

RESOLUTION R-95-05

A RESOLUTION AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT FOR THE VACATION OF RIGHT-OF-WAY/
WHEATON PARK DISTRICT

WHEREAS, the City of Wheaton is currently the owner of a certain right-of-way commonly known as Commerce Drive, a.k.a. Aurora Way; and

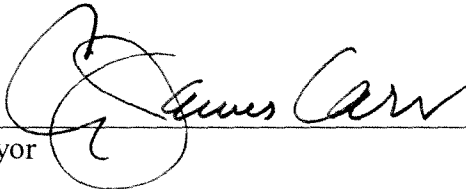
WHEREAS, the Wheaton Park District owns property abutting and contiguous to said right-of-way; and

WHEREAS, the Wheaton Park District has petitioned the City of Wheaton to vacate said right-of-way and pursuant to notice as required by City Code a Public Hearing was conducted by the Wheaton City Council on May 23, 2005, to consider the vacation; and

WHEREAS, the City of Wheaton has determined it to be in the best interest of the City to vacate said right-of-way to the Wheaton Park District subject to the terms and conditions of an Intergovernmental Agreement.

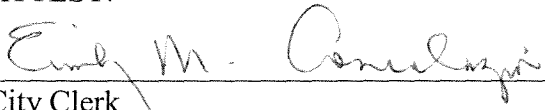
NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the Mayor is hereby authorized to execute an Intergovernmental Agreement For the Vacation of Right-of-Way Between the City of Wheaton and Wheaton Park District for the vacation of Commerce Drive, a.k.a. Aurora Way, and the City Clerk is hereby authorized to attest to the Mayor's signature.

ADOPTED this 5th day of December, 2005.



Mayor

ATTEST:



City Clerk

Ayes:

Roll Call Vote:
Councilman Mouhelis
Councilman Suess
Councilman Bolts

Councilwoman Corry
Councilman Johnson
Mayor Carr
Councilman Levine

Nays: None
Absent: None

Motion Carried Unanimously

Published: December 6, 2005

**INTER-GOVERNMENTAL AGREEMENT
FOR THE VACATION OF RIGHT OF WAY**

THIS Inter-Governmental Agreement (hereinafter "Agreement") is entered into this 5th day of December, 2005, between the City of Wheaton, DuPage County, Illinois (hereinafter "City") and the Wheaton Park District, an Illinois park district, Wheaton, DuPage County, Illinois ("Park District"). The City and the Park District are sometimes hereinafter individually referred to as a "Party" or collectively referred to as "Parties".

WITNESSETH:

WHEREAS, Article 7, Section 10 of the Illinois Constitution and the Illinois Inter-Governmental Cooperation Act, 5ILCS 220/1 et. seq., authorize and encourage units of local government to enter into inter-governmental agreements when they serve the public interest; and

WHEREAS, Illinois Statutes grant authority to the City to vacate streets and alleys within its jurisdictions, and to provide a transfer of title to the vacated street, alley or right of way to another; and

WHEREAS, the City is currently the owner of certain rights of way in Wheaton, Illinois, as depicted on the Plat Of Vacation attached hereto, commonly known as Commerce Drive, a/k/a Aurora Way and incorporated herein and is fully set forth as *Exhibit A* (hereinafter "the Property"); and

WHEREAS, the City has never improved the Property as a street or an alley for vehicular, bicycle or pedestrian traffic; and

WHEREAS, the Park District owns parcels abutting and contiguous to the Property to the west; and

WHEREAS, the Park District proposes upon vacation of the rights of way to use the Property for public purposes, specifically as a portion of the Park District's maintenance facility; and

WHEREAS, the vacation petition has been filed pursuant to the provisions of Chapter 58, Article IV of the City Code; thereafter, pursuant to notice as required by the City Code, a public hearing was conducted by the City Council on May 23, 2005, to consider the vacation; and

WHEREAS, the Corporate Authorities of the City have determined that it is in the public interest for the City to vacate and convey the Property to the Park District subject the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The Recitals are incorporated herein as representing the intent of the Parties and as substantive provisions of this Agreement.

2. The Corporate Authorities of the City of Wheaton hereby approve the Plat of Vacation attached hereto and incorporated herein as *Exhibit A*. All portions of the Property depicted as vacated by the Plats are hereby transferred to the Park District, for any and all public purposes authorized by state enabling statutes pertaining to their operations.

3. In consideration of the aforesaid vacation, the Park District will prepare at its sole cost and expense any and all other documents which may be necessary to effectuate and complete transfer of title for the Property from the City to the Park District. The City will cooperate in any further steps required to effectuate and complete said transfer.

4. The Park District shall use the Property for public purposes only. The Property will not be sold to private entities for subsequent use for non-public purposes. Any efforts by the Park District to alienate the Property for non-public use shall cause title to the Property to revert to the City of Wheaton.

5. Title to the Property, upon vacation, shall vest solely in the Wheaton Park District, it being in the public interest for title to so vest, as the Property will be used as part of the Wheaton Park District's maintenance facility, providing alternate access from said maintenance facility to Gables Blvd., thereby lessening traffic congestion on Manchester Road to the north.

6. The Park District shall provide letters from all franchised utility companies, including Commonwealth Edison, Northern Illinois Gas, SBC/Ameritech and ComCast Cable indicating they have no interest or objection to the proposed right-of-way vacation.

7. The Park District shall cause to have the Plat of Vacation dated March 22, 2005 modified to include a public utility easement over the Property.

8. The City represents to the Park District that the Property is currently exempt from real estate taxes, and the City shall reasonably cooperate with the Park District as may be requested to enable the Park District to apply for and obtain a real estate tax exemption for the Property.

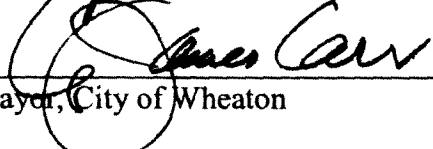
9. The Park District shall then defend and indemnify and hold harmless the City of Wheaton, its elected officials, appointees, employees, agents and assigns, from any and all claims, actions or litigation directed at or attempting to set aside these vacations and the transfer of title in the Property from the City to the Park District.

10. This Agreement shall be recorded with the Plat of Vacation at the office of the DuPage Recorder of Deeds.

11. This Agreement represents the entire agreement between the Parties and all prior negotiations and agreements related to this matter subsumed herein. This Agreement may not be modified except in writing unanimously approved by the Parties.

IN WITNESS whereof the Parties have executed this Agreement this 5th day of December, 2005.

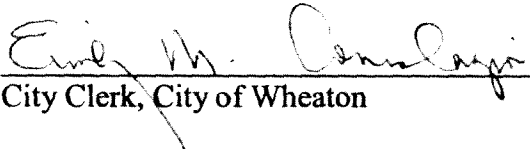
ATTEST:


Mayor, City of Wheaton

ATTEST:

President, Wheaton Park District

ATTEST:


City Clerk, City of Wheaton

ATTEST:

Secretary, Wheaton Park District