

**LICENSE AGREEMENT FOR
USE AND DEVELOPMENT OF CERTAIN LAND FOR PARKING**

THIS LICENSE AGREEMENT (the "Agreement") is made and entered into as of the 19 day of OCTOBER, 2015, by and between the FOX VALLEY PARK DISTRICT, an Illinois municipal corporation (hereinafter referred to as "FVPD") and the CITY OF AURORA, an Illinois municipal corporation (hereinafter referred to as the "CITY").

WITNESSETH:

WHEREAS, FVPD owns certain real estate depicted on Exhibit A attached hereto and incorporated herein by this reference (the "FVPD Parcel"), which is located immediately south of and adjacent to the City of Aurora Animal Control and Care Facility, located at 600 South River Street, Aurora, IL 60506 (the "City Parcel"); and,

WHEREAS, the CITY desires to utilize a portion of the FVPD Parcel for additional parking from time to time and is willing to improve the FVPD Parcel by installing and maintaining an asphalt parking lot expansion to the existing Animal Control and Care Facility thereon, in exchange for agreeing to allow the general public access across the City Parcel to park on the FVPD Parcel and to allow parking by the general public on the City Parcel parking lots, all as more specifically set forth herein; and,

WHEREAS, FVPD is agreeable to permitting the foregoing asphalt parking lot installation and maintenance by the CITY on the FVPD Parcel in exchange for the CITY granting to the general public access rights and parking rights on the City Parcel, all as more specifically set forth herein.

NOW, THEREFORE, for the consideration of the mutual promises and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals to this Agreement are substantive and are hereby incorporated into the Agreement as though fully set forth herein.
2. **Approval of Plans for Parking Lot.** The CITY shall submit plans for the parking lot expansion ("Parking Lot") to the FVPD for approval prior to construction.
3. **Grant of License by FVPD to CITY.** FVPD hereby grants to the City a non-exclusive license to use the FVPD Parcel for the construction, installation, and maintenance of the Parking Lot for an initial term of ten (10) years, subject to the terms hereof. After the initial term, the parties may renew the license for additional periods by mutual agreement.
4. **Grant of License by CITY to FVPD and the General Public.** The CITY hereby grants to FVPD and its visitors, patrons and users, a non-exclusive license to use the Parking Lot during the term of this License Agreement and any extension hereof by the parties,

provided that such Parking Lot use is restricted to the hours of operation of the adjacent park. Use of the Parking Lot may be regulated by the CITY as necessary to ensure that sufficient parking is available for Animal Control and Care Facility employees and visitors.

5. **Construction Costs, Construction Activities and Insurance Coverage Requirements of Contractors.** The parties acknowledge that the CITY will exclusively fund the costs of all construction work, striping, landscaping, signage, and site restoration associated with the installation of the Parking Lot and that the sole cost of completing the Parking Lot in accordance with the Plans shall be borne by the CITY. Accordingly, the CITY agrees to cause the Parking Lot to be constructed in accordance with the Plans and applicable laws and shall not permit any mechanics' liens, materialmen's liens or other claims of such sort to be filed against the Project Site in connection with the construction of the Parking Lot. Further, the CITY shall indemnify and hold FVPD harmless with respect to any loss or damage and personal injury which may occur upon the Project Site during the course of the construction of the Parking Lot. The CITY shall require in each of its contracts with contractors performing work at the Project Site to provide for compliance with all applicable laws, including, but not limited to the Illinois Prevailing Wage Act, Americans with Disabilities Act and other statutes relating to public works improvements on public property. The CITY shall further require in each of its contracts with contractors performing work at the Project Site to provide insurance coverage by such contractors in the following manner and to include the following indemnity provisions in said contracts prior to permitting any contractor to undertake any work on the Parking Lot or at the Project Site:

A. Commercial General and Umbrella Liability Insurance

Each contractor and subcontractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$3,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

The CITY and FVPD shall be included as a named insured under the CGL, using ISO additional insured endorsement CG 20 26 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to the CITY and FVPD. Any insurance or self-insurance maintained by the CITY or FVPD shall be excess of each contractor's insurance and shall not contribute with it.

B. Business Auto and Umbrella Liability Insurance

Contractors shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

C. Workers Compensation Insurance

Contractors shall maintain workers compensation and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

If the CITY and FVPD have not been included as an insured under the CGL using ISO additional insured endorsement CG 20 11 under the Commercial General and Umbrella Liability Insurance required hereunder, the Contractor shall waive all rights against the CITY and FVPD and their officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the contractor's occupancy and control of the Project Site or any area within same.

D. General Insurance Provisions

1. Evidence of Insurance

Prior to undertaking construction at the project location, each contractor shall furnish the CITY and FVPD with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

All certificates shall provide for 30 days' written notice to the CITY and FVPD prior to the cancellation or material change of any insurance referred to therein. Written notice to the CITY and FVPD shall be by certified mail, return receipt requested.

Failure of the CITY and FVPD to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of the CITY or FVPD to identify a deficiency from evidence that is provided shall not be construed as a waiver of a contractor's obligation to maintain such insurance.

The CITY or FVPD shall have the right, but not the obligation, of prohibiting a contractor from occupying the Property until such certificates or other evidence that

insurance has been placed in complete compliance with these requirements is received and approved by the CITY and FVPD.

A contractor shall provide certified copies of all insurance policies required above within 10 days of written request for said copies by the CITY or FVPD.

2. Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the CITY and/or FVPD has the right to reject insurance written by an insurer it deems unacceptable.

3. Cross-Liability Coverage

If a contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

E. Indemnification

Each contractor must include a provision in its contract with the CITY that it shall indemnify and hold harmless the CITY, FVPD, and their officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising from or in any way connected with (i) the conduct or management of the premises or of any business or activity therein, or any work or thing whatsoever done, or condition created in or about the premises during the term of this lease; (ii) any act, omission wrongful act or negligence of the contractor or any of contractor's subcontractors or employees (if applicable), or the partners, directors, officers, agents, employees, invitees or contractors of contractor or its subcontractors or their employees; (iii) any accident, injury or damage whatsoever occurring in or at the Project Site except to the extent it is caused in part or whole by a party indemnified hereunder.

6. **General Obligations of CITY.** The CITY agrees to undertake and complete or cause its agents to undertake and complete the installation and striping of all asphalt surfaces and any associated parking lot improvements and site restoration at the Project Site. The CITY shall also undertake and continue all maintenance associated with the Parking Lot after its completion, including appropriate resealing and striping, and sign maintenance, as necessary from time to time, through the term of this Agreement.

7. **CITY Insurance Requirements.** In conjunction with the continued maintenance obligations hereunder, the CITY shall maintain adequate liability insurance coverage with respect to those maintenance activities and shall name FVPD as an additional insured under each such policy maintained by it as follows:

The CITY shall maintain the following general liability insurance:

A. Commercial General and Umbrella Liability Insurance

The CITY shall maintain commercial general liability (CGL) or self-insurance, and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

FVPD shall be included as an additional insured under any self-insurance or general liability policy. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to FVPD. Any insurance or self-insurance maintained by FVPD shall be excess of The CITY's insurance and shall not contribute with it.

B. Indemnification

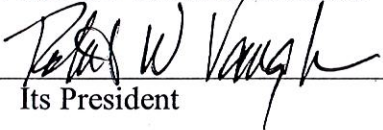
The CITY shall indemnify and hold harmless FVPD and its officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, arising from or in any way connected with (i) the conduct or management of the Parking Lot or of any business or activity therein, or any work or thing whatsoever done, or condition created in or about the Parking Lot during the term of this license; (ii) any act, omission wrongful act or negligence of the CITY or any of CITY's licensees (if applicable), or the agents, employees, invitees or contractors of the CITY; (iii) any accident, injury or damage whatsoever occurring in or at the Parking Lot, except to the extent it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. The CITY shall similarly protect, indemnify and hold and save harmless FVPD, its officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses, incurred by reason of the CITY's breach of any of its obligations under, or the CITY's default of, any provision of the Contract.

8. **Miscellaneous.** This License Agreement is subject to and shall be interpreted in accordance with Illinois Law, expressly including the terms of the Illinois Park District Code (70 ILCS 1205/1-1 *et seq.*) This Agreement shall be binding upon the respective successors and assigns of the parties hereto. The parties acknowledge the fact that substantial costs are going to be incurred by the CITY in the construction and maintenance of the Parking Lot, accordingly,

the term hereof shall not be subject to a right of termination, except upon the mutual agreement of the parties hereto or upon the determination of invalidity under applicable law. In the event of any such invalidity, to the extent any provisions hereof can be eliminated in order to cause compliance with such applicable law, the parties shall modify the terms hereof so as to cause such compliance.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first written above and the signatories hereto represent that they are duly authorized to execute the Agreement on behalf of their respective bodies.

FOX VALLEY PARK DISTRICT

By: 
Its President

Attest:

Its Secretary

CITY OF AURORA

By: _____
Its Authorized Agent

Attest:

Its Secretary



Exhibit A
Animal Control and Care Facility Parking Lot
License Agreement Area