ORDINANCE 2015-037   PASSED: SEPTEMBER 14, 2015

APPROVING A PLANNED DEVELOPMENT AGREEMENT AND IMPLEMENTING PD-R ZONING FOR CERTAIN PROPERTY IN THE CITY OF DEKALB, ILLINOIS (UNIVERSITY VILLAGE).

WHEREAS, the City of DeKalb, DeKalb County, Illinois is a home rule community with those powers granted under the provisions of the Illinois Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1, et. seq.; and,

WHEREAS, the City of DeKalb has within it a current development commonly referred to as University Village, which development is presently zoned MFR-2; and,

WHEREAS, the City of DeKalb expressly adopts in this recital, as if stated fully herein, the minutes of the various City Council and Planning and Zoning Commission meetings where this item has been discussed, the staff memoranda provided at such meetings, and the Findings of Fact adopted by the Planning and Zoning Commission, which such documents evidence a significant amount of time and effort invested in understanding this proposed development, and which provide an evidentiary basis upon which to substantiate the zoning determination made herein; and,

WHEREAS, the City Council finds that rezoning University Village (as defined in the Development Agreement attached hereto) to a PD-R Zoning Designation, with the approval of a Planned Development Agreement, promotes and protects the public health, safety, welfare and morals;

THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

Section 1. Rezoning and Development Agreement Approved.

The City of DeKalb hereby approves the Development Agreement attached hereto as Exhibit A, and authorizes and directs the Mayor of the City of DeKalb to execute such agreement, subject to such minor corrections as shall be acceptable to him with the recommendation of City staff. Further, with regard to the Property, as identified and legally described therein, commonly referred to as University Village, the City hereby grants a rezoning of such Property to PD-R zoning, subject to the restrictions of the Development Agreement.

Section 2. All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

Section 3. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.
Section 4. This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: September 15, 2015. Effective date: September 25, 2015.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 14th day of September, 2015 and approved by me as Mayor on the same day. First reading on August 24, 2015. Passed by a roll call vote of 5-3. Aye: Finucane, Marquardt, Noreiko, O'Leary, Rey. Nay: Jacobson, Snow, Baker. Absent: None.

ATTEST:

JENNIFER J. JOHNSON, City Clerk

JOHN A. REY, Mayor
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This Planned Development Agreement (the "Agreement") is made and entered the 14th day of September, 2015 by and among the City of DeKalb, an Illinois municipal corporation located in DeKalb County, Illinois, (the "City"), and SP Affordable Housing Group III, LLC (the “Owner”). The City and the Owner are collectively referred to as “Parties” and individually referred to as a “Party.”

RE C I T A L S

A. The Owner is the contract purchaser of record of approximately 32.314 contiguous acres of real property situated at the northeast intersection of Annie Glidden Road and Crane Road in the City of DeKalb, DeKalb County, Illinois, which property is legally described on Exhibit A attached hereto and incorporated herein by reference as the “Property”.

B. The Property has previously been improved with a private internal road system, a series of asphalt parking lots, and a number of structures, ranging in height from 1-3 stories, encompassing residential uses. The buildings have been historically utilized as a privately operated affordable housing, registered with the City of DeKalb as a rental property. The Property is subject to compliance with applicable Fair Housing Agency (FHA) and Housing and Urban Development (HUD) guidelines which presently require the entirety of the property to be utilized as affordable housing, pursuant to Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA) and Housing Assistance Program (HAP) agreements with multi-year terms. The Property is proposed to be developed in accordance with the plans attached hereto as Group Exhibit B (“the Plans”), except as such plans are required to be modified under the terms of this Agreement.

C. The Parties acknowledge that the housing density contemplated by the Property greatly exceeds any available zoning classification from the City of DeKalb, and that thus the only way of accommodating the proposed development would be to utilize Planned Development-Residential (“PD-
zoning. The Parties further acknowledge that use of PD-R zoning requires a development agreement to provide definition of the terms and requirements of the zoning district, and that this Agreement has been entered into to provide such definition.

D. The City and the Owner thus have negotiated and have voluntarily entered into this Agreement for purposes of enabling the redevelopment of the Property consistent with the Plans and this Agreement.

E. The City acknowledges that the Owner’s proposed use of the Property as set forth in this Agreement, will be compatible with and will further the planning objectives of the City and that the redevelopment of the Property to the City will be of benefit to the City, will permit orderly growth, planning and development of the City, will increase the tax base of the City, and will promote and enhance the general welfare of the City and its residents. The Owner acknowledges that the City is not required to rezone the Property as PD-R, and that the City’s agreement to rezone the Property in accordance with the provisions of this Agreement, to provide access to public utility services and other City services, and to otherwise perform the City’s obligations under this Agreement constitutes valuable, bargained-for consideration that benefits the Owner and the Property.

F. The City acknowledges and the Owner agrees that the PD-R, as provided under the City of DeKalb Unified Development Ordinance (the “UDO”) will be the most appropriate zoning classifications for the development of the Property.

G. Pursuant to notice, as required by statute and ordinance, public hearings were held by the City’s Planning and Zoning Commission on the requested zoning of the Property, and the findings of fact and recommendations made by said body relative to such requests have been forwarded to the Corporate Authorities.

H. All other and further notices, publications, procedures, public hearings and other matters attendant to the consideration and approval of this Agreement and the rezoning of the Property have been given, made, held and performed by the City as required by the Illinois Municipal Code, and all other applicable statutes, and all applicable ordinances, regulations and procedures of the City.

I. The Corporate Authorities have duly considered all necessary matters to enter into this Agreement, have considered the recommendations of the City’s Planning and Zoning Commission in connection with the proposed zoning of the Property and have further duly considered the terms and provisions of this Agreement and have authorized the Mayor to execute, and the City Clerk to attest, this Agreement on behalf of the City.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements herein made, the Parties hereby agree as follows:

ARTICLE I: INCORPORATION OF RECITALS

The Parties acknowledge that the statements and representations contained in Paragraphs A through I, both inclusive of the foregoing recitals are true and accurate and incorporate such recitals into this Agreement as if fully set forth in this Article I.
ARTICLE II: ZONING OF THE PROPERTY

A. Unit Restrictions:

The allocation or ratio of different types of dwelling units (e.g. one bedroom, two bedroom, etc.) permitted for the property under the PD-R zoning described above shall be as approved in this Agreement (which the Parties acknowledge is based upon the current configuration of the Property), subject to any changes allowed by the City, with approval of such changes being in the sole, reasonable discretion of the City. Review and approval/denial of any such changes proposed by the Owner shall be treated as a major amendment to the proposed development, and shall follow the provisions of the UDO with a staff review and recommendation, Planning and Zoning Commission review and recommendation, and City Council review and approval/denial.

B. Permitted Uses:

The uses permitted shall be as follows:

1) Residential apartments with full kitchen and bathrooms, with a total of: a) 534 units; and, b) 1004 bedrooms; consisting of 58 units with three bedrooms, 354 units with two bedrooms, and 122 units with one bedroom, in accordance with the unit counts contemplated by the Plans. These unit counts shall not be altered without the express approval of the City Council. The Owner shall be entitled to maintain up to 534 units on the Property which comprises 32.314 Acres (MOL) acres, generating a net density of 17.99 dwelling units/acre. This density and unit configuration shall operate as a limitation on the density of all residential use of the Property, in the aggregate.

2) Continuation in existence of the existing recreational and community/office facilities on the Property consisting of group meeting areas, rental office, swimming pool, when maintained for the use of residents and their guests only (and not for use by non-residents). In addition, the group meeting areas may be utilized for the provision of social or other similar services to residents by one or more governmental, for-profit or not-for-profit agencies, when such services are temporary in nature.

3) Continuation in operation of the on-site maintenance functions required for operation of the Allowed Uses.

4) The approval of these Permitted Uses and the approval of the Plans shall expressly incorporate the approval of the following seven (7) departures from the development standards that would be applicable in the absence of the PD-R zoning designation and this Agreement:

a) Lot Size / Maximum Density Deviation: In the absence of this PD-R zoning designation, the minimum lot size would be 3,500 square feet per unit, for a total density not exceeding twelve (12) dwelling units per acre. As approved herein, the Property shall be permitted to have 534 units on 32.314 acres, for a total net density of 17.99 dwelling units per acre.

b) Parking Requirements: In the absence of this PD-R zoning designation, the Property would be required to provide at least 1,271 parking spaces based upon the approved unit count and bedroom count. Subject to the land-banking requirements contemplated herein and provisions for construction of future parking areas, the Property shall initially be permitted to maintain the 795 parking spaces presently provided. (Shown as Sheet S5 in the Exhibit B: The Plans).

c) Light Pole Height: In the absence of this PD-R zoning designation, the property would be restricted to light poles not exceeding fifteen feet in height. Subject to the provisions of this Agreement regarding future replacement, the Owner shall be permitted to maintain existing light poles at their 20-25 foot height as contemplated by the Plans.
New light poles required under the Plans shall be installed in compliance with the fifteen foot height limitation.
d) Entryway Monumentation: In the absence of this PD-R zoning designation, the property would be permitted to maintain one ground sign not exceeding six square feet in area or six feet in overall height. Owner shall be permitted to install revised signage, with the appearance of such signage being generally in accordance with the attached Exhibit F, at the general locations where current signage exists. The final design, size, location and orientation may be approved by the Community Development Director or designee thereof, without requiring an amendment to this Agreement.
e) Landscaping: In the absence of this PD-R zoning designation, the property would be required to comply with the landscaping requirements of the City’s UDO. Owner shall be permitted to provide alternate landscaping at the Property, consistent with the terms of this Agreement.
f) One Principal Building Per Zoning Lot: In the absence of this PD-R zoning designation, the Property would only be permitted to be improved with one principal building per zoning lot. Owner shall be permitted to maintain the existing buildings on the Property as contemplated by the Plans, in their current location and configuration, or as otherwise approved by the City in the event of the destruction of one or more buildings.
g) Principal Building Setbacks: In the absence of this PD-R zoning designation, the Property would be required to meet the setback standards contemplated by the City’s UDO. Owner shall be permitted to maintain the existing buildings on the Property as contemplated by the Plans, in their current location and configuration.

C. Prohibited Uses:
None of the following uses shall be allowed in or on the Property:

1) Any use which is not expressly authorized as a Permitted or Special Use.
2) Any home occupation or other form of commercial enterprise.
3) Any residential use other than standalone residential apartments as contemplated above (and more specifically, any use which would constitute a “rooming house” or dormitory under applicable City Ordinances, or which contemplates the use of shared bathroom or kitchen facilities, shall be prohibited).
4) Community residences.
5) Group homes.
6) Parking lots, as a principal use (and more specifically, any lease, rental or otherwise offering use of on-site parking by any party other than a resident or employee of the Property).
7) Outdoor storage of any form not expressly authorized herein.
8) Sales or construction trailers, intermodal shipping containers, van trailers or similar items used for storage or office purposes, temporary structures or similar appurtenances used for office, work or storage purposes. Any such item shall be deemed to be used for office, work or storage purposes if it remains on the Property in one exterior location for more than twenty-four (24) hours at any given time. Notwithstanding the foregoing, this Section shall not apply during any time when there is a building or demolition permit outstanding.

D. Special Uses:
Any special use contemplated for the Property shall require the amendment of this Agreement.
E. Parking Provisions:

1) The existing parking lot shall be upgraded consistent with the Plans.
2) The Owner shall ‘land bank’ or reserve the areas contemplated on the so-called “Future Parking Expansion” described on page 9 of the Plans (“Parking Analysis Plan”), and shall construct the Future Parking Area within six months of the date on which the City of DeKalb delivers to Owner a notice to construct such areas. The Owner shall not permit or construct any impediment which permanently impairs its ability to construct the Future Parking Areas and, at the time of construction of such areas, shall incur all costs and take all steps required for the lawful construction of the Future Parking Areas (including compliance with applicable stormwater regulations and the provision of required parking lot lighting and landscaping for the Future Parking Area). (Notwithstanding the foregoing, the Owner shall construct all amenities as depicted in the Plans, inclusive of those located within the Future Parking Expansion area and shall, at such time (if ever) as the Future Parking Expansion is constructed, relocate such amenities to alternate locations on the Property.)

3) The Owner shall, during the first week of April and October of each year, provide to the City a series of daily photographs of the main parking areas of the Property in the format contemplated in Appendix C of the Plans, to document the extent to which the parking areas are utilized. Such photographs shall be taken at 7:00 am each day, and shall be accompanied by a disclosure of the total number of units rented, total number of occupants, and total number of parking permits issued. Further, the City may conduct parking reviews or parking counts of the Property at any time, at its discretion. At such time as the parking counts reveal that eighty percent (80%) or more of the existing parking areas are being utilized, the City shall issue its notice to the Owner to construct the Future Parking Area. The construction of the future parking area shall require compliance with the applicable provisions of this Agreement and the UDO (e.g. lighting, stormwater, etc.) at the time of development.

4) The Owner shall not increase the cost of parking permits to residents above the published parking rates for non-reserved annual ‘yellow’ parking passes issued by Northern Illinois University (or such other standard as the Parties shall mutually agree upon). The Owner shall not limit the number of parking permits available per unit, and shall not engage in any conduct to discourage or limit the ability of residents to park on the Property, or to force or encourage residents or guests of residents to utilize on-street parking. The Owner acknowledges that, based upon the density of the residential development contemplated by the PD-R zoning, it is obligated to provide adequate on-site parking for all parking needs generated by the parking, including the obligation to construct the Future Parking Area.

5) The Owner shall be responsible for providing private staffing to patrol the parking areas as needed, and to reasonably limit use of the parking areas to residents and their guests. In particular, during predicted times of high traffic (e.g. during public events at Northern Illinois University such as homecoming weekend and during move-in / move-out time periods for Northern Illinois University),and at other times requested by the City of DeKalb Police Department, the Owner shall maintain barricades and private personnel in place on the Property at all access points to the parking area(s) to restrict access to the property to residents and their guests.

6) The Owner shall be responsible for installing, and for thereafter maintaining as operational and functional, all parking lot and common area lighting contemplated by the Plans or as otherwise required by this Agreement. The Parties acknowledge that there are existing lights on the Property which are twenty to twenty-five feet in height and thus exceed the maximum height restrictions provided for by the UDO (“Non-conforming
Lights”). Such Non-conforming Lights shall be permitted to be maintained in place as they presently exist. At such time as any of the Non-conforming Lights are damaged, destroyed or require replacement, the Owner shall consult with the Community Development Director and shall replace any such light poles that require replacement with poles of a size acceptable to the Director (being either the same height as the pole being replaced, or a height that is in compliance with the UDO). Lighting through the property shall be uniform and meet the current standard of 1.5 to 2.0 average ground level foot-candle lights throughout. Notwithstanding the foregoing, the City shall not require the replacement of Non-conforming Lights in a fashion that causes the Property to violate applicable lighting standards.

7) Owner shall address mapped areas of lighting deficiency with additional lighting. Of particular concern are the courtyard areas within 915 Crane Dr. and 825 Crane Dr. Wall mounted lighting units can be added at these locations, and would be required.

8) The Owner and City shall enter into a separate written agreement providing for traffic law enforcement on all private drives and areas of the Property within ninety (90) days after Closing, in a form acceptable to the CITY, and such agreement shall be recorded against the Property at the Owner’s expense; such agreement shall be substantially in the form attached hereto as Exhibit G.

9) All visitors’ parking shall be regulated with passes or by other means acceptable to the City, and shall be for a duration of three (3) days or less. The Owner shall not lease, offer for lease, or otherwise permit non-residents to park upon the Property.

10) The Owner shall provide a revised plan showing the location, design, lighting and orientation of bike racks and bicycle parking areas, which bicycle parking area design shall be subject to review and approval by the Community Development Director.

11) The Owner shall issue new parking passes (both resident and guest), in a form and fashion acceptable to the Chief of Police, which are high-visibility in nature and which are required to be prominently displayed so as to be visible from a passing car patrolling the parking lot.

12) The parking requirements contemplated herein, and the 80% usage trigger for expansion of existing parking areas, shall be evaluated on a phase by phase basis across the three phases of the Property. At any time that the parking expansion trigger is met, the Owner shall construct additional parking within the affected phase. The scope of such additional parking areas shall be as reasonably, mutually determined by the Owner and City, and shall be intended to meet the need demonstrated by the parking survey. In installing such future parking areas, preference shall be given for identifying areas that generate the least impact on Property amenities and infrastructure, and which locate the future parking areas as close as possible to the area of need.

F. Permitted Outdoor Storage:

Outdoor dumpsters, trash compactors, and similar rubbish disposal facilities shall be permitted on the Property, provided that all such facilities shall be completely screened from view with a fence constructed of materials and colors matching the principal building it services as contemplated by the Plans. Any proposed expansion or alteration of the outdoor rubbish disposal facilities and their related landscaping/screening shall be subject to prior review and approval by the City Council to confirm compliance with this section. No other outdoor storage shall be permitted, and no storage of dumpsters or garbage or recycling containers shall be permitted outside of the walled garbage enclosure. Notwithstanding the foregoing, the Owner shall be permitted to maintain not more than six ‘roll-off’ style dumpsters on the Property during such times as the Owner may have a then-current demolition or building permit in place, issued by the City of DeKalb. The outdoor trash facilities shall be constructed to match the proposed materials highlighted in Exhibit J or as otherwise approved by the Community
Development Director, and shall be constructed of Trex or another similar, weather-resistant material acceptable to the City. Once constructed, the trash facilities shall be maintained at all times in good repair, and the Owner shall take all steps as shall be required to ensure that the main entry gates to the trash facilities are kept closed at all times when the facilities are not actively being serviced by a garbage truck.

G. Setbacks and Building Lines:

Setbacks, building lines, floor area ratios, building dimension limitations, height restrictions and other similar lot/building size/shape restrictions and regulations shall meet those standards as set forth in the UDO unless otherwise approved as part of this Agreement. This Agreement shall expressly serve as the approval of the dimensions of the Property contemplated by the Plans (after such Plans are modified to comply herewith).

H. Design and Appearance Provisions:

Details of the architectural theme, inclusive of architectural elevations, has been provided as part of the Plans. The Owner has provided the proposed architectural elevations and finishes for the Building and the Property. All renovations on the Property shall be built in compliance with the Plans in terms of design, elevations, appearance, aesthetics and building materials, which contemplate replacing existing building materials with like-kind materials of similar appearance and quality, in accordance with all applicable building codes.

The Owner shall design, install and/or construct all signage, landscaping, lighting and improvements in conformance with the Plans. The exterior design, elevations, appearance, dimensions and building materials proposed for any structure or sign proposed to be built on the Property which does not directly comply with these requirements shall be subject to separate review and approval by the City Council, in its reasonable discretion.

Following the installation of such materials, the Owner shall maintain such materials (including the exterior of the building, landscaping, parking areas and other portions of the Property) in good condition and shall take appropriate actions necessary to prevent the deterioration of the Property or its appearance, excepting ordinary wear and tear that does not violate applicable property maintenance codes. The Parties agree and acknowledge that environmental factors, such as the appearance and maintenance of a structure, have a significant impact on crime and on surrounding properties. Accordingly, the Parties agree and acknowledge that inherent in the zoning permissions granted herein (to establish a high-density residential development) is the Owner’s affirmative obligation to comply with all applicable property maintenance codes to maintain the attractiveness and appearance of the Property. The failure to maintain the building façade, architectural improvements, landscaping or other aesthetic components of the Property that are either described herein or contemplated in the Plans shall constitute a violation of the zoning authorization provided under the PD-R designation contemplated herein.

Any future proposal to remodel any portion of the Property which would: a) change the number of units or bedrooms at the Property; or, b) add additional or revised structures, outdoor signage, facilities or reductions in landscaping shall be subject to review and approval by the City Manager, or at the Manager’s discretion, may be required to be submitted to the City Council for review and approval. Such approval shall be at the reasonable discretion of the City.

I. Signage:

Overall private signage plans and specifications shall be in substantial conformity with the Sign Plan incorporated into the Plans, and subject to Community Development Director approval as contemplated herein. Other than as reflected on the Plans, no OWNER name or logo shall appear on any
permanent signage at the development, including, but not limited to, the monument signs without the City’s approval. Any marketing signs, off-site signage or temporary signs of any form shall be installed only in strict compliance with the applicable provisions of the UDO pertaining to permitting and authorization of such signs.

J. **Rezoning of Property:**

The Parties agree that, for a period of twenty (20) years from Closing, the Property shall not be rezoned to any zoning other than that imposed under this Agreement without the approval of the CITY and the OWNER, with such rezoning requiring consent from the CITY in the sole and absolute discretion of the CITY and OWNER without regard to statutory or common law zoning requisites and the agreement of the CITY and the OWNER to an amendment of this Agreement on terms and conditions mutually acceptable to the CITY and the OWNER, and further agree that the approvals described in this Agreement are based upon the Owner and Owner’s agreement with the zoning imposed under this Agreement. The Parties further agree that in the event the Owner seeks a rezoning or alteration of the zoning standards applicable to the Property, any provisions in the UDO contemplating a defined time period for review, comment or approval of a zoning application shall be deemed waived. Following that initial twenty year term, the Property may be rezoned in accordance with the then-current practices and procedures applicable to rezoning requests.

K. **Building Amenities:**

The Owner acknowledges that the density contemplated by the development of the Property exceeds the density which otherwise would be permissible in the absence of PD-R zoning designation, and in order to provide a facility that addresses public welfare concerns that would otherwise be raised by the contemplated density, the Owner agrees and acknowledges that, except during reasonable periods of repair (during which Owner shall actively work in good faith to repair and restore the amenities), it shall maintain as operational, fully functional and in good condition the building amenities contemplated by the Plans and this Agreement at all times that the Property is in operation for the purposes contemplated by the PD-R zoning.

L. **Bus Shelter Improvements:**

The Owner agrees that it shall be responsible for all costs of installing and improving two covered bus shelters in locations on the Property as designated by the Community Development Director; such shelters shall be a design, configuration and appearance acceptable to the Community Development Director. Owner shall provide all necessary easements, sidewalks and other improvements required to facilitate such construction, and shall permit public access to said improvements via public sidewalks dedicated for public use. Owner shall also be responsible for maintenance and snow removal/defacing at the shelter and on the sidewalks and pathways leading thereto on the Property (or the right of way thereof).

M. **Failure to Comply:**

In the event that Owner fails to comply with the terms of this Agreement contemplating the redevelopment and subsequent management of the Property, the zoning approvals contemplated herein shall be void and of no force or effect. In such an instance, the Property shall revert to the “MFR2” (Multifamily Residential) zoning designation which it held immediately prior to the date of approval of this Agreement and the Property shall acquire legal, non-conforming use status. All improvements contemplated herein shall be constructed, operational, inspected and approved by the City within twenty-four months of the date of Closing (as defined below).
ARTICLE III: DEVELOPMENT AND MAINTENANCE OF THE PROPERTY:

A. Owner’s Responsibility to Maintain:

The Owner shall be responsible for the maintenance and care of any and all common areas, parking lots, detention or stormwater facilities, or other improvements within the Property and for maintaining all buildings on the Property in accordance with all City Building, Zoning and Property Maintenance Codes, and in accordance with the terms set forth in this Agreement. The Owner shall assume full responsibility for ensuring the property's compliance with the applicable codes and requirements. The Owner shall also be responsible for construction of all new improvements, pathways and amenities as depicted in the Plans.

B. Backup Special Service Area:

OWNER and its successors, assignees and grantees, shall not object to and agree to cooperate with the CITY in establishing a special service area (“SSA”) after Closing, for the Property, to be utilized as a backup mechanism for the care and maintenance of the Common Facilities, which include but are not limited to, lighting, parking lots, bus shelters, private roads, paved areas, detention areas, drains, tiles, waterways, valves and related appurtenances, common landscaped areas, bike/pedestrian paths, trails, racks, property monumentation, signage, rubbish disposal facility enclosures, park areas, open space and any other common areas of the Property. Such SSA shall also cover any costs associated with mosquito abatement within the residential areas of the Property.

Owner shall have the primary responsibility of providing for the regular care, maintenance, renewal and replacement of the Common Facilities including, without limitation, the mowing and fertilizing of grass, removal of debris or garbage, pruning and trimming of trees and bushes, lighting, sidewalks, removal and replacement of diseased or dead landscape materials, mosquito abatement, installation or maintenance of detention/retention basins, property monumentation and signage, maintenance of waterways, valves and related appurtenances, landscaping, maintenance of all private curbs and roadways, driveways and drive aisles, and the repair and replacement of signs, so as to keep the same in a clean, sightly and first class condition (the “Common Facilities Maintenance”). Common Facilities Maintenance shall be limited to the maintenance and upkeep of existing improvements, improvements described herein, and any then-current improvements at the time of performing maintenance.

If at any time the Owner fails to conduct the Common Facilities Maintenance within a reasonable time after being notified by the City to do so, then the CITY shall have the right, but not the obligation, to undertake such maintenance and utilize the SSA to provide sufficient funds to pay the costs of the Common Facilities Maintenance undertaken by the CITY. The Owner shall, upon the request of the City, grant the City an easement ("Common Facilities Maintenance Easement") over all of those Common Facilities located on the Property in favor of the CITY. The substance of the Common Facilities Maintenance Easement shall be as approved by legal counsel for the CITY. Said SSA shall have a rate as reasonably determined by the City Engineer.

Approval of this Agreement shall be deemed to constitute consent to the City’s establishment of one or more special service areas (individually, an “SSA”) hereafter described.

Nothing in this Agreement shall prevent the City from levying or imposing property taxes, including but not limited to special service areas, special assessment areas, or other ad valorem or flat rate taxes upon the Property in the manner provided by law which are applicable to and apply equally to all other properties within the City or from establishing a special service area that encompasses solely the Property.
C. Excavation and Grading:

1. In order to provide adequate assurance of performance and installation and maintenance of erosion control measures, the Owner shall provide the City with a cash deposit, irrevocable letter of credit or performance bond, in an amount acceptable to the City Engineer, not to exceed Ten Thousand Dollars and No Cents ($10,000.00), per acre, prior to commencement of any grading or site improvement work. In the case that said grading and erosion control is included in another surety as described herein and Article 15 of the UDO, a separate surety shall not be required. The security shall be released upon completion of the preliminary work, and approval of the City Engineer.

2. Prior to the start of any grading or development work on the Property, the OWNER shall provide documentation, in form and content acceptable to the City (and additionally acceptable to DeKalb County if DeKalb County requests any such documentation), indicating that there are no pending IEPA investigations or environmental contamination issues with the Property.

D. Security for Public Improvements:

In the event that the Owner constructs any public improvements (inclusive of improvements within or adjacent to a public right of way), then the provisions of this Agreement pertaining to such public improvements shall be invoked. Security to be provided by the Owner for the completion of the public improvements within or adjacent to the Property or related off-site improvements, if any, shall be provided prior to the commencement of construction on the Property or right of way and shall be in accordance with the terms of this Agreement and applicable City ordinances, as modified by this Agreement. The Owner shall provide such security to the City in the form of cash, irrevocable letters of credit or performance bonds. Bonds and letters of credit shall be in a form approved by the City Attorney and be issued by an entity approved by the City Manager or designee from a bank or financial institution located in the United States of America. Any bonds required under City Code or this Agreement shall be from a company licensed to do business in the State of Illinois. Any Letters of Credit required under City Code or this Agreement shall be from a financial institution acceptable to the City Manager (or designee), and the Owner shall provide such information or documentation as to the status of the proposed financial institution as the City Manager (or designee) shall require, to demonstrate their creditworthiness and stability. The amount of security posted with the City shall at all time equal one hundred twenty percent (120%) of the cost of completing required public improvements. The City Council shall authorize the reduction of such security from time to time, but no more than once every one hundred and eighty (180) days, as related offsite work or public improvements within the Property are completed and approved by the City Engineer and prior to their acceptance of such improvements by the City.

E. Acceptance of Public Improvements and Maintenance Bond for Public Improvements:

Upon completion of public improvements and acceptance by the City, the Owner shall provide a signed bill of sale for any items of personal property to be transferred to the City, and shall execute all documentation customarily required by the City to denote acceptance and transfer of ownership. Prior to the acceptance of the streets by the CITY, the streets shall be in a condition acceptable to the CITY and completed with the final lift of asphalt, and all punchlist items previously identified by the City shall be satisfied. Upon acceptance of any public improvement by the City as described above, OWNER shall be entitled to a corresponding release or reduction of any Subdivision Performance Bond or Letter of Credit. For an 18 month period following acceptance of any public improvement, the Owner shall guarantee the workmanship of any public improvements constructed, and shall be responsible for the performance of any repairs or remediation required on such public improvements, as reasonably determined by the City Engineer, to return them to a condition in which they would be appropriate for initial acceptance by the City, including the repair of any ordinary wear and tear on the aforesaid improvements or the repair of any broken or damaged improvements. To secure the performance of this obligation, the Owner shall provide a Maintenance Bond which shall remain in place for an 18 month period from date of acceptance by the
CITY. Said maintenance bond shall be equivalent to twenty percent (20%) of the value of the improvement constructed, and shall be in the form of a cash escrow, letter of credit, or other security acceptable in form and content to the City.

F. Stop Work Orders:

The City shall issue stop orders as necessary to insure development occurs as required by this Agreement and City Ordinances. Unless issued in case of emergency, said stop orders shall be preceded by reasonable notice (not less than three days) and opportunity to comply. In the event that the Owner fails to meet any deadline imposed under the terms of this Agreement or otherwise violates any provision of this Agreement, the City may issue stop work orders for any work at the Property, pending either the posting of a security acceptable to the City to guarantee the completion of all work required, or the entry of the Parties into an amendment to this Agreement.

G. Compliance with City Ordinances and Applicable Regulations:

The Parties agree that, except as specifically modified in this Agreement and the attached drawings and Exhibits, the Property shall be developed in compliance with all ordinances, codes and regulations of the City in effect at the time of development. The Parties acknowledge that it is the ultimate responsibility of the Owner to comply with any and all requirements of this Agreement and applicable City Codes. Thus, in the event that up to, but prior to construction or any time after execution of this Agreement, the City or its consultants issue a permit or give an approval not consistent with the terms of this Agreement or any applicable City Codes, such erroneous permit or approval may be of no force and effect and thus may be revoked. The Owner agrees that it may not rely on any such issued permit or approval for purposes of vested rights or estoppels to compel an improvement not consistent with the terms of this Agreement or applicable City Codes. The Owner hereby waives any claims of damages, of any type or character, against the City, its employees or its consultants based on such erroneously issued permits or approvals. A generic utility easement shall be provided by the Owner as may be requested by the City Engineer. All construction shall be in accordance with the City codes and ordinances and any comments of the City Engineer, City Planner or other City consultants which shall be provided at the time of plan review. All such comments must be addressed prior to site development. All permits from the Illinois Environmental Protection Agency or any other agency with jurisdiction over the Property must be issued prior to work on water main, sanitary sewer or storm sewer improvements commences. The Parties acknowledge that, at the time of preparation of this Agreement, the Plans have not been reviewed by the City Engineer or City Public Works Department, and the Owner agrees and acknowledges that it shall make all such amendments to the Plans as shall be required pursuant to their review.

H. Site Control:

OWNER acknowledges that, depending on weather conditions, construction traffic entering and leaving a construction site creates debris, especially dirt, dust, and mud clots on streets and roadways adjacent to the construction site. OWNER agrees that it shall inspect and clean the streets and roadways adjacent to and within 1,000 feet of the entrance to OWNER’S construction site, and take measures to control dust as needed daily while construction is occurring on said site. OWNER further agrees to periodically mow weeds, pick up trash and debris and repair and replace soil erosion control fencing so as to comply with applicable ordinances of the CITY, all of which activities may be contracted to its development trades and contractors. Owner shall also patch or repair damage to any roadway, path, driveway, sidewalk or other similar improvement which may be damaged during the course of Owner’s construction or maintenance activities. As security for such obligations, and as a condition of the issuance of any filling or grading permits, OWNER agrees to deposit with the CITY the sum of ten thousand ($10,000.00) dollars ("Site Control Escrow"). In the event OWNER fails to clean, the Property, mow weeds, pick-up debris or repair or replace soil erosion control fencing as required, or fails to patch or
repair any street, path, roadway or sidewalk within twenty-four (24) hours after receipt of notice from the CITY of OWNER'S failure to comply with this provision, then the CITY may perform or contract with others to perform such undertaking and deduct the cost thereof from the Site Control Escrow. OWNER shall, within 15 business days following written notice from the CITY, replenish the Site Control Escrow as funds are from time to time properly withdrawn there from by the CITY, so as to maintain the same at a ten thousand ($10,000.00) dollar balance. All sums remaining on deposit with the CITY pursuant to this provision shall be credited against other fees or charges due from the Owner, and any remaining funds shall be credited back to the Owner, upon request, on or after the date which is ninety (90) days after the Owner's receipt of an unconditional certificate of occupancy for all portions of the Property (with successful completion of all improvements contemplated by this Agreement).

I. Building Codes:

In constructing improvements and conducting renovation on the Property, the Owner shall comply with all then-current building codes of the City of DeKalb or any other agency having jurisdiction over the Property, including satisfying all requirements of the 2006 International Fire Code pertaining to fire alarms, subject to the requirements of Exhibit D. At the time of any future amendments or modifications of the building or the Property, the Owner shall comply with the then-current code requirements of the City.

J. Fire Suppression / Alarm:

The Owner shall install an operational fire alarm system in compliance with the attached Exhibit D and shall, except during reasonable periods of maintenance, thereafter keep such systems in service, operational and in good repair.

K. Completion of Building Improvements:

Owner shall complete all of the building improvements contemplated in the Plans within twenty-four months of the date of Closing. Said improvements are described in detail on page 1-4 of the Plans, and consist of roofing, windows, siding, doors, interior improvements, replacement of HVAC equipment, replacement of appliances, renovation of kitchens and bathrooms, and similar improvements; said improvements are also described in the Cost Estimates appended hereto. Owner expressly agrees and acknowledges that it shall complete all of the improvements and amenities contemplated by the Plans and by this Agreement, including but not limited to those outlined below. Once any improvement contemplated herein is completed and installed, it shall thereafter be maintained in good repair and operational status.

1) Installation and subsequent maintenance and operation (including remote monitoring) of the fire alarm systems contemplated by Exhibit D.

2) Restoration of all fire-suppression design elements of the Property which were required at the time of construction, which the Parties agree includes, but is not limited to, installation of fire-rated doors and self-closing mechanisms for the main door to each individual residential apartment within any structure which utilizes a common interior entrance to multiple apartments.

3) Installation and subsequent maintenance of “Fire-Stop” (or other similar device) automatic dry chemical fire suppression system, above the stovetop in each residential unit.

4) Installation and maintenance of all required emergency lights and fire extinguishers, based upon the standards originally applicable to the structure at the time of construction (and prospectively, based upon the applicable standard required under the City's then-current building code).
5) Each building attic shall be carefully inspected, and any openings or permeations in the attic firewalls shall be repaired and fully sealed to provide a complete and consistent fire barrier throughout the structure. Each attic shall subsequently be reinspected by owner at least once every five (5) years, to confirm that the attic firewalls are intact, and any openings or permeations shall be promptly repaired and sealed at the time of annual reinspection.

6) All exterior air conditioning compressors shall be replaced, and new units shall be installed in a clean and sightly fashion, ground-mounted on concrete pads. No elevated or building mounted air conditioning compressors (or split HVAC units) shall be permitted. All compressors shall thereafter be maintained in a clean and sightly fashion and shall not be kept in a rusty or damaged condition.

7) Installation of additional pathway and Property lighting as contemplated by the Plans. The Parties acknowledge that at the time of approval of this Agreement, certain additional walkways and sidewalks are contemplated by the Plans, and the lighting needs for such areas are presently unascertainable. Accordingly, Owner shall notify the City upon completion of construction of the new pathway areas, and Owner shall devise plans for lighting such areas in a fashion acceptable to the Community Development Director or designee, with such lighting to be installed within twenty-four months of the date of Closing.

8) As noted above, installation of new pathways and sidewalks as contemplated by the Plans, and replacement of existing pathways and sidewalks where reflected in the Plans. New pathways and sidewalks shall be constructed of concrete. All interior pathways shall hereafter be maintained in good condition.

9) Installation and subsequent maintenance of a five (5) foot tall fence, constructed of wrought-iron, black-enamel coated aluminum, or another material acceptable to the Community Development Director or designee, and with a design acceptable to the Community Development Director or designee, along the easterly boundary of the Property in the location as contemplated on page 6 of the Plans.

10) Installation and subsequent maintenance of the garbage enclosures as contemplated herein.

11) Installation and subsequent maintenance of at least five (5) additional areas of bike-racks in well-lit locations acceptable to the Community Development Director or designee, with a preference for areas that are or will be visible from security cameras at the Property.

12) Development of a revised plan for snow removal and deicing for all hard surface areas of the Property (inclusive of parking areas, driving areas, sidewalks and paths), in a format acceptable to the Community Development or designee, in a fashion that provides for clearing of snow and ice from such areas without impeding the use or availability of resident parking or walking areas (i.e. without unnecessarily piling snow within parking areas or on walking paths).

13) All 534 apartments within the Property shall receive new kitchen appliances (stove, refrigerator, microwave, dishwasher), if such appliances are more than two (2) years old at the time of property rehabilitation, based upon actual documentary evidence of replacement.

14) All interior HVAC equipment other than ductwork (i.e. condenser, furnace, blower) which is older than two (2) years in age shall be replaced.

15) All work and installations shall comply with the 2012 Energy Code, and all new HVAC and appliances installed shall have at least 80% efficiency ratings.

16) All water heaters shall be replaced (after issuance of a building permit). All water heaters shall utilize appropriate dielectric connections. All water heaters shall be equipped with a
pressure relief valve that is plumbed to drain to a floor utility drain in a safe fashion.

17) No flexible gas service lines shall be permitted on any permanently installed appliance (i.e. furnace, water-heater).

18) The Parties acknowledge that Owner contemplates ‘renovation in place’ for the 534 units of the Property. Not less than two (2) weeks prior to the date of any contemplated renovation of an individual unit, Owner shall provide an opportunity for the inspection of the unit by the City’s designated building inspector. Such inspection shall be performed at Owner’s cost. The City shall generate a punchlist arising out of such inspection and identifying all areas where the City has identified a condition which violates an applicable building or property maintenance code. Each punchlist shall also include an agreed-upon moisture remediation plan on a unit-by-unit basis. At the time of such inspection, all items requiring a building permit shall be identified, and all permits shall be obtained prior to commencing any work on the unit. Owner shall apply for and obtain building permits prior to commencing any unit renovation, and at the time of renovation, shall successfully remediate all conditions noted on the City’s pre-renovation punchlist. Each unit shall then be subject to a post-renovation inspection by the City, at Owner’s sole cost, for the purpose of confirming that all renovation has been properly completed, and that all punchlist items have been successfully repaired; such inspection shall be incorporated into the “final” inspection for permitted building improvements. Building permits shall also be obtained for any other component of renovation which requires the same under any applicable Code or Ordinance.

19) The Parties acknowledge that at present, there are homeowner-grade pedestal sump-pumps installed in exterior sump-pump pits at certain of the buildings of the Property, with substandard electrical installation. All such sump-pumps and associated wiring and plumbing shall be inspected and repaired or replaced to ensure full compliance with applicable codes and ordinances.

20) All of the door, window, roofing and siding replacement contemplated herein, and all residential unit renovation contemplated herein, shall be completed within twenty-four months of the date of this Agreement.

21) In the event that any unit is discovered to have mold, mildew or water damage at any point in time, such conditions shall be professionally remediated in accordance with all then-current building codes and applicable standards. This provision shall apply with regard to the renovation of each individual unit, and shall apply subsequently to the maintenance and operation of the Property.

22) Unless this requirement is waived or lessened by virtue of the application of a superior governmental mandate, not less than twenty-seven (27) units shall be renovated so as to be compliant with the Americans with Disabilities Act as accessible units.

23) All buildings which utilize an exterior door as the main doorway into an individual residential unit (i.e. those buildings which do not have shared interior common entrances) shall have their exterior doors replaced and new weather-stripping installed.

24) All buildings which utilize a shared interior common entrance shall have the entrance door to the shared interior area, and the related glasswork and “storefront”, replaced.

25) All entrance doors to individual residential units, whether opening to the exterior or to an interior common area, shall be equipped with fully-functional deadbolt locks.

26) For any building which features an entryway with step height in violation of building code limits, the Owner shall install new steps/stoops in compliance with applicable codes or otherwise remediate the condition in compliance with the applicable building code.

27) All sliding and patio doors in Phase I shall be replaced, and the replacement doors shall be properly operating and equipped with secure latching and locking mechanisms.

28) Any structural issue identified in any residential unit (including but not limited to failing
or deteriorating patios or porches, failing or deteriorating floor joists, roof joists, supports
or beams, or other similar structural issues) shall be professionally repaired in accordance
with the then-current building code at the time of unit by unit renovation.

29) Owner shall install and maintain landscaping that meets the approval of the Chief of
Police of the City or designee thereof (as to Crime Prevention Through Environmental
Design) and the approval of the Community Development Director or designee thereof as
to appearance. Owner acknowledges that the City has requested proposed landscaping
plans for the Property and Owner has declined to provide said plans. Accordingly,
Owner shall complete proposed landscaping improvements on one building within the
Property for inspection by the City within six months of the date of Closing, and such
landscaping shall be subject to the City’s right to approve, reject or require modification
thereof. The landscaping ultimately approved by the City shall be implemented
consistently throughout the Property within twelve months of the date of Closing; such
landscaping is contemplated to be generally consistent with the landscaping plan included
herein.

30) All other requirements contemplated herein shall be fully satisfied.

31) All exterior site improvements (e.g. sidewalks, bus shelters, bike parking, parking areas,
lighting, landscaping and similar issues, not including building façade repairs or
replacements) shall be completed within twelve (12) months of the date of this
Agreement.

32) The gazebo proposed on the Plans shall be constructed in a fashion that does not have
walls or other vertical obstructions to vision. It shall be adequately lit so as to ensure that
any persons within the gazebo are visible at night. It shall be equipped with a security
camera to clearly show any persons or activity within the gazebo. Further, Owner shall
post appropriate signage prohibiting its use after dark.

33) The Community Center shall be improved with the features and additions contemplated
by the Plans, and also with the construction of an additional, ADA-compliant access
point to the swimming pool, and renovations to render the existing access point to the
swimming pool ADA-compliant.

34) Owner shall improve the two (2) areas reflected in the Plans as park areas, with not less
than $70,000.00 in park improvements. The park areas constructed shall be in a design
and configuration acceptable to the Community Development Director or designee,
which consent shall not be unreasonably withheld provided that the proposed
improvements are consistent in content and appearance to the improvements described in
the attached Exhibit H, Sample Park Equipment.

35) Owner shall complete all of the renovations, on a unit by unit basis, that are contemplated
in the attached Exhibit I, Scope of Work. To the extent of any conflict between the
Scope of Work and this Agreement, the more specific provision of this Agreement shall
apply (e.g. if more than 95% of the refrigerators are more than two (2) years old, all
refrigerators over two (2) years old shall be replaced, and not just 95% of the
refrigerators).

L. Audit of Project Completion Costs:

Owner acknowledges that the zoning approval contemplated herein, and the scope of
improvements required by the City hereunder, is based in significant measure upon Owner’s contention
that approval of the zoning contemplated herein is required in order to facilitate Owner’s reinvestment in
the Property. Owner has pledged to invest not less than $21,012,000.00 in the renovation of the Property,
within the first twenty-four (24) months following the date of Closing. Owner shall provide the City with
a certified copy of an independent, third-party audit (in form and content acceptable to the City) of all construction costs associated with the project, showing that the Owner has incurred not less than $15,200,000.00 in actual construction costs and Maintenance Escrow (with such actual construction costs consisting solely of labor and materials necessary for the actual construction of renovations contemplated by the Plans, exclusive of design, engineering, financing, carrying, property acquisition, legal, management costs, operating or maintenance expense, or other costs or expenses, and with Maintenance Escrow consisting of lender-required reserves to be established and held by the lender, with such reserves comprising at least $1,000.00 per unit), in form and content acceptable to the City. The City's approval of this zoning designation and this Agreement is expressly conditioned upon the Owner's reinvestment in the Property as contemplated herein. In the event that the third party audit fails to illustrate such investment having occurred, the Owner agrees that it shall construct additional improvements or upgrades to the Property in order to achieve at least that minimum level of reinvestment, or the zoning approval contemplated herein shall be subject to revocation. A copy of the proposed construction costs is attached hereto as Exhibit E. The Owner shall be required to complete all of the work contemplated by Exhibit E (including all of the renovation contemplated therein), and to construct all of the improvements and amenities contemplated in this Agreement and the approved Plans, or the zoning contemplated herein shall be subject to revocation. Revocation shall occur under the procedure outlined in Article XII (K) of this Agreement. The City may agree to relief from the provisions of this Article III (L), but only through the negotiation of an amendment to this Agreement wherein the Owner provides the residents of the Property with an equivalent benefit for any proposed change in amenities or scope of renovation. The Parties expressly agree that the zoning conferred herein is made to allow the Owner to complete the renovation and to construct the amenities contemplated herein. The Parties acknowledge that the improvements contemplated by Exhibit E are contemplated to occur in each rental unit and building of the Property unless otherwise indicated therein (e.g. all kitchens in all phases of the Property shall be renovated as contemplated therein).

M. Coordination with Equity Partner:

Owner shall provide the City with the identity of any party involved in the management, financing or operation of the Property, including but not limited to any party who contributes capital towards the cost of purchasing, improving or operating the Property, and any party who receives any special benefit (such as tax credits) by virtue of the maintenance of the Property as affordable housing in accordance with applicable HUD or IHDA guidelines. Such information shall be provided to the City within ninety (90) days of the date of Closing, and subsequently shall be updated at the time of any change in such information. Such information shall include the name, address, phone number, title and email address for a designated contact at each such party, with the identified person serving as the property manager or otherwise as the person with the greatest knowledge of the Property and the conditions to which it is required to be maintained.

ARTICLE IV: INFRASTRUCTURE:

A. Water Mains and Potable Water Supply:

The Property is currently serviced by an existing connection to the City's potable water system. In the event that the Property requires an additional, oversized or further connection to the City's water system, and provided that there remains adequate pressure and flow at the time of proposed connection, the Owner shall have the right to connect to and use such system and mains upon payment of those capital, tap-on and user fees required by the then-current City ordinance or resolution. Tap-on / connection and capital fees shall be due at the time of building permit application. Said fees may be changed by the City from time to time in the City's sole and absolute discretion, and Owner agrees to pay the amount as required by the City at the time such payment is due. The Owner shall be responsible for
constructing all on-site and off-site improvements necessary to connect to the Property and any
development on the Property to the presently existing water mains and potable water supply of the City. The Owner shall be exclusively responsible for the payment of all costs, expenses and charges associated
with the design, construction and permitting of such improvements, including but not limited to any
security required under this Agreement or applicable law, any permits required by the City, the Illinois
Environmental Protection Agency or any other agency having jurisdiction, or any other costs whatsoever.
At any time that Owner replaces any water mains on the Property at any point in the future, all water
mains replaced shall be replaced with a water main at least eight inches (8") in diameter.

B. Storm Water Retention, Facilities and Improvements:

Except with respect to existing improvements, which the City acknowledges are compliant with
current regulations, the Owner shall provide all necessary storm sewers, detention systems and
compensatory storage in compliance with the UDO, the existing flood plain ordinance of the City and all
other applicable laws and regulations, as modified or amended pursuant to the terms of this Agreement
including all storm water calculations prepared by a licensed Illinois engineer. The Owner shall, at the
City’s request, provide storm water calculations prepared by a licensed Illinois engineer to verify that the
storm water generated by the development of the property shall be fully accommodated by the storm
drainage facilities constructed in accordance with this Article and the design of the basin shall be subject
to approval by the City Engineer (along with its format as either a retention or detention basin). The
Owner shall provide for the insurance, real estate taxes and maintenance of any Retention/Detention areas
including but not limited to mowing and landscape maintenance, regular litter pickup, flume repairs and
underground pipe cleaning or repairs. The Owner agrees to follow DeKalb County and City of DeKalb
stormwater release rate regulations as amended from time to time, and any other applicable ordinances,
statutes or regulations in effect at the time of development. The storm water facilities and combined
storm water control and detention system shall be constructed in accordance with specifications as
required by the City Engineer.

C. Sanitary Sewers:

The City shall cooperate with the Owners and execute all applications, permit requests and other
documents required to obtain sanitary sewage treatment service from the DeKalb Sanitary District in
order to allow the Owner’s connection to the existing and future sanitary sewer lines installed on the
interior and exterior of the Property. The Owner shall pay to the requisite governmental entity their
respective shares of all permits, inspection and tap on fees that are required at the time of connection to
such sanitary sewer system. It shall be the Owner’s responsibility to contact the DeKalb Sanitary District
to ascertain the status of and make the appropriate contributions toward any existing recapture agreements
pertaining to sanitary sewer lines, lift stations or other sanitary system infrastructure, or contributions,
accommodations, or agreements regarding the oversizing of sanitary sewer lines or other sanitary system
improvements required by the DeKalb Sanitary District. No separate sanitary sewer fees are due to the
City, except for standard building permits, connection and inspection fees, and any fees collected by the
City on behalf of the DeKalb Sanitary District payable City-wide as a condition to connection to and the
use of the system by all properties.

D. Utility Connections:

The installation of the necessary and appropriate on-site electric, natural gas, cable, television,
television facilities, and future internet access facilities (when available) to the Property shall be by
underground installation and pursuant to the requirements of such utility companies or pursuant to the
agreement of the City with such entities and at no cost to the City. The City agrees to cooperate with the
Owner to permit the extension of all such utilities along existing public right-of-ways and/or City owned

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property and otherwise allow the extension of all necessary utilities to the Property, provided, however, that the City’s agreement to cooperate with the Owner to allow the extension of utilities to the Property shall in no way relieve the Owner of their obligations to obtain any and all easements and permits necessary to do so, at Owner’s sole cost and expense.

E. **Grant of Easements / Right of Way:**

The Parties acknowledge that at present, the City does not contemplate the installation of additional public utilities or street improvements in the vicinity of the Property. However, the Owner agrees and acknowledges that it shall grant to the City, at no cost to the City, easements or right of way along the perimeter of the Property upon request, if required for the construction or maintenance of public improvements owned or operated by the City, or by any governmental entity providing services to the Property. Such easements shall be limited in size as reasonably required to provide area for public improvements, and shall not extend beyond fifteen feet from the edge of the Property without the Owner’s express, written consent.

**ARTICLE VI: CONTINUATION OF CURRENT USES:**

The zoning provided herein is expressly conditioned upon the Owner’s completion of the improvements contemplated herein, as required by this Agreement and as described by the Plans. The Property is presently being used for residential housing as contemplated by the Recitals. In reviewing the Development Agreement, the City has given due consideration to the continuation of such current uses. Accordingly, and notwithstanding any provision of the City Code, the UDO, or any other code, ordinance or regulation, now in effect or adopted during the term of this Agreement, and notwithstanding the City’s zoning of the Property pursuant to the terms hereof, but subject to the express terms of this Agreement specifically relating thereto, the current uses of the Property shall be permitted to continue as provided herein. Such uses shall be permitted to continue on the Property for a period of twenty-four (24) months from the date of Closing and shall thereafter be prohibited, except that they shall be continued under the terms of this Agreement if the improvements required herein are completed. This Article shall not be interpreted to allow the expansion of the existing uses, or increase the intensity or scope of any nonconforming use. The Property shall continue to be maintained in accordance with all City property maintenance regulations.

**ARTICLE VII: FEES AND CONTRIBUTIONS:**

A. **Specified Fees:**

The Owner shall pay all fees imposed under City Ordinance in the amount and in the time as described by such applicable Ordinance. The City and Owner shall, at the time of payment of any required fee, cooperate to determine the amount of the fee due.

1. **School Impact Fees:** The Parties acknowledge that the Property is contemplated pursuant to the terms of this Agreement, to be utilized in a fashion that does not invoke the payment of impact fees. However, the Parties agree and acknowledge that should the Property be used in a fashion inconsistent with the terms of this Agreement at a future date and should the Property thus trigger any obligation of the then-current impact fee ordinances or agreements in effect, the Property shall then be subject to the payment of such fees and this Agreement shall not preclude such fees.
B. Fees Specifically and Uniquely Attributable:

The Parties further agree that the fees contained within this Agreement are specifically and uniquely attributable to the development of the Property and that the OWNER participated in the calculation and reconciliation of said fees, and neither the OWNER nor any successor, hereby agree they will neither file any lawsuit nor take any other legal action challenging the imposition, collection, use, necessity enforceability, validity, or applicability of the fees described in this Agreement, nor shall OWNER pay any such fees under protest. Notwithstanding the foregoing, OWNER or the subsequent owners or developers of any portion of the Property shall be responsible for payment of all future fees, charges and assessments relating to their use or modification of the property, including but not limited to building permit fees for remodeling of any structure on the development, and similar charges or fees.

C. Owner Responsibility for Costs:

Owner agrees and acknowledges that, as a result of the preparation of this Agreement and related documents, and as a result of the ongoing commitment of resources by the City that is caused as a direct result of this Agreement, the process of creating this Agreement, and the Development that is to be constructed under the terms of this Agreement, the City may incur substantial expenses at the request of Owner, and the Owner may become responsible for substantial charges and fees in order to perform its obligations under this Agreement. The City agrees that Owner shall not be responsible for any costs incurred prior to the date of Closing. Owner agrees that assignment or transfer of any interest in any property subject to this Agreement can increase the complexity of recovering those costs for the City and, in order to induce the City to enter into this Agreement, Owner agrees as follows:

1. Prior to the sale, assignment, lease or other transfer of any portion or portions of the Property, Owner shall provide not less than thirty (30) days notice to the City that such transfer is contemplated. Transfers among or between family members related by blood or marriage, or between trusts, corporations, partnerships or limited liability companies which are entirely owned or controlled by family members related by blood or marriage, shall not be construed as transfers giving rise to a potential obligation under this subsection.

2. Within fifteen (15) days of the receipt of such notice, the City shall provide Owner with a calculation of the total amount believed to be outstanding as costs for which Owner is responsible.

3. Prior to, or at the closing of, the consummation of such transfer, Owner shall cause all such amounts to be paid to the City.

4. At any time within ninety (90) days following consummation of such a transfer, the City shall provide final calculations of the total amount due from Owner and Owner shall pay all such amounts within thirty days of the City providing such notice.

5. In the event of a failure of Owner to comply with this subsection, Owner, along with the interest holder to which an interest in the property subject to this Agreement was transferred, shall be jointly and severally liable to the City for all such amounts described above, plus attorneys’ fees, court costs, other collection costs, and interest at a rate not to exceed eight (8%) percent per annum, until such amount, including costs and interest, is paid in full.

6. Any notice of amounts so due under this agreement shall include accurate and complete (to the extent that such documentation exists) documentation from the City.
Owner further acknowledges that, at any point, if Owner fails to make a payment requested by the City within thirty (30) days of such request, or such additional time as the City shall agree to provide (with any such extension being acknowledged by the City in writing), the City may unilaterally choose to implement any or all of the following remedies until such point in time as Owner has paid all amounts due and/or restored any escrow accounts maintained by the Owner by virtue of this Agreement:

1. Issuance of a stop work order on any portion of the Development.

2. Refusal to issue further permits for building, occupancy, water tap on, or other development related work.

3. Cessation of any utility service provided by the City to any property owned or maintained by Owner or their successors or assigns.

4. Institution of appropriate legal action to recover any and all amounts due, in which case the City will be entitled to attorneys’ fees, court costs, other collection costs, and interest at a rate of eight (8%) percent per annum, until such amount, including costs and interest, is paid in full.

5. Cessation of any or all work on or pertaining to the Property by City staff, employees or consultants.

D. Social Services:

1) Owner shall, within ninety (90) days of the date of Closing, make a one-time contribution of Two Hundred Thousand Dollars ($200,000.00), which shall be paid to the City. Subsequently, on the anniversary of the date of approval of this Agreement, Owner shall make an annual contribution of Twenty Thousand Dollars ($20,000.00) each year, for the first fifteen (15) years after approval of this Agreement, for a total contribution of Five Hundred Thousand Dollars ($500,000.00). The funds provided by Owner shall be held in escrow by the City and shall be utilized for the purpose of providing social services to residents of University Village and surrounding areas. Funding may be utilized by the City, or by a City-approved governmental agency, non-profit or other third party. Such contribution shall be in addition to all other services required herein.

2) Owner shall construct the expansion to the community building at the Property as contemplated by the Plans, or as otherwise approved by the Community Development Director, within twenty-four 24 months of the date of Closing, and shall make the community room portion of said facility open for use by residents, by governmental agencies, by not-for-profit agencies, or by other third parties offering social services to residents of University Village. Owner shall not unreasonably restrict the times when the area is made available for third party use, and shall not impose any fee or charge for such third party use, provided that such use is related to the provision of social services to the residents of the Property. Owner shall also make such building available for use by the City of DeKalb as a staging location and/or remote station for use by the City of DeKalb Police Department and Fire Department. Owner further agrees to provide the City with a location for a police sub-station within the community facility, at any time upon request.

3) Owner shall provide, as a component of the expansion of the community building, a computer lab equipped with personal computers and related technology for use by residents of the Property, at no additional cost to such residents. Owner shall, at all times that this zoning is maintained in effect, continue to offer such facilities and shall maintain, replace and upgrade equipment within the
computer lab so as to maintain functionality of the lab for use by residents.

4) Owner shall either manage the Property itself, or shall utilize a management company for the purpose of managing the Property, and whomever is responsible for such property management shall actively work to coordinate the provision of social services to residents of the Property.

5) Owner shall provide for the coordination of social services to residents of the Village by any other agency, governmental agency, not-for profit or other third party, to the greatest extent possible, to provide opportunities for residents to have access to social services on the Property. Social Services, for purposes of this subsection VII(D) shall be deemed to include educational, medical, educational, vocational, psychological or other similar services designed to provide residents with opportunities for personal care or betterment.

ARTICLE VIII: OPERATION OF THE PROPERTY:

A. Acknowledgment of Application of Operational Standards:

The Parties acknowledge and agree that the provisions of this Article VIII relating to the operation of the Property following its rezoning and redevelopment are critical and integral to the zoning standards provided for herein. The Owner agrees and acknowledges to comply with the following standards and requirements, and acknowledges that they have been drafted to address the public safety concerns otherwise arising out of the operation of a development with a zoning density that greatly exceeds the density otherwise contemplated by permissible zoning allowances.

B. Operation and Lease Provisions:

In consideration of the provisions herein and in order to construct and maintain a development of the quality intended by the Owners and expected by the City, the Owners agree to secure, through covenants, operational policies or other means acceptable to the City, to provide management of the Property that will comport with the following standards, subject to applicable superior governmental mandates:

1) Any unit rented shall have a written lease that shall include a Crime Free Housing Lease Addendum in the format then-currently approved by the City.

2) Any person living in any rental unit, except for children under the age of eighteen (18), must be a party to the lease and must sign the lease.

3) A thorough criminal background check and other screening shall be implemented to all prospective tenants where permitted by law, a thorough credit check shall be implemented to all lease guarantors where permitted by law, and the Owner shall, to the fullest extent permissible under the applicable laws, make responsible tenant approval decisions based upon such information.

4) Each individual unit shall satisfy all restrictions on consanguinity imposed under applicable City Codes or Ordinances.

Owner agrees and acknowledges that it believes each of the foregoing conditions are fully in accordance with all applicable superior governmental mandates, and that it intends to enforce such requirements based upon current law.

C. Public Safety Regulations: Trespass/Patrol Agreement:

The Parties shall keep in place at all times a No-Trespass Enforcement Agreement, in the then-current format utilized by the City of DeKalb (with such agreement currently being in the form attached
hereto as Exhibit C), and shall cooperate at all times with regard to the enforcement of such Agreements. Further, and without regard to the content of such Agreements, the Owner agrees that it shall provide the City with all keys, codes, passes or other items required to gain access to the interior common areas of the apartment buildings in each phase of the Property (including but not limited to the common hallways on each floor, and other common areas available for use by all occupants of the Property), and shall authorize and request the routine patrol of such areas by the City of DeKalb Police Department or other sworn officers, based upon the availability of resources for such details. At any time that the Owner changes locking mechanisms, passcodes or other entry devices, the Owner shall provide the City with updated access mechanisms.

Owner shall also make itself and its management representative available for meetings with the City on a periodic basis (or as otherwise requested by the City) for the purpose of reviewing security plans, trespass enforcement lists or similar issues.

D. Knox Boxes:

The Owner shall install and maintain a ‘Knox Box’ entry systems for use by City of DeKalb emergency responders, at locations designated by the City of DeKalb Fire Chief, and shall ensure that such systems are available for use and operational at all times. At minimum, one (1) Knox box shall be installed at an approved location on each individual building at the Property.

E. Crime Free Housing and Inspection Coordination:

The Owner acknowledges that the City operates a Crime Free Housing Program requiring property lessors to register with the City and to undertake certain training and notification requirements. Owner agrees to comply with the then-current requirements of such a program. Further, the Parties acknowledge that the Crime Free Housing Program generally contemplates exterior inspections of properties to confirm compliance with applicable City Codes. Given the density of residential development contemplated for the Property, the Owner agrees that it shall coordinate and permit an annual inspection of the entirety of the Property by such personnel as the City shall designate, shall thereafter promptly remediate any violations observed during such inspections, and shall permit reinspection to confirm that all violations have been corrected. The Owner shall also grant consent to the City to inspect the Property at any time the City receives a complaint from any third party regarding an alleged violation of applicable codes or regulations. Inspections pursuant to this consent may be conducted by any City personnel, including Police Department, Building, Public Works, or Fire Department staff, City Manager or other staff authorized by the City Manager, for purposes of determining compliance with the provisions of City Code, or for purposes of determining compliance with any other applicable code or regulation. The consent for inspection shall extend to any portion of the premises. The Owner shall also, at any time that a given individual residential unit is not presently leased to a third party, grant the City access to such residential units for purposes of inspecting the same and verifying compliance with all City Codes. The Owner shall pay all fees associated with any generally applicable current or future inspection or registration program utilized by the City for commercial or residential rental properties. In the event that the City at any time terminates its Crime Free Housing Program or inspection protocol, the Property shall nonetheless continue to be subject to the terms of this Agreement and the inspection provisions herein. With regard to individual residential units leased to third parties (i.e. tenants), the Owner shall utilize its best efforts to secure access to the individual units for purposes of the inspection contemplated herein, but the Parties acknowledge the rights of individual tenants with regard to their occupancy of an individual unit.

F. Common Area Surveillance:

The Parties acknowledge that the Owner maintains or prospectively shall maintain cameras or other equipment utilized to provide video surveillance and security coverage for the parking lot and/or
common areas of the Property. The Owner agrees to provide to the City a connection and inter-link so that the City can remotely monitor such common area surveillance videos from the City Police Department. The Owner shall be responsible for providing and maintaining all technology required to establish an external, static IP address securely accessible by the City with video feed in a format acceptable to the City Police Department. With regard to such interlink, the Parties agree to mutually indemnify and hold harmless the other party from any claim arising out of the monitoring or failure to monitor such systems. Such interlink shall permit the City to access a digital feed of live data collected on the Property, and shall also allow the City to access data stored in any recording devices installed or maintained by Owner with respect to such surveillance. The Owner shall also install up to ten (10) additional security cameras in such locations as recommended by the Chief of Police or designee thereof, and also as required by the terms of this Agreement and the approved Plans (which Plans shall be modified to show additional locations required by the Chief). All security cameras and security equipment in place on the Property shall be maintained in good and fully-operable condition.

G. **Tenant Notification:**

The Parties acknowledge that, because of the density of this development, the Parties have agreed upon a proactive public safety policy to maintain a high-quality and safe development, and to prevent public safety concerns that could otherwise arise. The Owner shall provide each tenant or prospective tenant with a notice in a form acceptable to the City, advising such tenants of the provisions of this Agreement pertaining to City of DeKalb involvement in policing common areas of the Property or otherwise inspecting or monitoring the Property.

H. **Tenant Association:**

Owner shall in good faith meet with and coordinate its activities with any tenant association now or hereafter in existence at the Property. Such coordination shall include reasonable opportunities for the tenants to be actively involved in the establishment of policies and procedures for the operation and maintenance of the Property.

I. **Notification Regarding Affordable Housing Status or Related Agreements:**

Not less than three (3) months before the date on which any agreement relating to any portion of the Property and affecting or pertaining to its use as affordable housing under federal or state laws (e.g. LIHPRHA agreements, HAP agreements and other similar agreements) are due to expire, to be renewed or to be renegotiated, and not less than ninety days before the Owner enters into any new or renewal agreement or terminates an existing agreement affecting or pertaining to the use of any portion of the Property as affordable housing under federal or state law, Owner shall provide the City with written notice of such agreement or circumstance. This provision shall apply to any agreement which affects the use or designation of more than one individual dwelling unit, and shall not apply to individual dwelling unit leases.

K. **Conflict with Federal Law and Regulations:**

In the event that any provision of this Agreement conflicts with applicable federal laws or regulations, including those pertaining to affordable housing, the City and Owner recognize that the federal law shall supersede local regulation to the extent required under federal law. Nothing in this Agreement shall be construed in a fashion that violates any federal statute governing affordable housing. Notwithstanding the foregoing, the Owner and City agree and acknowledge that they have reviewed and negotiated the terms of this Agreement with great care and precision, and both agree and covenant that they believe in good faith that the terms hereof are in compliance with all applicable laws. In the event that a federal law supersedes any provision hereof, the Parties agree that they shall negotiate in good faith to approve an amendment to this Agreement that complies with the applicable federal law, and which
accomplishes the objective of the term of this Agreement which violates federal law.

ARTICLE IX: MUTUAL ASSISTANCE:
The Parties shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement; to aid and assist each other in carrying out the terms and objectives of this Agreement and the intentions of the Parties as reflected by said terms, including, without limitation, the giving of such notices, the holding of such public hearings, the enactment by the City of such resolutions and ordinances and the taking of such other actions as may be necessary to enable the Parties' compliance with the terms and provisions of this Agreement and as may be necessary to give effect to the terms and objectives of this Agreement.

ARTICLE X: REMEDIES:

Upon a breach of this Agreement, any of the Parties, in any court of competent jurisdiction, by an action or proceedings at law or in equity, may secure the specific performance of the covenants and agreements herein contained, may be awarded damages for failure of performance or both. No action taken by any party hereto pursuant to the provisions of this Article or pursuant to the provisions of any other Article of this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and nonexclusive of any other remedy either set forth herein or available to any party at law or in equity.

In the event of a material breach of this Agreement, the Parties agree that the party alleged to be in breach shall have forty-five (45) days after written notice of said breach to correct the same prior to the non-breaching party's seeking of any remedy provided for herein (provided, however, that said forty-five (45) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same).

If any of the Parties shall fail to perform any of its obligations hereunder, and the party affected by such default shall have given written notice of such default to the defaulting party, and such defaulting party shall have failed to cure such default within forty-five (45) days of such default notice (provided, however, that said forty-five (45) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same), then, in addition to any and all other remedies that may be available, either in law or equity, the party affected by such default shall have the right (but not the obligation) to take such action as in its reasonable discretion and judgment shall be necessary to cure such default.

The failure of the Parties to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's rights thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

If the performance of any covenant to be performed hereunder by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include acts of God, war, acts of civil disobedience, weather, terrorist acts of a direct or indirect nature, material shortages, flooding, strikes or similar acts), the time for such performance shall be extended by the amount of time of such delay.

The violation of any provision of this Agreement may be deemed by the City to be a violation of the PD-R zoning contemplated herein, which may be prosecuted in the fashion of any other violation of
the City’s Uniform Development Ordinance, or may be grounds for initiation of a proceeding under Article XII (K) hereof.

ARTICLE XI: TERM:

The Parties acknowledge that this Agreement has been negotiated in furtherance of the designation of the Property with PD-R zoning that authorizes the high density contemplated herein. Accordingly, except as otherwise provided herein, it is the intention of the Parties to maintain this Agreement in full force and effect for the full duration of the time that the Property maintains PD-R zoning and, to the fullest extent of the law, the Parties intend that this Agreement not terminate unless and until the Parties agree to amend this Agreement.

In the event that the law requires any lesser term for this Agreement, then this Agreement shall remain in full force and effect for the maximum duration permitted by law, and in the event that any applicable law requires the specification of a duration, such duration shall be not less than forty (40) years.

ARTICLE XII: MISCELLANEOUS:

A. Amendment:

This Agreement, and the exhibits attached hereto, may be amended only by mutual consent of the City and Owner of an affected Parcel, by adoption of an ordinance by the City approving said amendment as provided by law, and by the execution of said amendment by the City and Owner.

B. Severability:

If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements and portions of this Agreement, and to that end, all provisions, covenants, agreements and portions of the Agreement are declared to be severable. If for any reason the zoning of the Property is ruled invalid, in whole or in part, the Corporate Authorities, as soon as possible, shall take such actions (including the holding of such public hearings and the adoption of such ordinances and resolutions) as may be necessary to give effect to the spirit and intent of this Agreement and the objectives of the Parties, as disclosed by this Agreement, provided that the foregoing shall be undertaken at the expense of the Owner, as applicable.

C. Entire Agreement:

This Agreement sets forth all agreements, undertakings and covenants between and among the Parties. This Agreement supersedes all prior agreements, negotiations and understandings, written and oral, and is a full integration of the entire agreement of the Parties. In the event of any conflict between two or more components of this Agreement providing standards, guidelines or requirements for OWNER to act upon in or around the Property, construction or related activities for the Property, the more restrictive provision shall apply unless the City agrees otherwise.

D. Successors and Assigns:

This Agreement shall inure to the benefit of, and be binding upon, successors of the Owners and its respective successors, grantees, lessees, and assigns, and upon successor corporate authorities of the City and successor municipalities, and shall constitute a covenant running with the land. This Agreement may be assigned without the City's approval, and upon said assignment and acceptance by an assignee, the assignor shall have no further obligations hereunder. If a portion of the Property is sold, the seller shall be deemed to have assigned to the purchaser any and all rights and obligations Seller may have under this
Agreement which affect the portion of the Property sold or conveyed and thereafter the seller shall have no further obligations under this Agreement as it relates to the portion of the Property conveyed.

E. Notices:

Any notice required or permitted by the provisions of this Agreement shall be in writing and sent by certified mail, return receipt requested, or personally delivered, to the Parties at the following addresses, or at such other addresses as the Parties may, by notice, designate:

City Clerk
City of DeKalb
200 South 4th Street
DeKalb, IL 60115
Telephone: 815-748-2095
Fax: 815-748-2089

With copies to:

City Manager
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115
Telephone: 815-748-2060
Fax: 815-748-2359
Email: Annemarie.gaura@cityofdekalb.com and derek.hiland@cityofdekalb.com

City Attorney
City of DeKalb
200 South 4th Street
DeKalb, IL 60115
Telephone: 815-748-2093
Fax: 815-748-2320
Email: dean@frieders.com
If to the Owner:  
SP Affordable Housing Group III, LLC  
c/o Bryon Gongaware  
701 5th Avenue, Suite 5700  
Seattle, WA 98104  
Telephone: 206-622-9900  
Fax: 206-628-8031

With a Copy To:  
Downs, Pham & Kuie, LLC  
c/o Tuan A. Pham  
One Embarcadero Center, Suite 500  
San Francisco, CA 94111  
Telephone: 415-202-6373  
Fax: 415-477-6748

And:  
Bazos, Freeman, Schuster and Braithwaite, LLC  
c/o Peter Bazos  
1250 Larkin Avenue, Suite 100  
Elgin, IL 60123  
Telephone: 847-742-8800  
Fax: 847-742-9777

Notices shall be deemed given on the third (3rd) business day following deposit in the U.S. Mail, if given by certified mail as aforesaid, and upon receipt, if personally delivered.

F. Time of Essence:

Time is of the essence of this Agreement and of each and every provision hereof.

G. Indemnification:

The Owner covenants and agrees to pay, at its expense, any and all damages, expenses, liabilities and losses resulting from this Agreement, the construction and development activities of the Owner, or its agents, contractors and subcontractors, and to defend and indemnify and save the City and its officers, elected and appointed agents, employees, engineers and attorneys (collectively, the “Indemnifieds”) harmless of, from and against such damages, expenses, liabilities and losses, except to the extent such damages, expenses, liabilities and losses arise by reason of the gross negligence or willful or wanton act or omission of the Indemnifieds. The Owner shall provide satisfactory proof of insurance covering such defense and indemnity of the Indemnifieds. OWNER further agrees to indemnify, defend and hold harmless the CITY and the Corporate Authorities, officers, agents, employees, and consultants (collectively “Indemnitees”) from all claims, liabilities, costs and expenses incurred by or brought against all or any of the Indemnitees as a direct and proximate result of the construction activities of the OWNER.

Without limiting the applicability of the foregoing indemnification provisions, the Owner expressly and without limitation agrees that it shall indemnify and hold harmless the City from any claims, damages, fines, penalties, legal fees or other costs or expenses whatsoever, arising out of Owner’s activities or construction on the Property and relating to any federally protected wetland, the delineation or failure to delineate wetlands, the protection or mitigation or failure to protect or mitigate wetlands, the identification of floodplains, or the construction of any improvement or structure in or near any wetland
or floodplain area, within or outside the Property.

H. Exhibits:

The following Exhibits referred to herein and attached to this Agreement are hereby made a part of this Agreement:

<table>
<thead>
<tr>
<th>Exhibit A:</th>
<th>Legal Description</th>
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</thead>
<tbody>
<tr>
<td>Group Exhibit B:</td>
<td>Plans</td>
</tr>
<tr>
<td>Exhibit C:</td>
<td>No Trespass Agreement</td>
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<tr>
<td>Exhibit D:</td>
<td>Fire Alarm System Description</td>
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<tr>
<td>Exhibit E:</td>
<td>Construction Cost Estimates</td>
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<td>Exhibit F:</td>
<td>Signage Exhibit</td>
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<td>Exhibit G:</td>
<td>Traffic Enforcement Agreement</td>
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<tr>
<td>Exhibit H:</td>
<td>Sample Park Equipment (Supplement to Plans)</td>
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<tr>
<td>Exhibit I:</td>
<td>Scope of Work</td>
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<tr>
<td>Exhibit J:</td>
<td>Sample Outdoor Trash Facility (Supplement to Plans)</td>
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</tbody>
</table>

I. Venue:

Jurisdiction and venue for any dispute arising out of relating to the terms of this Agreement, the zoning or restrictions imposed hereunder, the development of the Property or otherwise relating to the relationship of the Parties or contents hereof shall have its jurisdiction and venue exclusively fixed in the Twenty-Third Judicial Circuit, DeKalb County, Illinois, and the parties expressly and intentionally waive the right to pursue claims in any other jurisdiction or venue.

J. Non-Transferability / Failure to Close:

Owner shall provide the City with written notice upon its successful closure of a real estate transaction, wherein ownership of the Property shall be transferred entirely from the current ownership to a partnership or entity in which Owner is a partner and owner. This transaction and notice shall occur within eight months of the date of this Agreement (unless otherwise extended by mutual, written agreement of the City and Owner). It is the Owner and the City’s express and joint agreement that this Agreement and the zoning imposed hereunder is expressly intended to be contingent upon the Owner taking ownership of the property, and that if the change in ownership does not occur, this rezoning shall be of no force or effect. The Parties agree that this Agreement and the zoning conferred hereunder is non-transferable during the eight (8) month period outlined above, and that this zoning shall only remain effective if the Owner becomes an actual owner of the Property. The date on which Owner completes its purchase transaction shall be referred to herein as the date of “Closing”.

K. Revocation of Zoning and Termination of Planned Development Agreement:

In the event that the Owner: 1) fails to complete the transaction or fails to provide the notice required herein; 2) notifies the City that it is not going to complete the transaction; 3) fails to demonstrate having made the investment in the Property contemplated in Article III Section (L); or, 4) otherwise violates the terms of this Agreement, the City shall issue a written notice to Owner. Said notice shall indicate that the City shall terminate the Agreement in accordance with this provision, after affording the Owner an opportunity to present evidence as to why the Agreement has not been violated, in a due process hearing before an officer designated by the City Manager, conducted in the same fashion as a hearing to revoke a Special Use. After the conduct of such hearing, the City shall be authorized and entitled to terminate this Agreement, at which time the Property shall be converted back to its previous status as MFR-2, and the City shall record a notice of such zoning change against the Property. The Owner and
City have devised and agreed to the process contained herein so as to afford the Owner with a due process proceeding and so as to avoid an unlawful zoning reversion.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first above written and, by so executing, each of the Parties warrants that it possesses full right and authority to enter into this Agreement.

CITY:

CITY OF DEKALB, an Illinois Municipal Corporation
By: John Rey, Mayor

OWNER:

SP Affordable Housing Group III, LLC
By: [Signature]

Attest: [Signature]
The property is legally described as:

PHASE 1 - LOT 1 IN UNIVERSITY VILLAGE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "P" OF PLATS, PAGE 46, ON MAY 18, 1971 AS DOCUMENT NUMBER 358539, IN DEKALB COUNTY, ILLINOIS.

LOT 3 IN UNIVERSITY VILLAGE SUBDIVISION - PHASE II, BEING A PLANNED UNIT DEVELOPMENT OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "Q" OF PLATS, PAGE 53, ON JUNE 3, 1974 AS DOCUMENT NUMBER 380302 IN DEKALB COUNTY, ILLINOIS.

LOTS 2 AND 4 IN UNIVERSITY VILLAGE SUBDIVISION - PHASE II, BEING A PLANNED UNIT DEVELOPMENT OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "Q" OF PLATS, PAGE 53, ON JUNE 3, 1974 AS DOCUMENT NUMBER 380302, IN DEKALB COUNTY, ILLINOIS; AND

UNIVERSITY VILLAGE SUBDIVISION - PHASE III, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 29, 1980, IN BOOK "S" OF PLATS, PAGE 37, AS DOCUMENT NO. 8001979, SITUATED IN DEKALB COUNTY, ILLINOIS.

PARCEL IDENTIFICATION NUMBERS: PHASE 1. 0815301003. PHASE 2. 0815301006, 0815301007, 0815301008. PHASE 3. 0815301009.
Group Exhibit B: Plans

(Attached)
5. TRASH ENCLOSURE 2 - PLAN
1/4" = 1'-0"

1. TRASH ENCLOSURE 1 - PLAN
1/4" = 1'-0"
Exhibit C: No Trespass / Patrol Agreement

Common Area Patrol / No-Trespass Enforcement Agreement

Property Address: 722 North Annie Glidden

Commonly Known As: University Village

Property Owner: SP Affordable Housing Group III, LLC

Contact #: 206-622-9400

Property Manager: Evergreen Real Estate Services, LLC

Contact #: 312-234-9400

24 Hour Contact #:

This Common Area Patrol / No-Trespass Enforcement Agreement ("Agreement") is entered into by and between the Owner of the Property identified above ("Owner" and "the Property") and the City of DeKalb ("City"). Under the terms of this Agreement, the Owner expressly authorizes and requests that the City utilize its Police Department and City Employees to undertake the following actions:

- **No-Trespass Warnings and Arrests:** The Owner appoints the City of DeKalb, its employees and agents, as an agent of the Owner, authorized and requested to undertake any actions which the Owner could lawfully take with regard to persons present on any public or private area of the Property. The City’s personnel shall be deemed to be representatives of the Owner for purposes of enforcing no-trespass laws and ordinances and signing and testifying with regard to related complaints only. This includes providing no-trespass warnings, verbal or written, to any person on the Property other than a tenant of the Property. The City shall also be authorized to sign complaints, serve as complaining witness, and arrest or cite any person who has violated such a no-trespass warning, or who remains on the Property after being asked to leave. The City has the complete authority to enforce any State Statute or City Ordinance relating to trespass. The City shall maintain accurate records of all persons who have been advised not to trespass on the Property and shall provide a copy of the same to Owner upon request.

- **Patrol Common Areas:** The City, its employees and agents are authorized and requested to enter into any common area of the Property that is accessible either to the public or to tenants of the Premises, including parking lots, open spaces, common hallways, gathering areas, or other similar common areas of the Property, for purposes of patrolling, observing, and enforcing the Codes and Ordinances of the City of DeKalb or any applicable State Statutes. For purposes of this Agreement and any charges arising out of the City's activities on the Property, the City and its personnel shall be deemed to have been invited upon the common areas of the Property. Notwithstanding the foregoing, this shall not constitute authority for the City to enter into tenant
private areas (e.g. individual tenant apartments or individual tenant businesses) without required
legal authority (such as a search warrant, probable cause, exigent circumstances, etc. where
required). The City is authorized to sign complaints, serve as complaining witness, and arrest or
cite any person who has violated a State Statute or City Ordinance.

- **Report Cars for Relocation:** Owner employs the entity described at signs posted at the Property
for purposes of relocating unlawfully parked cars from the Property. The City is authorized and
requested to contact the tow relocator to report any vehicles on the Property that appear to be
unlawfully parked, so that said vehicles may be towed in accordance with applicable regulations.

The Owner agrees that, if necessary, Owner or its authorized representative shall appear at any trial or
proceeding arising out of the performance of this Agreement. Owner further acknowledges that the City
shall not have any duty to patrol the Property, and that the Owner is responsible for the condition and
monitoring of its Property. The City is not undertaking any special relationship with or obligation to
Owner, other than the authority to enter the Property's common areas, and to take the actions outlined
above. The City is not an agent or representative of the Owner for any purpose other than having
authority to provide warnings or direct persons to leave the Property, and for serving as complaining
witness and for signing complaints for legal violations occurring on the Property.

The City agrees that it shall provide notice to the Owner of any legal violations occurring on the Property
upon request, and also in accordance with the requirements of City Code.

Owner shall post appropriate signage on the Property advising that its common areas, including but not
limited to parking lots and open areas, are posted for No Trespassing, and appropriate signage advising of
any parking restrictions for vehicles in its parking lots. Owner is encouraged to post additional signage
advising that the Police Department may engage in regular patrols of common areas.

This Agreement shall remain in full force and effect until terminated in writing by either party. Notices
shall be delivered to Owner at the address listed above, or to the City at 200 S. Fourth Street, DeKalb,
Illinois, 60115, Attention City Attorney.

Agreed this 14th day of September, 2015.

Owner or Representative:

City of DeKalb:
Exhibit D:

Fire Alarm System Description

Phase 1/2 Apartments: Tamper proof smoke and carbon-monoxide detectors shall be installed in each unit. One addressable and monitored fire alarm panel shall be installed per building (defined as a connected group of pods/common entries, rather than a panel at each common entry). Each pod will include a pull station at each building exit, as well as one A/V alarm and smoke detector per floor. Pull stations and common area smoke detectors will be monitored and addressable.

Phase 1 Townhouses: Interconnected and hard-wired smoke and carbon monoxide detectors shall be installed within each individual unit.

Phase 3: Existing smoke and carbon monoxide detector, pull stations and alarms to remain in place; existing panels to be upgraded to fully monitored system.

All modifications as outlined above shall be implemented in a fashion that meets the approval of the Fire Chief of the City of DeKalb.
## Exhibit E: Construction Cost Estimate

<table>
<thead>
<tr>
<th>Arched Item</th>
<th>Phase I</th>
<th>Phase II</th>
<th>Phase III</th>
<th>Site</th>
<th>Options</th>
<th>Cost Estimate</th>
</tr>
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<td>Sheet Metal + Downspouts</td>
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<td>Monument Signs / Rebranding</td>
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<td></td>
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</tr>
<tr>
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<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
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<td></td>
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<td></td>
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</tr>
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<tr>
<td><strong>Estimated Expense Totals</strong></td>
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</tbody>
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*Note: The cost estimates are preliminary and subject to change.*
Exhibit F:
Signage Exhibit

[Diagram of signage items and layout for University Village Apartments]

UNIVERSITY VILLAGE APARTMENTS
DEKALB, ILLINOIS
SHARP ARCHITECTS INC.
471 GROVE STREET
DEKALB, IL 60115
815 517-1090
WWW.SHAPARCH.COM

CONCEPTUAL DAMAGE
07-31-2013
Exhibit G: Private Property Traffic Enforcement Agreement

AGREEMENT

WHEREAS, SP Affordable Housing Group III, LLC, its affiliates or subsidiaries (hereinafter collectively “OWNER”), are the owners of a certain commercial or residential facility, or other facility as described in the Illinois Vehicle Code identified below, and named or identified as “University Village”; and,

WHEREAS, the OWNER and the CITY are desirous of protecting the public health, welfare and safety by the regulation of vehicles in those areas of the COMPLEX which have not been dedicated to the CITY and are intended for public use; and

WHEREAS, it is intended by the parties that this Agreement should apply to any property in the COMPLEX where a question may arise as to whether any particular portion of the COMPLEX which is intended to be or become public property through dedication or otherwise, has been so dedicated, or to any portion which is to remain private property but available for general public use; and

WHEREAS, the CITY has the authority to contract with the OWNER to provide such regulation under the provisions of §11-209 of the Illinois Vehicle Code (625 ILCS 5/11-209);

IT IS THEREFORE AGREED by and between the OWNER and the CITY, in consideration of the public health, welfare and safety, as follows:

1. That the CITY is empowered to accomplish all or any part of the provisions enumerated in the above referenced statutory provision, including, but not limited to the following, within the COMPLEX:

   A. Erect traffic regulatory signs, parking, including handicapped parking, and all other traffic control signs.

   B. Regulate the turning of vehicles or restrict vehicle types.

   C. Regulate pedestrian crosswalks within parking lots.

   D. Designate one-way traffic lanes.

   E. Establish and regulate loading zones.

   F. Regulate stopping, standing or parking in specified areas of lots.

   G. Designate fire lanes and safety zones.

   H. Provide for removal and storage of vehicles during public emergencies, or of abandoned vehicles, and the payment of reasonable charges therefor.

   I. Provide for cost sharing of planning, installation and maintenance of traffic regulations.

   J. Contract for or provide by ordinance, resolution or other official action of the CITY, reasonable additional rules.

2. That the cost of the planning, installation and maintenance of parking and traffic regulations, markings, signs, striping and painting pursuant to this Agreement, and pursuant to the Development Agreement between the parties and the subdivision control ordinance of the CITY, shall be borne by the OWNER. OWNER shall be responsible for maintaining all traffic control measures and markings within the Property in good condition.
3. This Agreement shall be effective and enforceable three days after it has been recorded in the Office of the Recorder of Deeds of the county in which the COMPLEX is located and shall continue to be in full force and effect for a period of twenty years, except that after one year from the effective date of this Agreement, either party may cancel this Agreement upon sixty days’ written notice to the other party.

EXECUTED this 14th day of September, 2015.

CITY OF DEKALB
DEKALB COUNTY, ILLINOIS

By: [Signature]
Mayor

SP Affordable Housing Group III LLC
OWNER

By: [Signature]
The property is legally described as:

PHASE 1 - LOT 1 IN UNIVERSITY VILLAGE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "P" OF PLATS, PAGE 46, ON MAY 18, 1971 AS DOCUMENT NUMBER 358539, IN DEKALB COUNTY, ILLINOIS.

LOT 3 IN UNIVERSITY VILLAGE SUBDIVISION - PHASE II, BEING A PLANNED UNIT DEVELOPMENT OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "Q" OF PLATS, PAGE 53, ON JUNE 3, 1974 AS DOCUMENT NUMBER 380302 IN DEKALB COUNTY, ILLINOIS.

LOTS 2 AND 4 IN UNIVERSITY VILLAGE SUBDIVISION - PHASE II, BEING A PLANNED UNIT DEVELOPMENT OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "Q" OF PLATS, PAGE 53, ON JUNE 3, 1974 AS DOCUMENT NUMBER 380302, IN DEKALB COUNTY, ILLINOIS; AND

UNIVERSITY VILLAGE SUBDIVISION - PHASE III, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 29, 1980, IN BOOK "S" OF PLATS, PAGE 37, AS DOCUMENT NO. 8001979, SITUATED IN DEKALB COUNTY, ILLINOIS.

PARCEL IDENTIFICATION NUMBERS: PHASE 1. 0815301003. PHASE 2. 0815301006, 0815301007, 0815301008. PHASE 3. 0815301009.
Exhibit II: Sample Park Equipment (Supplement)
## Exhibit I: Scope of Work

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<th>54 (44)</th>
<th>55 (45)</th>
<th>56 (46)</th>
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<td>Roof Replacement</td>
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<td></td>
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<td>Siding (Vinyl) - Phase 2</td>
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<td></td>
<td></td>
<td>Removal of existing siding, new vinyl siding. Excludes 811 Crane (100 building) - replaced 2014</td>
</tr>
<tr>
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<td>x</td>
<td></td>
<td></td>
<td>Install of vinyl windows. Excludes 811 Crane (100 building) - replaced 2014</td>
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<tr>
<td>Windows</td>
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<td>x</td>
<td></td>
<td></td>
<td>Replacement of 2 per unit. Excludes 811 Crane (100 building) - replaced 2014</td>
</tr>
<tr>
<td>Siding glass doors</td>
<td>x</td>
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<td></td>
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<td>Phase 1 only. Repairs to gutter system</td>
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<td>Sheet Metal + Downspouts</td>
<td>x</td>
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<td></td>
<td></td>
<td>Landscaping trim/removal or contemplated in Phase</td>
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<td>Landscaping</td>
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<td></td>
<td>Asphalts</td>
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<td>Monument Signs/Branding</td>
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<td></td>
<td></td>
<td>Sidewalk install and repair. Replacement as indicated in Phase</td>
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<td>Allowance for 5 signs</td>
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<td>x</td>
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<td>Improvements and expansion as contemplated in the Plans</td>
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<td>Two playgrounds located per Plan</td>
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<td>12' diameter gazebo</td>
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<td>Baffles and blown insulation</td>
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<td>Faucets</td>
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<td>x</td>
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<td>Energy Star Dishwasher</td>
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<td>x</td>
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<td>Range (Gas: P3 + P3), (Electric: P3)</td>
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<td>x</td>
<td>x</td>
<td>x</td>
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<td>Energy star upgrade. Overlay on top of existing floorings</td>
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<td>Touchup after construction activities</td>
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<td></td>
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<td></td>
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<td>x</td>
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<td>Shower valves/trim</td>
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<td>x</td>
<td>x</td>
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<td></td>
<td>As per specifications</td>
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<td>Improvements as detailed in the Plans</td>
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<tr>
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<td>x</td>
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<td>As per specifications</td>
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<td>x</td>
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<td>Phase 1 and 2 upgrade to doors with fire rating (excludes townhomes)</td>
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</table>
Exhibit J: Sample Outdoor Trash Facility (Supplement)
DOCUMENT TYPE: ORDINANCE 2015-037 APPROVING A PLANNED DEVELOPMENT AGREEMENT AND IMPLEMENTING PD-R ZONING FOR CERTAIN PROPERTY IN THE CITY OF DEKALB, ILLINOIS (UNIVERSITY VILLAGE)

DOCUMENT DATE: September 14, 2015

LEGAL DESCRIPTION:

PHASE 1 - LOT 1 IN UNIVERSITY VILLAGE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "P" OF PLATS, PAGE 46, ON MAY 18, 1971 AS DOCUMENT NUMBER 358539, IN DEKALB COUNTY, ILLINOIS.

LOT 3 IN UNIVERSITY VILLAGE SUBDIVISION - PHASE II, BEING A PLANNED UNIT DEVELOPMENT OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "Q" OF PLATS, PAGE 53, ON JUNE 3, 1974 AS DOCUMENT NUMBER 380302 IN DEKALB COUNTY, ILLINOIS.

LOTS 2 AND 4 IN UNIVERSITY VILLAGE SUBDIVISION - PHASE II, BEING A PLANNED UNIT DEVELOPMENT OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 4 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "Q" OF PLATS, PAGE 53, ON JUNE 3, 1974 AS DOCUMENT NUMBER 380302, IN DEKALB COUNTY, ILLINOIS; AND

UNIVERSITY VILLAGE SUBDIVISION - PHASE III, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 29, 1980, IN BOOK "S" OF PLATS, PAGE 37, AS DOCUMENT NO. 8001979, SITUATED IN DEKALB COUNTY, ILLINOIS.

PARCEL IDENTIFICATION NUMBERS: PHASE 1. 0815301003. PHASE 2. 0815301006, 0815301007, 0815301008. PHASE 3. 0815301009.

This page is being added to this document for the purposes of compliance with P.A. 87-1197
STATE OF ILLINOIS  
COUNTY OF DEKALB  
CITY OF DEKALB  

I, JULIE ABRAHAM, do hereby certify that I am the Deputy City Clerk of the City of DeKalb, DeKalb County, Illinois, and as such officer, I am the keeper of the records and files of the City Council of said City.

I do further certify that the attached is a true and correct copy of:

ORDINANCE 2015-037

APPROVING A PLANNED DEVELOPMENT AGREEMENT AND IMPLEMENTING PD-R ZONING FOR CERTAIN PROPERTY IN THE CITY OF DEKALB, ILLINOIS (UNIVERSITY VILLAGE).

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 14th day of September, 2015.

WITNESS my hand and the official seal of said City this 24th day of September, 2015.

JULIE ABRAHAM, Deputy City Clerk  
City of DeKalb  
200 South Fourth Street  
DeKalb, Illinois 60115