

VILLAGE OF  
ORLAND PARK

Ordinance No: 4419

**AN ORDINANCE AUTHORIZING EMINENT DOMAIN PROCEEDINGS FOR THE ACQUISITION OF CERTAIN PROPERTY LOCATED WITHIN THE "MAIN STREET TRIANGLE REDEVELOPMENT PROJECT AREA" BY THE VILLAGE OF ORLAND PARK, COOK COUNTY, ILLINOIS (Orland Plaza Shopping Center)**

WHEREAS, the Village of Orland Park (the "Village") is a home rule municipality organized and existing under the provisions of the Illinois Constitution, Article 7, Section 6; and

WHEREAS, the Village is authorized and empowered by their constitutional home rule authority to acquire property that is useful, advantageous or desirable for municipal purposes or for the public health, welfare and safety; and

WHEREAS, on October 4, 2004, the Village President and Village Board passed and approved Ordinance #3941 "An Ordinance Approving the Village of Orland Park Main Street Triangle Tax Increment Financing Redevelopment Plan and Project" for the Village of Orland Park Main Street Triangle Redevelopment Project Area; and

WHEREAS, on October 4, 2004, the Village adopted Ordinance #3942 "An Ordinance Designating the Village of Orland Park Main Street Triangle Redevelopment Project Area" and Ordinance #3943 "An Ordinance Adopting Tax Increment Financing for the Village of Orland Park Main Street Triangle Redevelopment Project Area"; and

WHEREAS, on August 6, 2007, the Village adopted Ordinance #4278 "An Ordinance Proposing Approval of an Amendment to the Redevelopment Plan and Project for the Main Street Triangle Redevelopment Project Area and Convening a Joint Review Board and Calling a Public Hearing in Connection Therewith"; and

WHEREAS, on October 15, 2007, the Village adopted Ordinance #4297 "An Ordinance Approving an Amendment to the Village of Orland Park, Main Street Triangle Tax Increment Financing Plan and Project"; and

WHEREAS, on October 15, 2007, the Village adopted Ordinance #4298 "An Ordinance Amending the Designation of the Village of Orland Park Main Street Triangle Redevelopment Project Area"; and

WHEREAS, on October 15, 2007, the Village adopted Ordinance #4299 "An Ordinance Adopting Tax Increment Financing for the Village of Orland Park, Cook and Will Counties, Illinois, in Connection with the Designation of the Amended Village of Orland Park Main Street Triangle Redevelopment Project Area"; and

WHEREAS, the Village has undertaken the acquisition of more than 20 acres of land located within the Main Street Triangle Redevelopment Area Plan and Project Area, and has managed to assemble all of the collective land interests within the Project Area, with the exception of the Orland Plaza Shopping Center property described in **Exhibit A** and depicted in **Exhibit B** to this Ordinance; and

WHEREAS, the Village has undertaken a comprehensive review of the roadway network serving the Main Street Triangle Redevelopment Area and surrounding area, and has identified the need for the acquisition in fee simple of additional land necessary and desirable for the construction of roads including a northerly extension of Ravinia Avenue, Jefferson Street, and the easterly extension of B Street as legally described in **Exhibit C** and as depicted in **Exhibit D** to this Ordinance; and

WHEREAS, the Village's consultant, SPACECO Inc., has prepared a conceptual design for public utilities and public improvements to be constructed by the Village for utilization of the Orland Plaza Shopping Center Parcel to serve the health, benefit, welfare and safety of the residents of the Village of Orland Park and the general public, said design being attached hereto and incorporated herein as **Exhibit E**; and

WHEREAS, the construction and maintenance of the roadway network as permanent public land, accessible to and servicing the general population of the Village, will require the demolition of certain shopping center improvements both within the area of the roadways and on land adjacent to the roadway network, and in order to accomplish demolition of the buildings, grading of the area and restoration of the adjacent land, the Village will need to acquire temporary construction easements for an 18 month duration over the property described in **Exhibit F** and depicted in Exhibit D to this Ordinance; and

WHEREAS, the construction of the roadway network and the development of the balance of the Main Street Triangle Redevelopment Area will also require the installation of public utilities including sanitary sewers, storm sewers and municipal water mains, and for this reason it will be necessary for the Village to acquire permanent non-exclusive utility easements over the property described in **Exhibit G** and depicted in Exhibit D attached to this Ordinance; and

WHEREAS, the Village's consultant, SPACECO, Inc. has prepared restoration specifications for areas outside the right-of-way and permanent easement acquisitions, and said restoration specifications are attached hereto and incorporated herein as **Exhibit H**; and

WHEREAS, the Village President and Village Board are willing to surrender any recapture which may be due the Village and recoverable from the remainder parcels within the Orland Plaza Shopping Center, as legally described in **Exhibit I** attached hereto, for roadway, sanitary sewer, storm sewer, water main, and detention basin construction within the Main Street Triangle Redevelopment, so as to maximize the value of said remainder parcels and to generate special benefits to said remainder parcels; and

WHEREAS, on July 7, 2008, the Village President and Village Board passed and approved Ordinance #4387, "An Ordinance Authorizing the Negotiation for the Acquisition of

Certain Property Located Within the 'Main Street Triangle Redevelopment Project Area' by the Village of Orland Park, Cook County, Illinois (Orland Plaza Shopping Center)" for the acquisition of land and easements needed for right-of-way, roadway, construction, demolition, restoration, and public utilities; and

WHEREAS, in accordance with the property ownership disclosure requirement imposed on units of local government as set forth in 50 ILCS 105/3.1, the Village obtained a title commitment identifying the Owner of the real estate described in the attached Exhibit A and depicted in the attached Exhibit B to be: Orland Park Building Corporation, a copy of said title commitment being attached hereto and incorporated herein as **Exhibit J**; and

WHEREAS, pursuant to Ordinance #4387, the Village Manager, his staff, and the Village Attorneys did submit an offer to the Owner to purchase the needed fee simple and easement property interests by paying the full appraised value of said fee simple and easement interests; and

WHEREAS, in the alternative, said offer indicated the Village's willingness to purchase the entire Orland Plaza Shopping Center parcel at its fair cash market value, if preferred by the Owner; and

WHEREAS, the Owner has rejected and refused to sell the portion of the property needed for right-of-way, roadway construction, demolition, restoration, and public utilities at the Village's offered price, has provided no counteroffer despite eight weeks of extended negotiations, and has not yet obtained an appraisal; and

WHEREAS, the Owner has demanded that the Village purchase more than that portion of the property needed for public ownership (the entire Orland Plaza Shopping Center), and in doing so, has further requested that the Village pay more than \$3,000,000 in excess of the appraised fair cash market value for said property; and

WHEREAS, the monetary demand of the Owner for acquisition of the entire Orland Plaza Shopping Center is not supported by an appraisal tendered by the Owner; and

WHEREAS, the Village President and the Board of Trustees find that the temporary and permanent easements described Exhibits F and G and depicted in Exhibit D attached hereto, and a fee simple interest in the real estate described in Exhibit C and depicted in Exhibit D attached hereto, should be acquired and held in public ownership in perpetuity to serve the transportation needs of the residents of the Village of Orland Park, to serve the general, health, welfare and safety of the Village, and to fulfill the goals and purposes of the Main Street Triangle Redevelopment Project Area for the Village; and

WHEREAS, the Village President and the Board of Trustees find that acquisition of the entire Orland Plaza Shopping Center at a price more than \$3,000,000 higher than its appraised value, would force the Village to purchase land to be resold to private developers at prices higher than is being paid by other purchasers in the marketplace, and would not be in the best interest of the Village; and

WHEREAS, the Village President and the Board of Trustees, through consultation with qualified expert consultants, determined valuations for the fee simple and easement acquisitions referenced herein, which the Village offered to the Owner; and

WHEREAS, notwithstanding the Village's eight week attempt to agree and negotiate for the voluntary acquisition of the fee simple and easement acquisitions referenced herein, the Village and Owner have been unable to reach an agreement; and

WHEREAS, the Village has determined that it is necessary and desirable to acquire in fee simple that portion of the Orland Plaza Shopping Center Parcel described and depicted in Exhibits C and D, and the temporary and permanent easements depicted in Exhibits D, F and G, for the public purposes set forth in this Ordinance, and as otherwise authorized under the provisions of the Illinois Constitution and Illinois statutes; and

WHEREAS, in order to effectuate the purposes set forth in this Ordinance, the Village expressly declares that it shall maintain in perpetuity public control over the fee simple and permanent easement interests referenced herein after they are acquired.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Orland Park, Illinois as follows:

1. That the recitals set forth above are hereby adopted and incorporated into this Ordinance.
2. That it is necessary and desirable that the real estate described in Exhibit C and depicted in Exhibit D attached hereto be acquired in fee simple by the Village, and the temporary and permanent easements described in Exhibit F and G and depicted in Exhibit D be acquired as well, for those purposes set forth herein.
3. That the Village Manager, his staff, and the Village Attorneys be, and hereby are, authorized to take the necessary steps, by condemnation, to acquire the fee simple and temporary and permanent easement interests described and depicted in Exhibits C, D, F and G, based on the appraisal, engineering, title and other information obtained by the Village, in accordance with the direction given by the Village President and Board of Trustees.
4. If filed, the condemnation complaint shall incorporate this Ordinance, inclusive of the restoration plan and recapture waiver, so as to stipulate to those special benefits attributable to those portions of the Orland Plaza Shopping Center that are not being acquired for public use.
5. If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

6. All ordinances, resolutions, motions, or orders in conflict herewith shall be, and the same hereby are, repealed to the extent of such conflict, and this Ordinance shall be in full force and effect upon its passage and approval as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Orland Park, Illinois this 15<sup>th</sup> day of September, 2008.

  
David P. Maher, Village Clerk

Aye: **5**

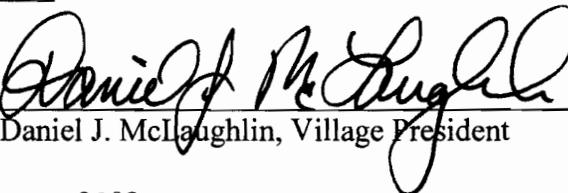
Nay: **1**

Abstain: **NA**

DEPOSITED in my office this 15<sup>th</sup> day of September, 2008

  
David P. Maher, Village Clerk

APPROVED this 15<sup>th</sup> day of September, 2008

  
Daniel J. McLaughlin, Village President

PUBLISHED this 15<sup>th</sup> day of September, 2008

  
David P. Maher, Village Clerk