



MOLINE CITY COUNCIL AGENDA

Tuesday, March 13, 2012

6:30 p.m.

(immediately following the Committee-of-the-Whole meeting)

City Hall

Council Chambers – 2nd Floor

619 16th Street

Moline, IL

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CONSENT AGENDA

All items under the consent agenda are considered to be routine in nature and will be enacted by one motion. There will be no separate discussions of these items unless a council member so requests, in which event the item will be removed from the consent agenda and considered as the first item after approval of the consent agenda.

COUNCIL MEMBER	PRESENT	ABSENT
Knaack		
Meredith		
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Mayor Welvaert		

APPROVAL OF MINUTES

Committee-of-the-Whole and Council meeting minutes of March 6, 2012.

SECOND READING ORDINANCES

1. Council Bill/Special Ordinance 4007-2012

A Special Ordinance closing certain streets more particularly described herein to vehicular traffic and authorizing the use of public right-of-way in conjunction with the Young Life 5K Race to be held on Saturday, March 24, 2012.

EXPLANATION: This is a yearly event.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: N/A

2. Council Bill/Special Ordinance 4008-2012

A Special Ordinance vacating the alley right-of-way located south of Parcel MO-8272 (400 19th Street) and north and adjacent to Parcels MO-8273, MO-8275 and MO-8277, in the City of Moline.

EXPLANATION: Deere and Company has negotiated a lease agreement with the City to construct an employee parking lot on three City-owned parcels (MO-8273, MO-8275 and MO-8277) located to the south of Deere's building at 400 19th Street, Moline. The parties agree that an alley that separates the building from the proposed parking lot should be vacated as it no longer serves the residents of Moline and would be better utilized as part of the City-owned parcels to be leased to Deere. This ordinance would authorize vacation of the alley and the dedication of the vacated alley to the City-owned parcels directly abutting it to the south.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: Recording of the Special Ordinance.

RESOLUTION

3. Council Bill/Resolution 1151-2012

A Resolution amending Budget Resolution #1198-2011 by authorizing changes to various line items in the budget for FY 2012.

EXPLANATION: Budget amendments are compiled periodically throughout the fiscal year and presented to City Council for approval. These amendments are proposed to reflect recent changes to the current budget that avoid any adverse affect to the City’s legal budgetary compliance.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING REQUIRED: N/A

OMNIBUS VOTE

ITEMS NOT ON CONSENT

RESOLUTION

4. Council Bill/Resolution 1152-2012

A Resolution authorizing the Mayor and City Clerk to execute a contract with Langman Construction, Inc. for Project #1145, 2012 Sealcoat Upgrade, in the amount of \$419,810.00.

EXPLANATION: Bids were opened and publicly read with Langman Construction, Inc. submitting the lowest responsive and responsible bid.

FISCAL IMPACT: Funds are budgeted and available as follows:

<u>ACCOUNT</u>	<u>BUDGETED</u>	<u>AS-BID</u>	
Utility Tax	445,000.00	377,045.00	510-9965-438.08-10
Water	2,000.00		310-1716-434.04-25
WPC			320-1835-433.08-30
Storm	53,500.00	42,765.00	330-1971-433.08-35
	500,500.00	419,810.00	

<u>OMNIBUS VOTE</u>		
<u>Council Member</u>	<u>Aye</u>	<u>Nay</u>
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Meredith		
Mayor Welvaert		

<u>1152-2012</u>		
<u>Council Member</u>	<u>Aye</u>	<u>Nay</u>
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Meredith		
Mayor Welvaert		

PUBLIC NOTICE/RECORDING: N/A

FIRST READING ORDINANCES

5. Council Bill/Special Ordinance 4009-2012

A Special Ordinance authorizing a jurisdictional transfer with the Illinois Department of Transportation to accept jurisdiction of 70th Street south of John Deere Road and the frontage road east of 70th Street.

EXPLANATION: Council previously approved jurisdictional transfer agreement of 70th Street and the frontage road on September 27, 2011, Council/Bill Resolution No. 1165-2011. The Illinois Department of Transportation (IDOT) requires that such jurisdictional transfer be authorized through city ordinance.

PUBLIC NOTICE/RECORDING: N/A

6. Council Bill/Special Ordinance 4010-2012

A Special Ordinance authorizing the Mayor and City Clerk to execute a Surface Lease Agreement for Parking between the City of Moline and Deere and Company allowing Deere to lease certain parcels of City-owned property for the construction and maintenance of an employee parking lot.

EXPLANATION: Deere and Company (“Deere”) seeks additional parking for its employees who work at 400 19th Street, Moline, Parcel MO-8272, and has negotiated a surface lease agreement with the City to construct and maintain a parking lot on the City owned parcels to the south of Deere’s building, Parcels MO-8273, MO-

8275 and MO-8277. The City has also agreed to vacate an alley right-of-way located directly south and adjacent to Deere’s building at 400 19th Street and directly north of the City-owned parcels so the vacated property may be used as part of the City-owned parcels to be leased to Deere. The lease term is for ten years, commencing March 1, 2012, with four 10-year extensions. The rent payment is \$6,000 per year. **CONSIDERATION REQUESTED.**

FISCAL IMPACT: \$6,000 per year lease payment.

PUBLIC NOTICE/RECORDING: Deere will record the Agreement or a memorandum thereof.

Consideration of 4010 & 4011		
Council Member	Aye	Nay
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Meredith		
Mayor Welvaert		

4010-2012		
Council Member	Aye	Nay
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Meredith		
Mayor Welvaert		

7. Council Bill/Special Ordinance 4011-2012

A Special Ordinance closing certain streets particularly described herein to vehicular traffic and the use of public right-of-way in conjunction with the Quad Cities Marathon & Races scheduled for Saturday, September 22, 2012, and Sunday, September 23, 2012.

EXPLANATION: This is a yearly event.

CONSIDERATION REQUESTED.

FISCAL IMPACT: N/A

PUBLIC NOTICE/RECORDING: N/A

MISCELLANEOUS BUSINESS

PUBLIC COMMENT

Members of the public are permitted to speak after first stating their name and address.

EXECUTIVE SESSION

4011-2012		
Council Member	Aye	Nay
Raes		
Ronk		
Turner		
Schoonmaker		
Liddell		
Acri		
Knaack		
Meredith		
Mayor Welvaert		

City Council and Committee Meetings Schedule March 12-16, 2012

(dates and times are subject to change with notification)

The next regularly scheduled City Council meeting will be March 20, 2012.

COMMITTEE	DAY	DATE	TIME	LOCATION
Historic Preservation Commission	Monday	March 12	Rescheduled to March 19	Rescheduled to March 13
Human Rights Commission	Monday	March 12	4:00 p.m.	City Hall Committee-of-the-Whole Room 619 16 th Street
Fire & Police Commission	Tuesday	March 13	4:30 p.m.	Moline Police Department Community Room 1640 6 th Avenue
Committee-of-the-Whole with City Council immediately following	Tuesday	March 13	6:30 p.m.	City Hall Council Chambers-2nd Floor 619 16th Street
Project Management Team	Wednesday	March 14	1:30 p.m.	Renew Moline Conference Room 1506 River Drive
Plan Commission	Wednesday	March 14	4:00 p.m.	City Hall Committee-of-the-Whole Room 619 16 th Street
Youth Commission	Thursday	March 15	4:00 p.m.	Moline Public Library Platinum Room 3210 41 st Street

Any person with disabilities who wishes to attend the meeting who requires a special accommodation in attending the meeting, should notify the City Administrator's Office, 524-2003, at least 24 hours prior to the scheduled meeting.

Council Bill/Ordinance No.: 4007-2012

Sponsor: _____

A SPECIAL ORDINANCE

CLOSING certain streets more particularly described herein to vehicular traffic; and

AUTHORIZING the use of public right-of-way in conjunction with the Young Life 5K Race to be held on Saturday, March 24, 2012.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That this Council hereby authorizes and directs the Mayor, Director of Public Works and Police Chief to erect barricades and post temporary signs, if necessary, for the purpose of closing the following designated roadways to vehicular traffic during the specified times mentioned herein:

Saturday, March 24, 2012, from 7:00 a.m. until 11:00 a.m.

34th Street between 24th and 26th Avenues
26th Avenue between 34th and 47th Streets
47th Street between 26th and 34th Avenues.

It shall be an offense to use said roadway for vehicular purposes during such time specified herein.

Section 2 – That this Council declares the intent of this ordinance to be a temporary variance from other ordinances that may be in conflict herewith and shall authorize the activities described hereinabove only during such times specified for the street closings and shall not constitute a repeal of other ordinances of the City of Moline which are in conflict herewith.

Section 3 – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____
City Clerk

Approved as to form:

City Attorney

Council Bill/Special Ordinance No. 4008-2012

Sponsor: _____

A SPECIAL ORDINANCE

VACATING the alley right-of-way located south of Parcel MO-8272 (400 19th Street) and north and adjacent to Parcels MO-8273, MO-8275 and MO-8277, in the City of Moline, being more particularly described below in Section 2.

WHEREAS, Deere and Company (“Deere”) seeks additional parking for its employees who work at 400 19th Street, Moline, Parcel MO-8272, and has negotiated a lease agreement with the City of Moline to construct a parking lot on the City owned parcels to the south of Deere’s building, Parcels MO-8273, MO-8275 and MO-8277; and

WHEREAS, there is an alley that separates the Deere building from the proposed parking lot that no longer serves the residents of Moline and would be better utilized as part of the City-owned parcels to be leased to Deere; and

WHEREAS, Deere requests and the City agrees that the alley right-of-way located directly south and adjacent to Deere’s building located at 400 19th Street, Parcel MO-8272, and directly north of the City-owned parcels, be vacated to the City so the property can be more fully used; and

WHEREAS, this Special Ordinance is based upon the statutory authority provided in 65 ILCS 5/11-91-1.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That this Council hereby finds and declares upon the recommendation of its Committee-of-the-Whole that it is in the best interests of the City of Moline, Illinois, to vacate the right-of-way hereinafter described below to itself because the need to serve residents no longer exists.

Section 2 – That the alley right-of-way located south of 400 19th Street, Parcel MO-8272, and north of and adjacent to Moline Township Tax Parcels MO-8273, MO-8275 and MO-8277, in the City of Moline, is legally described in Exhibit A, which is attached hereto, and by this reference made a part hereof. The Exhibit B tract is owned by the City of Moline, an Illinois municipal corporation; said Exhibit B is attached hereto and by this reference made a part hereof; Exhibit B tract is a/k/a Tax Parcels MO-8273, MO-8275 and MO-8277. The City of Moline may acquire title to the entire vacated alley that is legally described in the attached Exhibit A as provided by law to be dedicated to the property described in Exhibit B that abuts the south side of the alley.

Section 3 – That this request for vacation of public right-of-way complies with the City of Moline Vacation Policy and complies with the statutes of the State of Illinois applicable thereto, and this vacation is specifically being made pursuant to State Statute 65 ILCS 5/11-91-1 and the City’s home rule powers, in that the City of Moline is the owner of the abutting and adjacent Parcels MO-8273, MO-8275 and MO-8277; and the City has determined that the fair market value for the vacated tract described in Exhibit A, is, in fact, Fourteen Thousand Five Hundred Eighty-six and 00/100 Dollars (\$14,586.00), and the City of Moline, Illinois has agreed to pay said sum and, in fact, has tendered said sum to the City of Moline, Illinois.

Section 4 – That this Council finds that it is in the best interest of the City of Moline to direct the vacated interest in said alley right-of-way to the abutting City-owned properties, Parcels MO-8273, MO-8275 and MO-8277, being more particularly described in the attached Exhibit B, in exchange for the payment of the fair market value in the amount of Fourteen Thousand Five Hundred Eighty-six and 00/100 Dollars (\$14,586.00), the receipt of which is hereby acknowledged by the City of Moline, and a quit claim deed to the City of Moline.

Section 5 – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____

City Clerk

Approved as to Form:

City Attorney

Exhibit A

Part of the Northeast Quarter of Section 32, Township 18 North, Range 1 West of the Fourth Principal Meridian, Rock Island County, State of Illinois, also being part of Wood's 3rd Addition to the City of Moline described as follows:

That twenty foot alley immediately adjacent and north of Lot 5, Lot 6 and the west 60 feet of Lot 7 in Block 8 of said Wood's 3rd Addition.

Exhibit B

Part of the Northeast Quarter of Section 32, Township 18 North, Range 1 West of the Fourth Principal Meridian, Rock Island County, State of Illinois, also being part of Wood's 3rd Addition to the City of Moline described as follows:

Lot 5, Lot 6 and the west 60 feet of Lot 7 in Block 8 of said Wood's 3rd Addition.

Council Bill/Resolution No. 1151-2012

Sponsor _____

A RESOLUTION

AMENDING Budget Resolution #1198-2011 by authorizing various changes to line items in the FY 2012 Budget.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

<u>Account Number</u>	<u>Current Budget</u>	<u>Budget Adjustment</u>	<u>Revised Budget</u>
1) 448-0867-437.07-03 Vehicle Replacement	\$1,576,615	\$282,660	\$1,859,275
448-0000-271.00-01 Reserves	N/A	(\$282,660)	N/A

Explanation: Sanitation truck ordered and budgeted in 2011 will be delivered and paid for in 2012. Park and WPC mowers budgeted in 2011 will be purchased in 2012 when joint purchase pricing resumes.

2) 230-0721-491.02-55 Professional Development	\$3,500	(\$500)	\$3,000
230-0721-491.03-11 Grant Admin Services	\$116,450	(\$18,275)	\$98,175
230-0721-491.03-22 Professional/Technical	\$4,000	\$7,000	\$11,000
230-0721-491.03-24 Court/Recording Fees	\$200	\$50	\$250
230-0721-491.04-16 Utilities	\$1,080	\$5	\$1,085
230-0721-491.05-02 Printing/Duplicating	\$100	\$50	\$150
230-0721-491.05-04 Postage/Shipping	\$670	(\$170)	\$500
230-0721-491.05-05 Memberships/Publication	\$1,740	(\$240)	\$1,500
230-0721-491.05-06 Advertisement/Promo	\$625	(\$125)	\$500
230-0721-491.05-10 Travel on City Business	\$250	(\$40)	\$210
230-0721-491.06-01 Office Supplies	\$600	\$1,470	\$2,070

Account Number	Current Budget	Budget Adjustment	Revised Budget
230-0721-491.06-08 Data Processing Supplies	\$200	(\$200)	\$0
230-0721-491.06-30 Operating Supplies	\$600	\$3,035	\$3,635
230-0722-491.03-11 Grant Admin Services	\$107,150	(\$8,515)	\$98,635
230-0722-491.03-24 Seasonal Employment	\$200	\$1,000	\$1,200
230-0722-491.05-02 Printing/Duplicating	\$200	(\$25)	\$175
230-0722-491.05-04 Postage/Shipping	\$930	(\$160)	\$770
230-0722-491.05-06 Advertisement/Promo	\$625	(\$125)	\$500
230-0722-491.06-01 Office Supplies	\$450	(\$100)	\$350
230-0722-491.06-08 Data Processing Supplies	\$200	(\$200)	\$0
230-0722-491.06-30 Operating Supplies	\$1,000	(\$650)	\$350
230-0723-491.03-11 Grant Admin Services	\$31,265	\$735	\$32,000
230-0725-491.03-11 Grant Admin Services	\$3,355	(\$3,355)	\$0
230-0726-491.03-11 Grant Admin Services	\$3,355	(\$3,355)	\$0
230-0727-491.03-11 Grant Admin Services	\$0	\$40,805	\$40,805
230-0727-491.03-21 Seasonal Employment	\$0	\$10,000	\$10,000
230-0729-492.11-31 Neighborhood Grant Prog	\$0	\$17,790	\$17,790
230-0729-492.12-74 CHS	\$145,610	\$176,345	\$321,955
230-0729-492.20-54 Neighborhood Abatement	\$0	\$21,885	\$21,885
230-0000-331.10-00 CDBG Grant Revenue	\$818,725	(\$152,937)	\$782,310
230-0000-271.00-00 Reserves	N/A	(\$91,198)	N/A

Explanation: Reflect \$152,937 reduction in 2012 CDBG funding and allocation of CDBG program income and unspent funds from 2011.

Account Number	Current Budget	Budget Adjustment	Revised Budget
3) 010-0715-463.01-01 Full Time Salaries	\$308,330	\$32,305	\$340,635
010-0715-463.02-30 FICA/Medicare	\$23,590	\$2,475	\$26,065
010-0715-463.02-35 IMRF	\$36,230	\$3,800	\$40,030
010-0715-463.02-50 Health Insurance	\$53,090	\$5,425	\$58,515
010-0715-463.03-21 Seasonal Employment	\$0	\$46,170	\$46,170
010-0715-463.03-22 Professional/Technical	\$79,680	\$30,900	\$110,580
010-0000-271.00-00 Reserves	N/A	(\$121,075)	N/A

Explanation: Roll forward unspent 2011 Planning Funds to cover CDBG Entitlement Reduction, continuation of Historic District Nomination work, expansion of Main Street to Uptown, Olde Towne and Avenue of the Cities and to implement the Airport and South District Development and Marketing Plans.

BE IT FURTHER RESOLVED that the City Council directs the Finance Director to make the necessary accounting entries for the aforementioned budget amendments.

CITY OF MOLINE, ILLINOIS

Mayor

March 13, 2012

Date

Passed: March 13, 2012

Approved: March 20, 2012

Attest: _____
City Clerk

Approved as to form:

City Attorney

Council Bill/Resolution No.: 1152-2012

Sponsor: _____

A RESOLUTION

AUTHORIZING the Mayor and City Clerk to execute a contract with Langman Construction, Inc. for Project #1145, 2012 Sealcoat Upgrade, in the amount of \$419,810.00.

WHEREAS, bids were publicly read on February 28, 2012; and

WHEREAS, bids were solicited with Langman Construction, Inc. submitting the lowest responsible and responsive bid; and

WHEREAS, sufficient funds are available.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

That the Mayor and City Clerk are hereby authorized to execute a contract with Langman Construction, Inc. for Project #1145, 2012 Sealcoat Upgrade, in the amount of \$419,810.00; provided, however, that said contract is substantially similar in form and content to that attached hereto and incorporated herein by this reference thereto as Exhibit "A" and has been approved as to form by the City Attorney.

CITY OF MOLINE, ILLINOIS

Mayor

March 13, 2012

Date

Passed: March 13, 2012

Approved: March 20, 2012

Attest: _____
City Clerk

Approved as to form:

City Attorney

CITY OF MOLINE CONTRACT

THIS AGREEMENT, made and concluded this ____ day of _____, A.D., 2012, between **LANGMAN CONSTRUCTION, INC.** of **220 34TH AVENUE, ROCK ISLAND, IL 61201**, hereinafter referred to as the “CONTRACTOR,” and the **CITY OF MOLINE, ILLINOIS**, hereinafter referred to as the “CITY;”

WITNESSETH, that the CONTRACTOR for and in consideration of the payments to be made to it by the CITY in the amount of **FOUR HUNDRED NINETEEN THOUSAND EIGHT HUNDRED TEN AND NO/100 (\$419,810.00) DOLLARS**, hereby covenants and agrees, to and with the CITY, that it shall and will in good and workmanlike manner, furnish all the labor and material for **PROJECT NO. 1145 – 2012 SEALCOAT UPGRADE** as set out in the plans and specifications.

Such work to be under the direction and to the satisfaction of the City Engineer, and in accordance with the plans and specifications, which are a part of this contract. The work to be commenced not later than 10 days after the execution of this contract; to progress regularly and uninterruptedly after it shall have been begun excepting as shall otherwise be ordered by the City Council of the City of Moline (hereinafter referred to as the “City Council”), or its authorized representative, and shall be finished and fully completed within the timeframe set forth in the specifications; the time of commencement, rate of progress and time of completion being essential conditions of this contract; PROVIDED, however that if the time of the performance of the contract herein be for any reason either expressly or by implication extended, such extension shall not affect the validity of this contract.

The Contractor further agrees that the unit prices submitted are for the purpose of obtaining a gross sum, and for use in computing the value of extras and deductions; that if there is a discrepancy between the gross sum bid and that resulting from the summation of the quantities multiplied by their respective unit prices, the latter shall apply. When this contract shall be wholly carried out and

completed on the part of the Contractor, and when said work has been accepted by the City, a sum of money shall be computed by multiplying the following unit prices by the quantity of items completed, it being understood that the following total sum of money listed is for the purpose of determining the amount of the performance, labor, material and maintenance bond only. Such payment shall be made as provided for in the said specifications.

This Contract calls for the construction of a “public work” within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. (“the Act”). The Act requires contractors, subcontractors, and truckers to pay laborers, workers, and mechanics performing services on public works projects not less than the “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. The prevailing wage rates for projects for the City of Moline required by Moline Special Ordinance 4004-2012 are updated monthly by the Illinois Department of Labor and may be found at:

http://www.state.il.us/agency/idol/rates/ODDMO/ROCK_ISL.htm.

All contractors, subcontractors, and truckers rendering services under this contract must comply with all requirements of the Act, including but not limited to, all wage, notice and record keeping duties. All contractors, subcontractors, and truckers shall keep an accurate record showing the names and occupations of all laborers, workers, and mechanics employed by them on this contract, and also showing the actual hourly wages paid to each of such persons and shall preserve their weekly payroll records for a period of three (3) years from the date of completion of the contract. Weekly certified payrolls shall be sent to the City Engineer.

For further information, please refer to the Illinois Department of Labor’s website at:

<http://www.state.il.us/agency/idol>.

It is further provided that the CONTRACTOR shall upon the sealing of this contract, file with the CITY a good and sufficient bond in the penal sum of **FOUR HUNDRED NINETEEN THOUSAND EIGHT HUNDRED TEN AND NO/100 (\$419,810.00) DOLLARS** conditioned upon the faithful performance and execution of the work covered by this contract according to the complete and detailed specifications and full and complete drawings, profiles and models therefore, and according to the terms and conditions of this contract, and conditioned also that the CONTRACTOR shall pay all debts incurred by said CONTRACTOR in the prosecution of such work, including those for labor and materials furnished. The CONTRACTOR further agrees to pay liquidated damages as set forth in the specifications for failure to complete the Project by the date specified.

IN WITNESS WHEREOF, the said Parties have executed these presents on the date above mentioned.

CONTRACTOR:

By: _____

CITY:

CITY OF MOLINE, ILLINOIS

By: _____

Mayor

Attest: _____

City Clerk

Approved as to form:

City Attorney

Date: _____

Date: _____

Performance Bond Attached

Certificate of Insurance Attached

Council Bill/Special Ordinance No.: 4009-2012
Sponsor: _____

A SPECIAL ORDINANCE

AUTHORIZING a jurisdictional transfer with the Illinois Department of Transportation to accept jurisdiction of 70th Street south of John Deere Road and the frontage road east of 70th Street.

WHEREAS, City Council previously approved the jurisdictional transfer of 70th Street south of John Deere Road and the frontage road east of 70th Street on September 27, 2011, pursuant to Council Bill/Resolution No. 1165-2011; and

WHEREAS, the Illinois Department of Transportation (IDOT) requires that such jurisdictional transfers be authorized by municipal ordinance; and

WHEREAS, in return for accepting the jurisdictional transfer, IDOT offers to make a \$166,000 payment to the City of Moline to fund future maintenance of the streets and fund the necessary repairs to the existing storm sewer under the frontage road.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That the City Council hereby authorizes the jurisdictional transfer agreement approved on September 27, 2011, that includes the location description and location map, as attached hereto and incorporated herein as Exhibit “A.”

Section 2 – That the following section of 70th Street shall be added to the subject jurisdictional transfer, as follows:

70th Street from IL5 southerly to frontage road then easterly to the dead end.

Section 3 – That the City Council hereby accepts from IDOT a lump sum payment in the amount of \$166,000 that shall be deposited into the City’s Motor Fuel Tax Fund, which shall be expended in accordance with Motor Fuel Tax standards, policies and procedures.

Section 4 – That the City will accept jurisdiction of the designated section of 70th Street and the frontage road twenty-one (21) days after execution of the Jurisdictional Transfer Agreement.

Section 5 – That upon jurisdictional transfer of the subject roadway segments and receipt of payment, maintenance of the roadway henceforth shall be the responsibility of the City of Moline.

Section 6 – That this ordinance shall not constitute a repeal of any or all ordinances or resolutions in conflict herewith but shall be construed as a one-time variance with regard to such conflicting ordinances or resolutions.

Section 7 – That this ordinance shall be in full force and effect from and after passage; approval; and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____
City Clerk

Approved as to form:

City Attorney

Council Bill/Special Ordinance No. 4010-2012

Sponsor: _____

A SPECIAL ORDINANCE

AUTHORIZING the Mayor and City Clerk to execute a Surface Lease Agreement for Parking between the City of Moline and Deere and Company allowing Deere to lease certain parcels of City-owned property for the construction and maintenance of an employee parking lot.

WHEREAS, Deere and Company (“Deere”) seeks additional parking for its employees who work at 400 19th Street, Moline, Parcel MO-8272, and has negotiated a surface lease agreement with the City to construct and maintain a parking lot on the City owned parcels to the south of Deere’s building, Parcels MO-8273, MO-8275 and MO-8277; and

WHEREAS, the City has also agreed to vacate an alley right-of-way located directly south and adjacent to Deere’s building at 400 19th Street and directly north of the City-owned parcels so the vacated property may be used as part of the City-owned parcels to be leased to Deere; and

WHEREAS, the term of the lease shall be for ten years, commencing March 1, 2012, with four 10-year extension options; and

WHEREAS, Deere’s lease payment to the City shall be an annual advance payment of \$6,000.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That That the Mayor and City Clerk are hereby authorized to execute a Surface Lease Agreement for Parking between the City of Moline and Deere and Company allowing Deere to lease certain parcels of City-owned property for the construction and maintenance of an employee parking lot at lease payments of \$6,000 per year; provided that said agreement is substantially similar in form and content to that attached hereto and incorporated herein by this reference thereto as Exhibit “A,” and has been approved as to form by the City Attorney.

Section 2 – That this ordinance shall be in full force and effect from and after passage; approval; and, if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Passed: _____

Approved: _____

Attest: _____

City Clerk

Approved as to Form:

Date

City Attorney

CITY OF MOLINE
SURFACE LEASE AGREEMENT FOR PARKING

THIS LEASE, dated _____, 2011, is by and between the CITY OF MOLINE, ILLINOIS, a municipal corporation, acting by and through its Mayor and City Clerk, hereinafter called "City," and DEERE & COMPANY, hereinafter called "Deere."

WITNESSETH:

For and in consideration of the rental and of the covenants and agreements hereinafter set forth to be kept and performed by the Deere, City hereby leases to Deere and Deere hereby leases from City the Premises herein described for the term, at the rental and subject to and upon all of the terms, covenants and agreements hereinafter set forth.

ARTICLE 1. PREMISES. City hereby leases to Deere, and Deere hereby leases from City, for the term, at the rent, and upon the covenants and conditions hereinafter set forth, the surface interests owned by City in and to that certain Premises legally described as:

Part of the Northeast Quarter of Section 32, Township 18 North, Range 1 West of the Fourth Principal Meridian, Rock Island County, State of Illinois, also being part of Wood's 3rd Addition to the City of Moline described as follows:

Lot 5, Lot 6 and the west 60 feet of Lot 7 in Block 8 of said Wood's 3rd Addition, together with the vacated alley north of said Lot 5, Lot 6 and the west 60 feet of Lot 7.

ARTICLE 2. TERM. The term of this Lease shall be for ten (10) years, commencing March 1, 2012 and expiring on February 28, 2022. Deere shall have four 10 year options which should be exercised no later than 6 months prior to the expiration of the current lease term. At the conclusion of the fourth 10 year option, City and Deere shall negotiate in good faith for additional years.

ARTICLE 3. RENT.

3.1 Rent

Deere shall pay to City as rent, without deduction, setoff, prior notice, or demand, the sum of six thousand dollars \$6,000.00 per year in advance on the first day of June of each year of the original and any extended term of this Lease, commencing on the date the term commences and continuing during the term. All rent shall be paid to City at the following address: City of Moline, 619 16th Street, Moline, IL 61265.

City acknowledges receipt of the sum of \$6,000.00 from Deere in payment for the first year's rent under this Lease.

3.2

INTENTIONALLY OMITTED

ARTICLE 4. USE.

4.1 Specified Use

The Premises shall be used and occupied by Deere only and exclusively for the purpose of **operable wheeled vehicle parking** and for no other purpose whatsoever without obtaining prior written consent of City by and through its City Council.

City expressly reserves the right to establish a new minimum annual rent as a condition to City's approval of any use of the leased premises not specifically permitted by this section.

4.2 Condition of Premises

Deere hereby accepts the Premises in the condition existing as of the date of the execution hereof, subject to all applicable zoning, municipal, county, state and federal laws, ordinances and regulations governing and regulating the use of the Premises, and accepts this Lease subject thereto and to all matters disclosed thereby and by any exhibits attached hereto. Deere acknowledges that neither City nor any agent of City has made any representation or warranty with respect to the condition of the Premises or the suitability thereof for the conduct of Deere's business, nor has City agreed to undertake any modification, alteration or improvement to the Premises except as provided in this Lease.

Except as may be otherwise expressly provided in this Lease, the taking of possession of the Premises by Deere shall in itself constitute acknowledgement that the Premises are in good and adequate condition, and Deere agrees to accept the Premises in its presently existing condition "as is," and that the City shall not be obligated to make any improvements or modifications thereto except to the extent that may otherwise be expressly provided in this Lease. Deere represents and acknowledges that it has made a sufficient investigation of the conditions of the Premises existing immediately prior to the execution of this Lease (including investigation of the surface and subsurface) and is satisfied that the Premises will safely support the uses intended by Deere upon the Premises, that the Premises is otherwise fully fit physically and lawfully for the uses required and permitted by this Lease and that Deere accepts all risks associated therewith.

Deere agrees that, except as otherwise expressly provided in this Lease, Deere is solely responsible without any cost or expense to the City to take all actions necessary, off as well as on the Premises to improve and continuously use the Premises as required by this Lease and in compliance with all applicable laws and regulations.

4.3 Compliance with Law

Deere shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements of duly constituted public authorities now in force or which may hereafter be in force, or with the requirements of the State or Local Fire Marshal or other similar body now or hereafter constituted, relating to or affecting the condition, use or occupancy of the Premises. The judgment of any court of competent jurisdiction or the admission of Deere in any action against Deere, whether City be a party thereto or not, that Deere has violated any law, statute, ordinance or governmental rule, regulation or requirement, shall be conclusive of that fact as between City and Deere. Deere shall not allow the Premises to be used for any unlawful purpose, nor shall Deere cause, maintain or permit any nuisance in, on or about the Premises. Deere shall not commit or suffer to be committed any waste in or upon the Premises. Deere shall faithfully observe and comply with the rules and regulations that City shall from time to time promulgate for the protection of the facility and the safety of the traveling public. City reserves the right from time to time to make reasonable modifications to said rules and regulations. The additions and modifications to those rules and regulations shall be binding upon Deere upon delivery of a copy of them to Deere.

4.4 Petroleum Products

Deere shall not install facilities for, nor operate on the Premises, a gasoline or petroleum supply station. Deere shall not permit on the Premises any vehicles used or designed for the transportation or storage of gasoline or petroleum products. Deere shall also not permit on the Premises any bulk storage of gasoline or petroleum products.

4.5 Explosives and Flammable Materials

The Premises shall not be used for the manufacture of flammable materials or explosives, or for any storage of flammable materials, explosives or other materials or other purposes deemed by City to be a potential fire or other hazard to the transportation facility. The operation and maintenance of the Premises shall be subject to regulations of City so as to protect against fire or other hazards impairing the use, safety and appearance of the Premises. The occupancy and use of the Premises shall not be such as will permit hazardous or unreasonably objectionable smoke, fumes, vapors or odors to rise above the surface of the traveled way of the facility.

4.6 Hazardous Materials

Deere shall at all times and in all respects comply with all federal, state and local laws, ordinances and regulations, including, but not limited to, the Federal Water Pollution Control Act (33 U.S.C. section 1251, et seq.), Resource Conservation and Recovery Act (42 U.S.C. section 6901, et seq.), Safe Drinking Water Act (42 U.S.C. section 300f, et seq.), Toxic Substances Control Act (15 U.S.C. section 2601, et seq.), Clean Air Act (42 U.S.C. section 7401, et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601, et seq.), and other comparable state laws, regulations and local ordinances relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, disposal or transportation of any oil, flammable explosives, asbestos, urea formaldehyde, radioactive materials or waste, or other hazardous, toxic,

contaminated or polluting materials, substances or wastes, including, without limitation, any "hazardous substances" under any such laws, ordinances or regulations (collectively "Hazardous Materials Laws"). As used in the provisions of this Lease, "hazardous materials" include any "hazardous substance" as that term is defined in any Illinois statute related to health and safety and any other material or substance listed or regulated by any Hazardous Materials Law or posing a hazard to health or the environment.

Except as otherwise expressly permitted in this Lease, Deere shall not use, create, store or allow any hazardous materials on the premises. Fuel stored in a motor vehicle for the exclusive use in such vehicle is excepted. In no case shall Deere cause or allow the deposit or disposal of any hazardous materials on the Premises. City, or its agents or contractors, shall at all times have the right to go upon and inspect the Premises and the operations thereon to assure compliance with the requirements herein stated. This inspection may include taking samples of substances and materials present for testing. In the event Deere does cause or allow the deposit or disposal of any such hazardous materials on the premises, Deere shall either promptly remove them or notify City, and City will remove them at Deere's expense. It is the intent of the parties hereto that Deere shall be responsible for and bear the entire cost of removal and disposal of hazardous materials introduced to the Premises during Deere's period of use and possession of the Premises. Deere shall also be responsible for any clean-up and decontamination on or off the Premises necessitated by the introduction of such hazardous materials on the Premises. Deere shall not be responsible for or bear the cost of removal or disposal of hazardous materials introduced to the Premises by any party other than Deere during any period prior to commencement of Deere's period of use and possession of the Premises.

Deere and the City acknowledge that there has been environmental analysis of the subsurface of the Premises. A "No Further Remediation" letter ("NFR") from the Illinois Environmental Protection Agency was recorded for Lot 4 of the Premises (formerly the site of Mike's Automotive, 428 - 19th Street) on May 13, 2005. An "NFR" letter may be obtained for Lots 3 and 2 of the Premises (formerly the site of the O'Rourke building, 1909 5th Avenue, and the Villareal building, 1919 5th Avenue, respectively) without any physical remediation. If such a letter is sought by either the City or Deere, the cost of obtaining said letter shall be borne by the requesting party.

4.7 Signs

Signs in conformance with the regulations of the City's Sign Code, use and practice, may be erected on the Premises. The wording and location of all these signs shall be subject to City's prior approval. None of these signs shall be attached to or painted on any structure or building without the express written consent of City. All of these signs shall also comply with all applicable requirements of local governmental entities, including governmental approval and payment of any fees.

Except as set forth in the previous paragraph of this Section, Deere shall not construct, erect, maintain or permit any sign, banner or flag upon the Premises without the prior written approval of City. Deere shall not place, construct or maintain upon the Premises any advertising media that include moving or rotating parts, searchlights, flashing lights,

loudspeakers, phonographs or other similar visual or audio media. The term "sign" means any card, cloth, paper, metal, painted or wooden sign of any character placed for any purpose on or to the ground or any tree, wall, bush, rock, fence, building, structure, trailer or thing. City may remove any unapproved sign, banner or flag existing on the Premises, and Deere shall be liable to and shall reimburse City for the cost of such removal plus interest as provided in Section 17.11 from the date of completion of such removal.

4.8 Wrecked Vehicles and Vending

Deere shall not park or store wrecked or inoperable vehicles of any kind on the Premises. No vending of any kind or character shall be conducted, permitted or allowed upon the Premises.

4.9 Water Pollution Control

Deere shall conform fully to the requirements of the Illinois statewide NPDES Storm Water Permit and the City of Moline Storm Water Ordinance as adopted and hereafter amended from time to time.

ARTICLE 5. IMPROVEMENTS.

It is hereby acknowledged that Deere intends to use the Premises for purposes of constructing and maintaining a parking lot solely for the use of its employees and invitees. For purposes of such construction and maintenance, City hereby grants Deere a subsurface easement to such depths necessary for the purpose of completing such construction and maintenance. This easement shall begin on the date of the commencement of the original term hereof and terminate on the later of the end of the sixth month thereafter or the completion date of such construction. This easement may be revised at the request of Deere for the purpose of making any necessary repair or replacement of all or portions of the parking lot for the duration of such repair or replacement.

Deere is solely responsible for all costs, including, but not limited to relocation of utilities associated with the construction and maintenance of the parking lot and any attendant facilities. Deere shall keep the premises free and clear of all mechanic's and materialman's liens which may result from such construction and maintenance. All improvements by Deere shall be performed in accordance with all applicable ordinances, regulations, laws and requirements, including governmental approval and payment of any fees. Once constructed, Deere agrees to maintain the parking lot and attendant facilities, if any, in good repair for the term of the lease.

The City agrees to ready the site for construction of the parking lot by demolishing the existing structures and grading the Premises in accordance with construction plans reasonable to and approved by the Parties hereto. Plans must take into consideration buried MidAmerican electrical line and must also contemplate curb cuts.

No other improvements of any kind shall be placed in, on, or upon the Premises, and no alterations shall be made in, on, or upon the Premises without the prior written consent of City.

ARTICLE 6. SURRENDER OF PREMISES AT EXPIRATION OR TERMINATION OF LEASE. At the expiration or early termination of this Lease, Deere shall peaceably and quietly leave, surrender, and yield up to City the Premises together with all appurtenances and fixtures in good order, condition and repair, reasonable wear and tear excepted.

ARTICLE 7. OWNERSHIP AND REMOVAL OF IMPROVEMENTS AND PERSONAL PROPERTY.

7.1 Ownership of Improvements

All improvements constructed and placed on the Premises shall, at the expiration or termination of this Lease, vest in City. Deere shall not remove any improvements from the Premises nor waste, destroy or modify them in any way. Deere shall deliver these improvements to City in good condition and repair, reasonable wear and tear excepted, without compensation to Deere, any sublessee or third party, free and clear of all claims to or against them by Deere, any sublessee or third party, and Deere shall defend and hold City harmless from all liability arising from such claims or from the exercise by City of its rights under this Section. City and Deere covenant for themselves and all persons claiming under or through them that the improvements are real property.

7.2 Removal of Personal Property and Ownership at Termination

Any signs or other appurtenances placed on the Premises by Deere under this Lease are the personal property of Deere. At the expiration or early termination of this Lease, Deere shall remove all personal property placed on the Premises. Any personal property not removed by Deere after thirty (30) days from City sending written notice to Deere may be removed by City. Deere shall be liable to City for all costs incurred by City in effecting the removal of personal property and restoring the Premises. City may, in its sole discretion, declare all personal property not removed by Deere to be abandoned by Deere and this property shall, without compensation to Deere, become City's property, free and clear of all claims to or against it by Deere or any other person.

ARTICLE 8. MAINTENANCE AND REPAIRS.

8.1 Deere's Obligations

Deere, at its own cost and expense, shall keep the Premises free of all debris and flammable materials or hazardous materials of every description including without limitation those materials belonging to, or placed or deposited by, Deere or Deere's agents. Deere shall ensure that the Premises is at all times kept in an orderly, clean, safe, and sanitary condition. City requires a high standard of safety and cleanliness, consistent with the location of the Premises. Deere shall maintain the parking lot and any attendant facilities in good working order.

8.2 City's Rights

In the event Deere fails to perform Deere's obligations under this Article, City shall give Deere notice to do such acts as are reasonably required to so keep the Premises. If within ten

(10) days after City sends written notice to repair or remediate, Deere fails to do the work and diligently proceed in good faith to prosecute it to completion, City shall have the right, but not the obligation, to do such acts and expend such funds at the expense of Deere as are reasonably required to perform such work. Any amount so expended by City shall be paid by Deere as additional rent, paid promptly after demand plus interest as provided in Section 17.11 from the date of completion of such work to date of payment. City shall have no liability to Deere for any damage, inconvenience or interference with the use of the Premises by Deere as a result of performing any such work.

ARTICLE 9. INSURANCE.

9.1 Exemption from Liability

This Lease is made upon the express condition that City is to be free from all liability and claims for damages by reason of any injury to any person or persons, including Deere, its agents, invitees or other third parties, or property of any kind whatsoever and to whomsoever belonging, including Deere, from any cause or causes resulting from the operation or use of the Premises by Deere, its agents, customers or business invitees. Deere hereby covenants and agrees to indemnify and save harmless City from all liability, loss, cost and obligation on account of any such injuries or losses. However, Deere will not be liable for any injury to persons, loss of life to persons or damages to property resulting from or arising out of any negligent act(s) or omissions of act(s) on the part of City or City's agents, contractors, invitees or employees, and City shall indemnify and save harmless Deere, its agents, contractors, invitees and employees, for any and all claims and demands from said negligent act(s) or omissions of act(s) of City.

9.2 Comprehensive General Liability Insurance

Deere shall at its own cost and expense procure and keep in force during the term of this Lease comprehensive bodily injury liability and property damage liability insurance adequate to protect City, its officers, agents and employees, against any liability to the public resulting from injury or death of any person or damage to property in connection with the area, operation or condition of the Premises, including any and all liability of City for damage to vehicles parked on the Premises. Such insurance shall be in an amount of not less than \$5,000,000 combined single limit for bodily injury and property damage. The limits of such insurance shall not limit the liability of Deere. All such policies shall be written as primary policies, not contributing with and not in excess of coverage which City may carry. Said policies shall name the State as an additional insured and shall insure against the contingent liabilities, if any, of City and the officers, agents, and employees of City and shall obligate Deere to notify City, in writing, not less than thirty (30) days prior to the cancellation thereof, or any other change affecting the coverage of the policies. If said policies contain any exclusion concerning property in the care, custody or control of the insured, an endorsement shall be attached thereto stating that such exclusion shall not apply with regard to any liability of the City, its officers, agents, or employees. Deere shall furnish to City a Certificate of Insurance acceptable to City within not more than ten (10) days after execution thereof.

9.3 Business Automobile Liability Insurance

Deere agrees to either keep no vehicles on the Premises or Deere shall obtain and keep in effect at all times during the term of this Lease, business automobile liability insurance in an amount not less than \$1,000,000 for each occurrence combined single limit for bodily injury and property damage, including coverage for owned, non-owned and hired automobiles, as applicable.

9.4 Garage Keeper's Legal Liability Insurance

INTENTIONALLY OMITTED

9.5 Workers' Compensation Insurance

Deere agrees to obtain and keep in effect at all times during the term of this Lease, workers' compensation insurance, including employers' liability, in an amount not less than \$1,000,000 for each accident, covering all Deere employees who use the Premises for parking to provide statutory benefits as required by the laws of the State of Illinois. Said policy shall be endorsed to provide that the insurer waives all rights of subrogation against City.

9.6 Failure to Procure and Maintain Insurance

If Deere fails to procure or maintain the insurance required by this Article in full force and effect, this Lease may be terminated immediately by City and be of no further force or effect. In addition, if Deere fails to procure or maintain the insurance required by this Article, Deere shall cease and desist from using the Premises and the improvements erected thereon and shall prevent members of the public from gaining access to the Premises during any period in which such insurance policies are not in full force and effect.

9.7 Waiver of Subrogation

Deere hereby waives any and all rights of recovery against City, or against the officers, employees, agents and representatives of City, for loss of or damage to Deere or its property or the property of others under its control to the extent that such loss or damage is insured against under any insurance policy in force at the time of such loss or damages Deere shall give notice to its insurance carrier or carriers that the foregoing waiver of subrogation is contained in the Lease.

ARTICLE 10. PAYMENT OF TAXES. Deere agrees to pay and discharge, or cause to be paid and discharged when due, before the same become delinquent, all taxes, assessments, impositions, levies and charges of every kind, nature and description, whether general or special, ordinary or extraordinary, which may at any time or from time to time during the term of this Lease, by or according to any law or governmental, legal, political, or other authority whatsoever, directly or indirectly, be taxed, levied, charged, assessed or imposed upon or against, or which shall be or may be or become a lien upon the Premises or any buildings, improvements or structures at any time located thereon, or any estate, right, title or interest of Deere in and to the Premises, buildings, improvements or structures. Specifically, and without placing any limitation on Deere's obligations under the immediately preceding sentence, Deere shall pay when due, before delinquency, any and all possessory interest

taxes, parking taxes, workers' compensation, personal property taxes on fixtures, equipment and facilities owned by Deere, whether or not the same have become so fixed to the land as to comprise a part of the real estate. Deere understands that any possessory interest of Deere created in the Premises by this Lease may be subject to property taxation and that Deere may be liable for payment of any such tax levied on such interest. Any obligation of Deere under this Article, including possessory interest tax that the city or county may impose upon Deere's interest herein, shall not reduce any rent due City hereunder and any such obligation shall become the liability of and be paid by Deere.

ARTICLE 11. RIGHT OF ENTRY.

11.1 Inspection, Maintenance, Construction and Operation of Freeway Structures

City, through its agents or representatives, and other city, county, state and federal agencies, shall have full right and authority to enter in and upon the Premises and any building or improvements situated thereon at any and all reasonable times during the term of this Lease for the purpose of inspecting the same without interference or hindrance by Deere, its agents or representatives. City further reserves the right of entry for the purpose of inspecting the Premises, or the doing of any and all acts necessary or proper on said Premises in connection with the protection, maintenance, reconstruction, and operation of the Premises and its appurtenances; provided, further, that City reserves the further right, at its discretion, to immediate possession of the same in case of any national or other emergency, or for the purpose of preventing sabotage, in which event the term of this Lease shall be extended for a period equal to the emergency occupancy by City, and during said period Deere shall be relieved, to the degree of interference, from the performance of conditions or covenants specified herein. City further reserves the right of entry by any authorized officer, engineer, employee, contractor or agent of the City for the purpose of performing any maintenance activities upon the Premises which Deere has failed to perform. All agreements which Deere enters into for the sublease or use of all or any part of the Premises shall contain a provision, approved by City, which describes City's right of entry as set forth in this Article.

11.2 City's Use of the Premises

INTENTIONALLY OMITTED

ARTICLE 12. TERMINATION OF LEASE.

12.1 Termination by Mutual Consent

Notwithstanding any provision herein to the contrary, this Lease may be terminated, and the provisions of this Lease may be altered, changed or amended in writing by mutual consent of City and Deere.

12.2 Termination by One Party

Notwithstanding any provision herein to the contrary, this Lease may be terminated by Deere upon providing City with six (6) months prior notice in writing. This Lease may be

terminated by the City, but only after December 1, 2031, upon providing Deere with one year prior notice in writing.

12.3 Termination due to Public Parking Lease Application

INTENTIONALLY OMITTED

ARTICLE 13. UTILITIES. Deere shall pay when due, all charges for water, storm water, gas, heat, light, power, telephone, sewage, air conditioning and ventilating, scavenger, janitorial and landscaping services and all other materials and utilities supplied to the Premises. City shall not be liable in damages or otherwise for any failure or interruption of any utility service furnished to the Premises, and no such failure or interruption shall entitle Deere to terminate this Lease.

ARTICLE 14. DEFAULT.

14.1 Default

The occurrence of any of the following shall constitute a material breach and default of this Lease by Deere:

- (a) Any failure by Deere to pay rent or any other monetary sums required to be paid hereunder, where such failure continues for ten (10) days after written notice thereof has been given by City to Deere.
- (b) The abandonment or vacation of the Premises by Deere. Failure to occupy and operate the Premises for thirty (30) consecutive days following the mailing of written notice from City to Deere calling attention to the abandonment shall be deemed an abandonment or vacation.
- (c) The making by Deere of any general assignment or general arrangement for the benefit of creditors; the filing by or against Deere of a petition to have Deere adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy or insolvency.
- (d) The failure by Deere to comply with any provision of any law, statute, zoning restriction, ordinance or governmental rule, regulation or requirement as set forth in Section 4.3 of this Lease.
- (e) The failure by Deere to comply with the requirements regarding petroleum products as set forth in Section 4.4 or hazardous materials as set forth in Section 4.6 of this Lease.
- (f) The construction by Deere of any improvements on the Premises contrary to the provisions of Article 5 of this Lease.

- (g) The failure by Deere to pay any tax, assessment, imposition, levy or charge of any kind as set forth in Article 10 of this Lease.
- (h) The failure by Deere to observe and perform any other provision of this Lease to be observed or performed by Deere, where such failure continues for thirty (30) days after written notice thereof by City to Deere; provided, however, that if the nature of such default is such that it cannot be reasonably cured within such thirty (30) day period, Deere shall not be deemed to be in default if Deere shall within such period commence such cure and thereafter diligently prosecute the same to completion.

14.2 City's Remedies

If Deere shall neglect to make any payment of rent within ten (10) days after such payment shall be due, or neglect to keep and fulfill any of the covenants and the agreements herein required on its part to be kept and fulfilled and shall remain in default thereof for a period of thirty (30) days after the receipt of a written notice from the City of any such default, then City, its successors or assigns, may thereupon enter upon the Demised Premises in a lawful manner and expel Deere therefrom, without prejudice to any other remedy which City, its successors or assigns, may have at law or in equity on account of such default; **provided, however,** if Deere, after the receipt of written notification from City of the default or the alleged default has diligently commenced proceeding to cure said alleged default and default and diligently continues said proceeding to cure, then City shall not be entitled to enter the Demised Premises and expel Deere therefrom, nor exercise any other remedy which City may have on account of such default unless said default is not cured within 90 days of the notice. The City may, in its sole discretion, extend the time for cure due to extenuating circumstances. City shall have the duty, in good faith, to mitigate any losses it may have hereunder. In event of default, City shall be entitled to recover from Deere all damages incurred by City by reason of Deere's default, including, but not limited to, the amount of unpaid rent owed up to and for the remainder of the term.

ARTICLE 15. ASSIGNMENTS, TRANSFERS, SUBLEASES AND ENCUMBRANCES.

15.1 Prohibition on Assignments, Transfers/Subleases

Within first six months of term, Deere shall not assign, transfer or sublease all or any part of its interest in this Lease or in the Premises, and City will not grant its consent to any assignment, transfer or sublease of all or any part of this Lease or the Premises until after the expiration of six (6) months and one (1) day from the date of the commencement of the term of this Lease as set forth in Article 2, except that Deere may assign this Lease to another entity or subsidiary of Deere as long as Deere provides sufficient contact information of said entity or subsidiary of Deere to City's satisfaction.

15.2 Voluntary Assignments and Subleases

In addition, with respect to transactions not expressly prohibited under Section 15.1, Deere shall not voluntarily assign or transfer all or any part of its interest in this Lease or in the Premises, or sublet all or any part of the Premises, or allow any other person or entity (except

Deere's authorized representatives) to occupy or use all or any part of the Premises without first obtaining City's written consent, unless otherwise expressly permitted by the provisions of this Article. City may not unreasonably withhold its consent to any such assignment, transfer or sublease; provided, however, that the prospective assignee, transferee or sublessee is financially and otherwise able, in the City's sole and exclusive discretion, to meet and discharge all obligations of this Lease. Deere's failure to obtain City's required written approval of any assignment, transfer or sublease shall render such assignment, transfer or sublease void. Occupancy of the Premises by a prospective transferee, sublessee or assignee before approval of the transfer, sublease or assignment by City shall constitute a breach of this Lease. City's consent to any assignment, transfer or sublease shall not constitute a waiver of any of the terms, covenants or conditions of this Lease. Such terms, covenants and conditions shall apply to each and every assignment, sublease and transfer of rights under this Lease and shall be severally binding upon each and every party thereto. Any document to transfer, sublet, or assign the Premises or any part thereof shall incorporate directly or by reference all the provisions of this Lease.

15.3 Assignment of Rent from Sublessees

Deere immediately and irrevocably assigns to City, as security for Deere's obligations under this Lease, all rent from any subletting of all or a part of the Premises as permitted by this Lease, and City, as assignee and attorney-in-fact for Deere, or a receiver for Deere appointed on City's application, may collect such rent and apply it toward Deere's obligations under this Lease; except that, until the occurrence of an act of default by Deere, Deere shall have the right to collect such rent.

15.4 Information to be Supplied to City

Except as provided as an exception in Article 15.1 above, Deere shall supply City with all information City determines to be necessary on all persons or firms to which Deere proposes to sublet, transfer or assign any of its interest in the Premises, or which might establish rights to enter, control, or otherwise encumber the Premises by reason of any agreement made by Deere. In addition, with respect to any proposed sublease, transfer or assignment, Deere shall provide City with:

- (a) A copy of all documents relating thereto, including without limitation an executed lease in the City's standard form.
- (b) A statement of all terms and conditions of said transaction, including the consideration therefor.
- (c) A copy of the financial statement of the prospective sublessee, transferee or assignee unless such prospective sublessee, transferee or assignee is another entity or subsidiary of Deere.

15.5 Processing Fees for Assignments, Transfers and Subleases

- (a) A fee of two thousand five hundred dollars (\$2,500) shall be paid to City for processing each consent to assignment, transfer, or sublease to City as required by

this Lease. It is the intent of this paragraph that subleasing not be used as a subterfuge or manipulation to avoid payment of the consent and assignment fee. This processing fee shall be deemed earned by City when paid and shall not be refundable.

- (b) If a processing fee has been paid by Deere for another phase of the same transaction, a second fee will not be charged.

15.6 Encumbrances

Deere shall not encumber the Premises in any manner whatsoever.

ARTICLE 16. NONDISCRIMINATION. Deere, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

- (1) No person, on the ground of age, color, creed, family status, marital status, national origin, physical and mental disability, political affiliation, race, religion, sex, sexual orientation, or any other discrimination based upon categorizing or classifying a person that is not based upon factual data about the persons or group and is not related to the purpose for which it is used shall be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in the use of said facilities.
- (2) In connection with the construction of any improvements on said land and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors or by contractors in the selection and retention of first-tier subcontractors.
- (3) Such discrimination shall not be practiced against the public in its access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed or operated on, over, or under the premises.
- (4) In the event of breach of any of the above nondiscrimination covenants, the City shall have the right to terminate this Lease, and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

ARTICLE 17. ADDITIONAL PROVISIONS.

17.1 Quiet Enjoyment

City covenants and agrees with Deere that upon Deere paying rent and other monetary sums due under the Lease and performing its covenants and conditions, Deere shall and may peaceably and quietly have, hold and enjoy the Premises for the term.

17.2 Captions, Attachments, Defined Terms

The captions of the Articles of this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Lease. Exhibits attached hereto, and addenda and schedules initiated by the parties, are deemed by attachment to constitute part of this Lease and are incorporated herein.

The words "City" and "Deere," as used herein, shall include the plural as well as the singular. Words used in neuter gender include the masculine and feminine and words in the masculine or feminine gender include the neuter.

17.3 Entire Agreement

This instrument along with any exhibits and attachments hereto shall collectively constitute the entire agreement between City and Deere relative to the Premises and this Agreement and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both City and Deere. City and Deere agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents and representatives relative to the leasing of the premises are merged in or revoked by this Agreement.

17.4 Severability

If any terms or provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid, unconstitutional or otherwise unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

17.5 Time, Joint and Several Liability

Time is of the essence of this Lease and each and every provision hereof, except as to the conditions relating to the delivery of possession of the premises to Deere. All the terms, covenants and conditions contained in this Lease to be performed by either party if such party shall consist of more than one person or organization shall be deemed to be joint and several, and all rights and remedies of the parties shall be cumulative and non-exclusive of any other remedy at law or in equity.

17.6 Binding Effect; Choice of Law

The parties hereto agree that all the provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate section hereof; and all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of Illinois. Litigation hereunder shall be limited to a court of competent jurisdiction in Rock Island, County, Illinois and the parties waive jurisdiction and venue inconsistent therewith.

17.7 Waiver

No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or

succeeding breach of the same or any other covenant, term or condition. Acceptance by City of any performance by Deere after the time the same shall have become due shall not constitute a waiver by City of the breach or default of any covenant, term or condition. Acceptance by City of any performance by Deere after the time the same shall have become due shall not constitute a waiver by City of the breach or default of any covenant, term or condition unless otherwise expressly agreed to by City in writing.

17.8 Surrender of Premises

The voluntary or other surrender of this Lease by Deere, or a mutual cancellation thereof, shall not work a merger and shall, at the option of the City, terminate all or any existing subleases or subtenancies, or may, at the option of City, operate as an assignment to it of any or all such subleases or subtenancies.

17.9 Holding Over

If Deere remains in possession of all or any part of the Premises after the expiration of the term hereof, with or without the express or implied consent of City, such tenancy shall be from month to month only and not a renewal hereof or an extension for any further term, and in such case, rent and other monetary sums due hereunder shall be payable at the time specified in this Lease and such month-to-month tenancy shall be subject to every other term, covenant, condition and agreement contained herein, except that the proportional monthly rental rate set forth in Section 3.1 shall be increased by twenty-five percent (25%) effective the first month of the holdover period.

17.10 Interest on Past Due Obligations

Except as expressly herein provided, any amount due to City not paid when due shall bear interest at the *Wall Street* Journal prime rate plus two percent (2%) per annum, commencing from the due date. Payment of such interest together with the amount due shall excuse or cure any default by Deere under this Lease.

17.11 Recording

Deere shall record this Lease or a memorandum thereof at Deere's expense. Such memorandum thereof shall be in form acceptable to the City Attorney of the City of Moline.

17.12 Notices

All notices or demands of any kind required or desired to be given by City or Deere hereunder shall be in writing and shall be deemed delivered forty-eight (48) hours after depositing the notice or demand in the United States mail, certified or registered, postage prepaid, addressed to the City or Deere respectively at the addresses set forth in Article 1.

17.13 No Reservation

Submission of this instrument for examination or signature by Deere does not constitute a reservation of or option for lease; it is not effective as a lease or otherwise until execution and delivery by both City and Deere.

17.14 Corporate Authority

If Deere is a corporation, each individual executing this Lease on behalf of said corporation represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the Bylaws of said corporation, and that this Lease is binding upon said corporation in accordance with its terms.

17.15 Force Majeure

If either City or Deere shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, governmental restrictions, regulations or controls (except those reasonably foreseeable in connection with the uses contemplated by this Lease) or other cause without fault and beyond the control of the party obligated (except financial inability or strikes or labor disputes), performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Nothing in this clause shall excuse Deere from prompt payment of any rent, taxes, insurance or any other charge required of Deere, except as may be expressly provided in this Lease.

In Witness Whereof City and Deere have executed this Lease as of the date first written above.

CITY OF MOLINE

By: _____ Date: _____
Mayor

City Clerk

Approved as to Form:

By: _____
Maureen E. Riggs
City Attorney

DEERE:

By: Robert D. Hard Date: 21 February 2012
MGR, GLOBAL REAL ESTATE

Council Bill/Ordinance No.: 4011-2012

Sponsor: _____

A SPECIAL ORDINANCE

CLOSING certain streets more particularly described herein to vehicular traffic; and

AUTHORIZING the use of public right-of-way in conjunction with the Quad Cities Marathon & Races scheduled for Saturday, September 22, 2012, and Sunday, September 23, 2012.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOLINE, ILLINOIS, as follows:

Section 1 – That this Council hereby authorizes and directs the Mayor, Director of Public Works and Police Chief to erect barricades and post temporary signs, if necessary for the purpose of closing the following designated roadways to vehicular traffic during the specified times mentioned herein:

The following road closures will be required:

From Saturday, September 22, 2012, 7:00 p.m. until 3:00 p.m. Sunday, September 23, 2012
All lanes of River Drive from the easternmost side of 12th Street
to the westernmost side of 15th Street

Sunday, September 23, 2012, 5:00 a.m. to 9:00 a.m.
All lanes of River Drive from the easternmost side of 12th Street
to the westernmost side of 34st Street

From Sunday, September 23, 2012, 7:00 a.m. until 3:00 p.m. Sunday, September 23, 2012
West bound lane of River Drive, from the westernmost side of 34th Street to the easternmost
side of 55th Street
North bound lane of 55th Street, from the northernmost side of River Drive to Old River Drive
Northernmost westbound lane of Old River Drive from 55th Street to the northernmost side of
River Drive

Sunday, September 23, 2012, from 6:00 a.m. to 9:00 a.m.
Easternmost northbound lane of I-74 West Bridge

Sunday, September 23, 2012, from 7:00 a.m. to 8:00 a.m.
3rd Avenue exit ramp from I-74

It shall be an offense to use said roadways for vehicular purposes during the times herein specified.

Section 2 – That this Council declares the intent of this ordinance to be a temporary variance from other ordinances that may be in conflict herewith and shall authorize the activities described hereinabove only during such times specified for the street closings and shall not constitute a repeal of other ordinances of the City of Moline which are in conflict herewith.

Section 3 – That this ordinance shall be in full force and effect from and after passage, approval, and if required by law, publication in the manner provided for by law.

CITY OF MOLINE, ILLINOIS

Mayor

Date

Passed: _____

Approved: _____

Attest: _____
City Clerk

Approved as to form:

City Attorney