

**MEMORANDUM OF AGREEMENT AMONG
THE VILLAGE OF GLEN ELLYN,
THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, AND THE
ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING DEMOLITION AND NEW CONSTRUCTION AT
423-425 NORTH MAIN STREET IN
GLEN ELLYN, ILLINOIS
(SHPO LOG #019072619)**

WHEREAS, the Village of Glen Ellyn (Village) plans to undertake the demolition of 423-425 North Main Street in Glen Ellyn, DuPage County, IL (“Buildings”) and construct a pedestrian walkway in its place; and

WHEREAS, the project requires a National Pollutant Discharge Elimination System (NPDES) permit from the Illinois Environmental Protection Agency (IEPA), thereby making the project an Undertaking subject to review under the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420) and its implementing rules (17 IAC 4180) (Act); and

WHEREAS, the Village has consulted with the Illinois State Historic Preservation Office (Office), a Division of the Illinois Department of Natural Resources (IDNR), pursuant to the Act; and

WHEREAS, the Office currently resides within the Illinois Department of Natural Resources (IDNR), and the Director of IDNR is the duly designated State Historic Preservation Officer (SHPO); and

WHEREAS, on September 18, 2013 the Glen Ellyn Downtown South Historic District (Historic District) was listed in the National Register of Historic Places (NRHP) under criteria A and C at the local level of significance; and

WHEREAS, the Buildings are contributing buildings to that listed NRHP historic district; and

WHEREAS, the SHPO has determined that the Undertaking will have an adverse effect to the Building, of which is a part of streetscape in the Historic District; and

NOW, THEREFORE, the Village, IEPA, and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in this Memorandum of Agreement (Agreement) in order to mitigate the adverse effects of this Undertaking to the Building as a result of this project.

STIPULATIONS

I. MITIGATION

The Village will implement the Undertaking through the following Mitigation acts as outlined herein.

1. The Village will consult with SHPO during the concept development and preparation of the final planned unit development plans through the 75 percent design stage, or until the plans are completed to the satisfaction of Village staff for review and approval in accordance with the Glen Ellyn Zoning Code, whichever occurs first, for the new construction to occur at 423 – 425 N. Main Street. This may also include, if necessary and in accordance with the Glen Ellyn Zoning Code, the concurrent preparation of amendments to the preliminary planned unit development plan.
2. The Village will revise said plans, in accordance with comments from SHPO that relate to integration into and the retention of the historic integrity and fabric of the Glen Ellyn Downtown South Historic District prior to the new construction occurring at 423 – 425 N. Main Street.
3. Upon completion all revisions of said plans in accordance with comments from SHPO and upon the review and approval of said plans in accordance with the Glen Ellyn Zoning Code, the Village shall then subsequently submit all required building permit applications to the Glen Ellyn Community Development Department for review and approval in accordance with the Glen Ellyn Building Code and all other applicable federal, state, and local code requirements.
4. Upon approval and issuance of all building permits by the Glen Ellyn Director of Community Development or his or her designee, the Village may then commence work of the new construction at 423 – 425 N. Main Street.
5. The Village shall submit the approved plans associated with the issued building permits to SHPO for acceptance of the approved plans and informational purposes.
6. Upon completion of the new construction to the satisfaction of the Glen Ellyn Director of Community Development or his or her designee, the Village shall notify SHPO of said completion and invite SHPO to inspect the new construction for its sufficient integration into and retention of the historic integrity and fabric of the Glen Ellyn Downtown South Historic District. The inspection by SHPO shall not constitute as a requirement of this agreement and shall be voluntary only and any comments resulting from said inspection shall be optional for the Village to complete post-construction.

II. COMMUNICATION

The Village and SHPO agree to the following stipulations in regard to communication to ensure a timely review process and completion of the terms of this Agreement.

1. The reviews by SHPO of the initial submittal and all subsequent submittals of the plans for the new construction to occur at 423 – 425 N. Main Street to affirm

sufficient retention of the historic integrity and fabric of the Glen Ellyn Downtown South Historic District shall be completed and returned to the Village in a timely manner and in a period of no longer than two weeks, or ten business days.

2. The Village and State Historic Preservation Office both agree to communicate on a regular basis and respond to correspondence within three business days.
3. Upon SHPO's written acceptance and signature of this Agreement and the Owner's receipt and signature of said Agreement, the Village may commence demolition activities to the building at 423 – 425 N. Main Street in accordance with local, state, and federal code requirements.

III. DURATION

1. This Agreement shall terminate if its stipulations, which are to be completed within five (5) years, are not carried out within five (5) years from the date of its execution. Prior to such time, the Village may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation VII AMENDMENTS below. The Village shall notify the signatories as to the course of action it will pursue.
2. The attached memo to the Village Board and the meeting minutes (Exhibit A) reference the plans to improve the streetscape in downtown Glen Ellyn, which are in design development. The Village plans to begin construction of the utilities in 2021 and finish construction in 2022. The Village plans to construct the streetscape materials upon completion of utility installation and projected completion of the project is anticipated in 2024.

IV. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, the Village shall consult with the SHPO immediately and make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties. In the event of an unanticipated discovery of human remains or burials, the Village understands and agrees that it must immediately stop work within the area of discovery, consult with the SHPO, and comply with the Human Skeletal Remains Protection Act (20 ILCS 3440) and its implementing rules (17 IAC 4170) as administered by IDNR, which provides that no human skeletal remains shall be disturbed without a permit issued by IDNR.

V. MONITORING AND REPORTING

Each year following the execution of this Agreement until it expires or is terminated, the Village shall provide all parties to this Agreement a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the

Village's efforts to carry out the terms of this Agreement.

VI. DISPUTE RESOLUTION

Should any signatory to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, the objecting signatory shall consult with the signatories to resolve the objection. If the signatories cannot agree regarding a dispute, the signatories shall utilize the procedures provided in 20 ILCS 3420/4e.

VII. AMENDMENTS

This Agreement may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy is signed by all of the signatories.

VIII. TERMINATION

If any signatory to this Agreement determines that its terms become impossible to carry out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulations VI and VII above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the Agreement upon written notification to the other signatories.

IX. COUNTERPARTS; FACSIMILE OR .PDF SIGNATURES

This Agreement may be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement. A facsimile or .pdf copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

X. EFFECTIVE DATE

This Agreement is effective on the date signed by all of the signatories.

EXECUTION of this Agreement and the implementation of its terms evidences that the Village and IEPA have afforded the SHPO an opportunity to comment on the effects of the Undertaking in compliance with the Act.

[Signature Pages to follow]

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SIGNATORY

VILLAGE OF GLEN ELLYN (VILLAGE)

Signature: Mark Franz Date: 4/12/20
Name: Mark Franz
Title: Village Manager

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SIGNATORY

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA)

Signature: _____ Date: _____

Name: _____

Title: _____

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SIGNATORY

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: Colleen Callahan Date: 4-9-20
Colleen Callahan, Director and State Historic Preservation Officer
Illinois Department of Natural Resources

APPROVED FOR EXECUTION

Date: 03/09/2020

Legal Counsel: [Signature]