

**LEASE AGREEMENT BETWEEN
CITY OF NAPERVILLE AND DRENDEL FARMS, INC.**

THIS AGREEMENT is entered into this 16th day of March, 2016, between the **City of Naperville** (“City”), an Illinois municipal corporation and home rule unit of government, with offices located at 400 South Eagle Street, Naperville, Illinois 60540, and **DRENDEL FARMS, INC.** (“Lessee”), an Illinois corporation located at 28W753 Davidson Road, Naperville, Illinois 60564 for the lease of three (3) property parcels owned by the City totaling approximately 52.4 acres to the Lessee to be used, in part, for the disposal of leaves collected by the City via the City’s bulk curbside leaf collection program (“**Agreement**”).

RECITALS

WHEREAS, in addition to the City’s bagged leaf collection program that allows residents to dispose of bagged landscape waste weekly, the City Council has determined that it is in the public interest to offer residents with an alternative way to dispose of leaves via a bulk curbside leaf collection program where the City collects leaves that have been deposited on the street next to the curb in front of residences three times per year between approximately late October and early December, weather permitting; and

WHEREAS, the City’s bulk curbside leaf collection program is not administered by the City’s contracted waste hauler, but rather is primarily administered by the City’s Department of Public Works which is responsible for the curbside pickup and disposal of leaves collected via the City’s bulk curbside leaf collection program; and

WHEREAS, the City annually collects between approximately 42,000 and 52,000 cubic yards of leaves through its bulk curbside leaf collection program; and

WHEREAS, leaves collected by the City via the City’s bulk curbside leaf collection program must be disposed of in an environmentally appropriate way pursuant to Illinois Environmental Protection Agency (“IEPA”) regulations; and

WHEREAS, the use of nearby local farm land to dispose of leaves collected by the City via the City’s bulk curbside leaf collection program is crucial to minimizing the City’s costs by reducing time and costs to transport collected leaves for disposal; and

WHEREAS, nearby local farm land has become increasing sparse making it increasingly costly and inefficient to transport and dispose of the leaves on farm land located at significant distances; and

WHEREAS, the City currently owns three (3) parcels of land totaling approximately 52.4 acres, legally described in Exhibit A attached hereto, which would provide the City with suitable land for leaf disposal; and

WHEREAS, the City seeks to lease to Lessee the property as described in Exhibit A for purposes of the disposal of the leaves collected by the City through its bulk curbside leaf collection program as determined to be in the best interest of the City; and

WHEREAS, Lessee will allow the Leased Premised to be used for the disposal of leaves collected by the City via the City’s bulk curbside leaf collection program; and

WHEREAS, it is in the best interests of the City to enter into this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and undertakings herein contain, the sufficiency of which is mutually acknowledged, the **City** and the **Lessee** (hereinafter jointly referred to as “**Parties**”) agree as follows:

1. **Recitals Incorporated.** The foregoing recitals are incorporated in this Section as though fully set forth.
2. **Premises.** The City, in consideration of the covenants set forth herein, hereby leases to the Lessee the three (3) City owned property parcels at the following locations, legally described in Exhibit A attached hereto, (hereinafter “Leased Premises”).

1. 4100 Plainfield/Naperville Road Naperville, Illinois 60540	15.9 acres (approximately)
2. Southeast corner of 103 rd at Route 59 Naperville, Illinois 60565	19.0 acres (approximately)
3. Southwest corner of 91 st Street at Wolf’s Crossing Road	17.5 acres (approximately)

Naperville, Illinois 60564	
TOTAL	52.4 acres (approximately)

4. **Term.** The Term of this Agreement shall begin on May 1, 2016 and end on April 30, 2018.
5. **Extension Option.** This City has three (3), one (1) year extension options whereby the City may choose to extend this Agreement for one (1) year up to three (3) times, subject to the same terms and conditions set forth herein. The City may exercise its option upon written notice to the Lessee at the address provided in the Notice Section herein, no less than thirty (30) days prior to the expiration of the Agreement.
6. **Consideration.** In consideration of the promises and provisions herein, the Lessee agrees to:
 - a. Pay the City one dollar (\$1.00) per year, the receipt of which is hereby acknowledged by the City; and
 - b. Allow the City to deposit on the Leased Premises leaves collected by the City via the City's bulk curbside leaf collection program for disposal by a contracted third party.
7. **Use of the Leased Premises.** Lessee shall allow the Leased Premised to be used for the disposal of leaves collected by the City via the City's bulk curbside leaf collection program. Lessee may also use the Leased Premises for farming to the extent that said farming does not interfere or limit the proper and appropriate disposal of leaves collected by the City via the City's bulk curbside leaf collection program. Lessee shall be responsible for all aspects of farming the Leased Premises, including but not limited to the provision of material and labor, equipment, fuel, power, machinery, tools, disease-treatment materials, seed, inoculation, and fertilizers. In the event that Lessee decides not to farm all or a portion of the Leased Premises, Lessee shall be responsible to maintain that portion of the Leased Premises in a neat and orderly fashion, including but not limited to mowing the Leased Premises in a timely fashion, or as directed by the City, and shall remain responsible for the leaves deposited by the City as provided in this Agreement. Lessee is responsible for maintaining and mowing the rights-of-way surrounding the Leased Premises. Lessee agrees to maintain the Leased Premises and any farm buildings or structures used in connection with farming operations on the Leased Premises in a neat and orderly manner and in good repair, and to prevent unnecessary waste,

loss or damage to the Leased Premises. The Lessee shall not alter, farm, or otherwise use the Leased Premises in such a manner as to alter any existing detention or flow of water on said Leased Premises. Unless Lessee obtains the written permission of the Director of the Department of Public Works, Lessee shall not cut live trees from the Leased Premises or take any action with respect to the Leased Premises other than as described herein. Survey monuments, if they exist on the Leased Premises, shall not be disturbed by Lessee or Lessee's agents, employees, representatives or subcontractors. If a monument is moved or destroyed, Lessee shall be responsible for its prompt replacement and/or relocation at Lessee's sole cost.

8. **Regulatory Compliance.** The Lessee shall at all times conduct its use of the Leased Premises in strict compliance with all federal, state and local laws, ordinances, or rules and regulations, and shall immediately notify the City of any notice of violation received for Leased Premises. Any notice of violation may be considered by the City to be failure to conform to the Agreement and shall be cause for immediate termination of this Amendment.
9. **Defense and Indemnification.** The Lessee shall defend, indemnify, and hold harmless the City, and its officers, agents, employees, and representatives for any injury or damage to person or property, including but not limited to any liability, losses or damages, including court costs and attorney fees, resulting or arising out of the Lessee or its officers, agents, employees, representatives, family or subcontractors' use of the Leased Premises. Such indemnification shall not be limited by reason of any insurance coverage provided by the Lessee. Such indemnification shall not apply to liability resulting solely from the City's own actions. This provision shall survive the expiration or termination of this Agreement.
10. **Insurance.** The Lessee shall maintain a Commercial General Liability insurance in the amount of two million dollars (\$2,000,000.00) per occurrence; Automobile Liability insurance in the amount of two million dollars (\$2,000,000.00) per occurrence; and Workers' Compensation insurance in accord with the laws of the State of Illinois. The Lessee shall name the City as an additional insured on all applicable policies and tender to the City the original and updated endorsements and certificates of insurance reflecting the same. For any claims related to the performance of the Lessee's work, Lessee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-

insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Lessee's insurance and shall not contribute with it. The Lessee's Workers' Compensation insurance policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Lessee, its employees, agents and subcontractors.

11. **Termination.** This Agreement may be terminated by the City upon thirty (30) days written notice to the Lessee at the address provided in the Notice Section herein.
12. **No Waiver.** Failure of either Party hereto to insist upon strict and punctual performance of any terms or conditions of this Agreement shall not be construed to constitute a waiver of, or estoppel against, asserting the rights to require such performance.
13. **Real Estate Tax Exemption.** Lessee is responsible for timely filing for a farm exemption for real estate tax assessment purposes for the Leased Premises each year of this Agreement, including any renewal period, and shall be solely responsible for any real property taxes due on the Leased Premises for any time period covered by this Agreement, including or any renewal hereof. In the event that Lessee fails to timely pay any real property taxes that are billed for the Leased Premises which accrued during any part of the Agreement term, the City may opt to pay said tax bill and seek reimbursement therefore from the Lessee. Lessee shall be responsible for all costs and attorneys' fees associated with the enforcement of this provision. This provision shall survive the expiration or termination of this Agreement.
14. **No Assignment or Subletting Without Consent.** The Lessee shall not assign nor sublet the Leased Premises without the written consent of the City.
15. **City Access.** The City maintains the right to enter upon the Leased Premises for any reasonable purpose at any time so long as such access does not unreasonably interfere with Lessee's use of the Leased Premises.
16. **Possession.** Upon expiration or termination of this Agreement, Lessee covenants to return the Leased Premises to the City in at least as good a condition as it was in prior to the Effective Date of this Agreement, ordinary wear and tear excepted.

17. **Notices.** Any notice provided for herein shall be sent to the following:

For the Lessee: Benjamin Drendel, President of Drendel Farms, Inc.
28W753 Davidson Road, Naperville, Illinois 60564

For the City: City of Naperville Department of Public Works
ATTN: Director of the Department of Public Works
180 Fort Hill Drive, Naperville, IL 60540

18. **Binding Effect.** This Agreement shall extend to and be binding upon the heirs, executors and administrators of the Parties to this lease.

19. **Amendment.** This Agreement sets forth all of the agreements, conditions, covenants, representations, warranties and understandings between the Parties with respect to the subject matter hereof. No subsequent amendment, modification or waiver of any of the provisions of this Agreement shall be effective unless in writing and executed by the Parties hereto.

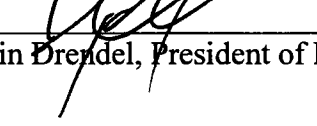
20. **Severability.** If any part of this Agreement is determined by a court to be in conflict with statute or constitution or to be unlawful for any reason, the parties intend that the remaining provisions of this Agreement shall remain in full force and effect and be enforced to the greatest extent permitted by law.

21. **Venue.** The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance. Venue for any action arising out of the terms or conditions of this Agreement shall be in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

22. **Authority.** Pursuant to authorization provided by the Naperville City Council, Douglas A. Krieger, City Manager for the City of Naperville warrants and represents that he is authorized to execute this Agreement on behalf of the City. Benjamin Drendel, President of Drendel Farms, Inc., warrants and represents that he is are authorized to execute this Agreement on behalf of the Lessee.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement as of the Effective Date set forth on page one, and by their signatures hereto acknowledge that they have read and understand this Agreement and intend to be bound by its terms.

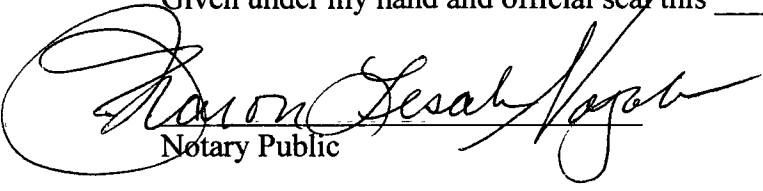
FOR THE LESSEE, DRENDEL FARMS, INC.:

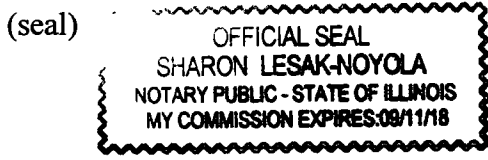
By: 
Benjamin Drendel, President of Drendel Farms, Inc.

State of Illinois)
County of DuPage) ss

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that **Benjamin Drendel**, appeared before me this day in person and acknowledged the signature set forth above.

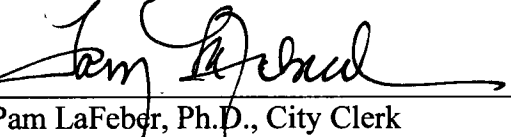
Given under my hand and official seal this 7 day of March, 2016.


Notary Public



FOR THE CITY OF NAPERVILLE:

By: 
Douglas A. Krieger, City Manager

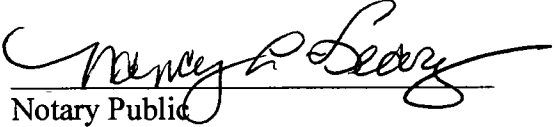
Attest: 
Pam LaFeber, Ph.D., City Clerk



State of Illinois)
County of DuPage) ss

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that **Douglas A. Krieger and Pam LaFeber**, appeared before me this day in person and acknowledged the signatures set forth above.

Given under my hand and official seal this 18th day of March, 2016.


Notary Public

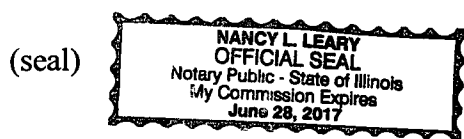
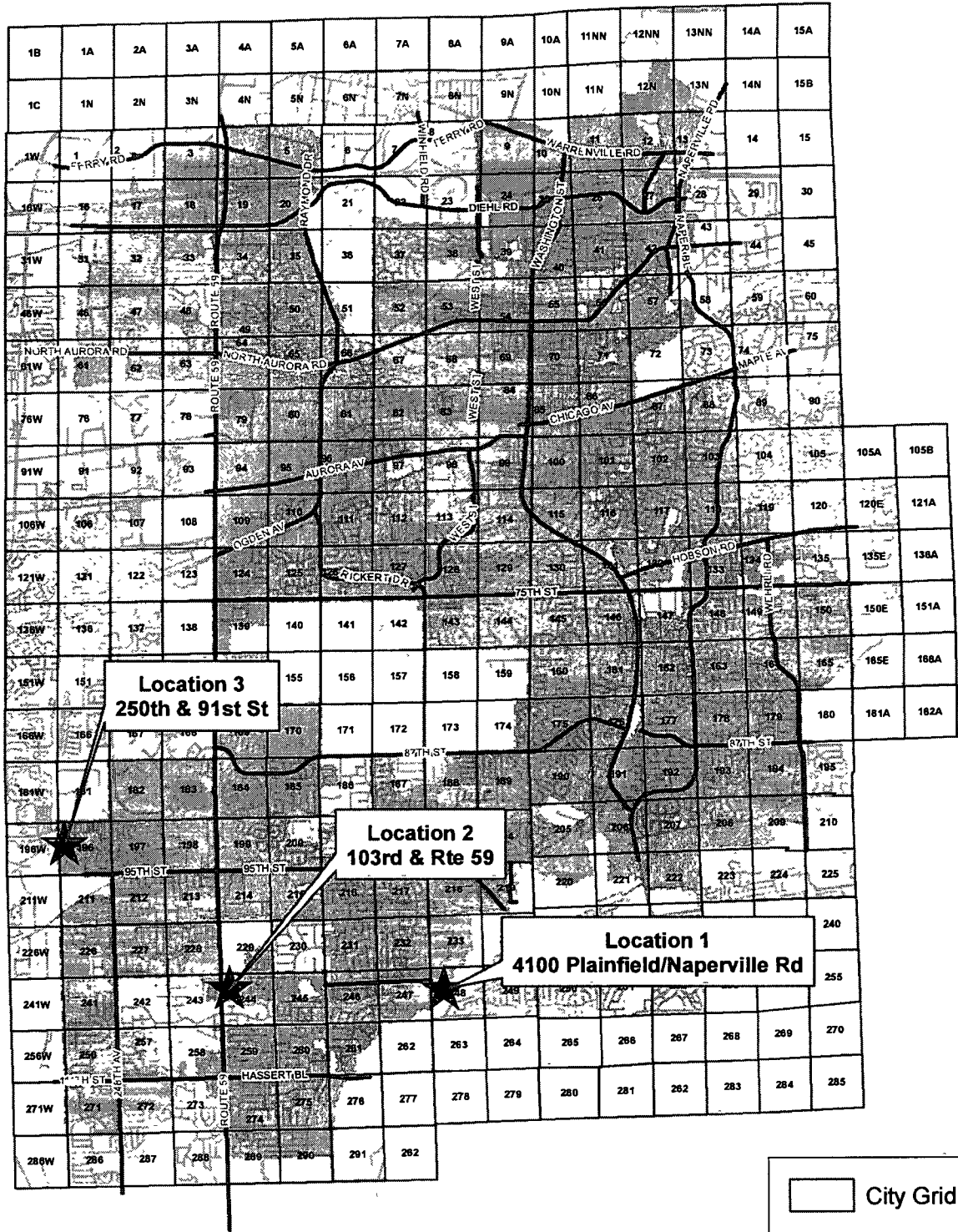


EXHIBIT A

City of Naperville LEAF DISPOSAL LOCATIONS



Department of Public Works
Strategic Services Division
www.naperville.il.us
3/4/2016



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EXHIBIT A

Legal Description:
W1/2 SE1/4 S5 T37N R9E

PIN #: 0113100001

City of Naperville LOCATION 1: 4100 PLAINFIELD/NAPERVILLE RD



Leaf Disposal Site



Department of Public Works
Strategic Services Division
www.naperville.il.us
04/2018



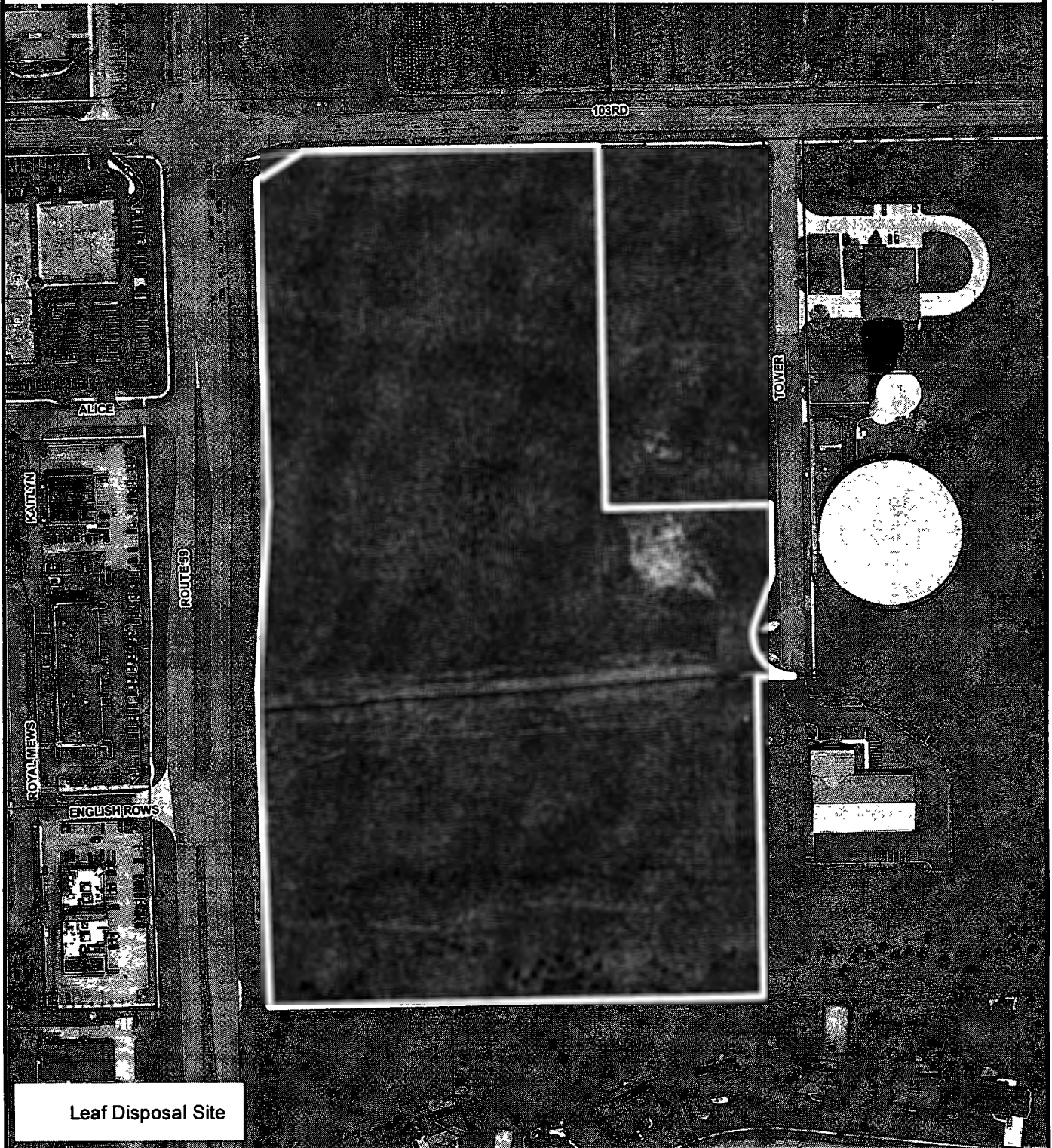
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EXHIBIT A

Legal Description:
NW1/4 NW1/4 S15 T37N R9E

PIN #: 0115101044

City of Naperville LOCATION 2: NEAR 103RD AND ROUTE 59



Leaf Disposal Site



Department of Public Works
Strategic Services Division
www.naperville.il.us
3/4/2016



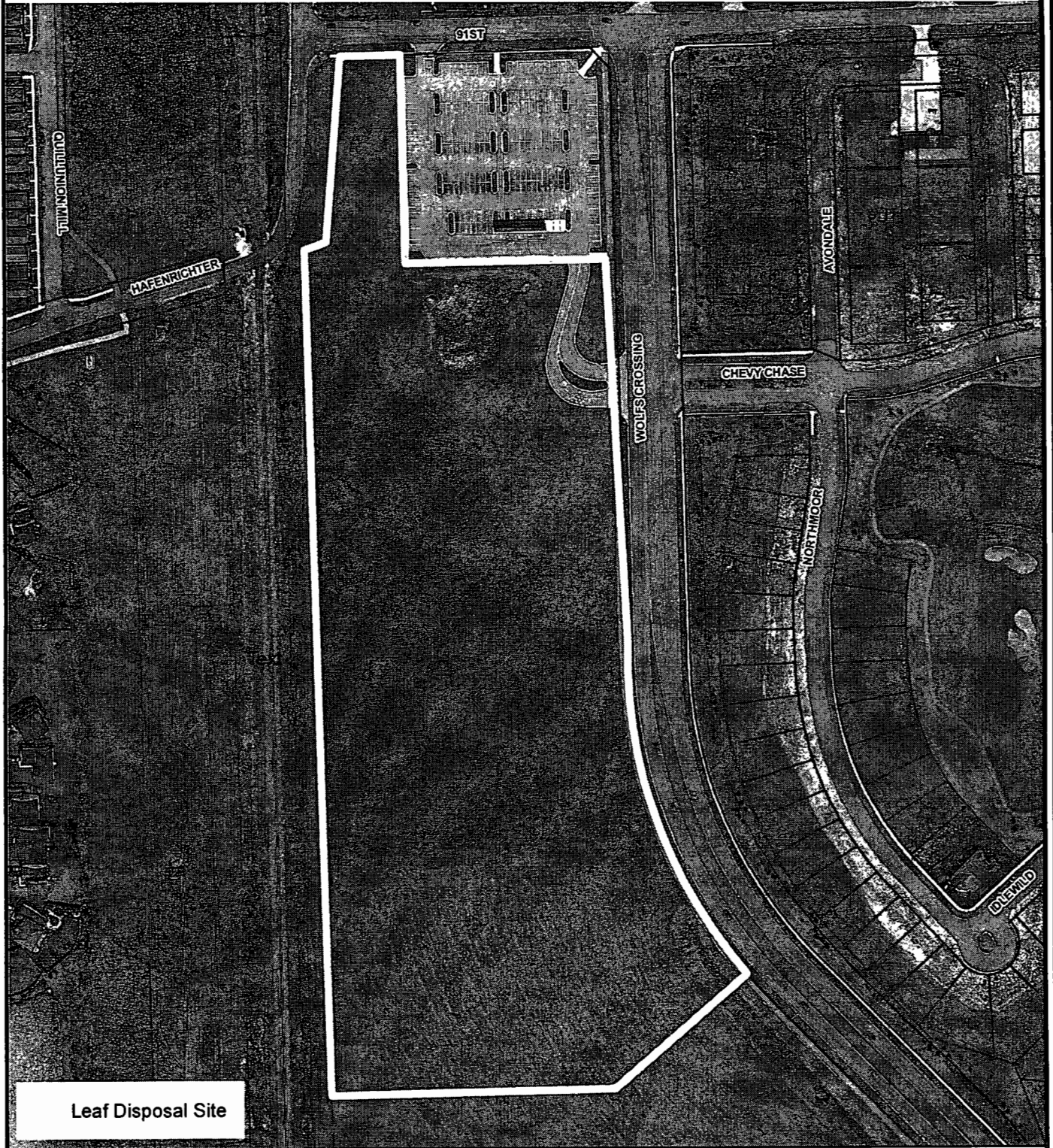
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EXHIBIT A

Legal Description:
NW1/4 NW1/4 S15 T37N R9E

PIN #: 0105400012

City of Naperville LOCATION 3: NEAR 250TH AND 91ST STREET



Leaf Disposal Site



Department of Public Works
Strategic Services Division
www.naperville.il.us
3/4/2016



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