ST. CHARLES
SINCE 1834

AGENDA ITEM EXECUTIVE SUMMARY

Title:	Motion to table A Resolution Authorizing the Execution of An Intergovernmental Agreement Providing for a Jurisdictional Boundary Line, Sewer and Water Services and Street Improvements (City of West Chicago and City of St. Charles, Illinois)
Presenter:	Rita Tungare

Please check appropriate box:

	Government Operations		Government Services
	Planning & Development	X	City Council (10/21/13)
	Public Hearing		

Estimated Cost:	NA	Budgeted:	YES		NO	

If NO, please explain how item will be funded:

Executive Summary:

Staff is requesting to table this item for one month to the December 16, 2013 City Council meeting. At this time, the DuPage Airport Authority has not yet taken action to approve the roadway easement for Kautz Rd.

Background:
On August 12, 2013, the Planning and Development Committee recommended approval of two agreements with the City of West Chicago: 1) a Jurisdictional Boundary Line Agreement and 2) an agreement regarding jurisdiction of Kautz Rd.

The City Council previously tabled this item on October 7, 2013. Tabling the item will meet the statutory requirement for public notice.

Attachments: *(please list)*

Resolution

Recommendation / Suggested Action *(briefly explain)*:

Motion to table A Resolution Authorizing the Execution of An Intergovernmental Agreement Providing for a Jurisdictional Boundary Line, Sewer and Water Services and Street Improvements (City of West Chicago and City of St. Charles, Illinois)

For office use only:	*Agenda Item Number:* IIC1

City of St. Charles, Illinois
Resolution No. 2013-_____

A Resolution Authorizing the Execution of An Intergovernmental Agreement Providing for a Jurisdictional Boundary Line, Sewer and Water Services and Street Improvements (City of West Chicago and City of St. Charles, Illinois)

Presented & Passed by the
City Council on _____

NOW THEREFORE, be it resolved by the authorities of the City of St. Charles that the Mayor and City Clerk are hereby authorized to execute An Intergovernmental Agreement Providing for a Jurisdictional Boundary Line, Sewer and Water Services and Street Improvements (City of West Chicago and City of St. Charles, Illinois), attached hereto as Exhibit "A".

PRESENTED to the City Council of the City of St. Charles, Illinois this ____day of _____ 2013.

PASSED by the City Council of the City of St. Charles, Illinois, this ____ day of _____ 2013.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____ 2013.

_____
Raymond P. Rogina, Mayor

ATEST:

_____
Nancy Garrison, City Clerk

COUNCIL VOTE:
Ayes:
Nays:
Absent:
Abstain:

EXHIBIT "A"

An Intergovernmental Agreement Providing for a Jurisdictional Boundary Line,
Sewer and Water Services and Street Improvements
(City of West Chicago and City of St. Charles, Illinois)

AN INTERGOVERNMENTAL AGREEMENT PROVIDING FOR A JURISDICTIONAL BOUNDARY LINE, SEWER AND WATER SERVICES AND STREET IMPROVEMENTS

City of West Chicago and City of St. Charles, Illinois

THIS INTERGOVERNMENTAL AGREEMENT (the "Agreement"), is made and entered into this ____day of _____, 2013, by and between the CITY OF WEST CHICAGO, DuPage County, Illinois ("West Chicago") and the CITY OF ST. CHARLES, DuPage and Kane Counties, Illinois ("St. Charles"),

WITNESSETH:

WHEREAS, West Chicago and St. Charles are "units of local government" as defined by Article VII, Section 1, of the Constitution of the State of Illinois of 1970, and are "home rule units" as defined by Article VII, Section 6, of the Constitution of the State of Illinois of 1970; and,

WHEREAS, units of local government are enabled by Article VII, Section 10, of the Constitution of the State of Illinois of 1970 to enter into agreements among themselves to obtain or share services and to exercise, combine or transfer any power or function in any manner not prohibited by law or ordinance; and,

WHEREAS, the Illinois Intergovernmental Cooperation Act (5 ILCS 220/1, *et seq.*), authorizes municipalities to exercise jointly with any public agency of the State, including other units of local government, any power, privilege, or authority which may be exercised by a unit of local government individually, and to enter into contracts for the performance of governmental services, activities and undertakings; and,

WHEREAS, 65 ILCS 5/11-12-9 authorizes the corporate authorities of municipalities that have adopted official plans to agree upon boundaries for the exercise of their respective jurisdictions within unincorporated territory that lies within one and one-half miles of the boundaries of such municipalities; and,

WHEREAS, unincorporated territory lies within one and one-half miles of the boundaries of West Chicago and St. Charles; and,

WHEREAS, West Chicago and St. Charles have adopted official plans making recommendations with respect to the development of that unincorporated territory; and,

WHEREAS, West Chicago and St. Charles recognize that the territory lying between their present municipal boundaries is an area in which problems related to land development including open space preservation, flood control, population density, provision of public services and ecological and economic impact and are increasing in number and complexity; and,

WHEREAS, West Chicago and St. Charles and their respective citizens are vitally affected by said problems, and efforts to solve them and provide for the public health, safety, welfare and prosperity of the inhabitants of said municipalities will be enhanced by mutual action and intergovernmental cooperation; and,

WHEREAS, West Chicago and St. Charles recognize the need and desirability to provide for logical future municipal boundaries and areas of municipal authority between their respective corporate limits in order to plan effectively and efficiently for growth management and potential development between their communities; and,

WHEREAS, West Chicago and St. Charles, after due investigation and consideration, have determined to enter into an agreement providing for the establishment of a boundary for

their respective jurisdictions in the unincorporated territory lying between and near their boundaries; and,

WHEREAS, West Chicago and St. Charles have determined that the observance of the boundary line in future annexations by either municipality will serve the best interests of both communities; and,

WHEREAS, in arriving at this Agreement, West Chicago and St. Charles have given consideration to the natural flow of stormwater drainage and, when practical, have included all of a single tract of land having common ownership within the jurisdiction of only one municipality; and,

WHEREAS, public notice of this Agreement has been properly given by West Chicago and St. Charles, as required by law; and

WHEREAS, West Chicago and St. Charles have authorized, by ordinance, the execution of this Agreement as an exercise of their intergovernmental cooperation authority under the Constitution of the State of Illinois, and the Intergovernmental Cooperation Act, and their authority to enter into jurisdictional boundary agreements pursuant to 65 ILCS 5/11-12-9; and

WHEREAS, West Chicago and St. Charles contemplate that developments may be proposed within either municipality's Territory (as hereinafter defined) which may require sewer and water service from the other municipality and/or for which access to such other municipality's street system may be necessary or appropriate; and,

WHEREAS, 65 ILCS 5/11-129-1, *et seq.*, 11-139-2, *et seq.*, 11-141-1, *et seq.*, and 11-149-1, *et seq.* (the "Utility Enabling Statutes"), authorize municipalities to serve the sewer and water utility needs of customers located outside their corporate limits; and,

WHEREAS, West Chicago and St. Charles wish to make provision for each municipality to consider requests from the other to serve such customers, without being obligated to do so; and,

WHEREAS, 65 ILCS 5/11-61-1, *et seq.* and 11-80-1, *et seq.*, and 605 ILCS 5/7-101 and 7-202, *et seq.* (the "Street Enabling Statutes"), authorize municipalities to establish, construct and improve municipal street systems, including extensions thereof beyond their corporate limits; and,

WHEREAS, West Chicago and St. Charles wish to make provision for certain municipal street system improvements which may be necessary or appropriate to serve developments within either municipality's Territory (as hereinafter defined); and

WHEREAS, West Chicago and St. Charles have previously entered into an Intergovernmental Agreement Providing for a Jurisdiction Boundary Line, Sewer and Water Services and Street Improvements, dated January 8, 2001 (the "Existing Agreement") which the parties desire to repeal simultaneously with the recording of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises hereinafter contained, the adequacy and sufficiency of which the parties hereto stipulate, West Chicago and St. Charles agree as follows:

Section 1. Incorporation of Recitals. The recitals set forth hereinabove are incorporated herein by reference as substantive provisions of this Agreement.

Section 2. Jurisdictional Boundary Line. The boundary line between West Chicago and St. Charles for the purpose of establishing their respective jurisdictions for land use planning, official map purposes, zoning, subdivision control and annexation of unincorporated territory, and other municipal purposes, all as hereinafter provided, shall be as depicted upon the

map attached hereto as Exhibit "A" and made a part hereof and as legally described on Exhibit "B" attached hereto and made a part hereof.

That portion of the unincorporated territory lying easterly of said boundary line shall be within the West Chicago jurisdictional area ("West Chicago Jurisdictional Area") as shown on Exhibit "A". The West Chicago Jurisdictional Area, together with all territory located within the corporate limits of West Chicago from time to time, shall be within the West Chicago territory ("West Chicago Territory"). That portion of the unincorporated territory lying westerly of said boundary line shall be within the St. Charles jurisdictional area ("St. Charles Jurisdictional Area") as shown on Exhibit "A". The St. Charles Jurisdictional Area, together with all territory located within the corporate limits of St. Charles from time to time, shall be within the St. Charles territory ("St. Charles Territory").

To the extent that there is any conflict between Exhibit "A" (the map) and Exhibit "B" (the legal description), Exhibit "B" shall control.

Section 3. Exercise of Authority. West Chicago agrees that it shall not exercise or attempt to exercise or enforce any comprehensive plan jurisdiction, official map jurisdiction, zoning authority or subdivision control authority within the St. Charles Jurisdictional Area. St. Charles agrees that it shall not exercise or attempt to exercise or enforce any comprehensive plan jurisdiction, official map jurisdiction, zoning authority or subdivision control authority within the West Chicago Jurisdictional Area.

Section 4. Statutory Zoning Objections. This Agreement shall not be construed to limit or adversely affect the right of either municipality to file a statutory objection to proposed rezonings within one and one-half (1½) miles of its corporate limits, or to otherwise contest or oppose such rezonings in accordance with applicable law.

Section 5. Annexation. Both West Chicago and St. Charles acknowledge that it is not in their respective best interests to engage in disputes with respect to the annexation of territory. The boundary line established pursuant to this Agreement was carefully studied and considered with respect to those matters heretofore set out in the recitals to this Agreement. Therefore, each municipality agrees not to annex any territory which is located in the other municipality's Territory.

West Chicago and St. Charles also agree to take all reasonable and appropriate actions to oppose any involuntary or court-controlled annexation proceedings that propose to annex territory within either municipality's Territory in a manner inconsistent with this Agreement. In addition, West Chicago and St. Charles each hereby agree that it waives any right to challenge or otherwise contest the validity of any annexation the other municipality has effected, is effecting, or will effect in the future for territory located within such other municipality's Territory. West Chicago and St. Charles further agree not to solicit or otherwise make any requests, formal or informal, to any third party for that third party to encourage the disconnection from the other municipality of land within the other municipality's Territory or to challenge the validity of the other municipality's past, current, or future annexations within such other municipality's Territory.

That portion of the boundary line depicted on Exhibit "A" that is located on a roadway shall be deemed, except as otherwise provided herein, to be located on the center line of such roadway if the roadway is not located within the corporate limits of either municipality as of the date of this Agreement. For territory that has been annexed by either municipality prior to the date of this Agreement, the roadway shall be deemed to be located within the municipality to which the roadway has been annexed either by ordinance or by operation of state law (65 ILCS

5/7-1-1). For unincorporated territory that is located on either side of the boundary line and that will be annexed to the designated municipality in the future, the roadway shall be deemed to be located within the municipality that first annexes its respective territory adjacent to the roadway. The boundary line set by this Agreement shall then be deemed to have been amended accordingly without further action by either municipality.

Section 6. Utilities. In the event that any territory within West Chicago's Territory lies within St. Charles' Facilities Planning Area ("FPA") established pursuant to the Clean Water Act (33 U.S.C. 1251, *et seq.*) and the Illinois Environmental Protection Act (415 ILCS 5/1, *et seq.*), and West Chicago files a petition with the Illinois Environmental Protection Agency ("EPA") to transfer such territory to West Chicago's FPA, St. Charles agrees that it shall enter its consent to such transfer in connection with such petition. In the event that any territory within St. Charles' Territory lies within West Chicago's FPA, and St. Charles files a petition with the Illinois Environmental Protection Agency to transfer such territory to St. Charles' FPA, West Chicago agrees to enter its consent to such transfer in connection with such petition.

Either municipality may request the other to provide sewer and/or water service to specific parcels of land located within the requesting municipality's Territory. Any such request shall provide a legal description of the property with respect to which the request is being made together with such reasonable additional information as may be necessary or convenient to assist the municipality to which the request is directed in evaluating such request. In addition, the municipality making the request shall identify which of the Utility Enabling Statutes it wishes to utilize in order to implement the request.

Either municipality receiving such a request may, in its sole and exclusive discretion, decide to grant or deny the request or suggest modifications to the request as it might deem

appropriate. Either municipality receiving such a request shall only be obligated to review it. The decision to grant or deny the request, with or without reason, shall be solely and exclusively within the discretion of the municipality that received the request. A refusal to honor any request(s) for utility service made pursuant to this Agreement shall not constitute a breach of this Agreement and shall not thereby excuse the performance of the terms hereof by either municipality or otherwise give rise to any cause of action or other relief in consideration thereof.

The municipality receiving a request for utility service under the provisions of this Section 6 may agree to provide such services on the terms proposed by the requesting municipality or such other terms as the municipality receiving the request may deem acceptable. Without limiting the generality of the foregoing, the receiving municipality may offer to provide the requested services under the authority of a statute other than the one specified in the request.

In each such case where such utility services are to be provided, the municipalities shall enter into an agreement under the authority of either: (a) the specified Utility Enabling Statutes, (b) an alternative statute that provides such authority, or (c) the constitutional and statutory provisions related to intergovernmental cooperation. Each such agreement shall make provision for the design and construction of the requested improvements, the allocation of the costs of construction, connection charges or other such charges and rates to be charged for the services to be provided, the provisions of easements or rights-of-way, maintenance responsibilities and such other matters as are normal, customary or beneficial to such agreements. In the event that such utility services would require an amendment to the serving municipality's FPA, such agreement shall also make provision for the filing and processing of the necessary petition for such amendment. No obligation to provide such services shall be enforceable unless and until a

mutually satisfactory agreement making provision for such service shall first have been duly authorized and executed by both of the municipalities.

Section 7. Roadway Improvements. Pursuant to the Street Enabling Statutes and the constitutional and statutory provisions related to intergovernmental cooperation, West Chicago and St. Charles agree that this Section 7 shall apply to the street improvements detailed herein, irrespective of any other provision of this Agreement.

(a) Division Street: If Division Street is extended east of Kirk Road, unless otherwise agreed by the parties, such extension shall be constructed to meet or exceed the industrial collector street standards set forth in Title 12 and Title 16 of the St. Charles Municipal Code. West Chicago shall have no responsibility, financial or otherwise, for the extension of Division Street.

(b) Kautz Road: Simultaneously with the execution of this Agreement, the parties shall enter into a separate intergovernmental agreement providing that St. Charles shall have sole responsibility for maintenance, repair and reconstruction of that portion of Kautz Road from Division Street (extended) north to Illinois Route 64/East Main Street. St. Charles shall have sole authority to determine access points to and from said portion of Kautz Road, and sole responsibility for traffic enforcement and control in accordance with said intergovernmental agreement.

(c) Connection between Smith Road and Foxfield Drive: The parties acknowledge that an Amended Consent Decree, filed on July 8, 2009 with the Clerk of the Circuit Court, Kane County, Illinois, in regard to Case No. 07 ED 07 (the "Consent Decree"), governs the construction of a roadway (the "Roadway") that will connect Smith Road and Foxfield Drive. The Consent Decree requires the defendant property owner and its successors and assigns (the "Owner") to construct the roadway, but also provides that St. Charles, under certain circumstances, has the right to construct the roadway and obtain reimbursement from the Owner for the costs thereof, including interest.

If St. Charles elects to construct the Roadway, St. Charles shall provide 180 days written notice to West Chicago and St. Charles and West Chicago agree to share equally in the cost of engineering, design, and construction of the Roadway. St. Charles shall be responsible for the preparation of all plans and awarding a construction contract for the project. West Chicago shall reimburse St. Charles for its proportionate share of any and all costs within sixty (60) days of receipt of an invoice(s) therefore, along with such other documentation as shall be reasonably necessary to substantiate the costs. If and when St. Charles receives reimbursement from the Owner for such costs, St. Charles shall pay fifty percent (50%) of such amount over to West Chicago, provided that West Chicago has previously reimbursed St. Charles as required herein.

Section 8. DuPage Airport Authority Property. West Chicago represents and St. Charles acknowledges that all of the property owned by the DuPage Airport Authority (the "Authority") is located within the corporate limits of West Chicago. There presently exists an Intergovernmental Agreement between the City of West Chicago and the DuPage Airport Authority dated March 22, 2001, plus three (3) subsequent amendments thereto approved by the City of West Chicago on December 17, 2001, August 15, 2005 and October 17, 2011 (collectively, the "Airport Agreement"). The Airport Agreement is attached as Exhibit "C" which is, by this reference, incorporated herein. The Airport Agreement requires, inter alia, the Authority to annex to West Chicago any newly acquired property that is contiguous to the corporate limits of West Chicago.

If the Authority acquires unincorporated land within the St. Charles Jurisdictional Area that is contiguous to West Chicago, upon the request of West Chicago, St. Charles agrees to modify the boundary line established pursuant to this Agreement, so as to transfer the Authority owned property from the St. Charles Jurisdictional Area to the West Chicago Jurisdictional Area. St Charles further agrees that it will not voluntarily annex and will not cooperate in any judicially sanctioned or owner initiated effort to annex such parcel(s) into its corporate limits.

Section 9. Comprehensive Plan. With respect to West Chicago Territory parcel "F" identified on Exhibit "A", or any part thereof, West Chicago shall give thirty (30) days written notice to St. Charles prior to approval of any action, including an amendment to the West Chicago Zoning Ordinance, an annexation agreement or amendment thereto and an amendment to the West Chicago official comprehensive plan, which commits West Chicago to a land use which substantially deviates from the West Chicago official Comprehensive Plan, or which

pertains to any parcel for which no land use designation is shown in the West Chicago official Comprehensive Plan.

With respect to St. Charles Territory parcels designated as parcels "A", "B", "C", "D" and "E" identified on Exhibit "A", or any part thereof, St. Charles shall give thirty (30) days written notice to West Chicago prior to approval of any action, including an amendment to the St. Charles Zoning Ordinance, an annexation agreement or amendment thereto and an amendment to the St. Charles official comprehensive plan, which commits St. Charles to a land use which substantially deviates from the St. Charles official Comprehensive Plan, or which pertains to any parcel for which no land use designation is shown in the St. Charles official Comprehensive Plan.

Failure of either municipality to notify the other as provided for in this section shall not invalidate any action of such municipality regarding planning, annexation, or zoning of land within its Territory, and shall not invalidate the provisions of this Agreement.

Section 10. Development of Certain Parcels. Development of parcels "A", "B", "C", "D" and "E" identified on Exhibit "A" shall be subject to the following provisions:

(a) To the extent permitted by law, St. Charles shall impose the following use and density restrictions:

(i) Residential uses, subject to the density restrictions set forth herein, and/or office-research uses, which shall mean the uses listed on Exhibit "D" attached hereto and incorporated herein, as such terms are further defined in the St. Charles Zoning Ordinance.

(ii) For the portion of the parcels located within 300 feet (300') of the southern border of the Cornerstone Lakes Subdivision, residential density shall not exceed 7.5 units/acre and the maximum building height shall be the lesser of 35 feet (35') or three (3) stories. An assisted living facility shall not be subject to the density restriction set forth in this subsection.

(iii)In addition to any setbacks required by the St. Charles Zoning Ordinance, St. Charles will require a thirty foot (30') landscape buffer along the property line

adjoining the single-family residential homes located on Lehman Drive and Barnhart Street so as to reduce the impact of development on the existing homes. The landscaping requirements within the buffer shall be the same as required by the current St. Charles Zoning Ordinance requirement for landscape buffers, attached hereto and incorporated herein as Exhibit "E". The landscape buffer shall not be combined with a required yard or setback requirement, but, rather, shall be in addition thereto.

(b) To the extent permitted by law, St. Charles shall impose the following stormwater restrictions:

(i) As part of the development approval process, St. Charles shall require compliance with all applicable stormwater, wetland, floodway and/or floodplain regulations. St. Charles shall utilize either the regulations of DuPage County or Kane County, whichever are the most restrictive at the time of development.
(ii) Stormwater runoff shall be restricted to a maximum of 0.1 cfs/development acre up to and including the 100-year event.
(iii) All off-site bypass flow shall be designed to be channeled through any on-site detention or retention basin(s) and discharged at a location that will not adversely impact adjacent properties.
(iv) West Chicago shall be allowed to review all engineering plans, calculations, specifications and reports for any proposed development prior to the issuance of any permit by St. Charles.

Section 11. General Implementation. The parties hereto agree to cooperate to the fullest extent possible and take all steps reasonably practicable, to achieve any appropriate modification of the postal service boundary, the Chicago Metropolitan Agency for Planning and Illinois EPA Facilities Planning Area, and the Emergency 911 telephone service area, to conform to the boundary defined under this Agreement.

Section 12. Binding Effect. This Agreement shall be binding upon and shall apply only to the legal relationship between West Chicago and St. Charles. Nothing herein shall be used or construed to affect, support, bind or invalidate any claims of either West Chicago and/or St. Charles insofar as such claims shall affect any entity which is not a party to this Agreement.

Section 13. Amendment. Neither West Chicago nor St. Charles shall directly or indirectly seek any modification of this Agreement through court action and this Agreement shall

remain in full force and effect until amended or changed in writing by the mutual agreement of both West Chicago and St. Charles.

Section 14. Partial Invalidity. If any provision of this Agreement shall be declared invalid for any reason, such invalidation shall not affect other provisions of this Agreement which can be given effect without the invalid provisions and to this end, the provisions of this Agreement are deemed to be separable.

Section 15. Notice and Service. Any notice hereunder from either municipality hereto to the other municipality shall be in writing and shall be served by registered or certified mail, postage prepaid, return receipt requested addressed as follows:

To West Chicago: City of West Chicago
475 Main Street
West Chicago, IL 60185
Attn: City Administrator

To St. Charles: City of St. Charles
2 East Main Street
St. Charles, IL 60174
Attn: City Administrator

or to such persons or entities and at such address as either municipality may from time to time designate by notice to the other municipality. Notice shall be deemed received on the third business day following deposit in the U.S. Mail in accordance with this Section.

Section 16. Term. This Agreement shall be in full force and effect for a period of twenty (20) years from and after the date hereof. The term of this Agreement may be extended, renewed or revised at the end of this initial term or any extended term thereof by further agreement of West Chicago and St. Charles.

Section 17. Illinois Law. This Agreement shall be construed in accordance with the laws of the State of Illinois.

Section 18. Execution of Agreement; Recordation. Each municipality shall authorize the execution of this Agreement by an ordinance duly passed and approved. Certified copies of such ordinances and of this Agreement shall be recorded with the Recorder of Deeds for DuPage County and the Recorder of Deeds for Kane County and shall be made available in the office of the City Clerk of each of the municipalities.

Section 19. Repeal of Existing Agreement. Upon the execution of this Agreement by both parties and the recording of this Agreement with the Recorder of Deeds for DuPage County and the Recorder of Deeds for Kane County, the Existing Agreement shall be deemed repealed and shall be of no further force or effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the date first above written.

CITY OF WEST CHICAGO, an Illinois municipal corporation

By: _____
Mayor

ATTEST:

_____
City Clerk

CITY OF ST. CHARLES, an Illinois municipal corporation

By: _____
Mayor

ATTEST:

_____
City Clerk

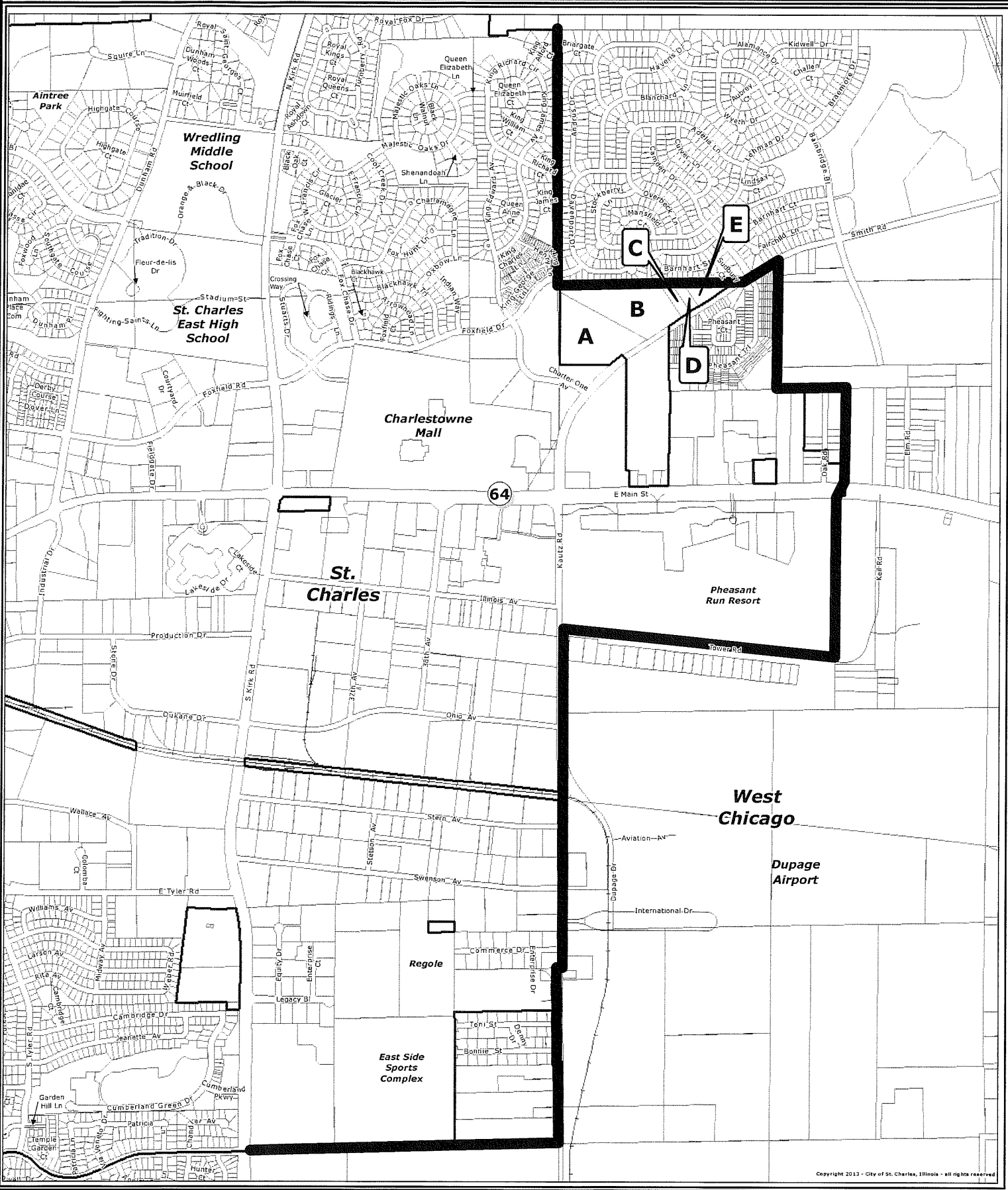
EXBHIBIT “A”

MAP

City of St. Charles, Illinois
Two East Main Street St. Charles, IL 60174-1984
Phone: 630-377-4400 Fax: 630-377-4440 - www.stcharlesil.gov

West Chicago Boundary Agreement

RAYMOND ROGINA Mayor
BRIAN TOWNSEND City Administrator



Publication Date:
June 25, 2013

Data Source:
City of St. Charles, Illinois

Projection: Transverse Mercator
Coordinate System: Illinois State Plane East
North American Datum 1983

TN #: 130212214600523

0 200 400 800 Feet

West Chicago Boundary Agreement

St. Charles Municipal Boundary

Parcels

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EXHIBIT "B"

LEGAL DESCRIPTION

EXHIBIT "C"

AIRPORT AGREEMENT

EXHIBIT "D"

USES PERMITTED ON PARCELS "A", "B", "C", "D" and "E"

Assisted Living Facility
Art Gallery/Studio
Cultural Facility
Indoor Recreation & Amusement
Place of Worship
Bank
Day Care Center
Drive-In Facility
Emergency Medical Center
Financial Institution
Hotel/Motel
Medical/Dental Clinic
Motor Vehicle Rental
Office, Business or Professional
Professional Training Center
Veterinary Office/Animal Hospital
College/University
Hospice
Hospital
Nursing Home
Office, Government
School, Specialized Instruction
Research and Development Use
Accessory Uses
Communication Antenna
Communication Tower
Parking Garage/Structure
Parking Lot, Private
Planned Unit Development
Utility, Local
Utility, Community/Regional
Wind Turbine, Structure Mounted
Wind Turbine, Tower Mounted

EXHIBIT "E"

LANDSCAPE BUFFER REQUIREMENTS

17.26.070 Landscape Buffers

A. The Landscape Plan shall provide for Landscape Buffers to enhance privacy and provide screening between dissimilar uses, wherever the zoning district regulations require a Landscape Buffer Yard. Where Landscape Buffers overlap with other landscape requirements with respect to the same physical area on the lot, the requirement that yields more intensive landscaping shall apply, but the requirements need not be added together.

B. The Director of Community Development, in the case of Design Review, or the City Council, in the case of a Planned Unit Development, may reduce or waive the requirements of this Section where existing conditions make it impractical to provide the required Landscape Buffer, or where providing the Landscape Buffer would serve no practical purpose. Examples include, but are not limited to, instances where existing topography or structures effectively screen the more intensive use and provide a measure of privacy to the less intensive use.

C. Within required Landscape Buffers along common property lines, opaque, year-round screening shall be provided by means of berming, landscaping, fencing and/or decorative walls to a height of six feet (6') above the grade of the common property line.

D. Along right of way lines, where a Landscape Buffer of forty feet or more in width is required, opaque, year-round screening shall be provided by means of berming, landscaping, fencing and/or decorative walls, to a minimum height of six feet (6') above the grade of the right of way line. Such opaque, year-round screening shall be designed so that the first twenty feet (20') of the Landscape Buffer abutting the right of way line is relatively open and consists primarily of landscaping, and the elements of screening that provide opacity are located twenty feet (20') or more from the right of way line. Opaque, year-round screening is not required within Landscape Buffers of less than 40 feet in width along right of way lines.

E. For each 400 square feet of required Landscape Buffer, there shall be at least one shade tree or two evergreen trees, plus ornamental trees, shrubs, ornamental grasses, or perennials as needed to soften the appearance of solid forms such as fences, walls and berms that may used to provide a visual screen.

F. If a new building or outdoor use is added on a lot where other buildings or uses exist, a Landscape Buffer, where required by the district regulations, shall be provided to buffer adjoining lots from the new building or use, but an additional Landscape Buffer beyond that which is required for the new building or use need not be provided to buffer adjoining lots from the existing buildings or uses.

(Ord. 2011-Z-1 § 22.)