

RESOLUTION NO. R2025-__

A RESOLUTION APPROVING A TEMPORARY LICENSE AGREEMENT WITH WARRENVILLE GROVE ANIMAL HOSPITAL, LLC AND WARRENVILLE GROVE LAND HOLDINGS, LLC FOR TEMPORARY CONSTRUCTION STORAGE AND ACCESS ON 3S551 BATAVIA ROAD AND ADJACENT RIGHT-OF-WAY

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the City is the owner of the property commonly known as 3S551 Batavia Road and the adjacent public right-of-way commonly known as Batavia Road (collectively, the "**City Property**"); and

WHEREAS, Warrenville Grove Animal Hospital, LLC, is the lessee of, and Warrenville Grove Land Holdings, LLC is the owner of the property commonly known as 3S481 Batavia Road, Warrenville, Illinois ("**Development Property**"); and

WHEREAS, the Development Property is adjacent to the City Property; and

WHEREAS, on November 3, 2006, the City Council adopted Ordinance No. 2299 approving a special use permit for a planned unit development and a final development plan necessary to allow for the development and maintenance of the Property as an animal hospital ("**Animal Hospital**"); and

WHEREAS, on May 19, 2025, the City Council adopted Ordinance No. O2025-24, approving an amendment to the final development plan and other approvals necessary for the construction of an approximately 1,000 square foot addition to the Animal Hospital ("**Development**"); and

WHEREAS, in order to construct the Development on the Development Property, Warrenville Grove Animal Hospital, LLC and Warrenville Grove Land Holdings, LLC (collectively, the "**Licensee**") desire to temporarily use a portion of the City Property ("**Licensed Premises**") to store a dumpster and store construction materials (collectively, the "**Materials**") and for construction access (collectively, the "**Activities**"); and

WHEREAS, the Mayor and the City Council have determined that it is in the best interest of the City and the public to enter into a temporary license agreement ("**License Agreement**") with Licensee to the Activities on the Licensed Premises, subject to certain conditions and restrictions;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Resolution as if fully set forth in this Resolution.

SECTION 2: Approval of License Agreement. The License Agreement with Licensee is approved in substantially the form attached to this Resolution as **Exhibit A**, and in a final form approved by the Director of Community and Economic Development.

SECTION 3: Execution. The Director of Community and Economic Development is hereby authorized and directed to execute, on behalf of the City, the License Agreement only

after receipt by the City Clerk of at least two original copies of the License Agreement executed by Licensee.

SECTION 4: Effective Date. This Resolution shall be in full force and effect following its passage and approval in the manner provided by law.

PASSED THIS _____ day of _____, 2025.

APPROVED THIS _____ day of _____, 2025.

VOTES: AYES _____ NAYS _____ ABSENT _____ ABSTAIN _____

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A
LICENSE AGREEMENT

TEMPORARY LICENSE AGREEMENT

THIS NON-EXCLUSIVE LICENSE AGREEMENT (“Agreement”), dated as of _____, 2025, (**“Effective Date”**) is by and between the **CITY OF WARRENVILLE**, an Illinois home rule municipal corporation (**“City”**), and **WARRENVILLE GROVE ANIMAL HOSPITAL, LLC** and **WARRENVILLE GROVE LAND HOLDINGS, LLC** (collectively, the **“Licensee”**).

NOW THEREFORE, in consideration of the recitals, mutual covenants, and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby mutually agree as follows:

SECTION 1. RECITALS.

A. The City is the owner of that certain real property commonly known as 3S511 Batavia Road, Warrenville, Illinois and the public right-of-way commonly known as Batavia Road (collectively, **“City Property”**).

B. Warrenville Grove Animal Hospital, LLC, is the lessee of that certain real property commonly known as 3S481 Batavia Road, Warrenville, Illinois (**“Development Property”**), and adjacent to the City Property.

C. Warrenville Grove Land Holdings, LLC, is the owner of the Development Property.

D. On November 3, 2006, the City Council adopted Ordinance No. 2299 approving a special use permit for a planned unit development and a final development plan necessary to allow for the development and maintenance of the Property as an animal hospital (**“Animal Hospital”**).

E. On May 19, 2025, the City Council adopted Ordinance No. O2025-24, approving an amendment to the final development plan and other approvals necessary for the construction of an approximately 1,000 square foot addition to the Animal Hospital (**“Development”**).

F. In order to construct the Development on the Development Property, Licensee desires to temporarily use or allow its agents and contractors to use the portion of the City Property identified and depicted in **Exhibit A (“Licensed Premises”)** to store a dumpster and construction materials (**“Materials”**) and for construction access (collectively, the **“Activities”**).

G. Pursuant to its authority, including without limitation, its home rule authority, the City desires to authorize Licensee to conduct the Activities on the Licensed Premises, subject the City Code and the terms and conditions of this Agreement.

SECTION 2. GRANT AND TERM OF TEMPORARY LICENSE.

A. Grant of License. Subject to the terms and conditions set forth in this Agreement, the City hereby grants to Licensee and Licensee hereby accepts, a non-exclusive, nontransferable, revocable, temporary license to use, the Licensed Premises for the Activities pursuant to and in strict accordance with the terms and provisions of this Agreement (**“License”**). Licensee

acknowledges and agrees that nothing in this Agreement shall be interpreted to provide a license to Licensee to alter the Licensed Premises in any way other than as set forth in this Agreement.

B. Limitation of Interest. Except for the License granted pursuant to this Agreement, Licensee shall have no legal, beneficial, or equitable interest, whether by adverse possession or prescription or otherwise, in the Licensed Premises. The Licensee hereby accepts the Licensed Premises in its condition at the time of the execution of this Agreement, WHERE-IS and AS-IS, and subject to applicable requirements of law. The Licensee acknowledges and agrees that: (i) the Village has made no representation or warranty as to the suitability of the Licensed Premises for the Licensee's intended purposes; and (ii) the Village will have no responsibility to maintain the Licensed Premises in any particular condition or manner. The Licensee waives any implied warranty that the Licensed Premises is or will be suitable for the Licensee's intended purposes.

C. Term. This License shall be for a term no longer than six months commencing on the Effective Date of this Agreement.

D. Extension of Term. The Term of this Agreement may be extended upon application by Licensee and approval of the City. Any such extension must be in writing and executed by both parties.

E. Termination of License; Restoration of Licensed Premises.

1. Termination Event. Without prejudice to any other rights and remedies available pursuant to Section 8 of this Agreement, the License shall automatically terminate upon the occurrence of any of the following:

a. Failure to Comply. Licensee has violated any provision of this Agreement.

b. Mutual Agreement. Upon the mutual written agreement of the City and Licensee.

c. Public Construction Work. The City, a contract purchaser of or successor-in-interest to any portion of the City Property, or other public body desires to engage in any construction work on the Licensed Premises and the City elects, in its sole discretion, to terminate this Agreement and the License.

d. Dangerous Condition. The City determines, in its sole and absolute discretion, that the Activities on the Licensed Premises threatens the public health and safety, and the termination of the License is necessary to abate the dangerous condition.

2. Restoration of Licensed Premises.

a. Licensee Obligation. Upon the expiration of this Agreement or the termination of this Agreement pursuant to this Section 2.E, Licensee, at its sole cost and expense, shall restore the Licensed Premises as nearly as practicable to its condition as of the Effective Date, including, without limitation: (1) repair or replacement of the Licensed Premises, if necessary in the sole determination of the City; and (2) restoration of all City-owned property as nearly as

practicable to the condition immediately preceding the use of the Licensed Premises, if disturbed or damaged by Licensee.

b. Failure to Restore. In the event that Licensee fails or refuses to repair, replace and/or restore the Licensed Premises or any City-owned property that is disturbed, damaged, or removed by Licensee, in accordance with Section 2.E.2.a of this Agreement, the City shall have the right, but not the obligation, to perform and complete the repair, restoration, and/or replacement, and to charge Licensee for all costs and expenses, including legal and administrative costs incurred by the City, for such work. If Licensee does not fully reimburse the City for such costs, then the City shall have the right to place a lien on the Property for all such costs and expenses in the manner provided by law. The rights and remedies provided in this Section 2.E.2.b shall be in addition to, and not in limitation of, any other rights and remedies otherwise available to the City.

SECTION 3. INSTALLATION AND MAINTENANCE OF THE LICENSED PREMISES.

Licensee shall: (i) place and maintain the Activities in a good and workmanlike manner on the Licensed Premises, all at the sole expense of Licensee and subject to inspection and approval by the City; and (ii) maintain the Activities and Licensed Premises in a clean and safe manner.

SECTION 4. COMPLIANCE WITH LAW.

Licensee shall strictly comply with Section 7-2-2 of the City Code, and all other applicable requirements of State and local statutes, laws, regulations, ordinances, orders, and guidelines, including, without limitation.

SECTION 5. RESERVATION OF RIGHTS.

The City hereby reserves the right to use the Licensed Premises in any manner that will not prevent, impede, or interfere in any way with the exercise by Licensee of the rights granted pursuant to this Agreement. The City shall have the right to grant other non-exclusive licenses or easements, including, without limitation, licenses or easements for utility purposes, over, along, upon, under or across the Licensed Premises. The City reserves its right of full and normal access to the Licensed Premises for the maintenance of any existing or future utility located thereon. The City also reserves the right to conduct ongoing maintenance of the Licensed Premises.

SECTION 6. LIENS.

Licensee hereby represents and warrants that it shall take all necessary action to keep all portions of the Licensed Premises free and clear of all liens, claims, and demands, including without limitation mechanic's liens, in connection with any work performed by Licensee or its agents on the Licensed Premises.

SECTION 7. LIABILITY AND INDEMNITY OF CITY.

A. City Review. Licensee acknowledges and agrees that the City is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the City's

review and approval of any plans for the Licensed Premises, or the issuance of any approvals, permits, certificates, or acceptances for the operation, use, or maintenance of the Licensed Premises, and that the City's review and approval of any such plans for use of the Licensed Premises and issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure Licensee or any of its successors, assigns, tenants and licensees, or any third party, against damage or injury of any kind at any time.

B. Indemnity. Licensee agrees to, and does hereby, hold harmless and indemnify the City and all City elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from any and all claims that may be asserted at any time against any of those parties in connection with: (i) the use, operation, and maintenance of the Licensed Premises and the Activities; or (ii) Licensee's performance of, or failure to perform, its obligations under this Agreement (collectively, "***Indemnified Claims***"), whether or not any such Indemnified Claim is due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or willful misconduct or fault of Licensee; provided, however, that this indemnity shall not apply to willful misconduct or gross negligence on the part of the City.

C. Defense Expense. Licensee, only as to its own acts or omissions, shall, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the City in defending itself with regard to any and all of the Indemnified Claims.

D. Waiver of Liability. The Licensee will, and does hereby, waive, release, and relinquish all claims of every kind, known and unknown, present and future, that the Licensee may have against the City and all City elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, arising out of, connected with or in any way related to the use of the Licensed Premises, or as a result of the condition, maintenance, and use of the Licensed Premises.

E. Insurance. Licensee represents and agrees that: (i) it has insurance coverage that covers the Licensed Premises and the Activities with limits not less than \$1,000,000 that names the City of Warrenville, its elected and appointed officials, employees, and agents, as an additional noncontributory primary insured; (ii) it will maintain such insurance during the term of the License; and (iii) it will provide a certificate of insurance to the City upon request.

SECTION 8. ENFORCEMENT.

A. Enforcement. The City and Licensee may, in law or in equity, by suit, action, mandamus or any other proceeding, including, without limitation, specific performance, enforce or compel the performance of this Agreement; provided, however, that Licensee agrees that it will not seek, and does not have the right to seek, recovery of a judgment for monetary damages against the City or any City elected or appointed officials, agents, representatives, attorneys or employees on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement.

B. Prevailing Party. In the event of a judicial proceeding brought by one party against the other party, the prevailing party in the judicial proceeding shall be entitled to

reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with the judicial proceeding.

SECTION 9. GENERAL PROVISIONS.

A. Notices. All notices required or permitted to be given under this Agreement shall be given by the parties by: (i) personal delivery; (ii) deposit in the United States Registered Mail, return receipt requested, enclosed in a sealed envelope with first class postage thereon; or (iii) deposit with a nationally recognized overnight delivery service, addressed as stated in this Section 9.A. The address of any party may be changed by written notice to the other parties. Any mailed notice shall be deemed to have been given and received within three days after the same has been mailed and any notice given by overnight courier shall be deemed to have been given and received within 24 hours after deposit. Notices and communications to the parties shall be addressed to, and delivered at, the following addresses:

If to the City: City of Warrenville
 3S258 Manning Avenue
 Warrenville, Illinois 60555
 Attention: Director of Community and Economic
 Development

If to Licensee: Warrenville Grove Animal Hospital, LLC

 Attention: _____

and

 Warrenville Grove Land Holdings, LLC

 Attention: _____

B. Time of the Essence. Time is of the essence in the performance of all of the terms and conditions of this Agreement.

C. Amendments. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.

D. Authority to Execute. The City hereby warrants and represents to Licensee that the persons executing this Agreement on its behalf have been properly authorized to do so by the City. Licensee hereby warrants and represents to the City that Licensee has the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth in this Agreement.

E. Non-Waiver. The City shall be under no obligation to exercise any of the rights granted to it in this Agreement. The failure of the City to exercise at any time any right granted to

the City shall not be deemed or construed to be a waiver of that right, nor shall the failure void or affect the City's right to enforce that right or any other right.

F. Severability. If any provision of this Agreement is construed or held to be void, invalid, illegal, or unenforceable in any respect, the remaining part of that provision and the remaining provisions of this Agreement shall not be affected, impaired, or invalidated thereby, but shall remain in full force and effect. The unenforceability of any provision of this Agreement shall not affect the enforceability of that provision in any other situation.

G. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior agreements and negotiations between the parties, whether written or oral, relating to the License granted pursuant to this Agreement.

H. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

I. Exhibits. Exhibits A and B attached hereto are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement shall control.

J. Survival of Obligations. All obligations of Licensee pursuant to this Agreement that have not been fully performed as of the termination of this Agreement shall survive such termination, including, without limitation, the restoration obligations set forth in Section 2.D.2 of this Agreement, and the liability and indemnity obligations set forth in Section 7 of this Agreement.

K. No Third-Party Beneficiaries. No claim as a third-party beneficiary under this Agreement by any person shall be made, or be valid, against the City or Licensee.

L. Transfers Prohibited. The nonexclusive license granted pursuant to this Agreement is for the benefit of Licensee and the Establishment only and may not be transferred to any other business or property.

M. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to constitute a duly authorized original.

(Signatures Appear on Following Page)

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed, effective as of the date first written above.

ATTEST:

CITY OF WARRENVILLE,
an Illinois home rule municipal corporation

City Clerk

By: _____
Amy Emery
Director of Community and Economic
Development

ATTEST:

**WARRENVILLE GROVE ANIMAL
HOSPITAL, LLC**

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

**WARRENVILLE GROVE LAND
HOLDINGS, LLC**

By: _____

By: _____

Its: _____

Its: _____

EXHIBIT A

DEPICTION OF LICENSED PREMISES



Warrenville
Grove
Animal
Hospital

Licensed
Area
(City
Property)

Esri Community Maps Contributors, City of Naperville, County of DuPage, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US

DuPage County
Information Technology Department / GIS Division
421 N County Farm Rd.
Wheaton, IL 60187

Phone: 1(630)407-5000
Email: gis@dupageco.org

DuPage Maps Portal :
<https://www.dupage.maps.arcgis.com/home>

This map is for assessment
purposes only.

DuPage County Web Site :
<https://www.dupagecounty.gov>



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EXHIBIT B

DESCRIPTION OF ACTIVITIES

Activities include but are not limited to:

- Construction Access for Construction Material Unloading and Vehicles
- Construction Staging
- Temporary Dumpster