

**City of St. Charles, Illinois**  
**Resolution No. \_\_\_\_\_**

**A Resolution Authorizing a Lease Agreement By and Between the City of  
St. Charles and Tri-Com Central Dispatch**

**Presented & Passed by the  
City Council on March 4, 2023**

WHEREAS, the City currently owns and leases the property at 2823 Karl Madsen Drive to Tri-Com Central Dispatch;

WHEREAS, the lease is a continuation of an existing agreement and is for a 20-year term ending on July 1, 2043;

THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, to authorize a Lease Agreement By and Between the City of St. Charles and Tri-Com Central Dispatch.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 4th day of March, 2024

PASSED by the City Council of the City of St. Charles, Illinois, this 4th day of March, 2024

APPROVED by the Mayor of the City of St. Charles, Illinois, this 4th day of March, 2024

\_\_\_\_\_  
Lora Vitek, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain:

**AMENDED AND RESTATED  
LEASE BY AND BETWEEN  
CITY OF ST. CHARLES AND TRI-COM CENTRAL DISPATCH**

The City of St. Charles, a municipal corporation of the State of Illinois (“Landlord”), and Tri-Com Central Dispatch, a cooperative intergovernmental association between the Cities of St. Charles, Geneva, and Batavia (“Tenant”), enter into the following Amended and Restated Lease (“Amended and Restated Lease”).

**WITNESSETH:**

WHEREAS, at all times relevant hereto, Landlord has been, and remains, the owner of certain real property commonly known as 3823 Karl Madsen Drive, City of St. Charles, County of Kane, State of Illinois, which is legally described in Exhibit "A", attached hereto and made a part hereof, together with all easements, rights, privileges, and appurtenances relating thereto (the "Demised Land");

WHEREAS, Landlord and Tenant are parties to a Lease for the Demised Land on or about November 21, 2003, and amended the same by an Amendment to Lease on or about August 20, 2009 (collectively, the “Original Lease”);

WHEREAS, Tenant has improved and utilized the Demised Land for the operation of a Public Safety Answering Point, providing public safety communications to over thirteen (13) agencies and approximately 200,000 residents; Landlord and Tenant desire to terminate the Original Lease and enter into this “Amended and Restated Lease,” as more fully set forth herein, so Tri-Com can continue to serve public safety communications for generations to come;

NOW, THEREFORE, in consideration of the mutual terms and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Landlord and Tenant agree as follows:

1. **Demise of Land.** Landlord hereby demises and lets to Tenant, for the term hereinafter described, the Demised Land. The Demised Land and Improvements (as defined below) are hereinafter collectively referred to as the "Premises," as depicted on Exhibit “A-1,” attached hereto and made a part hereof. Landlord hereby grants Tenant a non-exclusive ingress and egress from Illinois State Route 38 to the Premises over and across that certain right-of-way commonly known as Karl Madsen Drive.

2. **Title and Condition.**

a. The Demised Land is hereby demised and let to Tenant in an "as-is where-is" condition, without any representations or warranties from Landlord except as otherwise contained herein. Tenant acknowledges that this Amended and Restated Lease is subordinate and subject to all liens, encumbrances, deed restrictions, and any law, regulation, rule, order or ordinance of any governmental entity applicable to the Premises or the use or occupancy thereof, in effect on the

execution of this Amended and Restated Lease or thereafter promulgated, including, but not limited to, existing encumbrances specifically, but without limitation, as described in Exhibit "B" ("Encumbrances"). Tenant has examined the title to the Demised Land and has found the same satisfactory.

b. The Landlord, a municipal corporation having jurisdiction over the Premises, hereby agrees to enact no zoning regulation, restriction, or other law directly concerning and adversely affecting the current use of the Premises as a public safety facility for a communication center pursuant to this Amended and Restated Lease, except to the extent that such ordinance, rule, or regulation are made of general application throughout the municipality.

3. **Use of Demised Land.** Tenant has been in possession of the Premises since on or about 2003 and caused the construction of a Public Safety Answering Point (emergency communication center) commonly known as "Tri-Com Central Dispatch". Tenant is hereby granted the continued right to occupy and use the Premises solely for the operation, maintenance, and enhancement of said Public Safety Answering Point as set forth herein.

4. **Term.** Subject to the terms, covenants and conditions herein, Tenant shall have and hold the Demised Land for an initial term ("Initial Term") of Twenty (20) years commencing July 1, 2023 ("Commencement Date") and expiring at Midnight on July 1, 2043, unless sooner terminated as hereinafter provided. At the end of the Initial Term, Tenant shall have the option to renew this Amended and Restated Lease for two (2) consecutive twenty-year terms (each a "Renewal Term") subject to the same terms and conditions set forth herein. The exercise of the option to renew the term of this Amended and Restated Lease shall be made in writing by the Tenant to the Landlord not less than one-hundred eighty (180) days prior to the expiration of the current Initial Term, or a Renewal Term, if applicable.

5. **Rent.** The Tenant covenants and agrees to pay to the Landlord as rent for the Demised Land for the Initial Term or Renewal Term, if applicable, of this Amended and Restated Lease \$10.00 per year ("Rent") payable in advance upon execution of this Amended and Restated Lease, receipt of which is acknowledged by such execution.

6. **Improvements.** The building, fixtures, earthworks, devised land Site Improvements and all other structures ("Improvements") built or to be built upon the Demised Land shall, for the term of this Amended and Restated Lease, be the property of the Tenant. In the event this Amended and Restated Lease is terminated as a result of the lapse of the Initial Term or Renewal Term, as the case may be, Tenant shall remove all Improvements at its cost prior to the expiration date. However, in the event this Amended and Restated Lease is terminated pursuant to a breach of the terms of this Amended and Restated Lease by tenant under the provisions of paragraph 19 below, Tenant shall remove all Improvements (building and fixtures) then located on the Demised Land within six (6) months from the effective date of termination of this Amended and Restated Lease, pursuant to such breach. For the purposes of this Amended and Restated Lease, the removal of Improvements by Tenant shall mean the demolition and removal of the building and fixtures, building foundation, and all Premises Site Improvements; in either case, Tenant shall restore the Demised Land to substantially the same condition as existed prior to the

construction of the building thereon. Tenant, however, shall not be required to remove any vehicular parking lot or access roadways constructed by Tenant.

7. **Net Lease.** This Amended and Restated Lease is a net lease, as the Rent and other sums payable hereunder by Tenant shall be paid without notice or demand, and, except as otherwise specifically set forth in this Amended and Restated Lease, without set-off, counterclaim, abatement, suspension, deduction, or defense.

8. **Liens.** Tenant shall not directly or indirectly create or permit to be created or to remain, and will discharge any lien, encumbrance, or charge on, or pledge of, the Premises or any part thereof.

9. **Taxes.** The use and ownership of the Demised Land are currently exempt from real property taxes and the parties reasonably anticipate such exemption shall remain for the term. However, in the event any real property taxes, personal property taxes, and/or assessments are levied or assessed against the Demised Land shall be paid by Tenant. Tenant, upon demand shall deliver to Landlord copies of proper and sufficient receipt and other evidence of the payment and discharge of same. Landlord shall cooperate with Tenant in vigorously opposing any taxation of the Demised Land and / or Improvements.

10. **Maintenance and Repair.** Tenant, at its expense, shall keep the Premises and any adjoining sidewalks, parking and vehicular access routes in good and clean order and condition, ordinary wear and tear excepted, and shall promptly make all necessary or appropriate repairs, replacements and renewals thereof, whether interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen. Landlord shall not be required to maintain, alter, repair, rebuild or replace the Premises or parts thereof, in any way, and Tenant expressly waives the right to make repairs at the expense of Landlord which may be provided for in any law now in effect or hereafter enacted. Tenant shall have the right during the term of this Amended and Restated Lease, or any extension thereof, without Landlord's consent and from time to time thereafter, to sell or dispose of any Improvements, as defined above, whether or not subject to this Amended and Restated Lease, which may have become obsolete or unfit for use or which is no longer useful, or necessary for Tenant's use, provided that Tenant restores the Demised Land to substantially the same condition as existed prior to the execution of this Amended and Restated Lease. Tenant shall be responsible for all snow removal obligations upon access routes to the Premises and vehicular parking areas for the Premises.

11. **Construction, Alterations and Additions.**

a. Tenant shall have the right to construct the improvements and make other alterations to the Premises as more fully depicted on the concept plan and related improvements, attached hereto as "Exhibit C" ("Plan and Improvements"). Tenant shall cause completion as expeditiously as possible, in a good and workmanlike manner, and in substantial conformity with the Plans and Specifications. Said improvements shall be, when constructed, as "Improvements" as defined herein.

Plans and Specifications to be provided for review and attached as Exhibit "C" to this Amended and Restated Lease prior to approval and execution.

b. No alterations of any kind shall be made to the Premises without the prior written consent of Landlord, which consent shall not be unreasonably delayed or denied. However, the following shall not require Landlord's written consent: (i) alterations of the interior design not affecting structural components or the value or usefulness of the building or (ii) interior alterations required by a regulatory or accreditation agency for health, safety, or security purposes.

c. No alterations shall be undertaken until Tenant shall have procured and paid for, so far as the same may be required from time to time, all generally required permits and authorizations of all municipal departments and governmental subdivisions having jurisdiction, and complied with all other legal requirements relating to the alterations.

d. Workmen's compensation insurance covering all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against Landlord, Tenant or the Premises, and general liability insurance for the mutual benefit of the Landlord and Tenant with limits of not less than \$1,000,000.00 in the event of bodily injury or death to one person and not less than \$5,000,000.00 in the event of bodily injury or death to any number of persons in any one accident. and with limits of not less than \$1,000,000.00 damages or injury to property with not more than \$5,000.00 deductible, shall be maintained by Tenant at Tenant's sole cost and expense at all times when any substantial work is in progress in connection with any alterations. Prior to construction, Tenant shall provide Landlord with current insurance policies under standard form policies issued by insurers of recognized responsibility, which are well rated by national rating organizations. Such coverage shall be subject to Landlord's review and approval. Landlord shall be named as an additional insured, provided a certificate of insurance evidencing approved coverage, and shall not be cancelable without at least thirty (30) days prior written notice to Landlord.

12. **Condemnation.** If, at any time during the term of this Amended and Restated Lease, title to the whole or substantially all of the Premises shall be taken in condemnation proceedings by any right of eminent domain other than by the Landlord, or by purchase in lieu thereof, this Amended and Restated Lease shall terminate and expire on the date of such taking and the rent and other charges payable hereunder shall be apportioned and paid to the date of such taking. For purposes of this section, "substantially all of the Premises" shall be deemed to have been taken if the untaken portion cannot be practically and economically used for the building. The landlord agrees not to exercise its condemnation power over the Premises. Upon any condemnation award concerning the Premises, the award should be apportioned in proportion to each party's capital investment in the Premises.

13. **Insurance.**

a. So long as this Amended and Restated Lease remains in effect, Tenant, at its expense, shall maintain, or cause to be maintained with insurers approved by Landlord (which approval shall not be unreasonably withheld): (i) insurance with respect to the Improvements against loss or damage by fire, lightning and other risks from time to time included under extended

coverage endorsements, in amounts sufficient to prevent Landlord, or Tenant from becoming a coinsurer of any partial loss under the applicable policies, but in any event in amounts equal to 100% of the full replacement value of the Improvements (exclusive of the cost of foundations and excavations), less physical depreciation; (ii) comprehensive general liability, Workers' Compensation coverage, Umbrella liability and automobile liability insurance in the amounts and limits set forth at Exhibit "D" which attached hereto. The insurance policies shall be delivered to and held by the Tenant with copies to Landlord and, in the event that the Improvements or any substantial portion thereof, shall be destroyed or seriously damaged, the proceeds, when collected in cash by the Tenant, shall be held in trust and applied to the payment of any debt charges then due and payable, and to the performance by the Tenant of all the covenants, agreements, terms and provisions of the Amended and Restated Lease until the repair, restoration or reconstruction of the Improvements shall be completed as provided for in this Amended and Restated Lease. Further, the coverage limits of liability insurance shall be subject to review and alteration by the Landlord every two (2) years.

b. All insurance required to be maintained pursuant to this Amended and Restated Lease shall (i) except for comprehensive general liability insurance, name Landlord and Tenant as insureds, as their respective interests may appear; (ii) provide that no cancellation thereof shall be effective until at least thirty (30) days after receipt by Landlord and Tenant of written notice thereof. Any insurance required to be maintained by Tenant pursuant to this Amended and Restated Lease may be evidenced by blanket insurance policies covering the Premises and other property or assets of Tenant, provided that any such policies of the type referred to in this Amended and Restated Lease shall specify that portion of the total coverage of such policy that is allocated to the Premises and shall, in all other respects, comply with the requirements of this Amended and Restated Lease. All insurance proceeds, if any, paid to Tenant shall be held in trust by Tenant for application in the manner provided in this Amended and Restated Lease.

c. All insurance policies covering the Premises shall expressly waive any right on the part of the insurer to be subrogated to any rights of Landlord against Tenant and to any rights of Tenant against Landlord.

d. Tenant shall promptly deliver to Landlord certified copies of all insurance policies (or, in case of blanket policies, certificates thereof) with respect to the Premises, which Tenant is required to maintain pursuant to this Amended and Restated Lease.

14. Subletting, **Assignment, Mortgage, and Transfer**. Tenant shall not sublet, assign, mortgage or otherwise transfer this Amended and Restated Lease or any interest therein, under a separate agreement without the previous written consent of Landlord to any such sublet, assignment, mortgage or other transfer. Landlord shall not withhold consent if the assignment of this Amended and Restated Lease is to a successor government-owned Public Safety Answering Point (PSAP) service which serves, among others, Landlord. Any such sublet, assign, mortgage or otherwise transfer without first obtaining the written consent of the Landlord, except as expressly provided herein, shall not vest in the sublettee, assignee, mortgagee, or transferee any right, or interest, herein or hereunder or in the Premises, but shall render this Amended and Restated Lease null and void at the election of Landlord. Notwithstanding the foregoing, Tenant shall have the right to grant a revocable license to a portion of the Premises to a fire or burglar

alarm company or companies, which provide alarm detection services to residents or commercial entities located within Tri-Com's service area, provided any such license shall be expressly conditioned and made subordinate to, this Amended and Restated Lease and revocable, immediately upon termination of this Amended and Restated Lease. Further, all such licenses shall be approved by a three-quarters (3/4) vote of Tenant's board of directors.

15. **Impairment of Landlord's Title.**

a. Except as otherwise set forth in this Amended and Restated Lease, Tenant shall not have the right, power or permission to do any act or to make any agreement which may create, give rise to, or be the foundation for, any right, title, interest, lien, charge or other encumbrance upon the estate of Landlord in the Premises.

b. In reiteration and not in limitation of the foregoing, Tenant shall not permit any portion of the Premises to be used by any person or persons or by the public, as such, at any time or times during the term of this Amended and Restated Lease, in such manner as might reasonably tend to impair Landlord's title to or interest in the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse use, adverse possession, prescription, dedication, or other similar claims of, in, to or with respect to the Premises or any part thereof. Landlord may from time to time, but without affecting in any manner its rights or remedies in respect thereof should it elect or fail or refuse to so do, impose upon Tenant such rules or regulations as to the use or possession by any such persons or by the public as may reasonable be consistent with Landlord's protection against any such possible claim, all of which rules or regulations shall be fully and promptly performed and enforced by Tenant at Tenant's own cost and expense.

16. **Quiet Enjoyment.** Landlord covenants that if and so long as Tenant keeps and performs each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Tenant to be kept and performed, Tenant shall quietly enjoy the Premises without hindrance or molestation by Landlord subject to the covenants, agreements, terms, provisions and conditions of this Amended and Restated Lease.

17. **Termination.** Notwithstanding anything in this Amended and Restated Lease to the contrary, upon cessation or termination of Tenant and/or its operations or abandonment of the Premises by Tenant, this Amended and Restated Lease shall immediately terminate and Tenant shall be required, at its cost, to remove all Improvements, as provided for in Section 6 above, prior to termination.

18. **Utilities.** The Tenant shall be liable to pay for all utility consumption service fees and extensions, including, but not limited to, natural gas, water, electric, refuse disposal, sanitary sewer, cable television, telephone, fiber optic, and the like. The cost of installation and maintenance of utilities to the Premises shall be borne by the Tenant. Notwithstanding the foregoing, Landlord shall bear the costs of maintenance of water, sewer, and electric mains to the Premises as it would with any residential or commercial utility customer.

19. **Breach of Lease.** If either party determines that there is a breach of the terms of this Amended and Restated Lease then written notice shall be given to the other party. Such written notice shall recite the specifics of the alleged breach and provide the other party sixty (60) days to cure the breach. If a cure for the breach is not commercially reasonable or possible within sixty (60) days, an additional reasonable period of time shall be given to cure the breach.

20. **Surrender.** Upon the expiration or termination of this Amended and Restated Lease, Tenant shall quit and surrender the Premises to Landlord pursuant to Section 6 above.

21. **Notices.** All notices, demands, requests or other communications which may be or are required to be given, served or sent by either party to the other shall be in writing and shall be deemed to have been properly given or sent: (i) by mailing by registered or certified mail with the postage prepaid, addressed to such party at the address hereinabove first set forth for such party and, in the case of any notice to Landlord with a copy to City of St. Charles, c/o City Administrator, 2 East Main Street, St. Charles, Illinois 60174; and, in the case of any notice to Tenant, with a copy to: Tri-Com, c/o Executive Director and a member of its Board not an officer of Landlord; or (ii) by transmission via email to the current published email address of the City Administrator or Executive Director, as the case may be.

22. **Construction and Interpretation.**

a. If any term of this Amended and Restated Lease or any application thereof shall be invalid or unenforceable, the remainder of this Amended and Restated Lease and any other application of such term shall be affected thereby.

b. Any approval or consent of Landlord or Tenant required hereunder shall not be unreasonably withheld or delayed.

c. This Amended and Restated Lease may be changed, waived, discharged or terminated only by an instrument in writing, signed by Landlord and Tenant.

d. This Amended and Restated Lease shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto.

e. The headings in this Amended and Restated Lease are for purposes of reference only and shall not limit or define the meaning hereof.

f. This Amended and Restated Lease may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument.

g. This Amended and Restated Lease shall be construed and enforced in accordance with the laws of the State of Illinois.

h. This Amended and Restated Lease is the joint and collective work product of Landlord and Tenant and, as such, this Amended and Restated Lease shall not be construed against



either party, as the otherwise purported drafter of same, by any court of competent jurisdiction in order to resolve any inconsistency, ambiguity, vagueness or conflict, if any, in the terms or provisions contained herein.

23. **Incorporation of Recitals.** The Recitals set forth above are hereby incorporated herein by reference.

In Witness Whereof, the parties hereto have executed the foregoing instrument this 13<sup>th</sup> day of December, 2023.

TRI-COM CENTRAL DISPATCH

By:   
Its: Chairman

ATTEST:  
  
Secretary

CITY OF ST. CHARLES

By: \_\_\_\_\_  
Mayor Lora Vitek

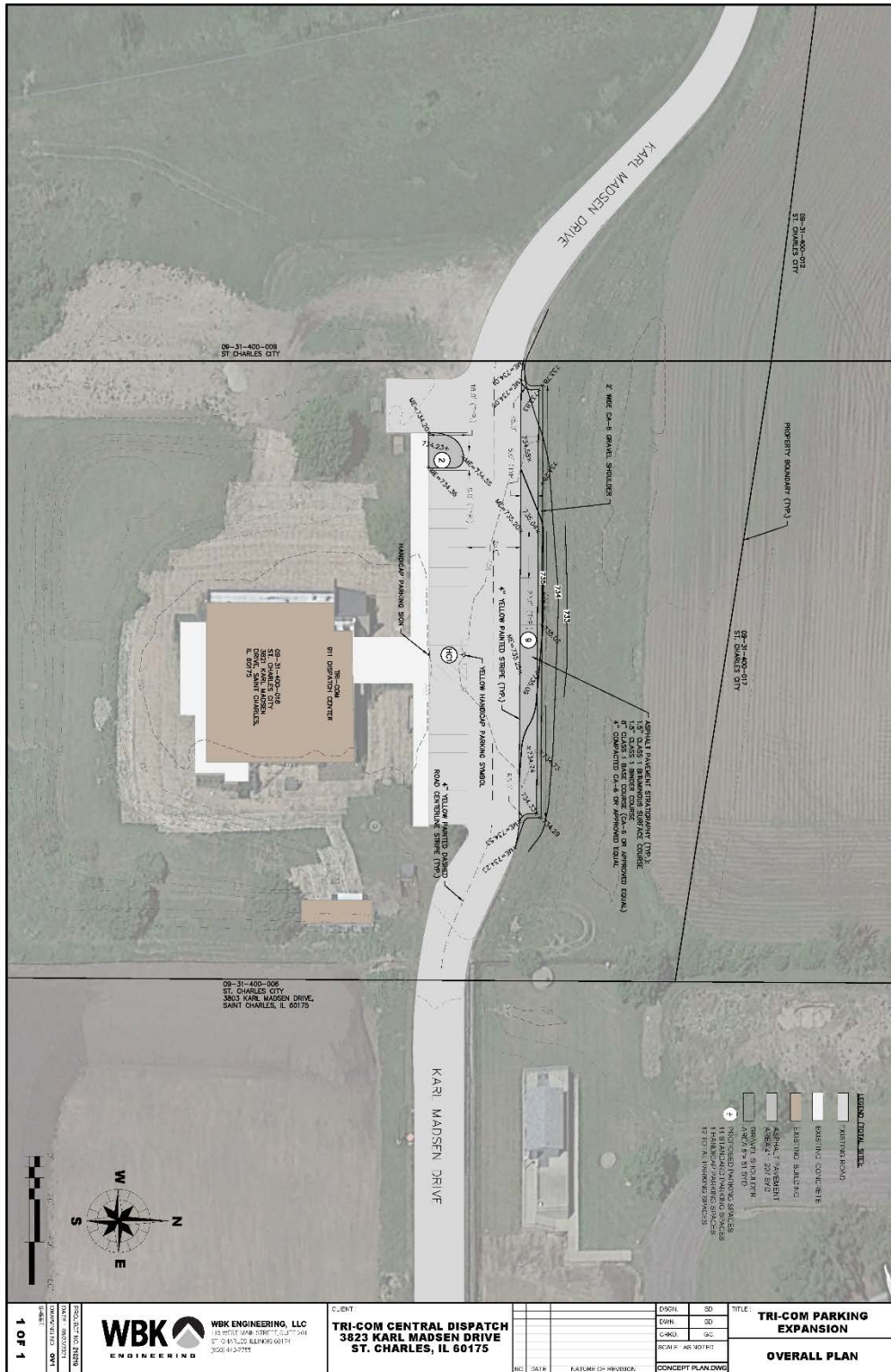
ATTEST:

\_\_\_\_\_  
Secretary

**Exhibit "A"**  
**Demised Land Legal Description**

THAT PART OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE CITY OF ST. CHARLES DESCRIBED AS PARCEL NUMBER 1 BY QUIT CLAIM DEED RECORDED NOVEMBER 30, 1993 AS DOCUMENT NUMBER 93K095347 IN KANE COUNTY RECORDER'S OFFICE; THENCE NORTH ALONG THE WEST LINE OF SAID PARCEL NUMBER 1, A DISTANCE OF 547.16 FEET TO THE POINT OF BEGINNING; THENCE WEST PERPENDICULAR TO THE WEST LINE OF SAID PARCEL NUMBER 1, A DISTANCE OF 75.00 FEET; THENCE SOUTH PARALLEL TO THE WEST LINE OF SAID PARCEL NUMBER 1, A DISTANCE OF 55.00 FEET; THENCE WEST PERPENDICULAR TO THE WEST LINE OF SAID PARCEL NUMBER 1, A DISTANCE OF 110.00 FEET; THENCE NORTH PARALLEL TO SAID WEST LINE OF PARCEL NUMBER 1, A DISTANCE OF 55.00 FEET; THENCE WEST PERPENDICULAR TO THE WEST LINE OF SAID PARCEL NUMBER 1, DISTANCE OF 65.00 FEET; THENCE NORTH PARALLEL TO THE WEST LINE OF SAID PARCEL NUMBER 1 A DISTANCE OF 265.00 FEET; THENCE EAST PERPENDICULAR TO THE WEST LINE OF SAID PARCEL NUMBER 1, A DISTANCE OF 250 FEET TO THE WEST LINE OF SAID PARCEL NUMBER 1; THENCE SOUTH ALONG THE WEST LINE OF SAID PARCEL NUMBER 1, A DISTANCE OF 265.00 FEET TO THE POINT OF BEGINNING, IN THE CITY OF ST. CHARLES, KANE COUNTY, ILLINOIS.

# Exhibit "A-1" Premises Depiction



**Exhibit "B"**  
**Encumbrances**

The right of reverter reserved in that certain quitclaim deed by the Director of the Department of Corrections of the State of Illinois to the City of St. Charles, dated on or about December 24, 2002 and duly recorded in the office of the Kane County Recorder of Deeds as document number 2002K14568.



**Exhibit "D"**  
**Insurance requirements**



