING THE TERMS OF THE ACKNOWLEDGEMENT OF COMMISSION TERMINATION AND AUTHORIZING ITS EXECUTION, adopted at a duly called Regular Meeting of the Board of Park Commissioners of the Wheaton Park District, held at Wheaton, Illinois, in said District at 7:00 p.m. on the 20th day of November, 2013.

I do further certify that the deliberations of the board on the adoption of said resolution were conducted openly, that the vote on the adoption of said resolution was taken openly, that said meeting was called and held at a specified time and place convenient to the public, that notice of said meeting was called and held in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and with the provisions of the Park District Code of the State of Illinois, as amended, and that the Board has complied with all of the provisions of said Act and said Code and with all of the procedural rules of the Board.

IN WITNESS WHEREOF, I hereunto affix my official signature and the seal of said Wheaton Park District at Wheaton, Illinois this 20th day of November, 2013.



Michael J. Benard, Secretary
Board of Park Commissioners
Wheaton Park District

[SEAL]

#586687

ACKNOWLEDGEMENT OF COMMISSION TERMINATION

WHEREAS, the undersigned Park Districts are the remaining member entities of the "Community Park Joint Commission" formed by an Intergovernmental Agreement dated June 22, 1981, hereinafter "IGA", and

WHEREAS, the lease between the Commission and the Village of Carol Stream for the park property terminated on January 1, 2013, thus ending the need for the Commission, and

WHEREAS, the undersigned Park Districts have determined that the Commission should be terminated, and the procedures of termination found in Article 5 of the IGA should be followed to wind up the operations of the Commission, and

WHEREAS, this document shall serve as the notice required by said Article 5 from and to each respective member Park District.

NOW WHEREFORE, BE IT ACKNOWLEDGED AND AGREED:

1. The preambles above are incorporated into this acknowledgement.
2. The Community Park Joint Commission is acknowledged to be terminated, the IGA is null and void.
3. The Treasure shall distribute the remaining assets of the Commission pursuant to Article 5, i.e. equally to the remaining members signing below.

Dated as of March 11, 2013.

CAROL STREAM PARK DISTRICT

By: Brenda Gramann Name: Brenda Gramann Title: Pres

Attest: Susan Rini Name: Susan Rini Title: Treasurer

WHEATON PARK DISTRICT

By: John F. Kelly Name: John F. Kelly Title: PRESIDENT

Attest: Michael J. Ben... Name: Michael J. Ben... Title: Sec

GLEN ELLYN PARK DISTRICT

By: Gordon J. Kinzler Name: Gordon J. Kinzler Title: President

Attest: Melissa Creech Name: Melissa Creech Title: Treasurer

12-2-82

COMMUNITY PARK JOINT LEASE

WITNESS this Lease Agreement between the Community Park Joint Commission, comprised of the Wheaton Park District, the Carol Stream Park District and the Glen Ellyn Park District, ("Member Districts") and each of these park districts in its individual capacity and the Village of Carol Stream ("Village"), all bodies politic and corporate.

WHEREAS, by the terms of Illinois Revised Statutes, c.24, sec. 11-76-1, it is provided in part, that any city or Village incorporated under any general or special law which acquires or holds any real estate for any purpose whatsoever, except real estate granted to a municipality as commons by a grant which has been confirmed by the government of the United States, has the power to lease the real estate for any term not exceeding 99 years; and

WHEREAS, by the terms of Illinois Revised Statutes, c.105, secs. 8-1 (b)(1), 8-16 and 10-4, provides that any park district shall have the power to acquire by lease or permit the right to occupy and use real estate, land and riparian estates for park and playground purposes and to improve, maintain and equip the same as a park or playground, and to place permanent buildings and structures thereon; and

WHEREAS, Article VII, sec. 10 of the 1970 Illinois Constitution provides that units of local government may contract and otherwise associate among themselves to obtain or share services and to exercise, combine or transfer any power or function, in any manner not prohibited by law; and

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WHEREAS, the Illinois "Intergovernmental Cooperation Act" (c.127, sec. 741, et. seq., Ill. Rev. Stat., 1979) also allows a unit of local government to enter into an intergovernmental agreement to exercise its various powers, privileges or authority jointly with another unit or units of local government, and, in any such agreement, to appropriate funds and to sell, lease, give, authorize the receipt of grants, or otherwise supply the administrative joint board or other legal or administrative entity created to operate the cooperate undertakings by providing personnel or services therefor; and

WHEREAS, the Village of Carol Stream ("Village") is the owner of a certain tract of real estate of approximately 68 acres which was acquired and developed by the Village under partial funding from the Federal Land and Water Conservation Fund Program and Community Development Block Grant Funds, said real estate being situated between the said three Park Districts and is legally described in Exhibit A which is attached hereto and made a part hereof; and,

WHEREAS, the Village and said Park Districts believe that the joint development, operation, control and maintenance of said real estate by said Park Districts as a community park serving said Park Districts and their respective residents is the most efficient and expeditious way of developing, operating, controlling and maintaining such a community facility; and,

WHEREAS, the three named Park Districts have joined together to form a Community Park Jcint Commission ("Commission"), and are hereby carrying out the intent of such intergovernmental agreement by acquiring by lease from the Village of Carol Stream the certain 68 acres; and,

WHEREAS, the Village is willing to lease said tract of real estate to the Commission for the benefit of the Park Districts and their residents only upon the addition in this lease agreement of the Park Districts in their individual capacities for the limited contractual purposes set out in this agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE COVENANTS, CONDITIONS AND AGREEMENTS HEREIN CONTAINED, THE PARTIES HERETO AGREE, as follows:

1. Lease, Term of Lease

The Village hereby leases to the Commission, the premises, described in Exhibit A which is attached to and made a part of this Lease containing approximately 68 acres with some improvements thereon, to have and to hold the same demised premises for a term of thirty (30) years, commencing on the first day of JANUARY, 1983, and ending on the 15th day of JANUARY, 2013. The Commission herewith pays to the Village, as total rent for said premises, the sum of \$10.00, said rental payment to cover the entire term of this lease or that term as decreased by termination of said lease as herein provided, as the case may be.

2. Purposes

It is expressly understood and agreed that the said premises are to be used by the Commission exclusively for public park and recreational purposes. Except as otherwise herein set forth, the Commission shall operate such park and recreational facilities in an attractive, inviting and safe manner and shall determine all reasonable rules and regulations relative to the operation of the park and facilities and the use of the same. The use of the premises and activities taking place upon the premises shall be subject

to the terms and conditions of the general ordinances of the Village.

3. Duty to Maintain and Repair

It is further agreed that the Commission shall maintain land and all park and recreational buildings and improvements now existing or to be completed by the Village or the Commission in the future, in reasonable condition and shall, at its cost and expense, make all repairs reasonably required to such land, buildings and improvements due to normal wear and use; and upon the termination of this Lease, Commission will yield up said premises to the Village in reasonably good condition and repair, except for loss by fire or other casualty, and ordinary wear and tear, and except as may be otherwise provided herein or agreed to between the parties. Provided, however, the Commission shall not be required to maintain or repair any building placed upon the site by the Village without the written approval of the Commission.

4. Insurance, Indemnification

The three Member Districts individually agree, at their own expense, to defend, indemnify, save and hold harmless the Village, its officers, employees and agents, from and against all liability or loss or injuries or to deaths of persons or damaged property caused by any act or omission to act of any officer, employee or agent of said Member District or Commission upon the leased premises which are under the control of the Commission. The Village likewise, at its own expense, agrees to defend, indemnify, save and hold harmless the Commission, its officers, employees and agents and its Member Districts from and against all liability or loss for injuries or to deaths of persons or damage to property

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caused by any act or omission to act of any officer, employee, or agent of the Village upon the premises which are under the control of the Commission. The obligation of the Village undertaken herein shall not, however, extend to actions taken by municipal officers, employees or agents where such action is requested by the Commission or its member Districts. The Village shall have no obligations or responsibilities arising out of this paragraph for actions taken by its officers or employees if such persons enter the premises in the enforcement of any laws or ordinances.

It is also agreed that the Member Districts, either in their own name or in the name of the Commission, shall obtain and maintain continuously in effect at all times, general liability, automobile liability and workers compensation insurance approved (not to be unreasonably withheld) by the manager of the Village, in the largest amount which any one of the Member Districts customarily carries on their own facilities, protecting the Village with regard to the obligations of the Member Districts assumed within this paragraph. Likewise, the Village shall obtain and maintain insurance in the amount and manner provided above to protect the Commission and its Member Districts against the responsibilities assumed by the Village within this paragraph.

Fire and extended coverage insurance for improvements existing at the commencement of this Lease, or thereafter, completed or constructed by the Village, shall be carried by the Village; such fire insurance for the improvements constructed by the Commission shall be carried by the Commission or at least one of its Member Districts.

Any and all insurance required hereunder to be secured by the Commission or one or more of its Member Districts, shall name the Village as an additional insured with respect to the said Leased Premises, and likewise, all insurance herein required to be secured by the Village shall name the Commission as an additional insured with respect to the said leased premises. Upon request, a copy of any such policies or certificates showing said policies currently in effect shall be delivered by either party hereto to the other and kept in an updated condition.

5. Drainage Areas

The Village retains the right to enter the leased premises for the purpose of constructing, reconstructing, repairing or doing any type of work whatsoever with respect to any public or private utilities, such as water service, sewer service and storm water drainage, cable television cables and further reserves the right to approve or disapprove, or to enter and construct on its own, any roadways for ingress, egress, or transportation across any part of the leased premises for any purpose whatsoever.

The Village retains the right to control the surface and subsurface water drainage and retention for flood control and management of the natural water course in the entire leased premises, including but not limited to the pond, marsh and flood plain areas. Provided, however, that except as such power is specifically denied or limited by writing, the Commission shall have authority to utilize the surface drainage areas including but not limited to the pond, marsh and flood plain areas for recreational purposes.

Before undertaking such recreational uses, the Commission shall submit in writing to the Village proposals regarding the

utilization of such areas. The Village shall not unreasonably withhold approval of such recreational uses provided that such uses shall not interfere or impede the utilization of the area for drainage purposes. The Commission shall undertake normal and periodic maintenance for the surface retention, flood control and natural watercourse area, including but not limited to, the ponds, marshes and flood plain areas.

The Commission shall cut the grass and weeds which shall grow adjacent to and within such areas and will remove from such areas debris or refuse. In the event that the pond shall become so clogged with water plants or other debris that they interfere with the drainage functions of these areas, such areas will be cleared by the Village at its expense. Any capital improvements or replacement of capital improvements for drainage purposes shall remain the responsibility of the Village and the Village alone shall have the responsibility of caring for and maintaining any public or private utilities or roadways referred to in paragraph 1 of this Section 5.

6. Priority Use

In carrying out recreational programs within the premises, the Commission and its Member Districts shall accord to the Village priority use of the premises for any activity sponsored or co-sponsored by the Village itself. This priority shall only be accorded to the Village in the event that there was not actually scheduled a previous event which would interfere with the requests being made by the Village.

The Village shall have the right to use a portion of the park for other public or governmental purposes, if consistent with grant regulations governing the use of property acquired or developed for recreational purposes. The Village would choose such a site suitable for the public or governmental use intended and which presents the

least interference with the then current or projected utilization of the property by the Commission.

7. No Assignment or Subleasing

The Commission shall not assign this Lease, or any interest therein, or sublet any portion of the premises herein demised, but may grant permission and authority to any person to occupy and use space within the demised premises for any service necessary, incidental, or desirable to the operation for park purposes upon such terms and conditions as may be prescribed by the Commission. Any permission which the Commission may grant to any person to occupy and use space within the demised premises shall contain a clause indicating that the permission or license therein granted shall only be valid during the time when the Commission shall possess a lease to the demised premises. In the event that this Lease Agreement should be terminated prior to its expiration date, any permission, authority or license granted by the Commission shall immediately thereupon cease.

8. Presumed Residency of Village's Residents in Commission

The residents of the Village of Carol Stream shall always, during the term of this Lease, have the same privileges, regardless of their park district residence, as residents of the Commission. As such, residents of the Village of Carol Stream will always be eligible as residents in relation to differentials in fees and any other resident benefits determined by the Commission and based upon resident or non-resident status.

9. Assurances of Compliance

The Commission and the Member Districts agree to accept and fulfill the requirements of the various Assurances of Compliance given by the Village to the State of Illinois Department of

Conservation and the United States Department of Interior in consideration of certain grant funds for this park project. Specifically, the Commission and the Member Districts will comply with the Uniform Relocation and Real Property Assistance Act (PL 91-646); will comply with Title VI of the Civil Rights Act of 1964 (PL 83-352); will comply with all applicable State and Federal regulations; and will obtain from the State of Illinois, Department of Conservation, approval in writing for any change or conversion of the planned outdoor recreation use of the project site, and that such approval will be received prior to the usage change.

10. Termination

It is further agreed that either of the parties shall have the right and privilege of terminating this Lease at any time upon giving not less than six (6) months notice in writing prior to each 5th year anniversary of the date of this agreement, to the other party of its intention so to do; provided, that this agreement shall terminate at the end of said thirty (30) year term unless otherwise mutually agreed by the parties hereto. Such notice of termination may be withdrawn not less than six months prior to a 5th year anniversary date of this agreement.

In the event that one of the Member Districts should withdraw from the intergovernmental agreement, the Commission shall notify the Village of that fact in writing within sixty (60) days after receiving such notice. Upon such a withdrawal, the Village shall have the right and privilege of terminating this Lease at any time upon giving at least ninety (90) days prior notice, in writing, to the Commission of its intention so to do. Such termination, however, shall not commence sooner than the date at which the Member District or Districts

shall no longer be a Member of the Commission.

11. Actions Required Upon Termination

Upon termination, the Village shall have the option with regard to each and every structure which has been placed thereon by the Commission to elect that either (1) such structure shall be deemed to be the property of the Village or (2) the Commission at its expense shall remove or demolish the structure.

At the termination of the Lease, the portion of the entire premises under the control of the Commission and to the extent as then physically improved by the construction of buildings and other structure by the Commission, shall be restored to the same condition as when leased upon exercise of option (2) aforesaid by the Village by notice delivered to the Commission not later than the effective date of said termination.

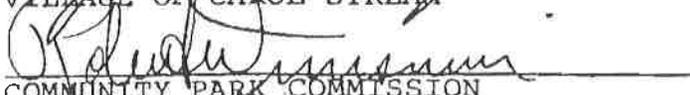
12. Notices

All notices hereunder shall be in writing. Delivery of such notices may be by either (1) personal delivery to the Manager of the Village, the Director of the Commission or to an officer or administrative employee of the Member Districts or (2) by U.S. Certified Mail, Return Receipt Requested, properly addressed to the administrative office address of the Village, Commission or Member District.

12. Effective Date of Lease

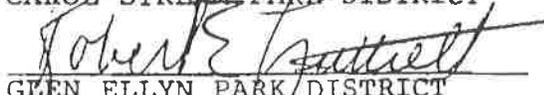
This Lease Agreement shall be deemed effective as of the 14th day of DECEMBER, 1982.


VILLAGE OF CAROL STREAM


COMMUNITY PARK COMMISSION


WHEATON PARK DISTRICT


CAROL STREAM PARK DISTRICT


GLEN ELLYN PARK/DISTRICT