

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (this “Memorandum”) is made and entered into as of the 27 day of August, 2018 (the “Effective Date”), by and among EVANSTON LIGHTHOUSE DUNES, a citizens’ group, (“ELD”), and THE CITY OF EVANSTON, a municipal corporation (the “City”). Lighthouse Dunes and the City are sometimes referred to herein individually as a “Party” and collectively as the “Parties”.

R E C I T A L S:

A. WHEREAS, the City owns certain real property located at 2603 Sheridan Road, Evanston, Illinois, which is improved with a three story home and a coach house and commonly known as the “Harley Clarke Mansion” (the “Subject Property”); and

B. WHEREAS, the Subject Property is a total of 219,397 square feet (approximately 5 acres) in size, contains a beach and natural dunes as part of the property, and bounded by a City park to the north and the Lighthouse and Fog Houses to the South; and

C. WHEREAS, ELD is a group of citizens and not a registered group with the Secretary of State, it consists of Jeff Coney, Nicole Kustok, William Stafford, Charles Lewis, Joseph Flanagan, Noreen Edwards and other interested members of the community; and

D. WHEREAS, the City Council at its July 23, 2018 meeting agreed to enter into a Memorandum of Understanding with ELD only if no costs associated with the “Natural Site Restoration” as defined herein are borne by the City of Evanston; and

E. WHEREAS, ELD offers to provide the City of Evanston funding needed to pay for costs associated with demolishing the mansion and coach house, grade the Subject Property and perform deferred landscape maintenance (landscaping);

F. WHEREAS, the City, as property owner, must follow a public process outlined in Title 2, Chapter 8 of the City Code of 2012 (“Historic Preservation Regulations”) to receive approval to demolish the structures on the Subject Property because they are landmarks registered with the City of Evanston; and

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the Parties hereto agree as follows:

1. Recitals. The foregoing recitals are acknowledged to be accurate and are incorporated herein by reference.

2. Funding Commitment. Parties commit to ongoing cooperation to provide the City of Evanston ample time to follow the necessary procedures to apply for and consider the demolition of the structures on the Subject Property. This agreement is contingent on the City of Evanston approving the demolition of the mansion and coach house. This Memorandum cannot be construed as a mandate or binding contract on either Party to demolish the mansion and coach house; rather the agreement provides a dedicated funding source if demolition is approved. ELD

agrees to fund costs necessary to restore the Subject Property to its natural state, as defined in Paragraph 3 below, this shall be limited to cover the cost to demolish the Subject Property structures, treescape restoration and/or removal of trees, grade and seed the land, and site restoration (collectively referred to as "Natural Site Restoration"). Based on the cost estimates presented to the Council on July 23, 2018, the Parties believe that the cost to conduct the activities defined as Natural Site Restoration is below \$400,000. In addition, ELD commits to funding an additional \$100,000 (inclusive of any unspent balances from the original \$400,000 donation) to fund the cost of future landscaping if the demolition is ultimately approved following the public process. The donated funds will be deposited into a City of Evanston agency account within 60 days of the Effective Date of this Memorandum. If the money is not funded within 60 days of the Effective Date, the agreement will be null and void. ELD will distribute to the City the additional \$100,000 for deposit into the agency account 30 days after the demolition of the mansion and coach house. ELD agrees to provide a list of names of individuals who have made pledges as of the Effective Date that can be published by the City. After the Effective Date, ELD will update the list with the City as donations are made to the described project.

3. Cost of Natural Site Restoration. The anticipated costs for the Natural Site Restoration were outlined in public packet to Resolution 43-R-18 on June 18, 2018 and revised Nels Johnson estimate on July 23, 2018. The demolition cost (Taylor Excavating - \$298,672) + tree removal and related costs (Nels Johnson - \$16,245) + Procurement Costs - \$73,350) for a total cost of \$388,267 (see attachments). If the bids for the Natural Site Restoration exceed \$400,000, ELD will deposit the additional funds necessary within 120 days of receipt of the selected bid. Failure to deposit the additional funds voids the Memorandum and all funds are refunded.

4. Public Process. The Parties understand that the public process is as follows: The steps for approval of the demolition are as follows:

A. The City Council must adopt a resolution approving the City Manager or his designee to file an application for certificate of appropriateness for the demolition with the Evanston Preservation Commission (§2-8-8(C)).

B. The Preservation Commission reviews and votes on the application within 45 days of receipt. In considering an application for a certificate of appropriateness for demolition, the Commission shall consider only the following general standards and the standards included in Subsection 2-8-9(E):

1. Whether the property, structure or object is of such historic, cultural, architectural or archaeological significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State.
2. Whether the property, structure or object contributes to the distinctive historic, cultural, architectural or archaeological character of the district as a whole and should be preserved for the benefit of the people of the City and the State.
3. Whether demolition of the property, structure or object would be contrary to the purpose and intent of this Chapter and to the objectives of the historic preservation for the applicable district.

4. Whether the property, structure or object is of such old, unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense.
5. Whether the property, structure or object is of such physical condition that it represents a danger and imminent hazard condition to persons or property and that retention, remediation, or repair are not physically possible or require great difficulty and/or expense.
6. Except in cases where the owner has no plans for a period of up to five (5) years to replace an existing landmark or property, structure or object in a district, no certificate of appropriateness shall be issued until plans for a replacement structure or object have been reviewed and approved by the Commission.(§2-8-9(D)).

C. If the Preservation Commission rejects the certificate of appropriateness, then the City may appeal the Preservation Commission decision to the City Council within 30 days. (§2-8-8(G)(7)).

D. Denial or grant by the City Council of a certificate of appropriateness is considered a final decision of the certificate appropriateness and may be appealed to the Circuit Court of Cook County.(§2-8-8(G)(7)). If the Demolition appeal is granted, the City may proceed with applying for the demolition permit.

E. If the Demolition appeal is denied, the City may apply for a certificate of special merit (§2-8-11) or certificate of economic hardship (§2-8-10). Certificate of Special Merit is reviewed by the City Council.

F. If the City opts to apply for the Certificate of Economic Hardship, this is reviewed by the Preservation Commission. If the Certificate of Economic Hardship is denied by the Preservation Commission, this can be appealed to the City Council. (§2-8-10(M)(1))

5. **Overage of Donation Funds.** As stated in Paragraph 2, if the demolition is approved, the City will disburse funds to the contractors to pay for the project costs associated with the demolition, grading and site restoration. Following payment to the contractors, if there is a balance in the account from the donations, the City will retain the funds to use for landscaping and other maintenance at the Subject Property.

6. **Entire Agreement: Modification.** This Memorandum contains the entire agreement among the Parties with respect to the matters contemplated hereby, and supersedes all prior agreements, written or oral, with respect thereto. This Memorandum may not be modified, changed, amended, supplemented or rescinded except pursuant to a written instrument that is duly executed by all Parties. The Parties agree to be bound by all terms of this Memorandum, unless it is modified by all Parties as provided herein.

7. **Invalid Provisions.** If any provision of this Memorandum is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any Party under this Memorandum will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Memorandum will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, and (c) the

remaining provisions of this Memorandum will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom.

8. Counterparts. This Memorandum may be executed in one or more original counterparts, each of which when taken together shall constitute one and the same original Memorandum. Any signature delivered by facsimile or by electronic transmission shall be deemed to be an original signature hereto.

9. Headings. The Parties hereby acknowledge and agree that all headings contained in this Memorandum are used solely for convenience and are not to be interpreted as part of this Memorandum.

10. Expiration. At the conclusion of 24 months from the Effective Date, if the City has not obtained the necessary approval to demolish the Mansion and Coach House, this agreement will be null and void. The funds deposited in the agency account will be refunded to individuals that donated funds within 60 days of confirmation that the project will not move forward.

[Signature pages follow]

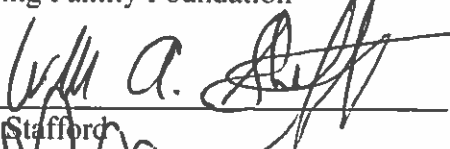
IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Understanding as of the Effective Date first written above.

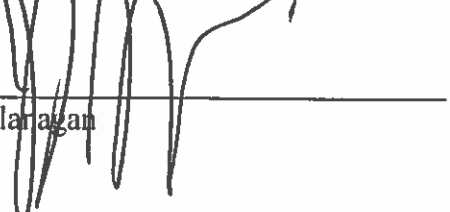
EVANSTON LIGHTHOUSE DUNES,
a citizens' group

Name: 
Nicole Kustek

Name: 
Jeff Coney


Name: Charles Lewis, Chairman
Lewis-Sebring Family Foundation

Name: 
William A. Stafford

Name: 
Joseph P. Flanagan

Name: _____
Noreen Edwards

THE CITY OF EVANSTON,
an Illinois municipal corporation

By: 
Wally Bobkiewicz
City Manager, City of Evanston

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Lewis-Sebring Family Foundation

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Name: Noreen Edwards
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City Manager, City of Evanston