Ordinance 2013-040 is a Duplicate Covered by Ordinance 2013-014 Approving the Execution of an Annexation Agreement (and Annexation of Property Contemplated thereby) for the Irongate Development, and Approving Zoning, Preliminary Plans, and Granting Related Development Approvals.
STATE OF ILLINOIS )
COUNTY OF DEKALB ) SS
CITY OF DEKALB )

I, ELIZABETH E. PEERBOOM, do hereby certify that I am the 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 13-14
APPROVING THE EXECUTION OF AN ANNEXATION AGREEMENT (AND THE ANNEXATION OF PROPERTY CONTEMPLATED THEREBY) FOR THE CITY OF DEKALB, ILLINOIS—IRONGATE DEVELOPMENT, AND APPROVING ZONING, PRELIMINARY PLANS, AND GRANTING RELATED DEVELOPMENTAL APPROVALS.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 28th of October, 2013.

WITNESS my hand and the official seal of said City this 16th day of December, 2013.

[Signature]
ELIZABETH E. PEERBOOM, City Clerk

Prepared by: (return to)
City Clerk
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115
ORDINANCE 13-14  Passed: October 28, 2013
APPROVING THE EXECUTION OF AN
ANNEXATION AGREEMENT (AND THE
ANNEXATION OF PROPERTY
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CITY OF DEKALB, ILLINOIS—IRONGATE
DEVELOPMENT, AND APPROVING
ZONING, PRELIMINARY PLANS, AND
GRANTING RELATED DEVELOPMENTAL
APPROVALS.

WHEREAS, the City of DeKalb is a home rule Illinois municipal corporation, with the power and authority granted to it under the Illinois Constitution of 1970, the Illinois Municipal Code, and the City Code of Ordinances; and,

WHEREAS, under Illinois law, the City of DeKalb has the ability and authority to enter into annexation and development agreements that provide for the annexation and subsequent orderly development of real property within the City; and,

WHEREAS, the City has complied with all applicable conditions precedent to the annexation of property and precedent to the execution of an annexation agreement, including the conduct of numerous and extensive public hearings, receiving recommendations from the Plan Commission, and considering the input of the public and of other units of government and public agencies that will be impacted by the proposed development of the property commonly referred to as the Irongate Development; and,

WHEREAS, through such extensive public process, there has been discussion, compromise and significant revision to the proposed development and related plans. Through that process, a draft annexation agreement has been developed, a copy of which is attached hereto as Exhibit A (“the Annexation Agreement”); and,

WHEREAS, based upon the extensive process that this project has undergone, the City Council has determined that the most effective method for providing for the orderly development of the Irongate project is to approve this Ordinance, which includes an extensive list of requirements and conditions. The annexation and development of the Irongate property is authorized by this Ordinance, provided that all plans and the draft Annexation Agreement are updated to fully comply with these requirements; and,

WHEREAS, the City has determined that such annexation, annexation agreement, and subsequent development complies with all applicable laws and regulations and is in the best interests of the public, and preserves the public health, welfare, safety and morals;

THEREFORE BE IT ORDAINED AS FOLLOWS by the City Council of the City of DeKalb:

SECTION 1: ANNEXATION AGREEMENT APPROVED

The Mayor of the City of DeKalb is authorized and directed to execute the Annexation Agreement attached hereto as Exhibit A, substantially in the form as attached (with such minor
amendments as to form that are acceptable to the Mayor).

This Ordinance shall also approve the annexation of the Property contemplated by the Annexation Agreement, and its immediate rezoning to the PD-C and PD-R zoning contemplated by the Agreement, with the deviations, exceptions, and special development conditions described therein. In addition, the preliminary plats and plans described in the Agreement are approved, and all preliminary approvals contemplated to be given contemporaneously with the approval of the Agreement are granted. The City reserves all further and future approvals, including but not limited to phasing, final plats and plans, and related matters.

Prior to approval and execution of the above-described documents (and prior to rezoning), the Mayor shall require that the developer make all revisions necessary to comply with the conditions or requirements imposed by the City Council at the time of approval, if any, and shall confirm that revised documentation complies with such conditions.

SECTION 2: GENERAL PROVISIONS

REPEALER: All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

SEVERABILITY: 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.

EFFECTIVE DATE: This Ordinance shall be in full force and effect on and after its approval, passage and publication in pamphlet form as provided by law. Publication date: October 28, 2013. Effective date: November 7, 2013.

ADOPTED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 28th day of October, 2013 and approved by me as Mayor on the same day. Motion carried on a roll call vote of 6-2. Aye: Finucane, Snow, Naylor, Baker, O’Leary, Rey. Nay: Jacobson, Lash. Mayor Rey declared the motion passed.

ATTEST:

[Signatures]

ELIZABETH E. PEERBOOM, City Clerk

JOHN A. REY, Mayor
ANNEXATION AGREEMENT

This Annexation Agreement (the "Agreement") is made and entered the 28th day of
October, 2013 by and among the City of DeKalb, an Illinois municipal corporation located in
DeKalb County, Illinois, (the "City"), and Irongate Real Estate Development Company, L.L.C.,
an Illinois limited liability company (the "Owner"). The City and the Owner are collectively
referred to as "Parties" and individually referred to as a "Party."

RECEITALS

A. The Owner is the owner of record of approximately 458.511 contiguous acres of
real property situated at the southeast intersection of Annie Glidden Road and Bethany Road in
DeKalb County, Illinois, which property is legally described on Exhibit A attached hereto and
incorporated herein by reference as the "Property", and is exclusive of the right of way for
Wildflower Lane which has previously been dedicated by the Owner.

B. The Owner proposes to subdivide the Property and develop it as a mixed-use
project with single family homes, townhomes, senior housing and assisted care facility, church,
commercial areas, recreational and open space areas, and sell and/or lease portions of the
Property to third party owners (the "Project") in accordance with the Preliminary Plan which is
attached hereto as Group Exhibit "B", and incorporated herein by reference, which includes the
the Preliminary Engineering Plan, and Master Plan and Design Guidelines attached hereto
(collectively, the "Preliminary Plans").

C. The Owner intends to develop the Project in phases in accordance with the
Phasing Plan which is attached hereto as Exhibit "C", and incorporated herein by reference (the
"Phasing Plan"), provided that the timing and order of the phases shall be determined by the
Owner from time to time.

D. The City and the Owner desire to enter into this Agreement pursuant to the
provisions of 65 ILCS 5/11-15.1-1, et. seq., in accordance with the terms and conditions
hereinafter set forth.

E. The Property is not presently located within the corporate limits of any
municipality, but is contiguous to and may be annexed to the City as provided in 65 ILCS 5/7-1-
1, et seq, and this Agreement provides for the annexation of the Property, subject to the terms of
this Agreement, as a voluntary, owner-initiated annexation.
F. Owner seeks to provide for the immediate annexation of the Property to the City and the rezoning of the Property by the City as set forth herein and in the Preliminary Plan.

G. The Owner represents to the City that there are no electors that reside on the Property.

H. 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 annexation of the Property to the City will be of benefit to the City, will extend the corporate limits and jurisdiction of 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 obligated to annex or provide services to the Property, and that the City's agreement to annex the Property, 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.

I. The City acknowledges and the Owner agrees that the “PD-C” Planned Development Commercial District, and “PD-R” Planned Development Residential District, as provided under the City of DeKalb Unified Development Ordinance (the “UDO”) will be the most appropriate zoning classifications for the development of the respective portions of the Property as depicted on the Preliminary Plan.

J. The City has agreed to annex the Property to the City concurrently with the approval of this Agreement, and has agreed to zone the Property as hereinafter described, upon the appropriate petition(s) of Owner being duly filed with the City Clerk, including all necessary supporting materials and documentation as outlined herein and in the City’s UDO.

K. Pursuant to the applicable provisions of 65 ILCS 5/7-1-1 et seq., a proposed Annexation Agreement similar in substance and in form to this Agreement was submitted to the Mayor and City Council of the City (hereinafter collectively referred to as the "Corporate Authorities") and a public hearing was held thereon pursuant to notice, as provided by statute.

L. Pursuant to notice, as required by statute and ordinance, public hearings were held by the City’s Plan 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.

M. All other and further notices, publications, procedures, public hearings and other matters attendant to the consideration and approval of this Agreement and the annexation and 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. This Agreement is made and entered into by the Parties pursuant to the provisions of 65 ILCS 5/11-15.1-1.
N. The Corporate Authorities have duly considered all necessary matters to enter into this Agreement, have considered the recommendations of the City's Plan Commission in connection with the proposed zoning of the Property and have further duly considered the terms and provisions of this Agreement and have, by a resolution duly adopted by a vote of two-thirds (2/3) of the Corporate Authorities then holding office, authorized the Mayor to execute, and the City Clerk to attest, this Agreement on behalf of the City.

O. The Owner has expended substantial sums of money and has materially altered its position in reliance upon the execution of this Agreement and the performance of its terms and provisions by 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
RECEITALS

The Parties acknowledge that the statements and representations contained in Paragraphs A through O, 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
ANNEXATION OF THE PROPERTY

The Owner has previously filed a petition for annexation with the City Clerk. Upon approval of this Agreement, the Corporate Authorities shall proceed, subject to the terms and conditions set forth in this Agreement, to annex the Property to the City and do all things necessary or appropriate to cause the Property to be validly annexed to the City. All ordinances, plats, affidavits and other documents necessary to accomplish annexation shall be recorded by the City at Owner's expense. OWNER shall develop the Property in accordance with this Agreement and shall not petition to disconnect any portion or all of said Property from the CITY hereafter.

ARTICLE III
ZONING OF THE PROPERTY

A. Default Zoning. Upon annexation of the Property, the Corporate Authority shall enact such ordinances as are necessary to rezone portions of the Property to "PD-R" Planned Development Residential, or "PD-C" Planned Development Commercial, in accordance with the Preliminary Plan and the terms of this Agreement. The Preliminary Plan shall serve as the basis of development for the Property, and all development shall be in substantial conformity with the Preliminary Plan and the terms and conditions of this Agreement. Exclusive of Age Restricted Housing, the total number of dwelling units shall not exceed one thousand two hundred and forty-two (1,242) dwelling units. In addition to the 1,242 dwelling units, the Age Restricted Housing phase (identified on the Preliminary Plans as Senior Housing) may be divided between
Independent Living, Skilled Nursing and Assisted Living quarters, the overall maximum number of dwelling units allowed in the Age Restricted Housing phase shall not exceed three hundred and fifty (350) units.

Pursuant to Article III(F)(2) below, the Owner shall be permitted to make changes in the type and number of dwelling units up to a 10% limit and an overall unit limit, as described therein. The allocation or ratio of different types of dwelling units (e.g. single family, townhome, etc.) permitted for the property under the PD-R and PD-C zoning described above shall be as shown on the Preliminary Plan, subject to any changes allowed: 1) by the provisions of Article III(F)(2) below; or, 2) by the City, in excess of the limitations contained in Article III(F)(2) as a component of the review and approval of the Final Plat and Plans for the Property, with approval of such changes being in the sole discretion of the City Council. Review and approval/denial of any such changes proposed by the Owner shall occur during the review process for the proposed Final Plat and Plans, which review process shall follow the provisions of the UDO with a staff review and recommendation, Plan Commission review and recommendation, and City Council review and approval/denial.

B. “PD-C” Provisions. It is herein agreed that the PD-C zoning for the property, which shall apply to the commercial areas shown on the Preliminary Plan, shall include the following provisions and restrictions:

1. **Allowed Uses:** The uses allowed in the “GC” General Commercial zoning district shall be allowed on the Property, except as modified herein, and including but not limited to the following:

   (i) Retail or service uses and/or offices;
   (ii) A sit down restaurant, with or without an outdoor dining area, serving beer, liquor or wine, and a beer, wine liquor and gourmet food store, similar to Binny's Beverage Depot (as reasonably determined by the City), subject to the issuance of an applicable liquor license by the City.
   (iii) Adult day care facilities for adults who, because of infirmity or disability, require supervision and activities during daytime periods when their caretakers are unavailable to provide such supervision.

2. **Prohibited Uses:** None of the following uses shall be allowed in or on the “PD-C” zoned property:

   (i) Adult oriented uses; adult bookstores or other establishment displaying, leasing, trading, selling pornographic materials as defined in the UDO, whether as a principal use or accessory to an allowed principal use;
   (ii) Animal boarding
   (iii) "Second-hand", resale or consignment store;
   (iv) Fire, bankruptcy sale, wholesale, overstock auction house or their equivalent;
   (v) Massage parlor;
   (vi) Dollar stores, discount department stores, or wholesale establishments;
(vii) Currency exchange, money wiring, check cashing facility or equivalent;
(viii) Auto title loan or post dated check or payday loan facility or equivalent, unless associated with and incorporating the full-services of a federally-insured bank, credit union or savings and loan;
(ix) Bar, tavern, package liquor store, dance hall or any other facility, with the exception of (a) a sit down restaurant serving beer, liquor or wine (as described above), or (b) a beer, wine, liquor and gourmet food store, similar to Binny’s Beverage Depot, subject to the issuance of an applicable liquor license by the City.
(x) Drug paraphernalia or “head shop”;
(xi) Community residences;
(xii) Group homes;
(xiii) Parking lots, as a principal use;
(xiv) Pawn shops;
(xv) Cemeteries and mausoleums;
(xvi) Funeral homes and mortuaries;
(xvii) Rooming houses or lodging houses;
(xviii) Automobile or motor vehicle/recreational vehicle/implement repair, service, sales, rentals or maintenance;
(xix) Contractor offices associated with onsite storage of vehicles, supplies or equipment, building material or equipment sales, building or equipment service or maintenance offices, or the equivalent;
(xx) Warehouses, whether accessory to a retail use, or self-service storage;
(xxi) Church or religious uses.
(xxii) Residential uses.

3. **Special Uses:** Car washes, gas stations, and any other use listed as a Special Use in the “GC” General Commercial zoning district shall require a Special Use Permit in this “PD-C” Planned Development Commercial zoning district unless otherwise approved in paragraphs 5 or 6 below.

4. **Parking Provisions:** Parking shall conform to the requirements of the UDO, Article 12.

5. **Drive Up/Drive Through Facilities:**

a. **Permitted Drive-Thru Facilities:** The Parties acknowledge that the Property is contemplated to have up to three approved drive-thru facilities, to be located in the commercial development at the Northeastern corner of the Property. The parties acknowledge that the drive-through facilities are not depicted on the Preliminary Plan, and shall require approval of the City’s Principal Planner and Engineer as to location and configuration. Notwithstanding the foregoing, these three drive-through facilities shall be specifically allowed, without a special use permit, subject to the above-described approval and subject to approval of the “Final Development Plan” as described in Article 5.13.10(6) of the UDO. A Final Development Plan including up to three drive-through facilities that are
acceptable to the City’s Principal Planner and Engineer shall not be deemed to be not in substantial conformance to the Preliminary Plans by virtue of the inclusion of such drive-through facilities. No alcoholic beverage shall be sold at such drive-up and drive through facilities. One of these three drive-thru facilities may be either: 1) a gas station (with or without a carwash); 2) a standalone carwash; or, 3) an Outside Bank (as defined herein), and the remaining drive-thru facilities may be for restaurants and/or fast-food establishments. No other drive-thru uses shall be considered “permitted” under this subsection III(B)(5)(a).

b. Review of Additional Requested Drive-Thru Facilities on Commercial Outlots or For Other Purposes: If the Owner seeks to develop drive-thru facilities for uses other than those contemplated by subsection III(B)(5)(a), above or if the Owner seeks to develop more than three drive-thru facilities on the commercial outlots of the Property (as shown on the Site Design Study), such additional drive-thru facilities may be allowed subject to the review and approval of the City as a component of proposed Final Plat review. The City’s review of any proposed drive-thru facility under this subsection shall include but not be limited to review and approval of the design of such drive-through facilities, their location and orientation, the nature of the business proposed to be served, the traffic design and roadway/parking lot improvements leading to and from the proposed drive-thrus, review and approval of the balance of the proposed Final Plat, and such other review items as the City determines to be appropriate at the time of review. Approval of additional requested drive-thru facilities under this subsection shall not require a special use permit, but shall require the City’s approval, as outlined above.

c. Other Drive-Thru Facilities: Except as provided above, no drive-thru facilities shall be permitted on the Property as either a permitted or special use.

6. Gas/Fuel Station/Car Wash Sites: Subject to the provisions of Paragraph 5 of this section, a fuel station, if constructed, with or without a convenience store and/or car wash (whether accessory to the gas station or as a principal use), shall be allowed, without a special use permit, subject only to approval of the Final Development Plan and Final Plat for the proposed facility without a special use permit; however, no more than a total of one (1) fuel station and no more than one (1) car wash shall be constructed on the Property, regardless of the number of Parcels into which the Property is divided. For purposes of this section, the one permitted car wash shall be counted whether it is an accessory use to the one permitted fuel station, or whether it is a stand-alone use. Such permitted car wash shall have no more than two automatic car wash bays and no more than four manual car wash bays. Any other proposed fuel station or car wash shall require a special use permit as described in Article III(B)(3) above.

7. Permitted Outdoor Storage: Outdoor dumpsters, trash compactors, and similar rubbish disposal facilities shall be permitted within the PD-C portion of the Property, provided that all such facilities shall be completely screened from view
with either landscaping and/or a wall or fence constructed of materials and colors matching the principal building it services. For purposes of this subsection, “similar rubbish disposal facilities” shall include development-specific rubbish containers (e.g. grease containers for restaurant use). In addition, to the extent that such accessory buildings may not be covered by alternate provisions of this Agreement, any accessory building constructed on a parcel within the PD-C component of the Property (e.g. standalone refrigeration unit for restaurant) shall be treated in the same fashion as an outdoor rubbish disposal facility, and shall be subject to the same architectural design, screening and fencing requirements. Such auxiliary buildings shall only be permitted as an accessory and ancillary use to the primary use permitted on a given lot, if at all. Any such proposed outdoor rubbish disposal facilities and their related landscaping/screening shall be subject to prior review and approval by the City Manager or his designee to confirm compliance with this section. Such review shall occur at the time of submission, by the Owner, of site plans showing the proposed location and screening for the rubbish storage, and showing elevations of the proposed principal building served by the rubbish storage. No other outdoor storage shall be permitted.

8. **Permitted Outdoor Sales:** Outdoor sales shall only be permitted in the PD-C portion of the Property as follows below.

   a. Permanent outdoor lawn and garden or similar outdoor sales centers shall be permitted in a specified area adjacent to the principal structure on a given lot. Said permanent outdoor lawn and garden or similar outdoor sales centers shall only be permitted: 1) when auxiliary to the primary use of the principal structure on the lot; 2) when the outdoor sales area is capable of being properly secured by walls and/or fencing acceptable to the City and matching the principal structure; and, 3) when the outdoor sales area is screened by landscaping acceptable to the City.

   b. A retail business’ use of the parking lot and sidewalks for the sale of seasonal merchandise or services shall be permitted, provided that: 1) the use is made by one or more single retail stores with not less than thirty thousand (30,000) square feet of interior retail space or larger; 2) the sales areas are maintained in an orderly fashion; 3) no permanent or temporary outdoor structures are erected or constructed to house the sales areas, except as may be otherwise permitted by the City or as permitted under Article III(B)(8)(a) above; and, 4) the use of the parking lot and sidewalks does not interfere with site ingress and egress, flow of traffic through the development, emergency access to the development, or use of parking lots, sidewalks and common areas by other commercial enterprises within or outside the Property, as determined by the City.

   c. Outdoor sales promotions by other businesses within the Retail Development shall be permitted provided that: 1) such sales areas are limited to the sidewalks directly in front of such business; 2) such sales and promotions for individual Retail Development tenant, occupant or owner shall not exceed one hundred eighty (180) days in the aggregate in any calendar year; and, 3) such outdoor sales promotion does not interfere
with site ingress and egress, flow of traffic through the development, emergency access to the development, or use of parking lots, sidewalks and common areas by other commercial enterprises within or outside the Property, as determined by the City.

For any site which is proposing to utilize outdoor sales areas under subsection (a) or (b) above, such proposed use shall be subject to prior review and approval by the City Manager or his designee to confirm compliance with these requirements and any applicable City Codes or Ordinances. Such review shall occur at the time of submission, by the Owner, of site plans showing the proposed location (and screening or structures, if required) for the outdoor sales areas, and showing elevations of the proposed principal building served by the outdoor sales. No other outdoor sales shall be permitted.

9. **Electronic Banking:** Except for the Outside Bank (defined below), no free standing outdoor Electronic Banking Facilities or free standing Automatic Teller Machines shall be permitted in the Retail Development. However, the Retail Bank (defined below) may be allowed such facilities provided said are wall mounted or flush to the building and designed for walk-up service. In addition, an Electronic Banking Facility or Automatic Teller Machine shall be permitted inside a retail store or in connection with a Retail Bank or Continuing Care Retirement Center Bank.

10. **Banks:** The Property shall contain no more than two (2) Banks (defined below) and subject to the provisions of Paragraph 5 of this section. The location of the banks shall be subject to approval by the City. For purposes of this Agreement a "Bank" shall be defined as a retail bank, financial institution, credit union, consumer banking institution, or savings and loan association providing retail banking services for the public; as such the any business providing exclusively one or more of the following uses without a retail bank, consumer banking operation or savings and loan association shall not be categorized as a Bank:

   a. Tax preparation facility
   b. Store front mortgage companies
   c. Real Estate, stock brokerage and title companies
   d. Financial planning offices

The Retail Bank shall be accessory to the primarily retail use of another business and shall not (a) have any drive-through facilities, whether full service or automatic tellers; (b) be greater than two thousand (2,000) square feet in size; and (c) have any exterior signage within the Shopping Center except for wall and/or window signage on the exterior of the building in which it is located, and its name on a ground sign as provided in Paragraph 10 below; and, (d) shall have no direct access to the outside, but shall have all of its access through the entrances/exists for the retail use to which it is accessory. In addition, one Bank, subject to the
Retail Bank restrictions as outlined in this section, shall be permitted within a Continuing Care Retirement Center. Other than one permitted Outside Bank, one permitted Retail Bank and one permitted Continuing Care Retirement Center Bank, no other banks shall be permitted on the Property.

C. “PD-R” Provisions. It is herein agreed that the “PD-R” zoning for the portions of the Property shown on the Preliminary Plan shall include the following provisions and restrictions:

1. Allowed Uses: The following uses shall be allowed in those areas shown on the Preliminary Plan and related exhibits (subject to modification acceptable to the City as more fully described in Article III above):

   (i) Single family detached homes;
   (ii) Single family attached homes, defined as equity units with a fee simple lot, sharing a common wall with one or more neighboring unit (identified on the Preliminary Plan as Townhomes);
   (iii) Age Restricted, in the area shown on the Preliminary Plan and in accordance with the requirements of this Agreement;
   (iv) School and related uses; and
   (v) Parks, recreational areas and public open spaces as shown on the Plan provided same are owned by the Park District.

2. Prohibited Uses: Any use not described herein or otherwise shown on the Preliminary Plan;

3. School District Donation: For the property identified on the Preliminary Plan as being transferred to the School District, the applicable zoning shall be SFR-1 in accordance with all requirements of the City’s Unified Development Ordinance. Any use of said property for any purpose other than public school purposes, open space, or recreational purposes shall require an amendment of this Agreement.

4. Church Use: The Parties acknowledge that within the PD-R zoned portion of the Property, there are currently two parcels that are identified for church/religious use. For those two parcels, the sole permitted use shall be:

   Churches, in those locations shown on the Preliminary Plan, including accessory daycare, pre-K preschool and religious education uses of a church building, but not including K-12 private, religious or parochial schooling (or any subset thereof);

5. Other Uses: No other use of such parcels shall be permitted (no residential, commercial or other use) without an amendment to this Agreement on terms and conditions mutually acceptable to the City, the Developer, and the owner of said parcel(s), in each of their respective sole discretion. Said parcels subject to PD-R zoning shall also be subject to the following restrictions:
(i) Any proposed site plan, architectural elevations, building materials, lighting, landscaping, recreational facilities, or similar matters shall be subject to prior approval by the City. The parties acknowledge that Shodeen also has architectural review of any structures proposed for the church parcels. The City’s approval may be granted either by staff, in writing, or by City Council, in writing.

6. **Setbacks and Building Restrictions:** 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 deviations from the UDO are otherwise approved as part of Preliminary or Final Plat and Plan of Planned Development. Approval of a Preliminary or Final Plat and Plan of Planned Development showing a deviation from the UDO shall constitute the City’s unconditional approval of such deviation from the UDO, albeit solely for that portion of the approved Preliminary or Final Plat and Plan showing a deviation.

7. **PD-R Unit Division:** The division of the PD-R portions of the Property into various uses (e.g. single family detached housing with fifty foot wide lots, versus single family detached housing with sixty foot lots versus townhome units) and the number of units permitted for each such use shall conform to the Preliminary Plan, unless such allocation and unit count is amended in an approved Final Plan that is acceptable to both the City and Owner (subject to adjustment of not more than ten percent of the unit count, as outlined in Section (F)(2), below.

8. **PD-R Attached Unit and Fifty-Foot Lot Restrictions:** Notwithstanding any contrary provision of this Agreement or any contrary indication on the Preliminary Plan, residential units other than single family detached units shall not comprise more than: a) ten percent of the total units to be constructed on the Property or 123 units, whichever is less. In other words, townhome units shall not comprise more than the lesser of ten percent of the total number of residential units constructed or 123 units. This restriction on residential units shall not apply to any portion of the Property being constructed as an age-restricted residential development or CCRC. Additionally, not more than 250 lots shall be constructed with fifty-foot lot widths. These unit count restrictions shall not be subject to modification by ten percent under Section (F)(2) below, and shall supersede the provisions of Section (F)(2) or any other provision of this Agreement or the approved plans that contradicts this requirement. The Parties acknowledge that the currently approved preliminary plan utilizes all such available attached residential units with townhome units. Any proposed change from townhomes to other types of multifamily housing units shall require the express approval of the City Council (but shall not require an amendment of this Agreement).

9. **Phasing of Residential Development:** Not less than three hundred fifty (350) single family, detached houses shall be constructed prior to the construction of: a)
any townhome housing within the Property; and, b) any fifty-foot wide lots on the Property. This restriction shall not apply to any portion of the Property being constructed as an age-restricted residential development or CCRC.

10. **Construction of Attached Residential Units:** Residential units other than detached, single family units shall be constructed with a common wall or common walls, vertically between two units, from the front exterior wall of the unit to the rear exterior wall of the unit so as to be Single Family Attached housing, as defined in Article 3 of the UDO (contemplated herein as “Townhomes”). Such units shall not be constructed so as to be stacked or staggered vertically or to have horizontal common floors/ceilings dividing units. This restriction shall not apply to any portion of the Property being constructed as an age-restricted residential development or CCRC.

11. **Alteration of PD-R Restrictions:** The provisions of Sections (C)(4) through (C)(9) may be altered by mutual agreement of the City and Owner, without requiring an amendment to this Agreement. In order to manifest their agreement to such an alteration, the Owner shall submit a letter to the City requesting the alteration and the City Council shall, if it chooses to agree, pass an ordinance or resolution expressly identifying this Section (C)(10) and expressly modifying the applicable section of the Agreement.

**D. Age Restricted Development**

1. **Type of Development:** The City and Owner agree that the Age-Restricted component of the development is anticipated to contain multiple types of Age-Restricted housing products (for purposes of this Agreement, “Age Restricted” housing or development shall be deemed to refer to properties restricted to ownership/occupancy by persons 55 years of age or older), as outlined on the Preliminary Plan as “Senior Housing”. Those housing products are anticipated to be divided into two basic types of property ownership:

   (i) Single-family or multi-family residential structures with age-restrictions on ownership and occupancy (whether rented, leased or sold as detached houses, duplexes, condominiums or townhomes). These shall be permitted in accordance with the terms of this Agreement and the unit limits contemplated herein.

   (ii) Continuing Care Retirement Community under unified ownership, as outlined in subsection (D)(2) below.

Such properties shall be restricted to ownership and occupancy by persons 55 years of age or older by virtue of this Agreement and by virtue of the applicable PD-R zoning classification.

2. **CCRC Ownership:** The Property may be developed with a Continuing Care Retirement Center (CCRC), which would be under unified ownership by a single
entity. As a component of the zoning approvals granted herein, the City and Owner agree that the portion of the Property reflected on the approved Preliminary Plat and Plans as Senior Housing is intended to be utilized for the CCRC. The CCRC is expected to provide a full continuum of senior care for those who no longer wish to or who are unable to maintain a separate residence. To that end, the CCRC is anticipated to include the types of senior care commonly referred to as: 1) independent living; 2) assisted living; and, 3) skilled care, with or without dementia, Alzheimer and memory-support care. The CCRC may be organized as a tax exempt entity under applicable provisions of the Internal Revenue Code.

3. **CCRC Uses:** Accessory to the CCRC use, the zoning approvals granted under this Agreement shall approve of the following uses within the CCRC property:

(i) Nursing and convalescent care;
(ii) Medical offices and clinics;
(iii) Recreation and Fitness Center;
(iv) Barber shop / beauty shop;
(v) Dance or fitness instruction, or other similar, age-restricted activities;
(vi) Theatre;
(vii) Restaurants and food service, with or without liquor license;
(viii) Continuing Care Retirement Center Retail Bank, with or without Automated Teller Machine;
(ix) Spa;
(x) Swimming Pool;
(xi) Event Pavilion;
(xii) Classrooms;
(xiii) Adult day care facilities for adults who, because of infirmity or disability, require supervision and activities during daytime periods when their caretakers are unavailable to provide such supervision.

The City and Owner may, by mutual, written agreement, include additional accessory uses that the City and Owner agree are consistent with the CCRC concept and the foregoing enumerated accessory uses, as a component of CCRC development, without need for additional public hearings and without need for an amendment of this Agreement. In order to manifest their agreement to such an alteration, the Owner shall submit a letter to the City requesting the alteration and the City Council shall, if it chooses to agree, pass an ordinance or resolution expressly identifying this Section (D)(3) and expressly approving of the additional accessory use. Each of the foregoing uses shall only be permitted as an accessory use to the CCRC, provided primarily for use by residents within the CCRC. Each shall be completely contained within the CCRC buildings to be constructed. Each shall be accessed through the primary entrances into the CCRC buildings, and none shall have direct access to the exterior of the CCRC buildings (except for any required emergency exits, which shall not be used as primary access/egress points). In addition to all of the foregoing permitted uses, the
CCRC shall be permitted to have parking for not more than three transportation vehicles, each capable of transporting not more than twenty occupants. Attendance at CCRC daily events may be restricted to CCRC members or may be open to the general public.

4. **CCRC Parking:** Parking requirements for the CCRC and the age restricted component of the Property shall follow the applicable requirements of the UDO.

5. **Development As Other Than CCRC:** In the event that the Owner reasonably determines that it is not feasible to develop the Property with a CCRC satisfying the foregoing criteria, the Owner shall work with the City to prepare an amendment to this Agreement, on terms and conditions acceptable to both parties, to address the development of the CCRC component of the Property. Said amendment shall not require the approval of any party other than the owner of the CCRC component of the Property and the City.

6. **Approval of Age-Restricted Development:** The Parties acknowledge that the Age Restricted component of the Property is reflected on the Preliminary Plans as Senior Housing, without platted lots or further description. Accordingly, prior to construction activities other than mass grading or installation of utilities on the area of the Property to be used for Age-Restricted Development, the Owner shall obtain approval of a Preliminary and Final Plat and Plans for the Age-Restricted component of the Property, which shall require the approval of the City Council but shall not require an amendment of this Agreement. In the event that the Senior Housing area is developed as a single lot, the Developer shall not be required to submit a revised Preliminary Plat for such area, but shall submit a detailed site plan for the proposed development of the lot as a component of the Final Plat Approval, for approval by the City.

**E. Design Provisions**

1. **Architecture and Design:** Details of the architectural theme and site design of each phase has been provided as part of the Preliminary Plan. The Owner has provided the proposed architectural elevations and finishes of the proposed residential and commercial buildings throughout the Property which are into Group Exhibit B. All buildings constructed on the Property shall be built in compliance with the Architectural Design Specifications in terms of design, elevations, appearance, aesthetics and building materials. Overall private signage plans and specifications shall be in substantial conformity with the Sign Plan included therein (the "Private Sign Restrictions"). Any public signs shall comply with the requirements of the UDO.

In addition to the signage permitted under the Private Sign Restrictions, the CITY agrees to allow the following signage to be used in the development, only on private property and not on any rights of way or easements, as approved by the CITY: Project Signs, Sales or Marketing Signs/Flags, Temporary For
Sale/Promotional Signs, and Directional Signs. Such signs marketing the sale of lots in the Property may not be installed until such time as the City has reviewed and approved preliminary plats for the Property, and shall be removed by OWNER upon sale of such number of properties as to equal one hundred percent (100%) the total number of lots in the development.

All monument signs shall be subject to review and approval by the City. The Owner acknowledges that the City has requested that the Owner include, as a part of the development name, the words “of DeKalb”. If the Owner elects to provide such language, the words ‘of DeKalb’ shall be displayed in the font selected by the CITY, in letters one-third the height of the letters that the subdivision name is displayed in, but in no case less than 3” in height.” All monument signs must meet CITY approval prior to construction or installation. No OWNER name or logo shall appear on any permanent signage at the development, including, but not limited to, unless the Owner also agrees to include the “of DeKalb” language as a component of the development name. In the event that Owner elects to include “of DeKalb” and the Owner’s name, both shall be in the same size and color font. The Parties acknowledge that Owner anticipates that formalized entryway monument signage shall be provided at the following intersections: a) Dresser Road and Pride Avenue; b) Sangamon Road and Bethany Road; and, c) Normal Road and Bethany Road.

All structures in each phase of development shall comply with the designs reflected in the phased architectural elevations of the Preliminary Plat and Plan application for that commercial and/or multi-family lot within that phase. The Owner (or developer of the Property) shall design, install and/or construct all signage, landscaping and improvements in substantial conformance with the Preliminary Plan, as determined by the City. The lighting to be used on the Property and 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 the Architectural Design Specifications or Private Sign Restrictions shall be subject to separate review and approval by the City Council, in its sole and absolute discretion. Such review, or approval of modifications to the Architectural Design Specifications or Private Sign Restrictions may be done by City Council, at its discretion, and shall not require an amendment of this Agreement.

2. **Compliance with Design Exhibits:** The City’s determination as to whether or not proposed buildings, building materials, signs and development layout conform to the above-referenced Exhibits shall be in the City’s sole and absolute discretion.

3. **Plan Description and Design Guidelines:** As noted herein, the Owner has submitted detailed Preliminary Plat and Plans which include a Plan Description and Design Guidelines along with certain other planning and zoning exhibits, attached hereto as Exhibits. The Plan Description and Design Guidelines shall be
a binding restriction on the development of the Property, and compliance with the Plan Description and Design Guidelines shall be required, except as the Parties may mutually agree to deviate from time to time. The Parties acknowledge that this Agreement does not include anti-monotony or other similar design restrictions in its text, based upon the Parties’ reliance of those terms and development restrictions included in the attached Exhibits.

F. Density of the Project

1. **PD-R Density**: The Owner shall have the right to construct not more than one thousand two hundred and forty-two (1,242) residential dwelling units which shall include all residential dwelling units including but not limited to single family detached, single family attached and townhomes on the portion of the Project to be zoned PD-R, as shown on the Preliminary Plan (“the Primary Residential Development”). Those areas identified for senior housing on the Preliminary Plat and Plans shall not be counted towards the 1,242 dwelling unit limitation for the Primary Residential Development.

2. **Adjustment of PD-R Unit Count**: The Owner shall have the right to make minor adjustments in the type and number of dwelling units within the Primary Residential Development, as long as such adjustments do not affect more than ten percent (10%) of the type of dwelling units, the adjustments do not result in any construction in excess of specified unit counts in this Agreement, and the total number of dwelling units does not exceed one thousand two hundred and forty-two (1,242).

3. **PD-C Areas**: The Owner shall have the right to make minor adjustments in the type and number of commercial lots within the PD-C portion of the Property, as long as such adjustments do not affect more than either: a) ten percent (10%) of the commercial lots; or, b) more than 10% of the area zoned as PD-C under the Preliminary Plan. Such adjustments shall not affect the use of the areas amended (i.e., PD-C property shall not be converted to PD-R). Individual lots shall be allowed site coverage area (as defined in Article 3 of the UDO) of up to seventy percent (70%) and may, subject to criteria herein, be allowed up to ninety percent (90%). In order to qualify for site coverage area of ninety percent (90%), at the time of submittal of the Final Development Plan, Owners must obtain approval from the City Council, in the City Council’s sole discretion, based upon the Owners’ meaningful and significant compliance with three (3) or more of the performance criteria listed in Section 5.13.07 (4) (b) of the UDO, or the additional criteria outlined below, including but not limited to:

   a. Provide storm drainage detention/retention facilities having a capacity of more than ten percent (10%) in excess of what is required for the PD-C area.
   b. Install storm drainage detention facilities underground.
   c. Providing a release rate from a detention facility that is ten percent (10%) stricter than otherwise required.
d. Increasing parking lot landscaping material by fifty percent (50%) more than otherwise required.

e. Submitting for approval developments on the full commercial site shown on the Preliminary Plan at one time.

f. Design of principal access to the development tract at an approved location that allows for shared access by an adjacent property.

g. Construction of separate-grade pedestrian and bicycle paths.

h. Providing for sufficiently screened loading and unloading areas that are located in side or rear yards.

i. Providing for mixed-use developments that include community facilities that further the goals, objectives and policies of the Comprehensive Plan.

j. Demonstration of a development using highly innovative architectural, site planning and land use design of a caliber not previously used in the DeKalb area and of such quality as to set an excellent example for subsequent developments.

k. Any other performance criteria that further the goals, objectives and policies of the Comprehensive Plan and that, in the opinion of the Plan Commission and City Council, warrant the approval of development bonuses.

In addition to the above provisions, any individual lot may be allowed up to a ninety-five percent (95%) site coverage, subject to the criteria described below. In order to qualify for site coverage area of ninety-five percent (95%), at the time of submittal of the Final Development Plan, Owners must obtain approval from the City Council, in the City Council’s sole discretion, based upon the Owners’ meaningful and significant compliance with four (4) or more of the following additional criteria, which shall be subject to review as part of that application. The obligation for demonstrating compliance with the selected criteria, on a lot by lot basis, shall be the responsibility of the Owners, to the satisfaction of the City Council.

a. Use of a geothermal heating/cooling system.

b. Use of rooftop gardens comprising a minimum of fifty percent (50%) of the roof area.

c. Use of architectural design and construction methods which meet the requirements necessary to achieve post-construction building certification of LEED Silver or better.

d. Provisions for solar energy generation, daylighting within the building, or other solar or alternative energy sources which, in the sole and absolute opinion of the City Council, meet the requirements for this criteria.

e. Increasing parking lot landscaping by fifty percent (50%) more than otherwise required.

f. Providing for loading and unloading areas that are: 1) located in side or rear yards; and, 2) improved with a substantial amount of additional landscaping and landscape screening, significantly in excess of otherwise applicable requirements.

g. Any other performance criteria that further the goals, objectives and policies
of the Comprehensive Plan and that, in the sole and absolute opinion of the City Council, warrant the approval of development bonuses.

For any approval of increased density on an individual lot basis as contemplated above, the City reserves the right to condition approval of the increased density upon the Owner's actual compliance with the criteria proposed by the Owner as justifying the increased density (e.g. the City may condition approval of 90% site coverage upon the Owner's actual construction of the additional bike and pedestrian paths contemplated by a request for the greater site coverage).

G. Owners Associations, Declarations of Covenants Conditions and Restrictions

1. Declaration of Covenants: The Owner has provided a Declaration of Covenants, in the form attached hereto as Exhibit J. The City has reviewed those Covenants and has approved the same for use on the Property, subject to the modifications contemplated in this Agreement. Should the Owner wish to amend or provide alternate covenants for any portion of the Property, it shall obtain the review and approval of the City prior to use and/or recording of the covenants.

a. The Parties acknowledge that on the Preliminary Plans, there are certain housing units described as Townhomes, which are residential properties sharing one or more common walls, in accordance with the Plans. The Owner shall record a Declaration of Covenants against the portion of the Property encompassing the Townhomes including the following language:

TOWNHOME RENTAL PROHIBITION: Under the terms of this Declaration of Covenants, a “Townhome” shall be defined as any residential unit which shares one or more common walls with another attached residential unit as a component of the same building structure. Properties subject to age-restrictions for occupancy, located within the portion of the Irongate Development zoned and restricted for such purposes, shall not be considered Townhomes subject to these provisions.

Every Townhome unit must be occupied by at least one title holder (person identified as being in ownership of the unit by virtue of a properly recorded land conveyance) on a full-time resident basis. Additional persons may also reside within the unit, provided that they do not provide any form of compensation or consideration for the housing afforded. No Townhome unit or any portion thereof may be rented, leased, or let for any form of paid occupancy or usage by any third party. In addition, no individual townhome unit shall be occupied by more than three persons who are unrelated by blood or marriage.

The Association may bring an action in its own name to enforce
the provisions of this Section, and to seek both monetary damages and injunctive relief to compel the eviction of any paid, non-owner tenant of a unit. In addition, the City of DeKalb shall have the right, but not the obligation, to bring a legal action to compel compliance with the rental prohibition contained herein. Any purchaser of a Townhome unit shall take title to such unit subject to the terms and restrictions contained herein, which provisions may not be amended except with the express, written consent of the City of DeKalb.

b. At such time as the Owner proceeds to start construction of the Townhomes, the Owner shall give the City written notice of its intent to so proceed, referencing this section. At that time, the City shall have the right to require additional or amendatory language to be recorded as a component of the Declaration of Covenants, to enforce the purpose and intent of this rental restriction.

2. Property Owner’s Associations: Owner shall create one or more property owners’ association (the “Property Owners’ Association”), which shall be responsible for the maintenance and care of any and all common property within the Project, exclusive of that property donated to the DeKalb Park District. Said association(s) shall be established and governed by Declaration(s) of Property Ownership, Covenants, Conditions, Easements and Restrictions, which shall be recorded with the DeKalb County Recorder’s Office.

3. Recording of CCRs: Covenants, conditions and restrictions and other pertinent documents applicable to the property owners associations shall be recorded at the time that the Final Plat is recorded for each phase of the Project, subject to the terms and conditions included herein.

4. Identification of Responsible Party: Each set of Declarations of Property Ownership, Covenants, Conditions, Easements and Restrictions recorded from time to time, shall identify a single principal property owner or entity, such as a homeowner’s association, which shall assume primary responsibility for the maintenance of the property subject to the Declaration in accordance with all City Building, Zoning and Property Maintenance Codes, the Declaration and the terms set forth in this Agreement. The principal property owner or entity so identified in the Declaration shall assume full responsibility for ensuring the property’s compliance with the applicable codes and requirements. The City and Owner acknowledge that there may be multiple owners’ associations, based on the phasing of the property and the different types of development (single family, townhome, senior, commercial, etc.) contemplated to be constructed.

5. Detention Basin Maintenance: The Parties acknowledge that stormwater detention basins shown on the Preliminary Plans shall be maintained by the commercial property owners association and/or homeowners association. This
maintenance obligation shall be for the area starting at and extending below the design high water line of such detention basins, regardless of whether the basins are designed as a wet bottom, dry bottom, wetland bottom, or other design. The obligation of the owners’ associations to maintain the detention basins shall be backed up by the residential and commercial backup special service areas described in Article III(H) below.

H. Special Service Area

1. Residential Backup SSA: OWNERS and OWNER and their respective successors, assignees and grantees, shall not object to and agree to cooperate with the CITY in establishing a special service area (“SSA”), after approval of preliminary subdivision plats, 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, detention areas and earthen berms or dams, drains, tiles, waterways, valves and related appurtenances, common landscaped areas, bike/pedestrian paths, trails, subdivision monumentation, signage, park areas, open space and any other common areas of the subdivision. Such SSA shall also cover any costs associated with mosquito abatement within the residential areas of the Property.

The SSA shall be established for the entire portion of the property that shall be used for residential purposes, prior to or concurrently with the approval of the first final plat for any portion of the residential components of the Property. The Owner agrees that a single residential backup SSA shall cover all residential components of the property. Execution of this Agreement by the Owner constitutes the waiver of objection to the establishment of a single SSA to cover all residential portions of the Property, including subsequent amendments of the residential backup SSA to cover areas not initially included therein. This waiver of objection shall be binding upon all successor owners of the Property or any portion thereof, for the term of this Agreement. OWNER shall establish, through a declaration of covenants on the Property, a Homeowners Association, which shall have the primary responsibility for providing for the regular care, maintenance, renewal and replacement of the Common Facilities including, without limitation, the mowing and fertilizing of grass, pruning and trimming of trees and bushes, removal and replacement of diseased or dead landscape materials, mosquito abatement, possible aeration of retention basins (including but not limited to new mechanical improvements to add aeration if the CITY determines such aeration is necessary, it being acknowledged that the design, if functional, does not require aeration), and the repair and replacement of monument signs, so as to keep the same in a clean, sightly and first class condition (the “Common Facilities Maintenance”).

If at any time such Homeowners Association fails to conduct the Common Facilities Maintenance, 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. A maintenance easement ("Common Facilities Maintenance Easement") shall be established over all of those Common Facilities located on the Final Plat for each Phase of Development in favor of the CITY and any future Homeowners Association which undertakes responsibility for the Common Facilities Maintenance. The substance of the Common Facilities Maintenance Easement shall be as approved by legal counsel for the CITY.

2. **Commercial Backup SSA:** OWNER and its respective successors, assignees and grantees, shall not object to and agree to cooperate with the CITY in establishing a special service area ("SSA") for the commercial areas of the Development (or prior to development of the commercial areas if no subdivision is sought). OWNER shall submit a consent executed by the then Record Owner of the Property, agreeing and waiving any objection to the creation of a back-up Special Tax Service Area that shall pay for the cost of maintenance of all detention and earthen berms or dams, drains, tiles, waterways, valves and related appurtenances, open space, and common areas (including islands) of the said areas, commercial property monumentation, landscaping, signage, maintenance of all private curbs and roadways, driveways and drive aisles, and any other common areas of said areas ("Common Facilities"). Such SSA shall also cover any costs associated with mosquito abatement within the commercial areas of the Property.

The SSA shall be established for the entire portion of the property that shall be used for commercial purposes, prior to or concurrently with the approval of the first final plat for any portion of the commercial components of the Property. The Owner agrees that a single commercial backup SSA shall cover all commercial components of the property. Execution of this Agreement by the Owner constitutes the waiver of objection to the establishment of a single SSA to cover all commercial portions of the Property, including subsequent amendments of the commercial backup SSA to cover areas not initially included therein. This waiver of objection shall be binding upon all successor owners of the Property or any portion thereof, for the term of this Agreement. The commercial backup SSA shall also cover any portion of the Property not included within the residential backup SSA. OWNER shall establish, through a declaration of covenants on the Property, a Property Owners Association (POA), which shall have the primary responsibility of providing for the above referenced maintenance, so as to keep the same in a clean, sightly and first class condition (the "Common Facilities Maintenance"). If at any time such Owners Association fails to conduct the Common Facilities Maintenance, 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 Special Tax Service Area shall be recorded prior to or concurrent with the recording of the First Final Plat of Subdivision for the commercial areas. Said SSA shall have a rate as reasonably determined by the City Engineer.
3. **Use of SSA Funding:** The Residential Backup SSA and the Commercial Backup SSA shall each be utilized solely to pay the cost and expense of performing the special services outlined above, within the confines of each respective SSA (e.g. the Residential Backup SSA shall only be utilized to pay for expenses accruing within the Residential Backup SSA’s defined territory). Notwithstanding the foregoing, in the event that there are facilities which are jointly utilized by both the residential and commercial components of the property (e.g. stormwater detention utilized by residential and commercial parcels), costs attributable to such jointly utilized facilities shall be divided, pro-rata, between the respective SSAs.

4. **Maintenance Easement:** A maintenance easement ("Common Facilities Maintenance Easement") shall be established over all of those Common Facilities located on the Final Plat for each Phase of Development in favor of the CITY and any future Owners Association which undertakes responsibility for the Common Facilities Maintenance. The substance of the Common Facilities Maintenance Easement shall be as approved by legal counsel for the CITY and OWNER and OWNERS, which approvals shall not be unreasonably withheld.

5. **Waiver of Objection:** Any purchaser of property subject to this Agreement shall be deemed to consent to the City’s establishment of one or more active special service areas (individually, an "SSA") hereafter described. As indicated in Article IV(C), the Owner or an HOA or POA shall own and maintain the stormwater management systems and all improvements related thereto, including stormwater management systems included within areas dedicated to the City or Park District. The HOA or POA shall also own and be responsible for maintenance and upkeep of any neighborhood parks reflected on the Preliminary Plans that are installed within the development and that are not dedicated to or accepted by the City or the Park District, unless and until the City or the Park District later agrees to accept ownership. Such neighborhood parks shall be open to the public. The City shall own and maintain all streetlights, parkway trees, public roadways, playgrounds, parks, open spaces, public walks, bicycle or walking paths and other public areas and public improvements that are constructed on portions of the Property donated or dedicated to the City, after acceptance and completion of the maintenance period contemplated herein, subject to the right of the City to establish one or more SSA’s to defray all costs, including all costs of insurance, that it may incur in so doing.

6. **Additional Municipal Services:** 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, and from levying and imposing special service area taxes solely on the Property, in the event a majority of residents of the Property ask the City to provide municipal services to them that
are over and above the municipal services then being provided to residents of other City properties. The City shall have no obligation to provide such additional municipal services unless and until such special service area is established; should such a special service area be established, Owner and Owner agree that they shall notify all potential buyers through a disclosure form with each and every contract for the sale of a dwelling unit on the Property, which form shall be subject to the review and approval of the City.

I. Excavation and Grading

1. **At-Risk Work:** The Owner shall have the right, prior to obtaining approval of final engineering drawings and prior to approval of a Final Development Plan of any phase of the Property, to undertake excavation, preliminary grading work, filling and soil stockpiling on the Property in preparation for the development of the Property, upon approval of grading, soil erosion and sedimentation control plans by the City Engineer, based on phasing of development and confining excavation to the work associated with the phase including drainage and detention/retention pond construction and nearby soil balancing areas. The City Engineer’s review and approval of plans submitted shall be consistent with other approvals granted by the City Engineer within the previous forty eight (48) month period for similar projects. Such work shall be undertaken at the Owner’s sole risk and without injury to the property of surrounding property owners.

2. **Security for Earthwork:** 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 of that phase, prior to commencement of any grading or site improvement work. In the case that said grading and erosion control is included in the subdivision or similar site improvement bond or other surety as described in Article XIII herein and in 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.

3. **IEPA Violations:** The Parties agree that, to the best of their knowledge, there are no pending IEPA investigations of or environmental contamination issues with the Property.

4. **Phasing:** The Property is generally contemplated to be developed in multiple phases pursuant to the Phasing Plan. The order of development of the particular phases shall be at the discretion of the Owner, provided that each individual phase shall individually comply with all requirements of this Agreement. Amendments to the Phasing Plan shall require the approval of the City, but shall not require an amendment to this Agreement.
J. Building Permits and Occupancy

1. **Permits.** The City shall issue building permits within twenty-one (21) days after receipt of a complete building permit application and payment of the requisite fees from the Owner. If the building permit application is denied, the City shall provide the Owner with a written statement specifying the reasons for denial of the building permit application; including, the corrective measures necessary to obtain the permit. The City shall issue such building permits upon compliance with those requirements, unless additional deficiencies are discovered in the interim, in which case the City shall issue building permits upon compliance with all applicable requirements. The Owner may apply for building permits for its respective Parcels of the Property after approval of the Final Development Plan for each respective building and/or Parcel.

2. **Occupancy Permits.** The City shall issue certificates of final occupancy to the Owner within two (2) working days of scheduled occupancy inspection, or issue a notice of failed inspection within said period informing the Owner specifically as to what corrections are necessary as a condition to the issuance of a certificate and quoting the section of any applicable code, ordinance or regulation relied upon by the City in its demand for correction. The Owner’s inability, as specifically limited to adverse weather conditions, to (a) complete offsite roadway or traffic signal improvements as required; or (b) install driveways, service walks, public sidewalks, stoops, landscaping and final grading, shall not delay the issuance of a temporary certificate of occupancy valid for a period not exceeding ninety (90) days (other than delays for landscaping due to seasonal issues). The City shall have the right to require the posting of security in an amount not to exceed one hundred twenty percent (120%) of such uncompleted improvements, on issuance of such temporary certificate of occupancy, in order to ensure completion of such uncompleted items and the Owner may provide such security by a cash deposit with the City, irrevocable letter of credit or performance bond. Temporary certificates of occupancy shall also not be delayed in the event adverse weather conditions prevent construction of final pavement surface courses on private drives or parking areas. 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.

K. Security for Public Improvements

Security to be provided by the Owner for the completion of the public improvements benefitting any Parcel within the Property or related off-site improvements, if any, shall be provided prior to the commencement of construction on each Parcel 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 his
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, and the Owner shall provide such
information or documentation as to the status of the proposed financial institution as the City
Manager 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.

1. **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 required
to denote acceptance and transfer of ownership, warranties, and similar interests.
Prior to the acceptance of the streets by the CITY, the streets shall be in a
condition acceptable to the CITY in accordance with the requirements of the
Uniform Development Ordinance and completed with the final lift of asphalt and
any other required final improvements, and all punchlist items previously
identified by the City shall be satisfied. Upon acceptance of any public
improvement by the City in accordance with Article III(I) as described above,
OWNER shall be entitled to a corresponding release or reduction of any
Subdivision Performance Bond or Letter of Credit. For a 12 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 using sound
engineering practices, 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 a 12 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, bond or other security
acceptable in form and content to the City. Notwithstanding the foregoing, the
Owner shall not be responsible for the repair of damage to any public
improvement which is caused through the intentional or negligent conduct of any
third party, or through the intentional or negligent conduct of the City. However,
the Owner shall be responsible for the repair of damage to any public
improvement caused through the intentional or negligent conduct of Owner, its
contractors, subcontractors, agents, successors and assignees, and for the repair of
any design or construction defect in any public improvement that is identified
prior to or during the 12 month maintenance period (e.g. sagging sewer, sinkhole in roadway, etc.).

L. Phasing

The Owners shall, subject to the further provisions of this Agreement and all applicable statutes, laws and ordinances, have the option of dividing the Property into several Parcels after annexation and submitting a separate Final Development Plan for each such Parcel on a phased basis, provided that such subdivision is in substantial accordance with the Preliminary Plan and Phasing Plan, and provided that the timing and order of the phases shall be determined by the Owner from time to time. Such phases shall be configured in such a manner that each such phase shall be served by all utilities, including adequate service capacity and looping within that particular phase (and contained solely within the Property) as shall be required by the City Engineer. The Parties acknowledge that looping of water mains is required as the development progresses on a phase by phase basis, except that: 1) looping of water mains shall not be required on the four road stubs shown on the Preliminary Plans and identified as Irongate Drive, St. Clair Street, Waveland Street and Wrigley Street; and, 2) looping of water mains within a portion of a phase of development shall not be required if the City Engineer agrees to temporarily waive the looping requirement for a prescribed period of time. The City agrees that the City Engineer shall use reasonable judgment in determining whether the looping requirement shall be temporarily waived as contemplated herein. Owner shall provide not less than one point of access, comprised of a full access point to a public road, for each phase, unless waived by the City. To the extent that roadway and utility improvements may be developed or installed in phases, the City shall inspect and accept the same on a phase by phase basis provided that such improvements are sufficient to service the phase developed on a stand alone basis, as reasonably determined by the City Engineer. Each phase shall be required to adhere to all applicable provisions of this Agreement. Unless otherwise specified, all roadways shall be improved in the phase of development of which they are a part, provided that the OWNER shall maintain adequate ingress and egress for construction traffic, property OWNERS and emergency responders at all times.

M. Construction Supervision

The Parties acknowledge that, pursuant to the City’s ordinances, regulations, and sound engineering practices, construction supervision services are required at those times that public improvements are being constructed on the Property, including but not limited to the construction of public roads, water mains, sewer mains, storm sewers, and other public improvements. The Parties also acknowledge that the professional construction supervision staffing presently maintained by the City may not be adequate to provide for supervision of Owner’s construction activities, should Owner seek to develop the Property at a pace greater than the City can accommodate and supervise. Accordingly, the Owner agrees that it shall either: a) construct public improvements at a rate of work and completion that can be accommodated by the City’s personnel; and, b) agree to pay the City’s actual costs of providing City employees (and related City vehicles and supervision equipment) on overtime to supervise construction; or, c) pay all expenses associated with the use of a third party engineering firm to provide construction supervision services. A third party engineering firm may only be utilized
if: a) all expenses associated with the retention and services of the firm that relate to the Property are paid by Owner; and, b) the firm’s identity and qualifications, and the identity and qualifications of the personnel proposed to be used by the firm for construction supervision services on the Property, are mutually acceptable to the City and the Owner. If a third party is acceptable to the Parties and utilized, the third party shall: 1) provide the City with a hold harmless and indemnification agreement on terms and conditions acceptable to the City; 2) provide the City with a certificate of insurance evidencing all forms of coverage as may be required by applicable law; and, 3) provide the City with a certificate of insurance showing the City as additional primary insured on policies of comprehensive general liability insurance, errors and omissions insurance, and professional malpractice insurance, each policy having minimum limits of $5,000,000 per person/per occurrence. The foregoing coverages may be provided by one or more umbrella policies of insurance. In addition, the third party retained shall be required to complete an agreement with the City and Owner, indicating that while the third party is retained by the City, the expenses incurred by the third party are all to be paid by Owner. This agreement shall indicate that the City shall have no obligation to pay the third party until such time as Owner approves of the third party’s invoices and forwards payment for the same (which payment shall be processed through the City). However, the agreement shall also indicate that in the event the Owner fails or refuses to timely forward payment for the third party’s invoices, the City and third party may discontinue construction supervision work and/or issue a stop work order for development on the Property. If Owner wishes to lift this stop work order, Owner may do so by: 1) agreeing to indemnify the City from any claims from the third party relating to non-payment or breach of contract; 2) posting a deposit with the City in cash or a cash equivalent, in an amount at least equal to the outstanding invoices; and, 3) proceeding to dispute and/or litigate the appropriateness of the third party’s invoices. The terms of this agreement shall be drafted to be acceptable to Owner and the City.

N. Plat and Plan Approval

1. Detailed Preliminary Plans: The parties acknowledge that Developer, at the time of submittal of the Preliminary Plans, provided plans that were more detailed than required under the applicable provisions of the City’s UDO. Accordingly, the Parties acknowledge that this Agreement is drafted to contemplate development of the Property in accordance with the Preliminary Plans, and in reliance upon the detail included therein. However, should the Parties mutually agree that an amendment to the Final Plat and Plan that deviates from the Preliminary Plans’ requirements or terms is appropriate, the Parties may jointly elect to approve a Final Plat and Plan including those different terms or conditions of development, without requiring an amendment to this Agreement. Any such changes in the Final Plat and Plan that deviate from the requirements of the Preliminary Plans, as those plans are defined in and contemplated by this Agreement, shall require the mutual consent of both Parties, and neither party shall: a) be obligated to accept deviations from the Preliminary Plans; or, b) be obligated to accept deviations from the Preliminary Plans without first requiring an amendment to this Agreement on terms and conditions acceptable to both parties.
2. **Development in Phases:** The parties acknowledge that the Property will be developed in phases requiring the submittal of a Final Plan and Plat for each phase of the Property. This process shall be subject to all applicable provisions of this Agreement and the proposed Plat and Plan shall be in substantial conformity to the Preliminary Plat and Plan.

3. **Final Plat Approval in Phases:** It is understood and agreed among the parties that the Owner shall not be required to seek Final Plan and Plat approval for the entire Property as one whole unit, but may seek separate approvals of a Final Plan and Plat for a phase of the Property to allow for the phasing of development of the Property in such manner as the Owner may subsequently determine, so long as such phasing does not violate any provision of this Agreement, or the City's ordinances and provides for the orderly installation of public improvements.

4. **Review of Final Plat Approval Request:** Once the Owner has submitted a complete application for Final Plat and Final Plan (including Final Engineering Plan) to the City for review, the City agrees that it shall conduct a staff review of the submitted materials and application and shall respond to the same within 60 days, by either recommending approval of the application or by recommending rejection of the application and identifying the reason or reasons why the City has determined the application does not comply with this Agreement or other applicable requirements. The Parties acknowledge that the 60 day timeline contemplated herein shall apply only to staff review of submittals, and further acknowledge that any official City action required to formally approve or reject a submittal shall take additional time. The City agrees to review complete and proper materials as required for the issuance of appropriate building and other permits and subdivision approval based on a Final Development Plan, plans and drawings of the development of the Property or any of its phases submitted by petitioners and approved by the City Engineer, provided that said plans and other materials shall only be subject to approval if they substantially conform to the attached Preliminary Plan and all applicable laws and ordinances. Each phase shall comply fully with all applicable laws and ordinances in all engineering specifics, including, but not limited to, the provision of adequate utility services including storm water drainage and retention/detention.

O. **Rezoning of Property:** The Parties agree that, for the term of this Agreement, 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 without regard to statutory or common law zoning prerequisites and the agreement of the OWNER to an amendment of this Agreement on terms and conditions acceptable to 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; any amendment of said zoning agreement with the zoning imposed under this Agreement; any amendment of said zoning shall require an amendment to this Agreement, on terms and conditions acceptable to the Parties.

**ARTICLE IV**
INFRASTRUCTURE

A. Water Mains and Potable Water Supply

1. **City Water Supply:** The City represents and warrants that it owns, operates and maintains a potable water supply and distribution system within its borders and water mains within the rights of way of Pride Avenue and Bethany Road. The City shall assist the Owner in obtaining permission from the County of DeKalb to have access to the water mains located within the rights of way of Annie Glidden Road, at the Owner's sole expense. 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. Owner shall have the right to prepay all or any portion of the tap-on and connection fees due relative to the Property at any time after approval of this Agreement; in the event that the Owner elects to so pre-pay tap-on and connection fees, the City shall agree to reserve an amount of water capacity equivalent to the capacity represented by the fees prepaid by Owner. The Parties acknowledge that any such "pre-paid" capacity may only be utilized on the Property and may not be sold or assigned to any party other than an owner or developer of the Property, for use on the Property. Tap-on / connection and capital fees shall otherwise be due on a unit by unit basis at the time of building permit application in accordance with the requirements depicted on Exhibit G. The Owner has verified that there is current volume and pressure available in the water mains to service the Property, as of the date of this Agreement, for the potable water and fire suppression needs of the Property, when developed in accordance with (i) the "Preliminary Engineering Plan"; and (ii) the Preliminary Site Plan; and (iii) the specifications of the City Engineer. The Owner shall be responsible for constructing all on-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, in the fashion and orientation contemplated by the Preliminary Plans or the approved Final Plat and Plans. The Parties agree and acknowledge that there is an existing water main running parallel to Annie Glidden Road, along the westerly right of way of such road, and that the Owner shall be required to construct off-site improvements necessary to cross the Annie Glidden Road right of way and construct connections to the existing water main at its sole cost and expense. 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.

2. **Water Capital Fees:** More specifically, the Owner agrees that it shall be bound by the provisions of Chapter 7 of the City of DeKalb's Municipal Code adopting the water capital fees for impacts to the City's potable water system, and that the
payment of such fees shall be made in accordance with the provisions of the ordinance. There will be no other extraordinary expenses or surcharges associated with connection to the water system, other than ordinary capital, tap, meter and inspection fees payable City-wide, as set forth on the listing of the City Capital, Tap, Meter, Inspection Fees for Sewer and Water as a condition to connection to and use of the system for the Property, except as identified in Exhibit G. The current city fee structure is reflected on the attached Exhibit G. Said fees may be changed by the City from time to time in the City’s sole and absolute discretion, and Developer agrees to pay the amount as required by the City at the time such payment is due.

B. Streets, Access and Public Rights of Way

1. ROW Dedications: All rights-of-way dedications shall be made at the time of Final Plat and shall conform to the widths, dimensions and amounts as approved in the Preliminary Plan. The roadway specifications for the Property shall be in accordance with the Preliminary Plan.

2. Road Improvements: Owner shall be responsible for the construction of all on-site public and private road improvements reflected on the approved Preliminary Plan, and for the construction of those off-site public road improvements reflected on the Preliminary Plat and Plans. As noted herein, changes to the Final Plat and Plans may be approved if mutually acceptable to the Parties.

a. Road design for Normal Road, Irongate Drive and Pride Avenue shall conform to the requirements as approved in the Preliminary Plans (identified therein as applying to “Irongate Drive / Wildflower Lane”), with an urban profile incorporating a curb, gutter and stormsewers.

b. Road design for local streets and cul de sacs shall conform to the requirements of the Preliminary Plans.

c. The obligation to construct road improvements shall include the obligation to install and maintain street trees and landscaping as shown on Preliminary Plan.

d. Recreational paths and sidewalks: The Owner shall construct eight feet (8'-0") wide Multi-Purpose Paths as reflected on the attached approved Preliminary Plans (said donations and construction to occur from time to time as the area in question is annexed and the development plan approved). The City and Owner acknowledge that the Preliminary Plans currently have pathway alternatives to accommodate the requests of the Churches, Park District and School District; prior to approval of any Final Plat or Plan, the final routing of such paths shall be determined by the City and Owner. The City reserves the right to require Owner to construct Multi-Purpose Paths in areas shown on the Preliminary Plans as being provided by a third party (e.g. Church, School, Park District), provided that the City determines a path orientation acceptable to the third party. Sidewalks shall be provided as reflected on the Preliminary Plan. Notwithstanding the foregoing, the Park District may agree to maintain
other pathway areas, subject to agreement between the Park District and the owner of the pathway area. Paths shall be constructed of a material as reflected on the Preliminary Path Design; in the event a connector bike path is constructed, such path shall be constructed with an asphalt surface.

For those portions of the bike paths shown on property to be dedicated or donated to the Park District or School District, the respective Park or School District shall be responsible for the design, installation and maintenance of the bike paths, provided that the paths shall be provided in some format in the contemplated locations to provide bike interconnectivity.

For those portions of the bike path shown on property reserved for church uses, such bike paths shall be built at the earlier to occur of: 1) the time of development of the church site; or, 2) the time of development of any adjacent component of residential development within Ilrongate. Maintenance of such bike paths shall be the responsibility of the owner of the property at the time that maintenance is required, and the maintenance obligation shall be recorded in writing against the property and shall be a permitted use of the backup Special Service Area contemplated for creation for the Property. The final design and orientation of the bike path on the church sites shall be subject to review and approval by the City’s Principal Planner.

For those portions of the bike path shown on any other portion of the Property not reserved for church use or deeded to the Park District or School District, the Owner (or successor HOA) shall be responsible for the construction and maintenance of the required bike paths. Bike paths shall be constructed at the earlier to occur of: 1) the development of the phase of construction within which they are located; or, 2) the development of the phase of construction adjacent to such bike path, if a bike path is located on the perimeter of a given phase.

The final plat for the Property shall include language acceptable to the City delineating these responsibilities for pathway construction and maintenance, and shall also reserve a public access easement for use of any portion of the Property being utilized for bike paths, whether on public or private property.

3. **Turn Lanes:** Owner shall be responsible for constructing Turn Lanes as identified on the Preliminary Plan.

4. **Road Impact Fee:** The Owner shall be responsible for payment of a Road Impact Fee as described on the attached Exhibit G.

5. **Traffic Controls:** A traffic control and signalization plan, including plans for off-site traffic control devices and stoplights on perimeter roads adjacent to the Property, shall be submitted and approved by the City Engineer prior to final plat approval, and Owner shall be responsible for installing all such improvements.
6. Street Lighting: OWNER shall be responsible for installing approved Street Lighting as shown in the Preliminary Plan. Regardless of the contents of such plan, all street lights shall be decorative poles and fixtures acceptable to the City Engineer (unless the Engineer specifies an alternate light format for high-traffic intersections). Prior to the issuance of any building permits for any area of the Property, the OWNER shall provide the CITY with a development plan showing the timing of installation and the timing of illumination of street lighting, showing that lighting will be adequate, as required under the UDO, to provide safe conditions in the areas under development, and to provide final lighting prior to the issuance of certificates of occupancy. The expense of installing and operating such lighting, at all times prior to the expiration of the OWNER’s maintenance obligation for public improvements, on a phase by phase basis, shall be exclusively borne by the OWNER. All street lights shall be designed and installed to conform to the requirements of the UDO, unless adjusted by the City by virtue of approval of the Preliminary or Final Plan.

7. Street Signage: A street signage plan, including but not limited to stop signs, speed limit signs, overnight parking signs and no parking signs, shall be submitted and approved by the CITY prior to final plat approval, and Owner shall be responsible for installing all such improvements.

8. Street Names: The names for individual streets must be reviewed and approved by the City and Post Office prior to approval of the final plat.

9. Traffic Study: OWNER has completed a Traffic Study on the Property which has been accepted by the City Engineer and those primary or collector roads within ¼ mile of the Property in any direction and shall complete all roadway improvements as noted in such Traffic Study which have been identified and incorporated into this Agreement and the Plans approved herein; those improvements are reflected on the Plans, and the geometrics are reflected in Group Exhibit L. Any amendment or revision of those required road improvements shall require approval of the City Council, but shall not require an amendment to this Agreement. The OWNER shall provide pedestrian cross walks “count down” displays at all intersections with traffic lights. The roadway specifications for the Property shall be in accordance with the Preliminary Plan. All off-site improvements shall be constructed prior to: a) the date contemplated as the trigger for such improvement in the Traffic Study; or, b) the issuance of a building permit for the structure contemplated as the trigger for such improvement in the Traffic Study.

10. Normal Road and Pride Avenue Extension: That portion of Normal Road between Dresser Road and Barnett Street shall be constructed not later than the first to occur of: a) the installation of the first lift of asphalt on any portion of Barnett Street (to permit any development thereupon); or, b) the installation of the first lift of asphalt on any portion of Normal Road between Carter Street to
Bethany Road (to permit any development thereupon). The entirety of Normal Road and Pride Avenue to be constructed within the Property shall be constructed (up to and including the curbs and binder course of asphalt, but not necessarily including the final lift of asphalt) not later than the first to occur of: 1) the date on which the Owner applies for a building permit for the 601st unit on the Property (with such residential units including anything with PD-R zoning other than Age-Restricted or CCRC designations); or, 2) May 1, 2028. The parties acknowledge that the first lift of asphalt shall be required prior to occupancy permits being issued for any building or structure on any of the aforementioned roads.

C. Storm Water Retention, Facilities and Improvements

1. **Owner Responsibility:** 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. In determining whether any Parcel satisfies zoning standards, any part thereof within a detention or retention system may be included as part of the area of said Parcel. In the event the Owner elects to construct a combined detention or retention system which serves all or a portion of the Parcels, the land area dedicated to the retention or detention system for a specific Parcel shall be included in the land area of the Parcel for calculations of zoning standards. 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 a Parcel, whether designed to be contained on its Parcel or to share the Retention/Detention Parcel, shall be fully accommodated by the storm drainage facilities constructed in accordance with this Article. The Declaration of Property Ownership, Easements, Restrictions and Covenants as hereinafter required, shall provide for the insurance, real estate taxes and maintenance of the Retention/Detention Parcel including but not limited to mowing and landscape maintenance, regular litter pickup, flume repairs, silt removal, regrading, replanting of deep-rooted plants, burning, underground pipe cleaning or repairs or such other maintenance as shall be required by the City, at the expense of the OWNER (i.e. by the developer or subsequently through the Homeowners Association). The Declaration shall be amended in a fashion acceptable to the City to reflect this obligation. In addition, the Declaration shall reflect that the owners shall be responsible for all costs associated with the maintenance, repair, inspection and reporting obligations associated with the earthen embankment, believed to be a Class I Dam, located along Bethany Road west of Sangamon. The City shall perform all such reporting and inspection and the OWNER (or successor owner or HOA) shall reimburse the City for any expense incurred within thirty days of the date of invoice. OWNER agrees to follow DeKalb County and City of DeKalb stormwater release rate regulations in effect as of the date of approval of the Preliminary Plan, and any other applicable ordinances, statutes or regulations in effect at the time of development. In the event the Illinois EPA establishes performance runoff
standards (retaining a portion of development runoff volume on site), OWNER shall comply with all such standards in effect at the time of approval of final engineering and construction plans of each project phase, or at time of construction, as required under the IEPA standards. The storm water facilities and combined storm water control and detention system shall be constructed in accordance with specifications as required by the Preliminary Plan. In any area where the Preliminary Plan fails to provide adequate detail regarding stormwater detention, it shall be provided in accordance with the UDO or as the Parties shall otherwise mutually agree. The Parties acknowledge that “wetland bottom” detention basins are not presently contemplated by the UDO. To the extent that the approved Preliminary Plan shows “wetland bottom” detention basins and provides a mutually acceptable calculation as to the stormwater detention/retention capability of such areas, said “wetland bottom” detention basins shall be permitted to be constructed and maintained, and shall be accounted for in terms of stormwater detention and retention as contemplated by the Preliminary Plan.

2. **Properties that Adjoin Detention Basins:** For any parcel of private property that adjoins a detention basin, the property owner shall not engage in any activity that enlarges his or her lot or otherwise impedes upon the design or construction of the detention basin (i.e. shall not mow, construct or remove impediments, or otherwise make any alteration to the Detention Basins or surrounding areas).

D. **Sanitary Sewers**

1. **Sanitary Sewer Service:** 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. The City shall cooperate with the Owner in obtaining all necessary easements and shall grant the Owner access to all City owned rights of way to enable the Owner to access the sanitary sewer service for the Property, in accordance with the approved Preliminary Plan. If the Owner cannot reach agreement with the sanitary district within six months of the date of this Agreement, Owner may void this agreement and disconnect from the City. In the event that Owner elects to void this agreement and disconnect from the City, Owner shall execute all documents necessary to convey to the City any rights of way or easements that were conveyed to the City during the time following the execution of this Agreement and preceding the Owner’s notice of intent to void and disconnect.

2. **Owner Responsibility:** 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.

ARTICLE V
RECAPTURE AGREEMENT

1. Recapture Due from Owner: Any recapture agreement or obligation with respect to any improvement owned or operated by the DeKalb Sanitary District shall be the subject of a separate agreement and/or ordinance between the Owner and the DeKalb Sanitary District. The Owner acknowledges that the City shall have no responsibility or liability for any recapture related to sanitary sewers. In addition, Owner shall be liable for payment of the Bethany Road Watermain recapture as contemplated by Exhibit G. The City is not aware of any other recapture due from Owner, relating to the development of the Property, at the present time.

2. Recapture for Oversizing of Public Improvements: If the Owner is required to construct public improvements, other than sanitary sewer improvements, that are, in the reasonable discretion of the City Engineer, determined to be oversized for the benefit of any other parcel of property not owned by the City, the City shall adopt and approve a recapture ordinance and recapture agreement, with the agreement being substantially in the format attached hereto as Exhibit H.

3. Specific Recapture Obligations Acknowledged: The City and Owner agree that the City shall adopt recapture agreements, substantially in the form attached hereto as Exhibit H, with respect to the construction of the improvements and benefitted properties described below. The recapture agreements contemplated in this Article V(3) shall be recapture agreements executed for the benefit of the Owner, to permit the Owner to recover a portion of the cost of constructing public improvements that benefit other properties as mutually determined by the Parties, in accordance with Illinois law.

   (i) an amount equal to fifty (50%) Percent of the Improvement Costs (as defined in Exhibit H) of the cost of providing a southbound left turn lane from Annie Glidden Road into the Property at Irongate Drive (at the west side of the Property), including fifty percent (50%) of any signalization installed thereon, from the owner of the property situated directly to the west of the Property (identified on Exhibit I);

   (ii) an amount equal to fifty (50%) Percent of the Improvement Costs (as defined in Exhibit H) of the cost of providing a west-bound left turn lane from Bethany Road into the Property at Normal Road and Sangamon
Road (at the north side of the Property), including fifty percent (50%) of any signalization installed thereon, from the owner of the property situated directly to the north of the Property (identified on Exhibit I);  

4. Requirements Applicable to All Recapture: Any recapture agreement for the approved by the City with respect to the Property shall be substantially in the form attached hereto as Exhibit H. Should the City, or the Owner, secure any outside grants for any public improvements that would otherwise be subject to recapture, the recapture amount shall be reduced by the pro-rata share of said grants provided to the Owner. Upon the City’s adoption of a recapture ordinance/agreement to the benefit of the Owner, all documents shall be subject to the review and approval of the City, shall be prepared and recorded at the Owner’s expense, and the Owner shall be responsible for all of the administration and/or collection of said recapture ordinance. The City shall accept no liability or responsibility for the payment (or non-payment), collection, tracking, or administration of any recapture funds pursuant to said ordinance, including interest, penalties or collection costs. If a recapture agreement is approved by the CITY and if a legal challenge as to the validity, amount or enforceability of any recapture agreement (in whole or in part) enacted pursuant to this Agreement is made in a court (either Federal or State), then the sole obligation of the CITY shall be to notify the OWNER, upon receipt of such notice of suit. The CITY shall have no obligation to defend any such suit or suits after notice to OWNER, and if a judgment (by default or otherwise) is entered declaring said recapture agreement or ordinance void or unenforceable (either in whole or in part), the CITY may thereafter allow benefited properties to connect to such services as were specified in the recapture agreements or ordinances consistent with any such order of court. The OWNER shall have the right, but not the obligation, to assume the defense of any such suit against the CITY, and defend the validity of said agreements, and the CITY agrees to cooperate with the OWNER in the defense of any such suit. In the event a money judgment is obtained for the return of money OWNER has collected under the recapture agreement or ordinance, the OWNER shall pay said amounts consistent with such order and shall defend, indemnify and hold harmless the CITY from any claims, challenges, lawsuits or other similar proceedings seeking to challenge a recapture agreement imposed under this Agreement.

ARTICLE VI
CONTINUATION OF CURRENT USES

Portions of the Property are presently being used for crop farming, pasture, and general agricultural uses. In reviewing the Annexation 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 until such time that a Final Engineering Plan, and construction has commenced, for any part of the Property is approved by
the City. At that time, the portion of the Property that is the subject of a Final Engineering Plan shall then be subject to the zoning created pursuant to Article II, herein. The Owners agree that: 1) no livestock shall be kept on the Property; 2) they shall not cause or permit farming procedures or methods that are substantially different from those currently employed on the Property; and, 3) they shall not cause or permit the application of manure or commercial sludge to the Property (to an extent greater than currently occurring on the Property) without the prior, written approval of the City. 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. No new or additional wells or septic systems shall be constructed on the Property, except with the express, written permission of the City. No new buildings or structures shall be erected on the Property, except in compliance with all applicable provisions of this Agreement, after approval of a Final Plat and Plan for that portion of the Property in which the building or structure is proposed to be constructed.

ARTICLE VII
ANNEXATION FEES, IMPACT FEES, DONATIONS & CONTRIBUTIONS

A. Fees: The Owner shall pay all fees, in the amount and at the time as described on the attached Exhibit G or as otherwise required under the terms of this Agreement or an applicable City Ordinance.

B. OTHER CITY-RELATED CONTRIBUTIONS

1. Other Public Building Site Dedication: Other than dedication of rights of way, easements, sidewalks, parks and other similar open spaces as reflected on the approved Final Plat and Plans, the Owner shall not be obligated to dedicate or donate any public building sites to the City.

2. Roadway Right of Ways, Arterial and Collector / Pride Avenue: The City acknowledges that the Owner has heretofore dedicated the entire right-of-way of Pride Avenue from Dresser Road to the north edge of the property owned by DeKalb Community Unit School District 428. The Owner will dedicate required rights-of-way for the other arterial and collector streets within the Property, and make all other required street/path/sidewalk/easement/right of way dedications and donations at the time of Final Plat and Plan approval of each phase, as shown on the Preliminary Plan.

C. SCHOOL DISTRICT FEES AND CONTRIBUTIONS

1. School District Fee: Owner and City acknowledge that, at the time of negotiation of this Agreement, Owner is contemporaneously negotiating the terms of an agreement with the DeKalb Community Unit School District 428 ("the District"), to address both land and cash contributions associated with the
Property, and to reconcile past and future land and cash exchanges and contributions between the Owner and the District. In the event that there is no valid agreement in place, documented to the reasonable satisfaction of the City, at the time of approval of the first final plat for the Property (or at such other time as the obligation to pay school land and cash contributions is due under applicable City Code, then Owner shall follow and adhere to the obligations of the UDO, as written.

2. **Voluntary Adjustment:** In the event that the Owner is able to reach a voluntary agreement with the District, and both Owner and District certify to the City that they have reached and intend on enforcing a separate agreement between themselves, then relative to school land and cash contributions, the City agrees to follow the terms of such agreement. Such agreement shall not amend any other provision of this Agreement or any obligation of Owner to any party other than the District.

**D. PARK DISTRICT FEES AND CONTRIBUTIONS**

1. **Park District Land Contributions:** Land contributions of parks shall be as shown on the Preliminary Plan as Park Contributions attached hereto as Exhibit B, and shall be completed at the time each Final Plat and Plan for the area being platted only is approved and recorded. The Parties acknowledge that the Park District has not agreed to accept, or has agreed to accept without giving credit for, certain land contributions originally contemplated (including the small detention pond at the northeastern corner of the development and the dry-bottom detention basin at the northeastern corner of the development). The Parties further acknowledge that such decision was manifested by the DeKalb Park District in a vote of their Board occurring on September 12, 2013. Owner acknowledges that, absent a change of decision from the Park District (which shall not require an amendment of this Agreement), Owner shall not be entitled to a credit against its park land/cash contribution obligations for the park areas not approved by the Park District.

2. **Recreational Paths and Improvements:** Construction of recreational paths and other improvements as shown on the Preliminary Plan shall be completed in accordance with the requirements of this Agreement. Maintenance of the recreational paths shall be the responsibility of the owner of the land on which a given recreational path is placed (subject to the note above that the Park District may assume responsibility for pathway areas by agreement).

3. **Park District Donations:** The Owner shall be responsible for the donation of the land identified for donation to the Park District upon the attached Preliminary Plan, and for payment of a cash donation in accordance with the UDO, due at the time required under the UDO to the Park District, which contribution and donation shall satisfy Owner's land and cash contribution obligations to the Park District relative to the development of the Property as per the UDO.
4. **Voluntary Adjustment:** In the event that the Owner is able to reach a voluntary agreement with the Park District, and both Owner and District certify to the City that they have reached and intend on enforcing a separate agreement between themselves, then relative to park land and cash contributions, the City agrees to follow the terms of such agreement. Such agreement shall not amend any other provision of this Agreement or any obligation of Owner to any party other than the Park District.

E. **Cost of Living Adjustments:** All fees imposed under this Agreement shall be subject to adjustment by the City at any time prior to the City’s acceptance of payment. For those fees which the City has reserved the right to change in its sole discretion (e.g. building permit fees, water connection and tap-on fees, etc.), such changes may be made by appropriate City action, be it ordinance, resolution, motion, or administrative approval; said changes shall be of general applicability throughout the City. For any fees that are "fixed" for purposes of this Agreement (e.g. the Annexation Fee, the Roadway/Equipment Contribution, etc.), such changes shall be subject to a Cost of Living Adjustment ("COLA") as provided herein. Said COLA shall be as determined by the CITY, but in no event shall such adjustments exceed the nationwide Consumer Price Index, as determined by the United States Department of Labor, (CPI) for each year or portion thereof from the date of execution of this Agreement to the date of adjustment. For any year in which a CPI is not yet available, the CITY agrees that it shall utilize an average CPI based on the average of the most recent known two years of CPI adjustments. Regardless of CPI, in no event shall the City be obligated to make any negative COLA. The City and Owner shall, at the time of payment of any fee or contribution subject to a COLA, cooperate to determine the amount of the fee or contribution due.

F. **Fees Specifically and Uniquely Attributable:** The Parties further agree that the fees and donations 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, except as provided in paragraphs VII(C)(2) and VII(D)(3) above, 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 or donations 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.

G. **Land Dedication to Other Entity:** All land donated or dedicated in this Agreement for public purposes shall be donated by deed or plat of dedication and such donation or dedication shall be subject to any conditions as required by the CITY, including but not limited to the right to require the reservation or donation of easements or rights of way, restrictions upon subsequent transfers of the property, or reversion that would cause the donated land to revert to ownership by the City in the event that the donee determines to cease using such land for public purposes and sell or transfer the donated property at a future date. The City agrees that, to the
extent that it is possible to do so, the City shall enforce such conditions consistently for new annexations following the date of this Agreement, as such conditions may be applicable to the unique characteristics of any given development. The OWNER shall not encumber (or such encumbrance shall be released at the time of recording of the final plat for the area in question) any property to be so dedicated or donated with any mortgage or other encumbrance without the consent of the CITY. Nothing within this Section shall obligate the CITY to accept such donation or dedication should the other governmental entity to ultimately receive the donation or dedication refuse to accept the same or refuse to accept the conditions specified by the CITY. In the event of such refusal, the property shall be donated or dedicated to the entity designated by the CITY, and shall be subject to such conditions as specified by the CITY. In the event that any governmental entity is to receive a donation of property in accordance with the Preliminary Plat and Plans or Park District Preliminary Land Contribution, and such entity fails or refuses to accept either the land presently contemplated to be donated or an equivalent parcel acceptable to Owner, the City and the entity, the required land donation shall, at the option of the City, either: a) be donated to the City; b) be eliminated from the required land donations without any additional fee in lieu of land donation required from the Owner; or, c) handled in an alternate fashion acceptable to Owner and the City.

H. **Southwestern Entry Parcel:** The Parties acknowledge that there is a 0.96 acre parcel of land and a 2.83 acre parcel of land which are located at the Southwestern corner of the Property along the extension of Normal Road. These parcels shall be donated to the City at no charge or expense, and without an offsetting reduction in impact fees or other credit to the Owner. The donation shall occur at the first to occur of: a) final plat approval of the area including such parcel or any adjacent portion of the Property; or, b) the time that the City requests, in writing, that such donation occur. Donation may be by plat or by written conveyance, and the Owner shall be responsible for conveying the property to the City in an unimproved condition (reserving right of way for the Normal Road extension and related improvements). The City may elect to alter the zoning of these parcels without requiring an amendment to the Annexation Agreement, and the use and improvement of the parcels shall be at the City's cost and discretion.

**ARTICLE VIII**

**DEVELOPMENT RESTRICTIONS**

A. **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.

B. **Compliance with City Ordinances:** The CITY and OWNER agree that, except as specifically modified in this Agreement and as shown in the attached Preliminary Plans, the Property shall be developed in compliance with all ordinances, codes and regulations of the CITY in effect at the time of development, including but not limited to the City Subdivision Control Ordinance. 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. 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.

C. Easements to be Provided: In addition to the rights of way required to be donated as
contemplated by the Preliminary Plans, a public access easement shall be provided over all
bike/pedestrian paths on private property within the Property. A generic utility easement shall be
provided by the Owner as may be requested by the City Engineer. All additional easements or
dedications as may be requested by the City or City Engineer at the time of preliminary or final
plat approval shall be provided by the Owner. Prior to the time of development or improvement
of the Property, the Owner shall only be responsible for granting such perimeter easements as are
necessary to facilitate installation of public utilities, to facilitate City roadway improvements or
to permit the construction of other public improvements or private utility services. All other
easements contemplated by this subsection shall be required only at time of development, and
will be reflected on preliminary and/or final plats of subdivision and development. In the event
that during the development of the Subject Property, Owner determines that any existing utility
easements and/or underground lines require relocation to facilitate the completion of Owner’s
obligation for the Subject Property in accordance with the Standards set forth in this Agreement, the
City shall fully cooperate with Owner in causing the vacation and relocation of such existing
easements and/or utilities, however, all costs incurred in furtherance thereof shall be borne by the
Owner. If any easement granted to the City as a part of the development of the Subject Property is
subsequently determined to be in error or located in a manner inconsistent with the intended
development of the Subject Property as reflected on the Standards set forth in this Agreement and in
this Agreement, the City shall cooperate with Owner in vacating and relocating such easement and
utility facilities located therein, which costs shall be borne by Owner. Notwithstanding the
foregoing, and as a condition precedent to any vacation of easement, Owner shall pay for the cost of
design and relocation of any such easement and the public utilities located therein, unless such
relocation is requested by the City and is conducted solely for the benefit of the City.

D. Engineering Review and Permits: All construction shall be in accordance with the
Preliminary Plans. Any issues not addressed by the Preliminary Plans or any proposed changes
to the Preliminary Plans shall be required to comply 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 versions of the plat, including the final plat, shall be subject to the
requirements of the Preliminary Plans or, if revised, shall be subject to such revised Engineering
Specifications or Engineering Comments as shall be promulgated by the CITY or the City
Engineers. 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 City will reasonably cooperate with the Owner in
signing such applications.
E. Utility Extensions: The installation of the necessary and appropriate on-site electric, natural gas, cable, television, telephone 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 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. OWNER agrees to bury all overhead utility lines existing at the time of development that run within the Property at the time of development of the area in question. The Parties acknowledge that electrical utility lines located along the perimeter of the Property (i.e. within the right of way of a perimeter road along the outside of the Property, such as Bethany Road or Annie Glidden Road) may be constructed as above-ground installations if the Owner reasonably deems the cost of underground installation for such lines to be unduly burdensome. However, at such location as said lines depart from the perimeter right of way and enter the Property, said lines shall be installed by underground installation only.

F. Traffic Enforcement Agreement: Contemporaneously with the approval of any Final Plat or Plan, the OWNER and City shall enter into a separate written agreement providing for traffic law enforcement on all private parking lots, roads and commercial areas of the Property covered by the Final Plat or Plan, in form acceptable to the CITY.

G. Eminent Domain: In the event any property acquisition (or easement) is required, to complete any contemplated improvement herein, from a third party, the OWNER shall endeavor, in good faith, to acquire said property (or easement) by private purchase. All negotiated settlements shall be made prior to submission of any Final Plat for the phase of the Property affected thereby, with the prior consent of the CITY to the extent of the CITY’s governmental interest therein. In the event OWNER is unable to acquire such necessary property (or easement), and contingent upon the ability of the Owner and City to demonstrate a public necessity (and satisfy the other required elements for condemnation of private property) the CITY shall exercise its power of eminent domain to acquire the same, provided OWNER shall pay the reasonable costs (including but not limited to costs of appraisals, costs of payment of the acquisition price to said third parties, legal fees and all other costs) incurred by the CITY as a result thereof. OWNER shall deposit the amount of such costs reasonably estimated by the CITY into a segregated, interest bearing escrow account prior to the commencement of such eminent domain proceedings by the CITY. Such funds shall be utilized solely to defray such costs and all funds, including interest, remaining in such escrow account upon completion of such proceedings shall be refunded to OWNER. The Owner shall be responsible for replenishing the escrow account, if depleted, from time to time upon the request of the City, and shall be responsible for the payment of any additional costs, expenses, or judgment amounts in excess of the amount then-currently within the escrow account. Upon acquisition of the easements (either through negotiation or eminent domain) the OWNER shall complete the required improvements as shown on the engineering plans for the Development within 2 years thereafter.
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 of debris that came from the Property or in relation to the development thereof, and take measures to control dust as needed daily while construction is occurring on said site. Within the Property, 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 within the Property, prior to the conclusion of the maintenance period for any such improvement. In addition, OWNER shall cause each street constructed within each Phase of Development, prior to the acceptance of such street by the CITY, to be de-iced and plowed at such times as are reasonably needed and also at such times as directed by the CITY. In the event such acceptance occurs between November 1 of any given year through April 1 of the subsequent year, OWNER shall provide snow plowing and de-icing services throughout the entirety of that period. At the option of the OWNER, the OWNER may request that the CITY enter into a snow plowing agreement whereby the CITY agrees to provide snow plowing and de-icing services for a fee. 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 twenty thousand ($20,000.00) dollars (“Site Control Escrow”). In the event OWNER fails to clean, snow plow or de-ice the streets, 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 prior to the acceptance of such street, path, roadway or sidewalk as herein provided, within forty-eight (48) 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. In the event that the City reasonably determines that the 48 hour waiting period presents an undue hazard to public welfare or safety, the City may take action without satisfying such waiting period. 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 twenty thousand ($20,000.00) 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 upon conclusion of the last of the maintenance periods for public improvements within the Property, or completion of the development of all lots and units within the Property in accordance with the last Final Plat thereof, whichever shall be the last to occur.

I. Sales Trailers/Construction Office/Model Homes: OWNER shall be permitted to set temporary construction offices and sales trailers on the Property prior to final plat approval. OWNER shall also be entitled to place storage trailers and sales trailers on the site prior to final plat approval. Any construction offices and storage trailers shall be situated so as to insure that they are at least the width of two adjoining residential lots away from any existing homes not on the Property. At all times after location of the construction offices and storage trailers, OWNER shall install and maintain reasonable screening around said offices and trailers, in form and content acceptable to the CITY, and shall be responsible for the safety and security of the site of
said offices and trailers. The CITY agrees that it shall not impose any restrictions on the number of model homes constructed within the Property, provided that: a) no model homes shall be utilized exclusively to advertise developments or properties located outside of the corporate limits of the CITY of DeKalb; and, b) all model homes within the Property shall be closed and converted to residential use once at least ninety-eight percent (98%) of the total number of units proposed to be constructed on the Property have been issued a final certificate of occupancy and have been sold to a third party (i.e. residential user), provided that the CITY may waive this model home closure requirement upon request of the OWNER, should continuation of some number of the model homes be necessary to market the remaining, unsold units on the Property.

J. Sidewalks: Concrete sidewalks, as required and specified by applicable CITY codes and the terms of this Agreement, shall not be installed between November 15th and April 15th of any given year, unless otherwise permitted by the CITY Building Department.

K. Deed Restriction on Resubdivision and Landscape Buffer: Unless otherwise approved by the City through the approval of an amended final plat, a deed restriction shall be recorded on all final plats for all platted lots prohibiting re-subdivision of those lots subsequent to recording the final plat. A landscape buffer shall be added to all lots that are considered through lots to prevent multiple frontages on public roads. A deed restriction shall be added to the final plat that prevents direct access to Bethany Road and Annie Glidden Road from any of the abutting lots other than those with an approved access point as shown on the Preliminary Plat and Plans.

ARTICLE IX

MUTUAL ASSISTANCE

A. Mutual Cooperation: 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.

B. Superior Governmental Authority: All Parties shall cooperate fully with each other in seeking from any or all appropriate governmental bodies (whether Federal, State or County) financial or other aid and assistance required or useful for the (i) construction of the relocation of Bethany Road; (ii) the construction or improvement of property and facilities in and on the Property; (iii) connections from the Property and/or its individual Parcels to the City's potable water supply and distribution system; (iv) connections from the Property or its Parcels to the DeKalb Sanitary District; or (v) provision of services to occupants or businesses located on the Property, including, without limitation, grants and assistance for public transportation, roads and highways, water and sanitary sewage facilities and storm water disposal facilities.

ARTICLE X
REMEDIES

A. 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.

B. In the event of a material breach of this Agreement, the Parties agree that the party alleged to be in breach shall have thirty (30) 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 thirty (30) day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same).

C. 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 thirty (30) day of such default notice (provided, however, that said thirty (30) 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.

D. 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 right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

E. 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.

ARTICLE XI
TERM

This Agreement shall be binding upon the Parties and their respective successors and assigns for twenty (20) years, commencing as of the date hereof, and for such further terms as may hereinafter be authorized by statute and by City ordinance. The expiration of the Term of this Agreement shall not affect the continuing validity of the zoning of the Property or any ordinance enacted by the City pursuant to this Agreement.
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.

1. Notwithstanding the foregoing, the City and Owner may agree to amend the provisions of this Agreement, during its term, without the approval or consent of the owners of individual residential or commercial lots that have been sold during the term of this Agreement, provided that the amendment agreed to by the City and Owner does not create any new obligation or burden for the individual lot owner(s). Purchase of any parcel within the Property after the recording of this Agreement constitutes acceptance of the provisions of this Agreement, and waiver of the right to object to any amendment authorized under this Article IX(A)(1).

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 annexation or 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 contrary ordinances, 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, if the OWNER and City are able to agree upon the applicable standard in a writing acceptable to both parties, said agreed upon standard may be utilized without an amendment to this Agreement.

D. Survival. The provisions contained herein shall survive the annexation of the Property and shall not be merged or expunged by the annexation of the Property to the City.

E. 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 potion of the Property conveyed.

1. **Sale to Third Party:** Upon the conveyance of all or a portion of the Property and full compliance with all of the applicable provisions of this Agreement relating to such conveyances or transfers in interest, OWNER as the case may be, shall be released of any and all obligation or liability under this Agreement for that portion of the Property conveyed (if the entire Property is not so conveyed), immediately upon conveyance and the substitution of any performance bond or other security required under the terms of this Agreement, including but not limited to the Site Control Escrow. However, OWNER or its successor shall remain liable for all public improvements until accepted by the CITY, and thereafter until completion of any required maintenance period.

F. **Hazardous Materials.** Each Owner or occupant of all or a portion of a Parcel shall use, or permit the use of Hazardous Materials on, about, under or in its Parcel, only in the ordinary course of its usual business operations conducted thereon, and any such use shall at all times be in compliance with all Environmental Laws. Each Owner agrees to defend, protect, indemnify and hold harmless each other Owner and the City from and against all claims or demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereof, including but not limited to costs of investigation, remedial response, and reasonable attorneys' fees and cost of suit, arising out of or resulting from any Hazardous Materials used or permitted to be used by such Party, whether or not in the ordinary course of business. For the purpose of this Agreement, the term "Hazardous Materials" shall mean petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law; and the term "Environmental Laws" shall mean all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

G. **Declarations of Covenants, Conditions and Restrictions:** Owner has provided a copy of its proposed Covenants, Conditions and Restrictions ("CCRs"), in the form attached hereto as Exhibit J. Owner shall record these CCRs against the Property and shall provide for their subsequent enforcement. Owner shall not, at any time that it has control over the Property or the CCRs, permit alteration of the CCRs except with the approval of the City, which approval may be granted by the City Manager.

H. **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:

Principal Planner
City of DeKalb
223 South Fourth Street, Suite A
DeKalb, IL 60115
Telephone: 815-748-2060
Fax: 815-748-2359
Email: derek.hiland@cityofdekalb.com

City Attorney
City of DeKalb
200 South 4th Street
DeKalb, IL  60115
Telephone: 815-748-2093
Fax: 815-748-2320

If to the Owner:

Irongate Real Estate Development Company, L.L.C.
17 North First Street
Geneva, Illinois 60134
Attn: David A. Patzelt
Telephone: 630-232-8570
Fax: 630-232-8581312-444-2282
Email: Dave@Shodeen.com

With a copy to:

William B. Phillips, Esq.
221 North LaSalle Street – Suite 463
Chicago, Illinois 60601
Telephone: 312-634-1104
Fax: 312-634-1101
Email: Phillipswb@aol.com

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.

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

J. **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, unless any such claim is based in whole upon the negligence or willful act of the Indemnitees.

1. **Wetland and Floodplain Issues:** 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. Notwithstanding the foregoing, if the City intentionally and willfully violates a known federal or state regulation or other superior governmental mandate relating to wetlands and floodplains after having been notified of the applicable standard by Shodeen, and if the City thereafter requires Shodeen to undertake activities in violation of the known/identified standard, Shodeen shall not be obligated to indemnify the City for damages relating to the violation of the known standard, under this subsection.

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

- **Exhibit A**  Legal Description of the Property
- **Exhibit B**  Preliminary Plat, Preliminary Plan, Preliminary Engineering Plan, Master Plan and Design Guidelines (with the Master Plan and Guidelines dated October 1, 2013).
- **Exhibit C**  Phasing Plan
- **Exhibit G**  City Fee Schedule
- **Exhibit H**  Recapture Agreement
- **Exhibit I**  Benefited Properties
Exhibit J  Declaration of Covenants
Exhibit L  Required Road Improvements and Geometry

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

Attest: Elizabeth E. Peerboom
Liz Peerboom, City Clerk

OWNER:
IRONGATE REAL ESTATE DEVELOPMENT COMPANY, L.L.C.
By: Shodeen Management Company, Its Manager

By:
Title: Vice President
Irongate Annexation Description

That part of Section 10, Township 40 North, Range 4 East of the Third Principal Meridian described as follows: Beginning at the northeast corner of the Southeast Quarter of said Section 10; thence South 0°11'16" West along the east line of said Quarter 1936.96 feet to the position of a monumental stone in said east line and also on a northerly line of Whitmore Cemetery; thence North 89°14'03" West along a northerly line of said Cemetery, as occupied, 115.29 feet to a 2" diameter steel fence post in concrete; thence South 1°03'42" West along a westerly line of said Cemetery, as occupied, 144.0 feet to the northerly right of way line of Dresser Road; thence North 89°20'36" West along said northerly right of way line 270.31 feet to the southeast corner of DeKalb High School, being a subdivision in the South Half of Section 10, Township 40 North, Range 4 East of the Third Principal Meridian, DeKalb County, Illinois; thence North 0°39'24" East along an easterly line of said subdivision 10.0 feet to an angle in said easterly line; thence westerly, northwesterly and northerly along a northeasterly line of said subdivision, being along a curve to the right having a radius of 20.0 feet, tangent to a line drawn at right angles to the last described course from the last described point 31.20 feet to an angle in said northeasterly line; thence North 0°01'37" East along an easterly line of said subdivision, tangent to the last described curve at the last described point 307.10 feet; thence northerly and northwesterly along a northeasterly line of said subdivision, being a curve to the left having a radius of 1028.0 feet, tangent to the last described course from the last described point 931.13 feet; thence North 51°52'11" West along a northeasterly line of said subdivision, tangent to the last described curve at the last described point 979.92 feet; thence northwesterly along a northeasterly line of said subdivision, being a curve to the right having a radius of 960.0 feet, tangent to the last described course from the last described point 202.93 feet; thence South 50°14'25" West along a northwesterly line of said subdivision 80.0 feet to an angle in said northwesterly line; thence South 58°21'52" West along a northwesterly line of said subdivision 679.20 feet to an angle in said northwesterly line; thence South 90°00'00" West along a north line of said subdivision 454.76 feet to an angle in said north line; thence South 63°07'51" West along a northwesterly line of said subdivision 397.40 feet to an angle in said northwesterly line; thence South 0°32'23" West along a westerly line of said subdivision and said westerly line extended southerly 858.0 feet; thence South 0°50'38" West parallel with the west line of Ivan Williams Subdivision, according to the plat thereof recorded in Book N of Plats, Page 97, as Document No. 336758 a distance of 417.18 feet to the northerly line of Dresser Road, as established by Document 328792; thence North 89°31'56" West along the northerly line of said Dresser Road 146.53 feet to an angle in said northerly line; thence South 0°28'04" West along a westerly line of said Document 328792, a distance of 12.0 feet; thence North 89°31'56" West along a northerly line of said Document 328792 a distance of 200.0 feet to the easterly line of DeKalb County Health Facility Subdivision, according to the plat thereof recorded August 23, 2002 as Document 2002016211, extended southerly; thence North 0°32'23" East along said southerly extension and the easterly line of said DeKalb County Health Facility Subdivision 2071.65 feet to the south line of the Northwest Quarter of said Section 10; thence North 89°43'40" West along the south line of said Northwest Quarter 1785.58 feet to a line drawn parallel with and 50.0 feet westerly of the west line (measured at right angles thereto) of said Northwest Quarter; thence North 0°12'50" East along said parallel line 2498.78 feet to a line drawn parallel with and 150.0 feet southerly of the north line (measured at right angles thereto) of said Northwest Quarter; thence South 89°43'28" East along said parallel line 2670.18 feet to a line drawn parallel with and 150.0 feet southerly of the north line (measured at right angles thereto) of the Northeast Quarter of said Section 10; thence South 89°46'02" East parallel with the north line of said Northeast Quarter 2634.59 feet to the east line of said Northeast Quarter; thence South 0°20'11" West along
the east line of said Northeast Quarter 2500.14 feet to the point of beginning, in DeKalb Township, DeKalb County, Illinois,

and also;

That part of the North Half of Section 11, Township 40 North, Range 4 East of the Third Principal Meridian described as follows: Commencing at the northwest corner of said North Half; thence South 0°20'11" West along the west line of said North Half 150.0 feet to a line drawn parallel with and 150.0 feet southerly of the north line (measured at right angles thereto) of the Northeast Quarter of Section 10, Township and Range aforesaid; thence continuing South 0°20'11" West along said west line 1502.42 feet to the most northerly northwest corner of Parcel A of the Ellwood Farm Plat, recorded in Volume G of Plats, Page 164, as Document 240632; thence South 89°43'55" East along a northerly line of said Parcel A, 2300.20 feet to a point on said north line that is 301.35 feet westerly of the northeast corner of said Parcel A; thence North 0°16'05" East, at right angles to the last described course 150.0 feet; thence South 89°43'55" East parallel with said north line 281.03 feet to the westerly right of way line of North First Street; thence northeasterly along said westerly right of way line, being a curve to the right having a radius of 1472.50 feet, a chord bearing of North 12°44'52" East, an arc distance of 384.56 feet; thence North 69°13'40" West along a southerly right of way line of said North First Street 11.08 feet; thence North 22°31'13" East along a westerly line of said North First Street 265.01 feet to the southwesterly right of way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad (now abandoned); thence North 60°07'35" West along said southwesterly right of way line 19.79 feet; thence North 22°28'23" East 100.84 feet to the northeasterly right of way line of said Railroad; thence North 60°07'35" West long said northeasterly line 985.31 feet to the southeasterly right of way line of Bethany Road; thence southwesterly along said southeasterly right of way line, being a curve to the right having a radius of 950.0 feet, a chord bearing of South 62°35'14" West, an arc distance of 118.70 feet to said southwesterly right of way line; thence South 59°55'38" West along said southwesterly right of way line 126.34 feet; thence North 74°38'14" West 163.89 feet to the southerly right of way line of Bethany Road; thence westerly along said southerly right of way line of Bethany Road, being a curve to the right having a radius of 950.0 feet, a chord bearing of South 88°19'41" West, an arc distance of 629.72 feet; thence North 72°40'56" West along a southwesterly right of way line of said Bethany Road 634.40 feet; thence westerly along a southerly right of way line of said Bethany Road, being a curve to the left having a radius of 1135.0 feet, an arc bearing of North 81°19'32" West, an arc distance of 337.97 feet; thence North 89°46'02" East along a southerly right of way line of said Bethany Road 205.31 feet to the point of beginning, all in DeKalb Township, DeKalb County, Illinois, and containing 458.682 acres, together with that portion of Annie Glidden Road, Bethany Road, North First Street and Dresser Road, lying westerly, northerly, easterly and southerly, respectively, of the foregoing described premises that have not been previously annexed to the City of DeKalb.
IRONGATE
A PLANNED UNIT DEVELOPMENT
MASTER PLAN & DESIGN GUIDELINES
for the City of Dekalb

Sho-Deen, Incorporated
ACKNOWLEDGMENTS

The Preliminary Plan and this Master Plan and Design Guidelines is the culmination of countless design workshops involving a variety of organizations and government entities. These workshops, which have occurred over several years, attempted to establish recommendations and guidelines for the proposed Irongate residential community. The workshop members, listed below are to be commended for their contributions to the planning of this important residential development.

Workshops with the City of Dekalb:
Kris Povlsen, Mayor
Mark Biernacki, City Manager
Derek Hiland, Principal Planner
Joel Maurer, P.E., Assistant Director of Public Works

Design Team/Developer:
Sho-Deen, Incorporated
17 North First Street
Geneva, Illinois 60134

Project Engineers:
Sheaffer & Roland, Inc.
611 Stevens Street
Geneva, Illinois 60134

Land Planner/Landscape Architects:
LDC, Inc.
611 Stevens Street, Ste 200
Geneva, Illinois 60134
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INTRODUCTION
CHAPTER 1

July 8, 2013
INTRODUCTION

Dekalb

As the western anchor to the booming I-88 Corridor, DeKalb, Illinois is only a little more than an hour from both downtown Chicago and O'Hare International Airport. In spite of its proximity to the Chicago region, DeKalb remains apart and maintains its own unique character as a thriving university community with both urban and rural roots. Rich in history, DeKalb captures the spirit of days gone by in a variety of ways while embracing the future. From historic landmarks to new and remodeled facilities, there is much to explore and enjoy a vibrant northern Illinois destination boasting historical architectural gems, national and local entertainment, as well as abundant shopping, dining and award-winning recreation.

Originally known as the “Barb City,” where barbed wire was invented, the City of DeKalb has evolved from a primarily manufacturing & agribusiness town to a community which is recognized for its commitment to economic and environmental sustainability, its variety of cultural and entertainment opportunities, its regional leadership in educational and medical resources that welcomes the development of synergistic business enterprises. These are the primary reasons why DeKalb has steadily grown to a full service community of 44,030.

As the home to Northern Illinois University, the second largest university in the State of Illinois with 25,000 students, the DeKalb/NIU area is a “Communiversity,” which is a unique environment that complements and enhances the lifestyle of DeKalb residents and visitors.
INTRODUCTION

SHO-DEEN, INCORPORATED BACKGROUND

SHODEEN

When Kent Shodeen settled in nearby Geneva, Illinois in 1961, little did he realize the lasting influence he would have in the development of the quaint, rural Illinois community and its neighboring towns. Now 51 years later his namesake company, Shodeen, Inc. is widely recognized by area residents, businesses and civic leaders as one of the Fox Valley’s premier construction, management and land development firms.

Shortly after moving to the Tri-Cities, the native Chicagoan built a single-family home, intending to move into it with his wife, Joan and young daughter. Those plans changed, though when an interested buyer came along and Shodeen sold the home for a modest profit. That seed money helped finance more “one-at-a-time” projects over the next several years and the Shodeen’s reputation for building quality homes began to grow.

In 1966, Shodeen greatly expanded his home building portfolio with the purchase and development of 62 acres of undeveloped land in Batavia, Illinois. Building out a portion at a time, Shodeen transformed the un-improved parcel of land into Carriage Crest, a 160 single family home community.

Today, Sho-Deen, Inc. is a diversified, family owned firm whose residential properties have housed more than 7,000 Fox Valley area families in addition to major retail, office and commercial developments, landmark restoration projects, master planned communities, hotel and restaurant interests.

Sho-Deen, Inc.’s most ambitious residential project to date is Mill Creek, one of Kane County’s largest master-planned communities of single-family and multi-family residences.Spanning over 2,300 acres just west of Geneva, Mill Creek garnered prestigious honors from the National Association of Home Builders, and Professional Builder magazine, in 1999 as the “Best Overall Community in the Midwest”.

The Sho-Deen properties offer the best of both worlds – convenience to jobs, good schools and shopping, plus leisure attractions, all within a
INTRODUCTION

Sho-Deen’s residential and commercial development projects have changed the landscape of the burgeoning Fox Valley area and added significantly over the years to its economic base.

Sho-Deen, Inc.’s commercial projects include major retail and office space, including Tri-City Center, in St. Charles, Geneva on the Dam, Dodson Place and Williamsburg Professional Center in Geneva.

The firm’s roots in the historic Fox Valley grow with each generation and their loyalty to the area is further evidenced through the firm’s restoration projects. These include Geneva on the Dam, a 50,000-square-foot office complex, the River North Condominiums along the banks of the Fox River and the historic Herrington Inn of Geneva with adjacent office and retail center.

“These were dilapidated areas that didn’t interest other developers,” said Chris Aiston, Geneva’s director of economic development.

The Sho-Deen organization stepped up to the plate and turned these former eyesores into thriving properties providing important business and hospitality services.

For those restoration efforts, Sho-Deen, Inc. was the recipient in 1993 of the Preservation Partnership Award from the Preservation Partners of Fox Valley, the 2001 City of Geneva Historic Preservation Award, in recognition of a project that reflects a sensitivity to our Community’s Architectural Heritage and awareness for the Benefits and Value of Cautious Historic Preservation, presented by Geneva Historic Preservation Commission and the 2002 Mid-Valley Neighborhood Improvement Association – Neighborhood Pride award for the Adaptive Reuse Category for the remodel of Dodson Place in downtown Geneva, Illinois.

The Sho-Deen organization recognizes and has remained dedicated to preserving the character and values that the Fox Valley region offers to those who live and work here.
BACKGROUND

CHAPTER 2

July 8, 2013
BACKGROUND

Irongate
Site Location/Existing Conditions Overview:
The proposed Irongate property is comprised of 460 acres, and is located at the southeast corner of Glidden Road and Bethany Road in the City of DeKalb. The property is currently zoned agricultural and is used for farming. The property is adjacent to the following roads; Glidden Road to the west, Bethany Road to the north, North First Street to the east, and Dresser Road to the south. The surrounding land use is as follows: to the north is Farmland and PD-R (Bridges of Rivermist), to the east is SFR2 (Buena Vista Golf Course) /MFR2, to the south is Farming/Kautz Park/SFR1/DeKalb High School/County Health Facility, and to the west is Farmland.

Aerial Photograph:
The site topography is characterized by gently sloping land from the north along Bethany Road to the east-west-south along Dresser Road. Existing wetlands exist along the west portion of the property. This wetland which is adjacent to the County Health Department is planned to be protected. (Refer to Wetland Report as prepared by Cowhey Gudmundson Leder, Ltd, dated March 27, 2006. The entire site is currently in row crop agriculture, primarily corn and beans and is clear of trees except for the farm buildings at the northwest corner. (Refer to Boundary Survey/Aerial Photograph)
The site offers a variety of soil types which are fairly predictable based upon the topography. The upland areas consist of silty-loam type soils which are generally moderate to well drained soils and suitable for development. (Refer to soils classifications below.)

**Soil Survey (Natural Resource Conservation Service)**

**Soil Classifications:**

- 103 A: Houghton Muck – 0-2% slopes
- 154 A: Flanagan Silt Loam – 0-2% slopes
- 171 A: Catlin Silt Loam – 0-2% slopes
- 171 B: Catlin Silt Loam – 2-5% slopes
- 356 A: Elpaso Silty Clay – 0-2% slopes
- 348 B: Wingate Silt Loam – 2-5% slopes
BACKGROUND

B. Project Summary:
The following design guidelines are a part of the planned development for Iron gate and are meant to establish a level of design and quality consistent with the City of DeKalb and the owner's intent. The guidelines are intended to encourage creative, innovative ways to accomplish the goals of the plan without limiting specific designs or solutions.

Iron gate is intended to be developed as a PD-R Planned Development Residential to allow for the development of the following land uses: Neighborhood Commercial Area (along Glidden Road), Senior Housing Area (along Glidden Road), Empty Nester Housing Area (along Bethany Road), Multi-Family 'Townhomes (along Bethany Road and abutting the high school) and Traditional Single Family Area (along Bethany Road and Dresser Road).

The Land Use Plan for Iron gate envisions a logical and balanced extension of the City of DeKalb residential neighborhoods which exist to the north, south and to the east. The plan consists of a diversity of attached/detached residential neighborhoods and an interconnected system of open space that serves multiple functions as recreation, stormwater management, and natural environment, while integrating a diverse range of homes, churches, schools, parks and families. The proposed streets and open space areas are designed to encourage walking by providing sidewalks, paths, and on-street parking.
**BACKGROUND**

Preliminary Plan:
Irongate residential development is comprised of approximately 458 acres with approximately 1,242 dwelling units. The PD-R Planned Development Residential zoning classification will allow for a diversity of housing product, as well as, a neighborhood commercial area. Approximately 130 acres, (28%) of the project site, is currently planned as open space consisting of church property’s, schools, neighborhood parks, open space, and trail corridors.
DESIGN GUIDELINES INTRODUCTION

THE MASTER PLAN AND DESIGN GUIDELINES

The Master Plan and Design Guidelines outline and describe the developer’s design vision for the Irongate project. The Design Guidelines Manual serves as a narrative and photographic step between the general land-use plan referred to as the Preliminary Plan or Master Plan, and the anticipated development. The Preliminary/Master Plan illustrates the developer’s intent to create a network of streets, neighborhoods, and open spaces. The Design Guidelines and Master Plan will direct the buildout and decision making of the development. The goals of this Master Plan and Design Guidelines effort are identified as:

- Clarify the developer’s vision of new neighborhoods.
- Develop a physical plan for the 458+/- acres that is fiscally responsible and marketable.
- Develop Design Guidelines for specific uses.

Early in the process, the planning effort set out to not only meet market demands, but to propose a community that demonstrates an ecological awareness and respect for the land. The Plan will be flexible since many proposed program elements are currently being studied and the market will change over time. The Plan will identify the framework of roads, open spaces and key public places that could be retained as the program continues to be refined.

The Master Plan also must address the larger regional and City-wide land use, transportation, and open space connections. For example, the Master Plan will provide potential recreation trail connections to local and regional trails.

The planning principles that have guided the Master Plan and Design Guidelines process are:

1. Create walkable neighborhoods that surround and support the Churches, Retail Center, Senior Living Facility, and the High School and Sangaman Elementary School.
2. Create a system of streets that connect neighborhoods to each other and to the Mixed-Use Retail Center. The streets should be welcoming, comfortable, and supportive to the pedestrians and cyclists.
3. Create a system of connected open spaces that includes the prairie, passive, active and a park.
4. Create a plan that is flexible and responsive to the changing marketplace, yet maintains the larger framework of major streets and open spaces.

The resulting Master Plan for Irongate Development Project addresses each of these planning goals in a positive manner, while also achieving a design vision that is responsive to the marketplace and meets the City’s infrastructure commitments. The Master Plan provides a careful balance of land uses, densities, and design guidelines that also provides a continuum of the character and life-style already established within the City of DeKalb.

The Design Guidelines presented in the pages which follow are intended to reinforce the developer’s master planning framework and guide the design of specific upcoming development projects. The Design Guidelines express the character and quality that will make Irongate a special place to live, work, worship, shop and play.

The guidelines address seven areas:
1. The Street System
2. The Open Space and Parks
3. Storm Water Management
4. Landscaping
5. The Signage System
6. The Residential Neighborhoods
7. The Commercial and Office Areas
THE STREET SYSTEM GUIDELINES

GENERAL INTENT

The Street System Guidelines encourage gracious, walkable streets that reflect a commonality of landscape, lighting and street design, while reducing storm water piping networks and enhancing storm water quality via the use of curb openings to allow storm water to flow in vegetated swales. A commitment to well-designed streets will bring higher land value and will also unify the new neighborhoods with the existing City. The guidelines are based on the following objectives:

Traffic within the project should be slow rather than fast-moving, with speeds limited to 25-35 m.p.h. on all streets.

1. Streets should be designed to accommodate pedestrians with ample shaded sidewalks, clearly marked crosswalks, and lighting at intersections of streets.
2. Streets in the project should be no wider than two traffic lanes. Dedicated left-turn lanes have been added at Dresser Road intersections to ease traffic congestion and provide safe turning movement.
3. The street system will interconnect with adjacent City of DeKalb streets.
4. Painted cross walks will be provided at all full intersections with Wildflower.
5. Continuous bicycle paths will be accommodated through the new neighborhoods.
6. On-street parking is encouraged on all residential and commercial streets.
7. Consistent street tree planting is encouraged for most streets to provide a landscaped unity and shade.

Crosswalks shall be emphasized with paint markings, and other such surface materials to draw the attention of motorists and increase the attractiveness of walkways.

Motor vehicle circulation of streets and drives shall be designed to emphasize pedestrian safety. Traffic calming features such as traffic circle and landscaped medians may be used to encourage slow traffic speeds. The streets will be considered a network of small streets rather than several large streets. The concept of the two lane street with parking on both or one side of the street is encour-
THE STREET SYSTEM GUIDELINES

Roadway Cross Sections

![Diagram of Iron Gate Drive and Wildflower Lane Cross Sections]

Note: Grading within 6 feet of shoulder shall be 3 inches rise or fall, depending on space outside of shoulder.

Iron Gate Drive / Wildflower Lane

![Diagram of Residential Street Cross Section]

Note: Grading within 6 feet of shoulder shall be 3 inches rise or fall, depending on space outside of shoulder.

Residential Street

- 19 -

90/242
THE STREET SYSTEM GUIDELINES

Street/Parking Lot/Building Lighting:
In order to maintain the rural character of the area, we propose street lights at the intersections of parking/roadways utilizing the City's standard street light and pole. This placement will prevent light pollution and be energy conservative. All parking lot lighting shall be designed to eliminate direct illumination, cause glare or excessive light onto the surrounding public/private property/land uses. This type of lighting will incorporate cutoff shields and other appropriate measures to conceal the light source to adjoining uses. No up lights will be allowed. The building lighting shall be located at critical locations/features of the building, entrances to buildings, entrances to open space/pedestrian areas. The light level will be low and consistent with pedestrian safety. Building lighting will include: wall scones, gooseneck fixtures, window, and signage lighting. Any and all pathway lighting (exterior) shall be low and directed downward in order to reduce glare.

In multi-tenant buildings, one flush mounted building tenant sign is permitted per tenant building face exposure. Signage lighting shall include either gooseneck lights or backlit three-dimensional lettering.
An 8' wide asphalt bicycle/pedestrian path is planned within the development. This path will provide direct connections to open space areas, the neighborhood commercial area, the DeKalb High School, Sangaman Elementary School, and the surrounding neighborhoods. A Bicycle rack(s) will be provided at key locations throughout the development for bike storage.
The Irongate Development offers the opportunity for the extension of the Voluntary Action Center (TransVAC) and the NIU Huskie Bus. TransVAC green line currently services the DeKalb County facility at the northeast corner of Dresser and Glidden Road. The Huskie 'Route One' bus services the neighborhood located at the southeast corner of Glidden Road and Twombley Road. Proposed bus stops would connect Irongate area neighborhoods to the proposed neighborhood commercial area, as well as the new High School and proposed church.

NIU Husky Bus

We will work with the City of DeKalb, TransVac and Huskie line to incorporate these suggested additions to the various bus routes to further promote public transportation.
The proposed open space will serve multiple functions such as resource management, recreation, and natural environment. The landscape approach for the Irongate is not only sensitive to the existing wetland/drainage ways and surrounding open space areas but also promotes the use of passive and active uses incorporating blue grass, as well as, use of native trees, shrubs throughout the property. The use of native plant species, particularly when planted in communities with each other, ensures that the plants will be adapted to the local temperature and moisture fluctuations typical for DeKalb County.

Bicycle & Pedestrian Path/Neighborhood Parks:
The Irongate residential neighborhoods are organized around a hierarchy of parks and open space. The first level of hierarchy is the large relatively natural area, located along Bethany Road. Included within this corridor, we plan a pedestrian/regional trail, picnic areas, and interpretative signage/viewing areas. The second level includes neighborhood parks which are planned in the clustered neighborhoods. The third level is the landscape buffer zones along Glidden Road, Bethany Road and Dresser Road. These buffer zones will be planted with native trees, shrubs, and prairie plantings along with an 8’ bicycle/pedestrian path. This path will provide direct connections to all open space areas, the neighborhood commercial area, the DeKalb High School, and the surrounding neighborhoods. (Refer to Park Plan)
The open space and parks plan illustrates all proposed parks and open space areas. These spaces are to be for passive or active recreation. All residential neighborhoods have direct connection to open space areas, natural areas, neighborhood parks, community parks via multi-use paths and sidewalks. The proposed streets are designed to encourage walking by providing sidewalks, bike paths, and on-street parking. The park system consists of pocket parks and neighborhood parks, and a community park. The City may consider employing the services of a Park Planner to assist with obtaining Federal and State grants for park improvements.

The pocket and neighborhood parks are generally located in each residential neighborhood. The size will range from less than one acre to three acres. Amenities will include; playgrounds, swings, seating areas, shelters, garden areas, and informal grass areas.
The developer assumes that open space/park areas will not be conflicting with proposed utility easement locations. Easements for all utilities to not only serve the park amenities but to traverse the park to serve the DeKalb community including water, sanitary, electric, gas, cable television, telephone and storm water will be granted by the land owner. All park land will be owned by the DeKalb Park District or Homeowners Association.
STORM WATER MANAGEMENT GUIDELINES

CHAPTER 6

July 8, 2013
The focus of the storm water management plan is to reduce the impacts of developing the site and to enhance the natural features of the site. The storm water runoff that is generated on the project site will be managed through a system of swales which discharge into storage areas within the open space areas of the site. This network of slow-flow swales (grassed waterways) will collect and convey the runoff into detention basins and retention ponds. The storage capacity of these features will meet the counties storm water management ordinances. The requested zoning change will eliminate the current erosion and discharge of fertilizers and chemicals caused by farming.

Goals and Principles:
- Manage all storm water from the proposed development within the site
- Protect downstream properties/natural areas from adverse flood impacts and water quality
- Create multipurpose storm water storage and recreational ponds and basins integrated into the site plan
- Multiple use of swales; grass filtration cleanses storm water, use as conveyance, provides detention, low velocity reduces TSS
- Shallow slopes will maintain vegetation
- Facilitate groundwater recharge by incorporating shallow detention facilities, and overland conveyance facilities
- Encourage sheet drainage by incorporating curb cuts along the parking lot/roadways (this will allow for cleansing/infiltration prior to reaching detention basins)
STORM WATER MANAGEMENT

A set of drainage principles were developed to meet the plan goals. Following these principles will mitigate flood damages downstream and improve water quality in Irongate. The drainage principles are:

1. Nonstructural storm water management
   - Roadways are on drainage divides
   - Shallow side lot swales direct storm water to rear of lot swales
   - Rear lot swales direct storm water to detention/retention areas

2. Multiple use of swales
   - Grass filtration cleanses storm water before entering waterway
   - Low velocity reduces total suspended solids (TSS)

3. Use of prairie/wetland vegetation
   - Native Illinois landscaping
   - Cleanse & filter stormwater

4. Erosion Control
   - Lower velocities reduce potential for erosion occurring
   - Shallow slopes will maintain vegetation

5. Facilitate groundwater recharge
   - Shallow detention facilities
   - Overland conveyance facilities

Dry Detention Basin
STORM WATER MANAGEMENT

Wet Detention Basin

Drainage Swale with Native Plantings
THE LANDSCAPING GUIDELINES

CHAPTER 7

July 8, 2013
Landscaping:
A 30' landscape setback with berming and native plantings is proposed adjacent to Gild- den Road and Bethany Road. This type of treatment will greatly enhance the rural char- acter and help dissipate roadway noise. Canopy trees shall be planted along all streets and parking lot areas; spaced at 35 ft. on center. All street trees shall include deciduous native hardwoods with a minimum 2 1/2" caliper, measured 12 inches above the ground, at the time of installation. All evergreen trees shall have a minimum height of eight (8) feet at time of planting.

Site landscaping will be used to compliment the building and reduce the visual impact of the parking pavement. Shrubs, perennials and ground covers are encouraged to be planted along buildings and around trees to provide seasonal color.

All parking, loading and service areas shall be screened from public plazas, roadways, and surrounding areas by a densely-planted deciduous/evergreen hedge, not less than three feet in height. This will provide year round screening. All parking lot islands shall be 8 feet in width and shall be placed every 15 stalls. The islands may also contain electrical transformers, pedestals and telephone equipment boxes. No plants larger than 3 feet in height will be allowed in order to not restrict site distances for pedestrians and motor vehi- cles.

Recommended Plant Species:
The following is a partial list of recommended plants. The possibilities for grasses and wildflowers are too numerous to name here. Therefore, it is suggested to research native plant books and local nurseries that supply native species for more information and possibilities.

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<tr>
<td>Betula nigra</td>
<td>River Birch</td>
</tr>
<tr>
<td>Carya cordiformis</td>
<td>Bitternutt</td>
</tr>
<tr>
<td>Carya ovata</td>
<td>Shagbark Hickory</td>
</tr>
<tr>
<td>Celtis occidentalis</td>
<td>Common Hackberry</td>
</tr>
<tr>
<td>Fraxinus americana 'Autumn Purple'</td>
<td>Autumn Purple White Ash</td>
</tr>
<tr>
<td>Gymnocladus dioica</td>
<td>Kentucky Coffee Tree</td>
</tr>
<tr>
<td>Juglans nigra</td>
<td>Black Walnut</td>
</tr>
<tr>
<td>Nyssa sylvatica</td>
<td>Black Tupelo</td>
</tr>
<tr>
<td>Populus grandidentata</td>
<td>Bigtooth Aspen</td>
</tr>
<tr>
<td>Populus tremuloides</td>
<td>Quaking Aspen</td>
</tr>
<tr>
<td>Quercus alba</td>
<td>White Oak</td>
</tr>
<tr>
<td>Quercus bicolor</td>
<td>Swamp White Oak</td>
</tr>
<tr>
<td>Quercus coccinea</td>
<td>Scarlet Oak</td>
</tr>
<tr>
<td>Quercus imbricaria</td>
<td>Shingle Oak</td>
</tr>
</tbody>
</table>
Quercus macrocarpa
Quercus muhlenbergii
Quercus palustris
Quercus rubra
Quercus velutina
Tilia americana

Small Trees/Large Shrubs:

**Botanical Name**

- Amelanchier arborea (canadensis)
- Carpinus caroliniana
- Cercis canadensis
- Cornus alternifolia
- Cornus obliqua
- Cornus stolonifera
- Crataegus crusgalli var. inermis
- Hamamelis virginiana
- Malus ‘Prairie Fire’
- Ostrya virginiana
- Ptelea trifoliata
- Viburnum prunifolium
- Viburnum lentago

**Common Name**

- Shadblow Serviceberry
- American Hophornbeam
- Redbud
- Pagoda Dogwood
- Blue-fruited Dogwood
- Redosier Dogwood
- Thornless Cockspur Hawthorn
- Common Witchhazel
- Prairie Fire Crabapple
- Hop Hornbeam
- Wafer Ash
- Blackhawk Viburnum
- Nannyberry Viburnum

Small Shrubs:

**Botanical Name**

- Aronia arbutifolia
- Aronia melanocarpa
- Ceanothus americanus
- Corlus americana
- Diervilla lonicera
- Euonymous atropurpureus
- Hydrangea macrophylla ‘Nikko Blue’
- Hypericum kalmanum
- Ilex verticillata
- Physocarpus opulifolius
- Rhus aromatica
- Rhus glabra
- Rhus typhina
- Rosa carolina
- Staphylea trifolia
- Syringa patula ‘Miss Kim’
- Viburnum carlesii ‘Compactum’
- Viburnum trilobum ‘Compacta’

**Common Name**

- Red Chokeberry
- Black Chokeberry
- New Jersey Tea
- American Hazelnut
- Dwarf Honeysuckle
- Eastern Wahoo
- Nikko Blue Hydrangea
- Kalm’s St. John’s Wort
- Winterberry
- Ninebark
- Fragrant Sumac
- Smooth Sumac
- Staghorn Sumac
- Pasture Rose
- Bladdernut
- Miss Kim Dwarf Lilac
- Compact Koreanspice Viburnum
- Compact Amer. Cranberrybush

Grasses, Sedges and Wildflowers:

**Botanical Name**

- Adiantum pedatum
- Allium cernuum

**Common Name**

- Maidenhair Fer
- Nodding Wild Onion
Asarum canadensis  
Asclepias tuberosa  
Aster azureus Sky-  
Aster laevis  
Aster novae-angliae 'Pur. D.'  
Aster novae-angliae 'Sept'  
Aquilegia canadensis  
Athyrium filix-femina  
Baptisia australis  
Baptisia leucantha  
Carex bicknelli  
Carex cephalophora  
Carex pensylvanica  
Carex rosea  
Carex sprengelii  
Carex vulpinoidea  
Chelone glabra  
Coreopsis palmata  
Corisops tripteris  
Dennstaedia puctiloba  
Desmodium illinoense  
Dicentra cucullaria  
Dodecatheon meadia  
Dryopteris marginalis  
Echinacea pallida  
Echinacea purpurea  
Echinacea purpurea 'Bravado'  
Eupatorium maculatum 'Gateway'  
Euphorbia corollata  
Filipendula rubra  
Geranium maculatum  
Geum triflorum  
Helianthus occidentalis  
Heliopsis helianthoides  
Liatris aspera  
Liatris pycnostachya  
Liatris spicata 'Kobold'  
Mertensia virginiana  
Onoclea sensibilis  
Osmunda cinnamomea  
Panicum virgatum 'Heavy Metal'  
Panicum virgatum 'Rotstrahlb'  
Penstemon digitalis  
Petalostemum purpureum  
Phlox divaricata  
Physostegia virginiana speciosa  
Polemonium reptans  
Wild Ginger  
Butterfly Milkweed  
Blue Aster  
Smooth Blue Aster  
Purple Dome Aster  
Septemberrubin Aster  
American Columbine  
Lady Fern  
Blue False Indigo  
White False Indigo  
Bicknell's Sedge  
Woodbank Sedge  
Pennsylvania Sedge  
Curly-Styled Wood Sedge  
Long-Beaked Sedge  
Brown Fox Sedge  
Turtlehead  
Stiff Coreopsis  
Tall Coreopsis  
Hayscented Fern  
Illinois Tick Trefoil  
Dutchman's Britches  
Shooting Star  
Leatherwood Fern  
Pale Purple Coneflower  
Purple Coneflower  
B. Purple Coneflower  
Spotted Joe Pye Weed  
Flowering Spurge  
Queen of the Prairie  
Wild Geranium  
Prairie Smoke  
Western Sunflower  
False Sunflower  
Rough Blazing Star  
Gayfeather (Blazing Star)  
Kobold Blazing Star  
Bluebells  
Sensitive Fern  
Cinnamon Fern  
Metal Switch Grass  
Red Switch Grass  
Foxglove Beard Tongue  
Prairie Purple Clover  
Wild Phlox  
Showy Obedient Plant  
Jacob's Ladder
Polystichum acrostichoides
Pychrantherum tenuifolium
Ratibida pinnata
Rudbeckia fulgida ‘Goldstrum’
Rudbeckia subtomentosa
Sanguinaria canadensis
Smilacina racemosa
Solidago riddelli
Solidago rigida
Solidago speciosa
Sorghastrum nutans
Spirea alba
Sporobolus heterolepis
Thalictrum dasycarpum
Tiarella cordifolia
Tradescantia ohiensis
Uniola latifolia
Veronicastrum virginicum
Zizia aptera
Zizia aurea
Christmas Fern
Mountain Mint
Yellow Coneflower
Goldstrum Black-Eyed Susan
Sweet Black Eyed Susan
Bloodroot
False Solomon’s Seal
Riddell’s Goldenrod
Stiff Goldenrod
Showy Goldenrod
Indian Grass
Meadowsweet
Prairie Dropseed
Purple Meadow Rue
Foam Flower
Spiderwort
Spike Grass
Culver’s Root
Heartleaf Golden Alex.
Golden Alexander
GENERAL INTENT

A well-coordinated signage system within a community is one of the most effective ways of creating identity for each neighborhood, while also creating overall way-finding clarification. The signage system for Elburn Station may include the following sign types:

A. Entry Monument Signs
B. Secondary Monument Signs
C. Temporary Marketing Signs
D. Directional and Informational Signs
E. Kiosk Signs
F. Commercial Signs

ENTRY MONUMENT SIGNS:

The Entry monument signs shall be located along Dresser and Bethany Road. These signs are generally, project development identification signs and shall not exceed 120 square feet. The sign panel may have masonry piers, lighting and fencing extending from the sign panel. The sign panel will be an element of a landscaping feature.

SECONDARY MONUMENT SIGNS:

The Secondary Signage will be located along major intersections within the development. The secondary signs shall be located along Irongate Road and major streets within the development. The signs shall not exceed 80 square feet in size. The secondary signs will be similar to the Entry Monument Sign but reduced in size, scale and elements.
Temporary Marketing Signs may be provided where shown as labeled "T" on the signage plan. These signs are not intended to be permanent but may remain for several years during the build-out of various phases of the development. These signs may remain until 95% of the units in a particular phase are sold (receive certificate of occupancy). However, a specific temporary sign may remain in a phase with 95% or greater build-out if it is used to market an immediately adjacent phase to the east or west.

The temporary marketing signs will be located along major intersections and roadways; Dresser, Bethany, and Gildden Road. The above samples of signage represent a typical marketing sign to be used. These signs shall not exceed one hundred forty-four (144) square feet in size.
COMMERICAL SIGNAGE:
All commercial signage labeled as "F" will follow the sign ordinance in effect on the date of approval of the development. Examples of commercial signage are:

Directional and informational signs may be provided and are also not intended to be permanent signs.
COMMERCIAL SIGNAGE:
THE RESIDENTIAL GUIDELINES

CHAPTER 9

July 8, 2013
THE RESIDENTIAL GUIDELINES

The Property may be developed with a Continuing Care Retirement Center (CCRC), which would be under unified ownership by a single entity. As a component of the zoning approvals granted herein, a portion of the Property reflected on the approved Preliminary Plat and Plans may be utilized for the CCRC. The CCRC is expected to provide a full continuum of senior care for those who no longer wish to or who are unable to maintain a separate residence. To that end, the CCRC is anticipated to include the types of senior care commonly referred to as: 1) independent living; 2) assisted living; and, 3) skilled care, with or without dementia, Alzheimer’s and memory-support care.

Accessory to the CCRC use, the zoning approvals granted herein shall approve of the following uses within the CCRC property:

i. Nursing and convalescent care;
ii. Medical offices and clinics;
iii. Recreation and Fitness Center;
iv. Barber shop/beauty shop;
v. Dance or fitness instruction, or other similar, age restricted activities;
vi. Theatre;
vii. Restaurants and food service, with or without liquor license;
viii. Continuing Care Retirement Center Retail Bank, with or without Automated Teller Machine;
ix. Spa.

Each of the foregoing uses shall only be permitted as an accessory use to the CCRC, provided primarily for use by residents within the CCRC. Each shall be completely contained within the CCRC buildings to be constructed. Each shall be accessed through the primary entrances into the CCRC buildings, and none shall have direct access to the exterior of the CCRC buildings (except for any required emergency exits, which shall be used as primary access/egress points). In addition to all of the foregoing permitted uses, the CCRC shall be permitted to have parking for not more than three transportation vehicles, each capable of transporting not more than twenty occupants.
THE RESIDENTIAL GUIDELINES

Townhome Residential:

The Townhome Residential Area consist of a variety of attached homes including one, two and three story buildings that generally have individual exterior entrances to each of the units or may have common entrances of up to 8 homes per common entrance. These units typically have garages to house vehicles. These areas are intended to be developed as walkable neighborhoods located within close proximity to commercial areas, parks, natural areas and other amenities.

Building materials of brick, cedar, aluminum, glass, vinyl, cement board, stucco, fypon and stone will be permitted and used to provide a wide variety of architectural appearances. A minimum of two building materials must be used and no one material can exceed 60% of the same material.

Lot size: No minimum lot Size  
Density: 8 units per acre  
Parking: 2 spaces per unit

The following site plans/elevations are examples of the types of designs that would be appropriate in this area.
THE RESIDENTIAL GUIDELINES

Single Family Residential—50', 60', 70', 80' wide Traditional Lots:

The Single Family Residential areas are proposed throughout the site. These neighborhoods are intended to provide a variety of detached homes in walkable neighborhoods located within close proximity to parks, natural areas, schools, and other amenities. Although the home will be primary structure on the lot, detached garages are permitted. Building materials of brick, stone, cedar, aluminum, vinyl, cement board, stucco, phypon will be permitted and used to provide a variety of architectural appearances.

The following site plans/elevations are examples of the types of designs that would be appropriate in this area. Additional site plans and elevations are also permitted provided they are reviewed and approved by the City Council from time to time. Additional site plans and elevations are also permitted provided they are similar to those attached or if different are reviewed and approved by City Staff.

Lot Size Information:
Lot dimensions:
50', 60', 70' width
125' depth

Minimum lot size:
6,250 sf. (50'x125')

Single Family Residential – 80' wide Traditional Lots:

The Single Family Residential areas are intended to be lower density, larger lot neighborhoods. The following site plans/elevations are examples of the types of designs that would be appropriate in this area. Additional site plans and elevations are also permitted provided they are similar to those attached or if different are reviewed and approved by City Staff.

Lot Size Information:
Lot dimensions:
80' width
125' depth
Minimum lot size:
10,000 sf. (80'x125')
50' x 125' Lots Featuring the Following Homes:

Ashville
Belfour
Chesterfield
Dulany
Everett
Palmer
60’x 125’ Lots Featuring the Following Homes:

Armstrong II
Chapman
Fabyan
Haller
Hampton
Parker
Payton
Shannon
Geneva
Hawthorne
Kaneville
Elburn
St. Charles
Armstrong II

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- Vinyl thermopane single hung tilt-in window with screens
- Housewrap air infiltration barrier system
- Full basement

2,092 square feet
Chapman

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- Vinyl thermopane single hung tilt-in window with screens
- Housewrap air infiltration barrier system
- Full basement

2,174 square feet
Fabyan

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- Vinyl thermopane single hung tilt-in window with screens
- Housewrap air infiltration barrier system
- Full basement

1,685 square feet
Haller

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- Vinyl thermopane single hung tilt-in window with screens
- Housewrap air infiltration barrier system
- Full basement

2,037 square feet
Hampton

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16’ wide driveway
- Vinyl thermopane single hung tilt-in window with screens
- Housewrap air infiltration barrier system
- Full basement

2,611 square feet
Parker

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- Vinyl thermopane single hung tilt-in window with screens
- Housewrap air infiltration barrier system
- Full basement

2,538 square feet
Payton

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- Vinyl thermopane single hung tilt-in window with screens
- Housewrap air infiltration barrier system
- Full basement

2,630 square feet
Shannon

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- Vinyl thermopane single hung tilt-in window with screens
- Housewrap air infiltration barrier system
- Full basement

2,394 square feet
70' x 125' Lots Featuring the Following Homes:

Kendall
Thorndale
Remington
Amherst
Berkley
Dunwoody
Parker
Windsor
Stewart
Benjamin
Single Family Home – Kendall Model
AMHERST
1,900 SQ. FT.
BERKLEY
2,103 SQ. FT.
DUNWOODY
2,480 SQ. FT.
WINDSOR
2,471 SQ. FT.
ELEVATION I

ELEVATION II

ELEVATION III

ELEVATION IV

BENJAMIN
2,990 SQ. FT.

SECOND FLOOR
1,448 SQ. FT.

FIRST FLOOR
1,642 SQ. FT.
80' x 125' Lots Featuring the Following Homes:

Abby
Briarwood
Biltmore
Brickenhall
Fieldstone
Fowler
Franklin
Franklin XL
Hawthorne
Kendall
Madison
Remington
Thorndale
Trenton
Wellington
Westchester
Abbey

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

2,372 square feet
Brickenhall

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

2,100 square feet
Fieldstone

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

2,895 square feet
Fowler

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

2,512 square feet
Franklin

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

3,280 square feet
Franklin XL

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement
Kendall

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

2,644 square feet
Remington

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

2,949 square feet
Thorndale

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

2,877 square feet
Trenton

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

3,088 square feet
Westchester

- Distinctive exterior elevations
- Fully sodded lawn with shrub and tree package
- Attached 2-car garage with 16' wide driveway
- 9 foot first floor ceiling
- Exterior housewrap
- Full basement

2,504 square feet
Commercial & Economic Development:

The proposed Irongate PD-R Planned Development proposes a “Neighborhood” Commercial Area, located at the southeast corner of Glidden Road and Bethany Road.

These buildings are generally one-two stories and front onto the street/parking areas (first floor shops/restaurants, and second floor offices). The pedestrian streetscape will provide off-street parking, street tree plantings/planters, and pedestrian access to benches, shops, restaurants, and office areas. The buildings will architecturally feature low-pitched roofs, screened mechanical equipment, and screened trash enclosures.

Irongate Neighborhood Commercial Permitted Uses:

The following Irongate Neighborhood Commercial Permitted Use List is focused on Retail/Commercial, Service, and Business/Professional Office uses. The variety of uses helps this neighborhood commercial area to be flexible and responsive to the changing marketplace. These uses are not limited to items listed below. The City Zoning Officer may allow similar land uses which are deemed to be similar and compatible.

Neighborhood Commercial Uses:

  Accessory uses.
  Automobile parts and accessory stores.
  Amusement establishments, indoor or outdoor, including miniature golf, water recreation, bowling alleys, indoor skating rinks, swimming pools and other similar type outdoor recreation facilities and other indoor non-gambling machines or table games.
  Animal boarding facilities.
  Animal hospitals and veterinary clinics.
  Automobile, truck and recreational vehicle sales and rental.
  Banks and other financial institutions, not including drive-through facilities.
  Banquet halls.
  Bars, taverns and package liquor stores.
  Bed and breakfasts.
  Bicycle stores, sales, rental and repair.
  Boat and marine sales and service.
  Building supply, electrical, plumbing and heating service and equipment stores.
  Catering establishments, including pizza delivery.
  Cemeteries and mausoleums.
  Churches.
  Clothing and shoe stores, sales and repair.
  Clubs, lodges, meeting halls.
  Community residences (small or large).
  Day care centers.
  Department, discount and variety stores.
  Drop-off cleaning establishments and laundries.
  Drug stores.
  Farm equipment sales and service.
  Food stores and grocery stores, convenience stores (excluding motor fuel on the premises), meat markets and bakeries.
  Funeral Homes, mortuaries.
  Furniture stores with repair and re-upholstery only as an accessory use.
  Greenhouses, nurseries, garden supply and seed stores.
  Group homes, when located above the ground floor.
Hardware stores.
Hospitals and clinics.
Hotels and motels.
Household appliance stores, sales, service, and rental;
Household appliance stores, sales, service, and rental;
Interior decorating stores, including carpet, paint, and wallpaper stores;
Laboratories, medical, dental, research and technical.
Laundromats, self-serve.
Libraries.
Medical and dental offices.
Musical instrument stores, sales and repair.
Museums and art galleries.
Newspaper offices.
Nursing and convalescent homes and retirement centers'
Office supply stores.
Optical sales, examinations.
Parking lots and parking structures, as a principal use.
Pawn shops.
Pet stores and animal grooming shops.
Printing and publishing establishments.
Public buildings used by any departments of the City, School District, Township, Park Dist-
District, County, State or Federal Governments, except for vehicle maintenance, raw mate-
rial storage and other similar type facilities.
Radio, television and recording studios.
Recreation centers, health clubs, athletic clubs and fitness centers.
Restaurants, with or without alcohol.
Restaurants (fast-food), but not including drive-through facilities.
Schools for business, professional or technical training.
Sporting goods stores.
Taxidermists.
Theaters, indoor and auditoriums.
Tire stores, sales and service.
Toy stores.
Union halls, hiring halls and trade association offices/meeting rooms.
Warehouses associated with showrooms or retain outlets where the warehouse portion
does not exceed fifty per cent (50%) of the total gross from the area.
Dwelling unit (one only) only when used by the caretakers and their families, who own or
are employed in the allowable commercial use of the premises, and which may be lo-
cated on the ground floor.
Financial institutions, not including drive-through facilities.
Offices and office buildings for accountants, bookkeepers, architects, engineers, plann-
ers, financial consultants, income tax preparers, insurance salespersons, lawyers, real es-
state salespersons, real estate brokers, real estate appraisals, and other similar type offices.
Parks and playgrounds, public or private not-for-profit.
Public buildings use by any department of the City, School District, Township, Park District,
County, State, and Federal Governments; except for vehicle maintenance, raw material
storage and other similar type facilities.
Service facilities including barber shops and beauty shops; copying and duplicating ser-
ices; artists' studios; photographers, locksmith, shoe repair, tailors, music and dance in-
struction studios, typing and stenography services, suntan parlors, travel agencies and
ticketing offices and other similar type uses.
Specialty shops including antique shops; art and school supplies, bookstores, camera shops, including film developing, card and stationary shops, candy shops, florists, newspapers and magazine stores, gift and novelty shops, jewelry stores, pet shops, record shops, hobby shops, and other similar type uses.
Video sales and rental stores.

**Commercial – Retail Building Design/Character:**
The building architecture design standards are intended to encourage and challenge architectural diversity while maintaining a harmonious blend of a variety of styles and building materials. The buildings will architecturally feature low-pitched or flat roof, screened mechanical equipment, screened trash enclosures. The use of brick, cedar, cement board, aluminum, stucco, vinyl, glass, stone, as well as, a diverse array of colors are encouraged. Building facades must include features to provide interest to people walking or driving in front of the buildings. This may be accomplished with large windows, arcades, entry areas, awnings, and similar features. Front facades shall have arcades and awnings to provide climatic shelter and to emphasize entrances.

**Classes of Materials**
Materials shall be divided into Class I, Class II, Class III and Class IV categories as follows:

**Class I:**
- Brick
- Natural stone
- Glass
- Masonry stucco
- Copper panels
- Other comparable or superior materials

**Class II:**
- Specialty concrete block such as textured, burnished block or rock faced block
- Architecturally precast textured concrete panels
- Cementitious siding having the appearance of wood, shingles, or similar materials
- Other comparable or superior materials

**Class III:**
- Opaque panels
- Ornamental metal

**Class IV**
- Smooth concrete block
- Smooth scored concrete block
- Smooth concrete tip up panels
- Ceramic
- Glass block
- Wood
- Other comparable or superior materials.
Buildings shall incorporate classes of material in the following manner:

Office and commercial buildings must use at least two Class I materials and must be composed of at least 50% Class I materials; not more than 30% Class II or Class III material and not more than 20% Class IV materials.

The use of Class II or III material shall be distributed throughout the exterior of a building unless the City agrees that materials consolidated on more visible locations provides the most positive architectural appeal to the general public. Class IV materials shall be limited to highlights or rear walls that are not visible from public right of ways. Walls facing a drive when the building is separated from the street by a retention pond may be constructed with Class IV materials.

A distinctively different color of brick may be considered as a second Class I material. However, minor blended color variations shall not be considered as a separate material.

To be counted as a primary material, the product must comprise at least 5% of the exterior wall.

Buildings may be constructed primarily of one specific Class I material provided the design is obviously superior to the general intent of this ordinance provides variation in detailing, footprint of the structure or deviations in long wall sections to provide visual interest.

Garage doors, window trim, flashing accent items and the like, shall not constitute required materials that make up the exterior of the building.

As viewed from ground levels at a variety of locations, all mechanical equipment located on the roof or around the perimeter of a structure shall be screened by a raised parapet or with comparable and compatible with exterior building materials:

A raised parapet or other architectural feature that is an integral part(s) of the building may be required as screening for rooftop mechanical equipment or to soften rooftop views.

Screening for rooftop mechanical equipment shall incorporate similar architectural features of the building and/or be constructed of a material and color compatible with other elements of the building.

Incidental rooftop equipment deemed unnecessary to be screened by the Director of Community Development or a designee shall be of color to match the roof or the sky, whichever is more effective.

Exposed roof material shall be similar to, or an architectural equivalent of architectural asphalt or fiberglass shingles, wooden shingle, standing seam metal roof or better. The roof of any building may be flat.

Garish or bright accent colors (i.e. bright orange, bright yellow, or fluorescent colors) for such buildings such as cloth or metal awnings, trim, banding, walls, entries or any portion of the building shall be minimized, but in no case shall such coloring exceed ten per cent (10%) of each wall area.

Equipment used for mechanical, processing, bulk storage tanks, or equipment used for suppressing noise, odors, and like that protrudes from a side of a building or is located on the ground adjacent to a building shall be screened from public views as much as practical with materials matching the design of the building. Where miscellaneous exterior equipment cannot be fully screened with matching building materials, landscaping may be used as additional screening.
The buildings to be developed within the property shall be compatible and harmonious with each other in their exterior architectural design features. Compatibility of architectural design features may be achieved by similarity of some design elements, while allowing dissimilarity of others. Buildings shall be considered compatible if at least two of the following five design elements are similar, when comparing any proposed outlot building with inline center:

- Type of material (brick, stone, wood, metal, etc.)
- Color and textures of exterior surfaces.
- Architectural scale (size and height of building, both actual and perceived).
- Placement and rhythm of doors, windows, wall panels, visible wall joints and visible roof elements.
- Architectural style (example of architectural style include reference to recognized historic or modern architectural styles, repetitive use of particulate shapes, angles, features such as cornices, type or roof, etc.)

Samples in the included photographs illustrate the appropriate architectural styles:
Dumpsters are to be located within a fenced or walled enclosure. The enclosure may be constructed of either masonry, cedar or other building materials to match the building façade. Dumpster enclosures may also be incorporated into the building space and behind doors that are accessible to the tenants of the building.
Potential Commercial Properties
F. Neighborhood Commercial – Retail Signage:
The single tenant building signs shall be allowed (2) signs per business or (1) sign per street/parking lot frontage. The wall sign size shall not exceed 96 square feet in sign area and shall be back lit. In multi-tenant buildings, the owner shall be allowed (1) flush mounted building or perpendicular building sign per tenant building face exposure. The size of the flush mounted sign shall not exceed 40 square feet in sign area. The size of the perpendicular building sign shall not exceed 6 square feet in sign area. The locations of a sign include the building façade fronting onto a street, parking area or open space. All signs shall be placed on the façade above the suite window or entry door a minimum of 8’ above finish grade. The owner shall have the right to install signage on individual entry doors, on canvas awnings/canopies. Building or tenant signs shall be affixed flat against building and shall not project more than 12 inches from surface. No sign shall project higher than the building. All sign materials and colors shall harmonize with building materials and colors. No banners or neon signs will be allowed.
**Project Monument Signs** are envisioned for the Irongate Neighborhood Commercial and Residential areas. We are currently proposing one (1) monument sign located along Bethany Road. This sign shall not exceed 160 square feet. These signs may have masonry piers, lighting and outcropping stone and/or aluminum decorative fence. (Refer to Entry Monument Detail) In addition to the monument sign, we are proposing several neighborhood signs to be located within the development. These signs shall not exceed 80 square feet. (Refer to Secondary Sign Detail)

![Possible Commercial Sign](image)

The **Project Commercial Sign** shall be located at the intersection of Glidden Road and Bethany Road. The sign shall not exceed forty feet (40') in height nor more than two hundred (200) square feet in area, which shall be intended to provide common signage for the major anchor tenants within the commercial development.

Each outlot shall be allowed no more than one (1) ground sign, regardless of the number of street frontages which the lot may have. The ground sign shall not exceed ten feet (10') in height nor more than thirty-five (35) square feet in area, except for a Gas Station parcel which may have an additional twenty-five (25) square feet for its price sign, which shall be located on the one ground sign.

The temporary marketing signs will be located along major intersections and roadways; Glidden Road, Dresser Road, North First Street and Bethany Road. These signs are not intended to be permanent but may remain for several years during the build-out of various phases of the development. These signs shall not exceed 96 square feet in size.

All signs shall harmonize with building materials and colors. All commercial outlots shall be permitted to have individual signs. Building signage shall consist of flush building mounted signs, perpendicular building signs, back lit channel letters and building directories.
Church sites

The church buildings will be designed in a traditional style (Craftsman, Prairie, or Early American style) using high quality materials throughout to blend with the neighboring homes. The predominant exterior materials may include masonry, cast in place and precast concrete, steel, copper, glass, slate and wood with accent materials consisting of aluminum, stucco, and fypon. The buildings will be of similar architectural styles and features as shown in the following pictures and drawings. The design will provide abundance of natural light and utilize light colors and materials that provide a warm and comfortable atmosphere.

Maximum site coverage of 70% impervious surface will be permitted.

Parking requirement will be 1 parking space for every 4 seats within the gathering spaces.

Since these buildings will be prominent structures within the greenfield development area of Irongate, building height restrictions will be limited to 60' for building with no height restriction for steeples.

Setback requirements will be:
Front Yard: 25'
Side yard: 25'
Rear yard: 25'
EXHIBIT L:
Required Road Improvements and Geometry

(SEE EXHIBIT B – PRELIMINARY PLAT)
### Exhibit G:
City Fee Schedule

<table>
<thead>
<tr>
<th>Fee or Charge</th>
<th>Amount Due</th>
<th>Timing of Payment</th>
<th>Adjustment of Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annexation Fee</td>
<td>$1,107.39 per acre</td>
<td>Within 30 days of approval of final plat.</td>
<td>N/A. There shall be no annexation fee for property shown on the Preliminary Plans as being utilized for commercial, church, school or park purposes. If said plat is later amended to change the use of said properties to residential purposes, the per-acre fee shall be assessed.</td>
</tr>
<tr>
<td>Roadway/Equipment Contribution</td>
<td>As required under City Ordinance.</td>
<td>As required under City Ordinance.</td>
<td>As required under City Ordinance.</td>
</tr>
<tr>
<td>Water Capital Recapture Fee for Bethany Road Water Main Extension</td>
<td>As calculated under Section 10.03.04(2) of the City's UDO.</td>
<td>At time of connection to water main, paid per linear foot of Bethany Road and/or Annie Glidden Road frontage shown on final plat.</td>
<td>N/A (as determined under UDO).</td>
</tr>
<tr>
<td>Street and Snow Clearing Contribution</td>
<td>Up to $140,000.00 (subject to Timing of Payment provisions in next column).</td>
<td>In the event that Owner obtains building permits for more than 100 units of housing or commercial units per year, for each unit that a building permit is sought for in excess of 100, Owner shall pay a Street and Snow Clearing Contribution of $200 per home, for each home over 100 units per year, payable at time of building permit application. For structures with multiple units (e.g.</td>
<td>COLA</td>
</tr>
<tr>
<td>Water System Capital and Tap-On Fees</td>
<td>As required under City Ordinance.</td>
<td>As required under City Ordinance.</td>
<td>At discretion of City, from time to time.</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>----------------------------------</td>
<td>----------------------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>Building Permit, Inspection and other Similar Fees.</td>
<td>As required under City Ordinance.</td>
<td>As required under City Ordinance.</td>
<td>As required under City Ordinance.</td>
</tr>
<tr>
<td>User Fees or Charges</td>
<td>As required under City Ordinance.</td>
<td>As required under City Ordinance.</td>
<td>As required under City Ordinance.</td>
</tr>
<tr>
<td>School Impact Fee</td>
<td>As required under City Ordinance, unless amended by mutual agreement as outlined above.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>School Land/Cash Fee</td>
<td>As required under City Ordinance, unless amended by mutual agreement as outlined above.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Park Land/Cash Fee</td>
<td>As required under City Ordinance, unless amended by mutual agreement as outlined above.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Safety Building Fee</td>
<td>As required under City Ordinance.</td>
<td>At time of approval of final plat.</td>
<td></td>
</tr>
</tbody>
</table>

Nothing contained in this Exhibit G or within the Agreement to which this Exhibit is attached shall release the Owner from the obligation to pay any cost, fee, charge or contribution due under the terms of any applicable City Ordinance, unless expressly identified and waived under the terms of the Agreement.

All development, both PD-C and PD-R, shall be subject to the above-referenced fee requirements. The whole gross acreage of the Property including right of way shall be subject to the Annexation Fee.

The City Impact Fee, Roadway/Equipment Contribution, Street and Snow Clearing Contribution and Public Safety Building Fee shall not apply to property utilized for commercial purposes or used for the CCRC.
The City and the Owner may amend this discount schedule without requiring an amendment to this Agreement, on terms and conditions acceptable to the City and the Owner. Any such amendment shall be memorialized through the passage of a Resolution authorizing the City to execute a written amendment of this fee schedule.
Exhibit H:

Sample Recapture Agreement

THIS INSTRUMENT PREPARED BY
AND RETURN TO:

Dean M. Frieders
City of DeKalb, Attn: Legal Department
200 S. Fourth Street
DeKalb, IL 60115

RECAPTURE AGREEMENT

THIS RECAPTURE AGREEMENT ("Agreement"), is made and entered as of the 28th
day of October, 2013 by and between the CITY OF DEKALB, an Illinois municipal corporation
("City") City of DeKalb, an Irongate Real Estate Development Company, L.L.C. ("Owner").

RECITALS:

A. Owner is the owner and Owner of that certain real estate development located
within the corporate limits of the City and commonly known as Irongate Subdivision
("Subdivision").

B. Owner and the City have heretofore entered into that Annexation Agreement
dated October 28th, 2013 ("Annexation Agreement") pertaining to the annexation and
development of the Subdivision within the City.

C. Owner desires to recapture an allocable share of the costs of constructing certain
of the public improvements for the Subdivision ("Recapture Items") which will provide benefit
to other properties ("Benefited Properties") from the owners of the Benefited Properties
("Benefited Owners").

D. Owner and the City are desirous of entering into this Agreement to provide for the
fair and allocable recapture by Owner of the proportionate costs of the Recapture Items from the
Benefited Owners, to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants
hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of
which are hereby acknowledged by the parties hereto, the parties hereby agree as follows:

1. RECAPTURE ITEMS. The Recapture Items, being elements of the public
improvements to be constructed as a part of the development of the Subdivision, are identified in
Attachment "A" attached hereto ("Recapture Schedule"). The Recapture Schedule identifies
each Recapture Item and the cost to construct each Recapture Item ("Cost") and the amount
allocable to the Benefited Parcels. Owner shall have caused each of the Recapture Items to be
constructed in compliance with the provisions of the Annexation Agreement and to be accepted and conveyed to the City in accordance with applicable ordinances of the City.

2. **BENEFITED PROPERTIES.** The Benefited Properties are legally described in the Recapture Schedule attached hereto as Attachment "B". Each parcel of real estate contained within the Benefited Properties is referred to herein individually as a "Benefited Parcel". There are a total of ______ (____) Benefited Parcels as identified in the Recapture Schedule. None of the Property set forth in the Annexation Agreement shall be considered Benefited Property under this Agreement.

3. **RECAPTURE COSTS.** The Recapture Item(s) which the Corporate Authorities of the City have determined will benefit a Benefited Parcel and the prorata share of the Cost of such Recapture Item to be allocated to such Benefited Parcel are set forth in the Recapture Schedule. The aggregate amount of the proportionate share of the Cost for each of the Recapture Items allocable to a Benefited Parcel is referred to herein as the "Recapture Costs". The Recapture Costs for each of the Benefited Parcels shall be as identified in the Recapture Schedule. Said Recapture Costs include a pro-rata proportion of all "hard costs" of constructing and installing the public improvements subject to recapture, and (b) all "soft costs", including, but not limited to, planning costs, design costs, engineering fees and costs, legal fees and costs, costs of providing, obtaining or procuring easements or rights-of-way and any other professional costs or fees which are in any way associated with or necessitated by the construction or installation of said public improvements. "Hard costs" shall be demonstrated through the provision of paid receipts, waivers of lien, and other documentation acceptable to the City. The amount of "hard costs" claimed as due by the Owner shall be subject to review and approval by the City Engineer as to reasonableness of the expenses; any portion of the expenses incurred as the result of the Owner's decision to expedite construction (e.g. overtime or other similar expenses) shall not be recapturable. "Soft costs" shall only be permitted as follows: a) all soft costs other than the actual purchase price paid for land purchased or condemned shall only be permitted up to a maximum amount equal to thirty percent (30%) of the approved "hard costs" of a given improvement; and, b) the amount paid for land purchase or condemnation shall be recapturable only to the extent that the Owner is able to demonstrate the actual amount paid for the specific property subject to the recapture, to the City's reasonable satisfaction. The total amount of "hard costs" and "soft costs" approved as being recapturable pursuant to this Agreement shall be increased by the amount of three percent (3%), which amount shall be payable to the City pursuant to the provisions of Section 7 below. In addition, all of the foregoing costs and charges shall be subject to interest, which shall accrue at a rate equal to the prime interest rate plus one percent (prime plus 1%) per annum from the date of approval of this individual, completed recapture agreement.

4. **COLLECTION OF RECAPTURE COSTS.** The Owner shall be entitled to assess against the Benefited Owner of a Benefited Parcel, or any portion thereof, his successors and assigns, the Recapture Cost, calculated under Paragraph 3 of this Agreement for such Benefited Parcel. At such time as a Benefited Owner, or its agent or representative, annexes and/or subdivides a Benefited Parcel, or any portion thereof, or subdivides the Benefited Parcel from a larger parcel of land, or applies to the City for issuance of a permit for connection to all or any of
the Recapture Items, whichever shall first occur, the Benefitted Owner shall be responsible for payment of the applicable Recapture Costs, owed hereunder by such Benefitted Parcel, directly to the Owner. The City shall have no obligation to monitor the development of property nor to take independent action to enforce this Recapture Agreement; the Owner and the City agree that it shall be the Owner’s responsibility to monitor the status of development of the Benefitted Properties, and to determine when recapture is due. At the time that recapture is due, as identified above, the Benefitted Owner shall pay to the Owner the Recapture Costs upon demand. Should the Benefitted Owner fail to do so, the Owner shall be free to initiate an appropriate legal action to recover the Recapture Costs, and in such litigation shall be entitled to an award of all attorneys fees and court costs incurred in recovering the Recapture Costs, plus interest accruing at the statutory judgment rate, from the date on which the Owner tenders a proper demand for payment of the Recapture Costs to the Benefitted Owner, through the day on which the Benefitted Owner actually pays such costs.

5. **PAYMENT OF RECAPTURE COSTS.** As described above, the obligation to pay the Recapture Costs is solely the obligation of the Benefitted Owner, and the obligation to monitor and collect the Recapture Costs is solely the obligation of the Owner. This Agreement shall not be construed, under any circumstances, as creating any obligation or liability upon the City to make payments from its general corporate funds or any other source of funds or revenue.

6. **CITY’S OBLIGATION.** Neither the City nor any of its officials shall be liable in any manner for the failure to make such collections, and Owner agrees to hold the City, its officers, employees and agents, harmless from the failure to collect said fees. In any event, however, that Owner may sue any Benefitted Owner owing any Recapture Costs, hereunder for collection thereof, and in the event Owner initiates a collection lawsuit, the City agrees to cooperate in Owner's collection attempts hereunder by allowing full and free access to the City's books and records pertaining to the subdivision and/or development of the Benefitted Parcel and the collection of any Recapture Costs therefor. In the event the City and any of its agents, officers or employees is made a party in any litigation rising out of or resulting from this Agreement, Owner shall defend such litigation, including the interest of the City, and shall further release and hold the City harmless from any judgment entered against Owner and/or the City and shall further indemnify the City from any loss resulting therefrom, or any costs or expenses, including attorneys fees and court costs, arising out of the litigation. The City shall have no obligation to defend any such suit or suits after notice to Owner, and if a final judgment (by default or otherwise), after all appeals have been exhausted, is entered declaring said recapture agreement or ordinance void or unenforceable (either in whole or in part), the City may thereafter allow Benefited Parcels to connect to such services as were specified in the recapture agreements or ordinances consistent with any such order of court. In the event a money judgment is obtained for the return of money Owner has collected under this recapture agreement, the Owner shall pay said amounts consistent with such order, after all appeals have been exhausted.

7. **CITY’S COLLECTION FEE AND OTHER FEES AND CHARGES.** Nothing contained in this Agreement shall limit or in any way affect the rights of the City to collect other fees and charges pursuant to City ordinances, resolutions, motions and policies. The Recapture Costs provided for herein for each Benefited Parcel is in addition to such other City fees and
charges. The Owner shall assess and deduct from each payment made pursuant to this agreement an administrative fee of three percent (3%) of each payment. Said fee shall be added to the City's general fund accounts or as otherwise directed by the City Administrator.

8. **TERM.** This Agreement shall remain in full force and effect for a period of twenty (20) years from the date hereof, unless sooner terminated by the mutual agreement of the parties hereto or by the completion of all duties to be performed hereunder.

9. **LIEN.** The recordation of this Agreement against the Benefited Properties shall create and constitute a lien against each Benefited Parcel, and each subdivided lot hereafter contained therein, in the amount of the Recapture Costs, plus interest, applicable hereunder to such Benefited Parcel.

10. **MISCELLANEOUS PROVISIONS.**

A. **Amendment:** This Agreement may be amended upon the mutual consent of the parties hereto from time to time by written instrument and conformity with all applicable statutory and ordinance requirements and without the consent of any other person or corporation owning all or any portion of the Benefited Properties.

B. **Binding Effect:** Except as otherwise herein provided, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Owner and any successor municipal corporation of the City.

C. **Enforcement:** Each Party to this Agreement, and their respective successors and assigns, may either in law or in equity, by suit, action, mandamus, or other proceeding in force and compel performance of this Agreement.

D. **Recordation:** A true and correct copy of this Agreement shall be recorded, at Owner's expense, with the DeKalb County Recorder's office. This Agreement shall constitute a covenant running with the land and shall be binding upon the Benefited Properties in accordance with the terms and provisions set forth herein.

E. **Notices:** Any notice required or desired to be given under this Agreement, unless expressly provided to the contrary herein, shall be in writing and shall be deemed to have been given on the date of personal delivery, on the date of confirmed telefacsimile transmission provided a hard copy of such notice is deposited in the U.S. mail addressed to the recipient within twenty-four hours following the telefacsimile transmission, or on the date when deposited in the U.S. Mail, registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

   If to City:             City of DeKalb

   With a copy to:

   If to Owner:
With a copy to:

F. **Severability:** The invalidity or unenforceability of any of the provisions hereof, or any charge imposed as to any portion of the Benefited Properties, shall not affect the validity or enforceability of the remainder of this Agreement or the charges imposed hereunder.

G. **Complete Agreement:** This Agreement contains all the terms and conditions agreed upon by the parties hereto and no other prior agreement, excepting the Annexation Agreement, regarding the matter of this Agreement shall be deemed to exist to bind the parties. This Agreement shall be governed by the laws of the State of Illinois.

H. **Captions and Paragraph Headings:** Captions and paragraph headings incorporated herein are for convenience only and are not part of this Agreement, and further shall not be used to construe the terms hereof.

I. **Recitals and Exhibits:** The recitals set forth at the beginning of this Agreement and the exhibits attached hereto are hereby incorporated into this Agreement and made a part of the substance hereof.

**IN WITNESS WHEREOF**, the parties hereto have hereunto set their hands and seals as of the date first above written.

**OWNER:**

__________________________

an__________________________,

By: _______________________

Title: _______________________

Attest: _____________________

Title: _______________________

**CITY:**

CITY OF DEKALB,
an Illinois municipal corporation

By: _______________________

Title: _______________________

Attest: _____________________

Title: _______________________
MASTER DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR IRONGATE, DEKALB COUNTY, ILLINOIS

THIS MASTER DECLARATION of Covenants, Conditions, Restrictions and Easements for Irongate, in the City of DeKalb, DeKalb County, Illinois ("Irongate") is made this ____ day of ________, 2013, by IRONGATE REAL ESTATE DEVELOPMENT COMPANY, L.L.C., an Illinois limited liability company (the "Grantor").

RECITALS:

A. The Grantor is the owner of the real property in the City of DeKalb, County of DeKalb, and State of Illinois, which is legally described on Exhibit "A" attached hereto and made a part hereof (the "Property").

B. It is the desire and intent of Grantor to develop a community in which there are residential areas, commercial areas, recreational areas and natural open space areas which will be developed, used and preserved for the enjoyment and convenience of the persons owning, renting, living and working at the Property.

C. In order to achieve and maintain the goals set forth herein the Grantor intends to establish covenants, conditions, restrictions and easements for the Property, all of which are hereinafter included in the term "Master Declaration", are intended to secure such objectives for all of the Property, whether submitted to this Declaration pursuant to the recording of this Master Declaration or pursuant to a Supplemental Declaration recorded subsequent to the recording of this Master Declaration.
NOW, THEREFORE, the Grantor hereby declares that the Property shall henceforth be owned, held, conveyed, encumbered, leased, improved, used, occupied, and enjoyed subject to the following uniform covenants, conditions, restrictions and easements in furtherance of, and the same shall constitute, a general plan for the subdivision, ownership, improvement, sale, use and occupancy of the Property, and to enhance the value, desirability and attractiveness of the Property. This Master Declaration shall run with the Property and all parts thereof; shall be binding upon all persons having or acquiring any interest in the Property or any part thereof; shall inure to the benefit of and be binding upon every part of the Property and every interest therein; and shall inure to the benefit of, be finding upon, and be enforceable by Grantor, its successors in interest, each Owner and his successors in interest, and the Master Association and its successors in interest.

ARTICLE I
DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Master Declaration shall have the following meanings.

1.01. APARTMENT BUILDING shall mean any building, including but not limited to senior housing units (including all improvements and fixtures contained therein) located within the Property within which are located one or more separate apartment units which may be offered for rental or lease by the Owners thereof and which has not been created as a Condominium Unit.

1.02. ARCHITECTURAL COMMITTEE or MASTER ARCHITECTURAL COMMITTEE (hereinafter sometimes "Committee") shall mean the committee created pursuant to Article VIII hereof.

1.03. ARCHITECTURAL COMMITTEE RULES (hereinafter sometimes "Committee Rules") shall mean the rules and guidelines adopted by the Master Architectural Committee pursuant to Section 8.03 hereof.

1.04. ARTICLES shall mean the Articles of Incorporation of the Irongate Master Association, which have been or will be filed in the office of the Secretary of State of the State of Illinois, as the same from time to time may be amended.

1.05. ASSESSMENTS shall mean assessments of the Master Association and includes both regular and special assessments. An ASSESSMENT shall have the meaning set forth in Section 6.06A hereof.

1.06. ASSESSMENT UNIT shall mean a Lot, a Condominium Unit, a Townhouse, an apartment unit within an Apartment Building or any _______ square feet of net rentable space in a Commercial Site. With respect to property included in the Class F membership in the Master Association, one Assessment Unit shall be allocated for each vote allocated to such property.
1.07. ASSOCIATION PROPERTY OR MASTER ASSOCIATION PROPERTY shall mean all real and personal property now or hereafter owned by the Master Association, including the real property described in Exhibit “B” attached hereto, which shall be conveyed to the Master Association from time to time.

1.08. BOARD shall mean the Board of Directors of the Master Association.

1.09. BYLAWS shall mean the Bylaws of the Master Association, which may be adopted by the Board, as such Bylaws may be amended from time to time.

1.10. CITY shall mean the City of DeKalb, Illinois, an Illinois municipal corporation.

1.11. COMMERCIAL SITE shall mean any parcel of land, whether or not improved, which is designated for Commercial Use. If such Commercial Site is shown on a recorded Subdivision plat, its size and dimensions shall be as shown thereon and if such Commercial Site is not shown on a recorded Subdivision plat, its size and dimensions shall be established by the legal description in the deed of record when such property is first subjected to this Master Declaration. A Commercial Site may also be established as such by a recorded instrument wherein the Owner thereof and Grantor designate a parcel of land as a Commercial Site.

1.12. COMMERCIAL USE shall mean any governmental, professional, office, business, business park, retail or cleemosynary use, including any activity involving the offering of goods or services.

1.13. A CONDOMINIUM BUILDING shall mean a building containing Condominium Units.

1.14. CONDOMINIUM UNIT shall mean only a residential condominium unit as defined in the Illinois Condominium Property Act, unless this Declaration or any Supplemental Declaration specifically identifies a Condominium Unit as a commercial Condominium Unit.

1.15. CONSUMER PRICE INDEX shall mean the Consumer Price Index for All Urban Consumers for Chicago, Illinois. All Items, 1967 – 100, as published by the U.S. Department of Labor, Bureau of Labor Statistics, or if said index should ever cease being published, such reasonably similar index as may be designated by the Board.

1.16. IRONGATE shall mean all that real property described on Exhibit “A” to this Master Declaration. IRONGATE shall also mean such additional lands as may be subjected to this Master Declaration by Grantor or by other Persons with Grantor’s written consent pursuant to Section 2.02.
1.17. FIRST MORTGAGE shall mean any unpaid and outstanding mortgage, deed of trust or other security instrument recorded in the records of the office of the Recorder of Deeds of DeKalb County, Illinois having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). “First Mortgage”, for the purposes of Section 6.06A(9) and with respect to notice of termination, subordination or modification of certain insurance policies, as provided in Section 10.08, shall also mean and refer to any executors land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the said Administrator and is owned by the Administrator’s assignee, or a remote assignee, and the records in the Office of the Recorder of Deeds of DeKalb County, Illinois, show the said Administrator as having the record title to the real property described in such contract.

1.18. FIRST MORTGAGOR shall mean any person named as a mortgagee or beneficiary under any First Mortgage and any successor to the interest of any such person under such First Mortgage, and including, for purposes of Section 6.06A(9) and with respect to notice of termination, subordination or modification of certain insurance policies, as provided in Section 10.08, the Administrator of Veterans Affairs, and Officer of the United States of America, and his assigns under any executory land sales contract wherein the said Administrator is identified as the contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not and the records of the Recorder of Deeds of DeKalb County, Illinois, show the said Administrator as having the record title to the real property in such contract.

1.19. IRONGATE MAINTENANCE FUND shall mean the fund created for the receipts and disbursements of the Master Association, pursuant to Section 9.01 hereof.

1.20. IRONGATE RESTRICTIONS shall mean this Master Declaration together with any and all Supplemental Declarations which may be recorded pursuant to Article II hereof, as this Master Declaration or said Supplemental Declaration may be amended from time to time, together with the Irongate Rules from time to time in effect, and the Articles and Bylaws of the Master Association from time to time in effect.

1.21. IRONGATE RULES shall mean the rules adopted by the Board pursuant to Section 6.05F hereof, as they may be amended from time to time.

1.22. GRANTOR shall mean Irongate Real Estate Development Company, L.L.C., an Illinois limited liability company, and its successors and assignees designated by recorded instrument.

1.23. IMPROVEMENT shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, patios, tennis courts, swimming pools, garages, doghouses, mailboxes, aerials, antennas, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges,
windbreaks, planting, planted trees and shrubs, poles, signs, exterior air conditioning, water
softener fixtures or equipment, and poles, pumps, walls, tanks, reservoirs, pipes, lines,
meters, towers and other facilities used in connection with water, sewer, gas, electric,
telephone, regular or cable television, or other utilities.

1.24. LOCAL COMMON AREA shall mean any portion of the Property, other than
Master Association Property designated by the Owner thereof as a common area for the
primary benefit of the Owners and occupents of a particular area. It may be owned by such
Owners, or by a nonprofit corporation or an unincorporated association in which all such
Owners shall be entitled to membership.

1.25. LOT shall mean any parcel of land which is designated on any recorded
Subdivision plat, whether or not improved, as a separate parcel of land, whether for
commercial, residential or recreational use.

1.26. MANAGER shall mean the person, firm or corporation employed by the
Master Association pursuant to Section 6.06E and delegated the duties, powers or functions
of the Association pursuant to said Section.

1.27. MASTER ASSOCIATION (hereinafter sometimes "Association") shall mean
Irongate Property Owners Master Association, the Illinois not-for-profit corporation
described in Article VI hereof, and its successors.

1.28. MASTER DECLARATION (herein sometimes "Declaration") shall mean this
instrument as it may be amended from time to time.

1.29. MEMBER shall mean any person who is a member of the Master Association
pursuant to Section 6.02 hereof.

1.30. MORTGAGE shall mean any mortgage or deed of trust given to secure the
payment of a debt and encumbering any Lot, portion of a Multi-Family Site, Condominium
Unit, Townhouse, Apartment Building or Commercial Site, or any Improvements located on
any of the above.

1.31. MORTGAGEE shall mean any person named as a mortgagee or beneficiary
under any Mortgage, under which the interest of any Owner is encumbered, or any successor
to the interest of any such mortgagee or beneficiary under such Mortgage, and specifically
includes the Administrator of veterans Affairs of the Veterans Administration under any
executory land sales contract wherein the Administrator of Veterans Affairs of the Veterans
Administration is seller (whether owned by the said Administrator or assigned to another,
and whether or not the executory land sales contract is recorded), and any assignee of said
Administrator under any executory land sales contract.

1.32. MULTI-FAMILY SITE shall mean any parcel of land, including a Lot,
whether or not shown on a recorded subdivision plat and whether or not improved, which is
designated for Apartment Buildings, Condominiums or Townhouses.
1.33. NONDEVELOPER VOTES shall mean those votes, as determined pursuant to Section 6.03A, which are not owned or controlled by the Grantor.

1.34. NOTICE AND HEARING shall mean ten days’ written notice given as in Section 10.03 provided and a public hearing at which the person to whom the notice is directed shall have the opportunity to be heard in person or by counsel at his expense.

1.35. OWNER shall mean (1) the person or persons, including Grantor, holding an aggregate fee simple interest in a Lot, Townhouse, Apartment Building, other parcel of land within the Property, Commercial Site or a Condominium Unit, or, as the case may be, (2) the purchaser of an aggregate fee simple interest in a Lot, Townhouse, other parcel of land, Commercial Site, Apartment Building, or a Condominium Unit under an executory sales contract.

1.36. PERIOD OF GRANTOR CONTROL shall mean the period of time during which the Grantor has the right to appoint the members of the Board of the Master Association.

1.37. PERMITTED USERS shall mean any Member and any Member’s lessee, guest, invitee and member of the family of any Member.

1.38. PERSON shall mean a natural individual or any entity with the legal right to hold title to real property.

1.39. PLANS AND SPECIFICATIONS shall mean any and all documents designed to guide or control an Improvement or other use of property, including but not limited to those indicating size, shape, configuration or materials, all site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the Improvement or proposed use of property.

1.40. PROPERTY shall mean all of the real property described on Exhibit “A”.

1.41. RECORD, RECORDED, and RECORDATION shall mean, with respect to any document, the recordation of such document in the office of the Recorder of Deeds of Kane County, Illinois.

1.42. RESIDENTIAL AREA shall mean any part of the Property zoned or otherwise designated or limited by the Grantor for development and use for residential purposes, including single-family detached houses, apartments, live/work units, senior housing, townhouses and residential condominiums.
1.43. RESIDENTIAL LOT shall mean a Lot which is designated for single-family, detached residence use.

1.44. SUBASSOCIATION shall mean any Illinois not-for-profit corporation or unincorporated association and its successors, organized and established by Grantor pursuant to or in connection with a Supplemental Declaration recorded by Grantor, as provided in Sections 2.01 and 6.01.

1.45. SUBDIVISION shall mean a parcel of land, which has been shown, on a recorded final subdivision plat approved pursuant to the applicable ordinances of the City of DeKalb, Illinois.

1.46. SUPPLEMENTAL DECLARATION shall mean any declaration of covenants, conditions and restrictions, which may be hereafter recorded by Grantor.

1.47. TOWNHOUSE shall mean an attached dwelling unit for single-family use which is designated as a townhouse on any recorded final subdivision plat approved pursuant to the applicable ordinances of the City.

ARTICLE II
DEVELOPMENT OF THE PROPERTY; ANNEXATION

SECTION 2.01. SUBDIVISION AND DEVELOPMENT. The Property will be divided into several areas which will be developed by Grantor. At Grantor’s option, some of said areas will be dedicated as Local Common Areas, Association Property, or for other purposes for the benefit of the developed areas, in accordance with a master plan for the Property. It is contemplated that the Property will be developed pursuant to such master plan, as it may from time to time be amended or modified, as a unified planned development in which the development of, and restrictions upon, each portion thereof will benefit each other portion and the whole thereof. As each area is developed or dedicate, Grantor may record one or more Supplemental Declarations with respect thereto which will refer to this Master Declaration and designate the use classification for such area, and which may supplement the Master Declaration with such additional covenants, conditions, restrictions and easements as Grantor may deem appropriate for that area. Such Supplemental Declaration may, but need not, provide for the establishment of a Subassociation to be comprised of Owners within the area subject thereto. Any Supplemental Declaration may prove its own procedure for the amendment of any provisions thereof, subject to Grantor consent. All lands, Improvements and uses in each area so developed shall be subject to both this Master Declaration and the Supplemental Declaration, if any, for that area. In the even of any conflict between any such Supplemental Declaration and this Master Declaration, the terms and provisions of this Master Declaration shall govern.

SECTION 2.02. ANNEXATION. Grantor, and other Persons with Grantor’s written consent, may at any time and from time to time add to the lands which are subject to this
Declaration. Except as may be provided otherwise in paragraph D of this Section 2.02 (which Notice may be contained within any Supplemental Declaration affecting such land), the covenants, conditions, and restrictions contained in this Declaration shall apply to the added land in the same manner as if it had been originally subject to this Declaration; and thereafter the rights, privileges, duties and liabilities of the Persons subject to his Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration.

Improvement installed within areas to be added to this Master Declaration shall be consistent in quality with the overall development plan for Irongate and shall be of such quality and character as will serve the purposes and objectives for which this Master Declaration has been established, as determined by Grantor in its sole discretion. Any lien arising from ownership or construction upon land added to this Master Declaration shall appertain only to such land and improvements located thereon and shall not affect the rights of existing Owners or the priority of Mortgages on Lots, Condominium Units, Townhouses, Apartment Buildings, Commercial Sites, Master Association Property or Local Common Areas within the Property theretofore subject to this Master Declaration.

The Notice of Addition of Land referred to hereinabove shall contain the following provisions:

A. A reference to this Declaration, which reference shall state the date of Recordation hereof and the book and page numbers wherein this Declaration is recorded;

B. A statement that the provisions of this Declaration shall apply to the added land as set forth herein;

C. An adequate legal description of the added land;

D. Grantor’s written consent if the added land is not then owned by Grantor;

E. Written consent of the Owner or Owners of the added land; and

F. Written approval of the Veteran’s Administration or Federal Housing Administration, as determined by the Grantor, pursuant to Section 10.07, if the annexation is to be effective during the Period of Grantor Control. No consent of other Owners or Mortgages shall be required.

ARTICLE III
GENERAL RESTRICTIONS

All real property within the Property shall be owned, held, conveyed, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:
SECTION 3.01. ANTENNAS. Except for any which may, at Grantor’s option, be erected by Grantor or Grantor’s designated representative, no exterior antenna or aerial for reception of radio, television or other electronic signal, or satellite dishes shall be erected or maintained in the Property without the prior written approval of the Master Architectural Committee.

SECTION 3.02. INSURANCE RATES. Nothing shall be done or kept in the Property which will increase the rate of insurance on any Association Property without the approval of the Board, nor shall anything be done or kept in the Property which would result in the cancellation of insurance on any Association Property or which would be in violation of any law.

SECTION 3.03. NO FURTHER SUBDIVIDING. No part of the Property shall be further divided or subdivided, nor may any easement or other interest herein less than the whole be conveyed by the Owner thereof (including any Subassociation) without the prior written approval of the Grantor, or the Master Architectural Committee, provided, however, that when Grantor is the Owner thereof, it may further divide and subdivide any part of the Property and convey any easement or other interest less than the whole.

SECTION 3.04. SIGNS. No sign of any kind shall be displayed to the public view without the approval of the Grantor, or the Master Architectural Committee, provided, however, that signs not more than three feet by two feet may be displayed on or from a residence advertising the residence for sale or lease. No flashing or moving signs shall be permitted in the Property.

SECTION 3.05. NUISANCES. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any property within Property and no odors shall be permitted to rise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property or to its occupants. Without limiting the generality of any of the forgoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any such property without the prior written approval of the Board.

SECTION 3.06. REPAIR OF BUILDING. No Improvement hereafter constructed upon any land within Property shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner (including the Master Association and any Subassociation) thereof.

SECTION 3.07. IMPROVEMENTS AND ALTERATIONS. There shall be no construction, other than repairs pursuant to Section 3.06 above, excavation or alteration which in any way alters the exterior appearance of any Improvement or results in the
removal of any Improvement without the prior approval of the Master Architectural Committee.

SECTION 3.08. VIOLATION OF PROPERTY RULES. There shall be no violation of the Property Rules once adopted by the Board and made available to the Persons affected thereby. If any Owner or his family or any guest, licensee, lessee or invitee of such Owner or his family violates the Property Rules, the Board may invoke any one or more of the following remedies: (a) impose a special charge upon such owner of not more than One Hundred Dollars for each violation; (b) suspend the right of such Owner and his family, guests, licensees, lessees and invitees to use Association Property under such conditions as the Board may specify, for a period not to exceed thirty days for each violation; (c) cause the violation to be cured and charge the cost thereof to such Owner; and (d) obtain injunctive relief against the continuance of such violation. Before invoking any such remedy, the Board shall give such Owner Notice and Hearing except that the Board may suspend the right of any Owner and his family, guests, licensees, lessees and invitees without Notice and Hearing for any period during which any Assessment owed by such Owner is past due and unpaid. Any assessment or charge imposed under this Section 3.08 which remains unpaid for a period of ten days or more, shall become a lien upon the Owner’s land or Condominium Unit upon its inclusion in a recorded notice thereof and may be collected as proved in Article IX below for the collection of other Assessments. The duties and powers of the Board pursuant to this section may be delegated in a committee of Members, Directors, or both.

SECTION 3.09. DRAINAGE. There shall be no interference with the established drainage patterns over any property within Property, except by Grantor, unless adequate provision is made for proper drainage and approved by the Master Architectural Committee.

SECTION 3.10. NO HAZARDOUS ACTIVITIES. No activities shall be conducted on any property and no Improvements constructed on any property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property. No open fires shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

SECTION 3.11. NO TEMPORARY STRUCTURES. No tent or shack or other temporary building, improvement or structure shall be placed on any property, except that temporary structures, including but not limited to construction trailers, necessary for storage of tools and equipment and for office space for architects, builders and foremen during actual construction may be maintained with the prior approval of Grantor, such approval to include the nature, size and location of such structure.

SECTION 3.12. NO MINING AND DRILLING. No property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth, except that (a) Grantor or the Master Association may, by appropriate written permit, grant, license or easement, allow the drilling of wells and the installation of infiltration galleries.
and other improvements for the extraction of waste water; and (b) the Master Association, with the prior written consent of all the votes entitled to be cast and, during the Period of Grantor Control, with the prior written consent of Grantor, may, by appropriate written permit, grant, license or easement, allow any of the foregoing activities not referred to in (a) above to the extent permitted by applicable zoning and other ordinances, regulations and statutes, local, state or federal. Any of the activities permitted under paragraphs (a) and (b) of this Section 3.12 shall not be conducted in such a manner as to cause subsidence on adjacent portions of the Property or so as to interfere with any Improvements previously constructed on portions of the Property adjacent to such activities.

SECTION 3.13. VEHICLES. The use of all vehicles, including but not limited to helicopters, gliders, trucks, automobiles, graders, boats, tractors, pickups, mobile homes, trailers, buses, campers, recreational vehicles, bicycles, motorcycles, motor scooters, wagons, sleighs and snowmobiles, shall be subject to the Property Rules, which may prohibit or limit the use thereof within specified parts of Property, and which may also provide parking regulations and adopt other rules regulating the same.

SECTION 3.14. CONSTRUCTION ACTIVITIES. This Master Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by any Owner (including Grantor) within the Property, provided that when completed such Improvements shall in all ways conform to this Master Declaration. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Master Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence, is in compliance with applicable federal, state and local laws and ordinances and any rules and regulations adopted pursuant thereto, and conforms to usual construction practices in the area. In the event of any dispute, a temporary waiver of the applicable provision, including but not limited to any provision prohibiting temporary structures, may be granted by the Master Architectural Committee, provided that such waiver shall be only for the reasonable period of such construction. Such waiver may, but need not, be recorded or in recordable form. No construction activities shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use and enjoyment by any Owner or his family of any Residential Lot, Condominium Unit, Townhouse or apartment unit. No portion of the Property may be striped of natural vegetation unless in connection with construction of Improvements or installation of landscaping within such portion of the Property. If such construction or installation has not commenced within a reasonable time after the natural vegetation has been stripped, the Owner of such portion of the Property shall take appropriate steps to prevent the erosion or blowing of soil from the Property.

SECTION 3.15. EASEMENTS GRANTED BY GRANTOR. Notwithstanding anything in this Master Declaration to the contrary, Grantor may grant easements over, under, in and across any part of Property for electric, transmission lines, telephone lines, gas lines, water and sewer lines and facilities, cable television lines and facilities, drainage and all other utilities, provided that such easements which are granted after construction of
permanent Improvements upon any Lot, Condominium Unit, Apartment Building, Townhouse or Commercial Site shall not unreasonably interfere with the use of such Improvements. If such easements are granted by Grantor, the costs of installing and maintaining any improvements pursuant to such easement shall be paid by either the Grantor or the grantee under the easement, as Grantor may determine, and the party responsible for such costs shall restore the ground disturbed by such improvements to its conditions immediately prior to such construction or installation and shall be responsible for any other damages caused by such construction or installation.

SECTION 3.16. ASSIGNMENT BY GRANTOR. Any other provision of this Master Declaration to the contrary notwithstanding, Grantor may assign in whole or in part any of its privileges, exemptions, rights and duties under this Master Declaration to any other rights and duties under this Master Declaration to any other Person and may permit the participation in whole or in part by any other Person in any of its privileges, exemptions, rights and duties hereunder. Without in any way limiting and generality of the preceding sentence, Grantor may permit any assignee or successor in interest of all or substantially all of Grantor’s interests, rights, and responsibilities in and to the Property, to exercise any or all powers and duties of the Master Architectural Committee.

ARTICLE IV
PERMITTED USES AND RESTRICTIONS
RESIDENTIAL AREAS

SECTION 4.01. RESIDENTIAL AREAS AND LOCAL COMMON AREAS. All property within any Residential Area (excluding any Master Association Property or Local Common Area in such residential area) shall be improved and used solely for residential use; except that any Local Common Areas in such residential area may be improved and used for active and passive recreational purposes for the primary benefit of the Owners and occupants of Lots and Multi-Family sites in such Residential Area. Live/work units may be constructed within a Residential Area if such use is permitted by, and complies with, the provisions of the Uniform Development Ordinance of the City. The Supplemental Declaration recorded for a Residential Area shall designate such area to be either a single-family residential area or a multi-family residential area, and may further designate such residential use for that area to be attached or detached single-family residences or any combination thereof in the case of a single-family residential area, or one or more Apartment Buildings, Condominium Buildings or Townhouses or any combination thereof in the case of a multi-family residential area. The Supplemental Declaration may designate an area as a planned unit development combining both single-family and multi-family residences where permitted by the applicable zoning and other development ordinances and the Property Restrictions.

SECTION 4.02. IMPROVEMENTS AND USE.

A. No Residential Lot shall be improved or used except by a dwelling or structure designed to accommodate no more than a single family and its servants and occasional
guests, plus a garage, and such other Improvements as are necessary or customarily incident to a single-family residence; provided, however, that separate guest houses, servants’ quarters, and barns, stables and corrals may be erected on any Lot if permitted by the appropriate Supplemental Declaration and the applicable zoning and other development ordinances.

B. No Multi-Family Site shall be improved or used except by an Apartment building, Condominium Building, or Townhouse, or any combination thereof, except that a Multi-Family Site may also be used for single-family residential purposes to the extent permitted by applicable zoning and other development ordinances and the Property Restrictions.

SECTION 4.03. RESIDENTIAL USE: RENTALS. No residence on any Lot or Multi-Family Site shall be used for any purpose other than single-family residential purposes. However, nothing in this Declaration shall prevent the rental of property within a residential area by the Owner thereof for residential purposes, on either a short or long-term basis subject to all the provisions of the Property Restrictions. No commune or similar type living arrangement shall be permitted anywhere within Property.

SECTION 4.04. ANIMALS. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept in any portion of the Property except Commercial Sites upon which such use has been approved by the Master Architectural Committee. No animals of any kind shall be raised, bred or kept on any Lot or Multi-Family Site or within any Condominium Unit, Townhouse or Apartment Building except dogs, cats or other ordinary household pets; provided, however, that horses may be raised, bred and kept on any Lot to the extent permitted by applicable zoning and other development ordinances and the Property Restrictions. No poultry may be kept on any part of the Property.

SECTION 4.05. UNSIGHTLY ARTICLES. No unsightly article shall be permitted to remain on any part of the Property so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing trailers, mobile homes, recreation vehicles, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, sleighs, motorcycles, motor scooters, snowmobiles, snow removal equipment and garden and maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile or pickup truck other than minor emergency repairs, except in an enclosed garage or other structure; refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view; service areas, storage areas, compost piles and facilities for hanging, drying or siring clothing or household fabrics shall be appropriately screened from view; no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap, refuse or trash shall be kept, stored or allowed to accumulate on any part of the Property except within an enclosed structure or appropriately

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screened from view; and liquid propane gas, oil and other exterior tanks shall be kept within an enclosed structure or permanently screened from view.

SECTION 4.06. FENCES AND SWIMMING POOLS. No fence or swimming pool shall be erected or constructed upon the Property without the prior written consent of the Master Architectural Committee. Under no circumstances shall above ground swimming pools or chain link fences be permitted to be constructed on any portion of the Property.

ARTICLE V
PERMITTED USES AND RESTRICTIONS
OTHER AREAS

SECTION 5.01. MASTER ASSOCIATION PROPERTY. Any other provision of this Master Declaration to the contrary notwithstanding, no land within any part of the Property, including Master Association Property shall be improved by any Improvement, used or occupied except in such manner as shall have been approved by either the Grantor or the Master Architectural Committee. Such required approval shall extend to the nature and type of use, occupancy, and Improvement, and if such approval is given, evidence of such approval shall be given by recorded Supplemental Declaration. The Master Architectural Committee may delegate its right to grant such approvals to the Board or any Architectural committee established under a Supplemental Declaration. No approval shall be granted which would be in contravention of the zoning or other development ordinances then in effect for the area in question.

SECTION 5.02. COMMERCIAL AREAS. Notwithstanding the applicable zoning and other development ordinances, no noxious or offensive trades, services, activities, or businesses shall be conducted on any Commercial Site, nor shall anything be done thereon which be or become an annoyance or nuisance to other Owners or to other occupants of lands within Property, by reason of unsightliness, or excessive emissions of fumes, exhaust, odors, glare, vibration, gases, air, wind, radiation, dust, liquid waste, solid waste, heat, smoke, noise or otherwise. Each Owner and each occupant of a Commercial Site shall keep such Site and the Improvements thereon in a safe, clean, neat and wholesome condition, and shall comply in all respects with all applicable governmental requirements and the Property Restrictions. All uses of property within any commercial Site shall require the prior approval of the Grantor, unless the Grantor specifically waives right of approval in a Supplemental Declaration for a Commercial Site.

ARTICLE VI
PROPERTY MASTER ASSOCIATION
SECTION 6.01. ORGANIZATION. The Master Association is an Illinois not-for-profit corporation created for the purposes, charged with the duties, and invested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Master Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Master Declaration. In case of conflict between the Master Declaration and the Articles of Incorporation and Bylaws, the Master Declaration shall control, and in case of conflict between the Articles of Incorporation and Bylaws, the Articles of Incorporation shall control. Nothing in this Master Declaration shall prevent the creation, by provision therefore in Supplemental Declarations executed and recorded by Grantor of Subassociations to own, assess, regulate, operate, maintain or manage the portions of Property subject to such Supplemental Declarations or to own or control portions thereof for the common benefit of Owners and occupants of any portions of the real property or Condominium Units in the portion of Property subject to such Supplemental Declarations. In case of conflict between the Master Declaration and Articles of Incorporation of the Master Association on the one hand and the Supplemental Declaration and other organizational documents of any Subassociation on the other hand, the Master Declaration and Articles of Incorporation of the Master Association shall control.

SECTION 6.02. MEMBERSHIP. Only the Owners defined in Section 6.03A below and Grantor shall be Members of the Master Association; provided, however, that no Person shall be a Member by reason of ownership of lands used for public school or governmental or quasi-governmental purposes, or by reason of ownership of any park, public land, road, easement, right of way, mineral interest or Mortgage. Each Owner as defined in the preceding sentence shall automatically be a Member of the Master Association without the necessity of any further action on his part, and Master Association membership shall be appurtenant to and shall run with the property interest, ownership of which qualifies the Owner thereof to membership. Membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated, except together with the title to the property interest, ownership of which qualifies the Owner thereof to membership, and then only to the transferee of title to said property interest, and except that such membership may be assigned to a First Mortgagee in connection with the financing of a Member’s property. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation shall be void.

SECTION 6.03. VOTING RIGHTS.

A. The Association shall have the following six classes of voting membership:

1. Class A: Class A Members shall be all of the Owners of Residential Lots, including Grantor. Each Class A Member shall be entitled to one (1) vote per Residential Lot for each Residential Lot in the Property owned by said Class A Members. When more than one person owns any Residential Lot, all such Persons shall be Members, but the vote appurtenant to such Residential Lot shall be exercised as the several Owners among themselves determine and in no event shall more than one (1) vote be cast with respect to any Residential Lot.
2. Class B: Class B members shall be all of the Owners of Townhouses, including Grantor. Each Class B Member shall be entitled to one (1) vote per Townhouse for each Townhouse in the Property owned by said Class B Members. When more than one person owns any Townhouse, all such Persons shall be Members, but the vote appurtenant to such Townhouse shall be exercised as the several Owners among themselves determine and in no even shall more than (1) vote be cast with respect to any Townhouse.

3. Class C: Class C members shall be all of the Owners of Condominium Units, including Grantor. Each class C Member shall be entitled to one (1) vote per Condominium Unit for each Condominium Unit in the Property owned by said Class C Members. When more than one person owns any Condominium Unit, all such Persons shall be Members, but the vote appurtenant to such Condominium Unit shall be exercised as the several Owners among themselves determine and in no even shall more than one (1) vote be cast with respect to any condominium Unit.

4. Class D: Class D members shall be all of the Owners of Apartment Buildings, including Grantor. Each Class D Member shall be entitled to one (1) vote for each separate apartment unit within such Apartment Building (referred to herein as “Apartment Unit”). When more than one person holds and interest in an Apartment Building, all such Persons shall be Members, but the vote appurtenant to such Apartment Building shall be exercised as the several Owners among themselves determine and in no event shall more than one (1) vote be cast with respect to any Apartment Unit. In the event any Apartment building is converted to Condominium ownership during the term of the Master Declaration, all Class D memberships within such Apartment Building shall be converted to Class C memberships with each Condominium Unit receiving a Class C membership on the effective date of such conversion. In the event all Apartment Buildings within the Property are converted to Condominium Ownership, the Class D membership shall terminate.

5. Class E: Class E Members shall be all of the Owners of Commercial Sites, including Grantor. Each Class E Member shall be entitled to one (1) vote for each _____ square feet of net rentable area within such Commercial Site. When more than one Person holds an interest in a commercial Site, all such Persons shall be Members, but the vote appurtenant to such Commercial Site shall be exercised as the several Owners among themselves determine and in no event shall more than (1) vote be cast with respect to any _____ square feet of net rentable area within such Commercial Site.

6. Class F: Class F Members shall be all of the Owners of parcels of land within Property not included within classes A through E, including Grantor. Each Class F Member shall be entitled to one (1) vote for each residential
development unit approved for such property by the City, one (1) vote for each _________ gross square feet of land area within any such property approved for commercial use by the City. When more than one Person holds and interest in such property, all such Persons shall be Members, but the vote appurtenant to such property shall be exercised as the several Owners among themselves determine and in no event shall more than (1) vote be cast with respect to each residential development unit approved for such property or the number of gross square feet of area approved for commercial use as set forth above. Property included within the Class F membership shall be obligated to pay assessments on the basis of one Assessment Unit for each vote allocated to such property.

B. JOINT OR COMMON OWNERSHIP. If any property interest, ownership of which entitles the Owner thereof to vote, is held jointly or in common by more than one Person, the vote or votes to which such property interest is entitled shall also be held jointly or in common in the same manner. However, the vote or votes for such property interest shall be cast, if at all, as a unit, and neither fractional votes nor split votes shall be allowed. In the event that such joint or common owners are unable to agree among themselves as to how their vote or votes shall be cast as a unit, they shall lose their right to cast their votes on each matter in question. Any joining or common Owner shall be entitled to cast the vote or votes belonging to the joint or common Owners unless another joint or common Owner shall have delivered to the Secretary of the Master Association prior to the election a written statement to the effect that the Owner wishing to cast the vote or votes has not been authorized to do so by the other joint or common Owner or Owners, in which even no vote may be cast for such joining or common Owners.

C. PROXY VOTING. Any Owner, including Grantor, may give a revocable written proxy to any person authorizing the latter to cast the Owner’s votes on any matter. Such written proxy shall be in such form as may be prescribed by the Bylaws of the Master Association.

D. CUMULATIVE VOTING. The cumulative system of voting shall not be used for any purpose.

E. APPOINTMENT OF DIRECTORS DURING PERIOD OF GRANTOR CONTROL. During the Period of Grantor Control there shall be three (3) directors of the Master Association. Thereafter the number of directors shall be five (5). Notwithstanding the provisions of Section 6.03A of this Master Declaration, Grantor shall have the right, at Grantor’s option, to appoint all the officers and directors of the Master Association prior to termination of the Period of Grantor Control. The Board of Directors shall appoint the officers of the Master Association and direct the business of the Master Association in accordance with Articles of Incorporation and By-Laws of the Master Association and the Property Restrictions. After termination of the Period of Grantor Control, the Board of Directors shall be elected by Delegates representing Delegate Districts within the Property,
as described below. Delegates shall be elected by the Owners within each Delegate District, acting in their capacity as members of the Master Association.

F. TERMINATION OF PERIOD OF GRANTOR CONTROL. The Period of Grantor Control shall terminate upon the first to occur of the following events:

1. One hundred twenty (120) days following the date when seventy-five per cent (75%) of the Lots, Condominium Units, Townhouses, Apartment Buildings and Commercial Sites and property representing seventy-five per cent (75%) of the votes allocated to parcels of land within the Class F Membership, within the Property have been conveyed by Grantor to the first owner thereof (other than Grantor); provided, however, that if, during such one hundred twenty (120) day period, additional real property is annexed to the Property pursuant to Section 2.02 above, so that Grantor again owns at least twenty-five per cent (25%) of the Lots, the Condominium Units, Townhouses, Apartment Buildings, Commercial Sites or property in the Class F Membership within the Property, the Period of Grantor Control shall not be deemed to have been terminated;

2. Fifteen (15) years from the date upon which this Master Declaration is recorded in the office of the Recorder of Deeds of DeKalb County, Illinois; or

3. On a date certain set forth in a written notice from the Grantor to the Secretary of the Master Association stating Grantor’s intent to terminate the Period of Grantor Control as of such date.

SECTION 6.04. MEETINGS OF MEMBERS.

A. There shall be an annual regular meeting of the Members of the Master Association on the first Tuesday in January of each year at 10:00 a.m. at the principal office of the Master Association. Except as provided in the next sentence, no notice need be given of said annual regular meeting. Said annual regular meeting may be held at such other reasonable place or time (not more than thirty days before or after the aforesaid date) as may be designated by notice of the Board given to the members not less than ten nor more than fifty days prior to the date fixed for said regular meeting. Special meetings of the Members may be called at any reasonable time and place by notice by the Board or by Notice by Members having one-fifth of the total votes, delivered not less than ten or mailed not less than fifteen days prior to the date fixed for said special meeting, to all Members if given by the Board and to all other Members if given by said Members. All notices of meetings shall be addressed to each Member as his address appears on the books of the Master Association. Participation of Members in all meetings of the Master Association shall be through Delegate Districts for voting purposes, but any Member may attend and observe any meeting of the Master Association or the Board.
B. The presence at any meeting, in person or by proxy, of Delegates entitled to vote at least a majority of total votes outstanding shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Delegates present, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours nor more than thirty days from the time set for the original meeting, at which adjourned meeting the quorum requirement shall be the Delegates entitled to vote twenty-five per cent (25%) of the total votes.

C. The Chairman of the Board of Directors, or in his absence the Vice Chairman, shall call meetings to order and act as chairman of such meetings. In the absence of both of said officers, any Member entitled to vote thereat or any proxy of any such member may call the meeting to order, and a chairman of the meeting shall be elected. The Secretary of the Master Association, or in his absence the Assistant Secretary, shall act as Secretary of the meeting. In the absence of both the Secretary and the Assistant Secretary, a secretary shall be selected in the manner aforesaid for selecting a chairman of the meeting.

D. Except as provided otherwise in this Master Declaration, any action may be taken at any legally convened meeting of the Members upon the affirmative vote of the Delegates representing a majority of the total votes present at such meeting in person or by proxy.

E. The Property shall be divided into Delegate Districts, as hereinafter described, and each Delegate District shall elect one (1) Delegate to the Master Association to exercise the voting power of all the Members in such Delegate District. If a Subassociation is created pursuant to a Supplemental Declaration, then all of the Property within the jurisdiction of the Subassociation shall constitute a Delegate District. In the event that no Subassociation is created for any portion of the Property, then the Delegate District(s) for such portion shall be established by a Supplemental Declaration for such Property. Such Supplemental Declarations or other instruments shall contain legal descriptions of the portions of the Property, which shall be or become part of a Delegate District and a statement that such real property described therein shall be or become part of a designated Delegate District for purposes of this Master Declaration.

F. Each Member shall have the right to cast votes for the election of the Delegate to the Association to exercise the voting power of the Delegate District in which the Member’s property is located. The Member shall have the same voting rights for the election of the Delegate from that Delegate District as area provided in paragraph 6.03A above. The Bylaws of the Master Association shall provide for the manner, time, place, conduct, and voting procedures for Member meetings for the purpose of electing a Delegate.

G. Each Delegate may cast one (1) vote for each vote allocated to all the Members within the Delegate District under paragraph 6.03A above. Each Delegate shall cast the votes which he or she represents in such manner as the Delegate, in his or her sole discretion, deems appropriate, acting on behalf of all the Members in the Delegate District; provided, however, that in the event that a least a majority in interest of the Members in any
Delegate District shall determine at any duly constituted meeting of the Members in such Delegate District to instruct their Delegate as to the manner in which he or she is to vote on any issue, then the Delegate representing such Delegate District shall cast all of the voting power in such Delegate District in the same proportion, as nearly as possible without counting fractional votes, as the Members in such Delegate District shall have cast their votes "for" and "against" such issue in person or by proxy. A Delegate shall have the authority, in his or her sole discretion, to call a special meeting of the Members of the Delegate's Delegate District in the manner provided in the Bylaws of the Master Association, for the purpose of obtaining instructions as to the manner in which to vote on any issue to be voted on by the Delegates. When a Delegate is voting without instruction from the Members represented by such Delegate, then all of the votes may be cast as a unit, or the Delegate may apportion some of such votes in favor of a given proposition and some of such votes in opposition to such proposition. It will be presumed for all purposes of Association business that any Delegate casting votes will have acted with the authority and consent of all of the Members of the Delegate District of such Delegate. All agreements and determinations lawfully made by the Master Association in accordance with the voting procedures established herein, and in the Bylaws of the Master Association, shall be binding on all Members and their successors and assigns.

SECTION 6.05. DUTIES OF THE MASTER ASSOCIATION. The Master Association shall have and perform, through the Board, each of the following duties of the benefit of the Members of the Master Association:

A. MASTER ASSOCIATION PROPERTY. To accept, own, operate and maintain all Master Association Property which may be conveyed to it by Grantor or any other person or entity, together with all Improvements of whatever kind and for whatever purposes which may be located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed to the Master Association by Grantor or any other person or entity, including but not limited to the recreational paths, open space, landscaping, entry areas, lighting, and water detention areas, as long as such items have not been dedicated to the City, or are being maintained by a special service area established pursuant to the laws of the State of Illinois.

B. TITLE TO PROPERTY UPON DISSOLUTION. To pay over or convey, upon dissolution of the Master Association, the assets of the Master Association to one or more exempt organizations of the kind described in Section 501(c) of the Internal Revenue Code of 1954, as amended from time to time.

C. REPAIR AND MAINTENANCE OF ASSOCIATION PROPERTY. To maintain in good repair and condition all lands, Improvements, and other Association Property owned by the Master Association, including but not limited to the recreational paths, open space, landscaping, entry areas, lighting, and water detention areas, as long as such items have not been dedicated to the City, or are being maintained by a special service area established pursuant to the laws of the State of Illinois.
D. PAYMENT OF TAXES. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Master Association, to the extent that such taxes and assessments are not levied directly upon the Members. The Master Association shall have all rights granted by law to contest the legally and the amount of such taxes and assessments.

E. INSURANCE. The Master Association shall maintain insurance covering all insurable improvements located or constructed upon the Master Association Property. The Master Association shall maintain the following types of insurance, to the extent that such insurance is reasonably available, considering the availability, cost and risk coverage provided by such insurance.

1. A policy of property insurance covering all insurable improvements located on the Master Association Property, with a “Replacement Cost Endorsement” providing that any claim shall be settled on a full replacement cost basis without deduction for depreciation, and including an “Inflation Guard Endorsement” and “Agreed Amount Endorsement.” The Master Association may also purchase a “Demolition Endorsement”, and “Increased Cost of Construction Endorsement”, a “Contingent Liability from Operation of Building Laws Endorsement” or the equivalent, and/or coverage on personal property owned by the Master Association. Such insurance as maintained by the Master Association pursuant to this subsection shall afford protection against at least the following:

   i). Loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and

   ii). Such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard all risk endorsement, where such is available.

2. A comprehensive policy of public liability insurance covering all of the Master Association Property, insuring the Master Association in an amount not less than $1,000,000 covering bodily injury, including death of persons, personal injury and property damage liability arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insured for property damage, bodily injuries and death of persons in connection with the operation, maintenance or use of the Master Association Property, legal liability arising out of law suits related to employment contracts of the Master Association, and protection against liability for non-owned and hired automobile; such coverage may also include, if applicable, garage keeper’s liability, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen’s compensation insurance for employees of the Master Association, and such other risks as
shall customarily be covered with respect to projects similar in construction, location and use.

3. A policy providing adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, trustees and employees of the Master Association and all others who handle or are responsible for handling funds of the Master Association. Such fidelity coverage or bond shall meet the following requirements:

   i). all such fidelity coverage or bonds shall name the Master Association as an obligee;

   ii). such fidelity coverage or bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

4. If the Master Association Property or any portion thereof is located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on the Master Association Property has been made available under the National Flood Insurance Program, then such a policy of flood insurance on the Master Association Property in an amount at least equal to the lesser of:

   i). the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or

   ii). one hundred percent (100%) of current replacement cost of all buildings and other insurable property located within a designated flood hazard area.

5. A policy providing coverage from errors and omissions of officers and directors of the Master Association, in such amounts and containing such provisions as may from time to time be deemed necessary or desirable by the Board of Directors of the Master Association.

6. The following provisions shall apply to all insurance policies of the Master Association:

   i). All such policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Member of the Master Association and shall provide that the policies may not be cancelled or substantially modified without at least thirty days prior written notice to the insured, as well as to the First Mortgagees of each Lot, Townhouse, Condominium Unit or other
parcel of land within the Property. Duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be delivered to any First Mortgagee of a Lot, Condominium Unit, Townhouse or other parcel of land within the Property upon written request. The insurance shall be carried in blanket forms naming the Master Association, as the insured, as trustee and attorney in fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of any such Owner’s membership in the Association.

ii). If at the time of any loss under any policy which is in the name of the Master Association, there is other insurance in the name of any Owner and such Owner’s policy covers the same property or loss, or any portion thereof, which is covered by such Master Association policy, such Master Association policy shall be primary insurance not contributing with any of such other insurance.

iii). All insurance policies carried by the Master Association shall be reviewed at least by the Board of Directors of the Master Association to ascertain that the coverage provided by such policies adequately covers those risks insured by the Master Association.

F. PROPERTY RULES. To make, establish and promulgate, and in its discretion to amend, repeal and reenact, such Property Rules, not in contradiction of this Master Declaration, as it deems proper covering any and all aspects of its functions, including the use and occupancy of Association Property. Without limiting the generality of the foregoing sentence, such Rules may set dues and fees and prescribe the regulations governing the operation of Association Property. Each Member shall be entitled to examine such Rules at any time during normal working hours at the principal office of the Association.

G. MASTER ARCHITECTURAL COMMITTEE. To appoint and remove members of the Master Architectural Committee as provided in Section 8.02 hereof, and to ensure that at all reasonable times there is available a duly constituted and appointed Master Architectural Committee, except that the Grantor shall have the sole right to appoint and remove members of the Master Architectural Committee until such time as the Grantor doesn’t own any Lots, Commercial Site, Condominium Unit, Townhouse, Apartment Building or other parcel of land within the Property.

H. ENFORCEMENT HEREOF. To enforce by any proceeding at law or in equity, in its own behalf and in behalf of all Owners, all of the covenants, conditions, restrictions, reservations, liens and charges now or hereafter set forth in this Master Declaration, under an irrevocable agency (hereby granted) coupled with an interest, as beneficiary of said covenants, conditions, restrictions, reservations, liens and charges, and as assignee of Grantor; and to perform all other acts, whether or not anywhere expressly authorized, as may be reasonably necessary to enforce any of the provisions of the Property
Restrictions or of the Master Architectural Committee Rules. Additional enforcement provisions are contained in Section 10.05 of this Master Declaration. Any Owner also may enforce any of the covenants, conditions, restrictions, liens and charges now or hereafter set forth in this Master Declaration.

I. LONG-TERM FINANCING. Subject, during the Period of Grantor Control, to the prior written consent of a majority of the Nondeveloper Votes and of the Veterans Administration or Deferral Housing Administration, and subject, after the Period of Grantor Control, to the prior written consent of a majority of all the votes entitled to be case, to execute of a majority of all the votes entitled to be case, to execute mortgages and deeds of trust, both construction and permanent, for construction of facilities, including Improvements, on Master Association Property. Such financing may be effected through conventional mortgages or deeds of trust, the issuance and sale conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate. The mortgage, deed of trust, or other security interest given to secure repayment of such debt may consist of a first lien or a second or other junior lien, as shall be deemed appropriate, on the Improvement or other facility to be constructed, together with such underlying and surrounding lands within the Association Property as the Master Association deems appropriate. The debt secured by such mortgage, deed of trust or other security instrument may be retired from revenues generated by dues, use fees, assessment of the Members of the Master Association, or otherwise, or any combination thereof as may be deemed appropriate, but subject to the limitations imposed by this Master Declaration.

J. AUDIT. The Master Association may, but shall not be required to by this Master Declaration, provide an annual audit by an independent certified public accountant of the accounts of the Master Association and to and to make a copy of such audit available to each Member during normal business hours at the principal office of the Master Association. Any Member may at any time and at his own expense cause an audit of inspection to be made of the books and records of the Master Association by a certified public accountant provided that such audit or inspection is made during normal business hours and without unnecessary interference with the operations of the Master Association.

K. AVAILABILITY OF RECORDS. To make available to any Member at the principal office of the Master Association during normal business hours, copies of the Master Declaration, the Articles of Incorporation and Bylaws of the Master Association, where copies may be purchased at a reasonable cost.

L. OTHER. To carry out all duties of the Master Association set forth in the Property Restrictions, or the Articles or Bylaws of the Master Association.

SECTION 6.06. POWERS AND AUTHORITY OF THE MASTER ASSOCIATION. The Master Association shall have all of the powers of an Illinois not-for-profit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Master Declaration. It shall further have the power to do and
perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Illinois or by this Master Declaration. Without in any way limiting the generality of the two preceding sentences, the Master Association shall have the following power and authority at all times:

A. ASSESSMENTS. To levy Assessments as provided in this Section 6.06A. An Assessment is defined for the purposes of this Section 6.06A as that sum which must be levied in the manner and against the property set forth below in this Section 6.06A in order to raise the total amount for which the levy in question is being made, and each individual Assessment shall be equal to each other individual Assessment, except as provided otherwise in this Master Declaration. The following provisions shall govern Assessments of the Master Association:

1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property, including Grantor, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Master Association: (a) annual assessments to be established and collected as hereinafter such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, late charges, costs, and reasonable attorney’s fees, shall be a charge on the land and shall be a continuing lien upon the Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property, against which each such assessment is made. The lien may be enforced by foreclosure of the defaulting Owner’s Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property by the Master Association in like manner as a mortgage on real property. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney’s fees. The Board of Directors or managing agent of the Master Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land, and a description of the Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property. Such a notice shall be signed by one of the Directors of the Association or by the managing agent of the Master Association and may be recorded in the office of the Recorder of Deeds of DeKalb County, Illinois. The lien for each unpaid assessment shall attach to each Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property, at the beginning of each assessment period and shall continue to be a lien against such Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property, until paid. The costs and expenses for filing any notice of lien shall be added to the assessment for the Lot,
Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property, against which it is filed or collected as part and parcel thereof. Each assessment, together with interest, late charges, costs, and reasonable attorney’s fees, shall also be the personal obligation of each Person who was the Owner of such Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property, at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner’s successors in title unless expressly assumed by them. The Association’s lien on each Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property, for assessments shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Illinois or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

2. PURPOSE OF ASSESSMENTS. The assessments levied by the Master Association shall be used exclusively to promote the recreation, health and safety of the residents and tenants of the Property, for the repair, replacement, and maintenance of any landscaped right-of-way and medians within or adjacent to public or private streets within or abutting the Property which may be the responsibility of the Master Association to maintain, and for the improvement, repair, replacement and maintenance of the Master Association Property and the appurtenances and improvements thereto and thereon, including without limitation, maintenance of landscaping and other improvements located on the Master Association Property, maintenance of greenbelt areas within the Master Association Property, maintenance of bike paths and trails within the Master Association Property, maintenance of any well site and/or the irrigation system within the Master Association Property, pruning trees and hedges located upon the Master Association Property and maintaining all fences, lighting facilities and masonry entryway signs located within the Master Association Property.

3. MAXIMUM ANNUAL ASSESSMENT. Until commencement of the second annual assessment, the maximum annual assessment shall be ___________ Dollars ($_________) per Assessment Unit. The assessment rate on Lots, Condominium Units, Townhouses, Commercial Sites, Apartment Buildings or other parcels of land within the property, owned by Grantor, may be reduced as provided in paragraph (6) of this Section 6.06A or as provided in Section 6.08.

4. The following provisions shall govern increases in the maximum annual assessment:
i). Effective with commencement of the second and each subsequent annual assessment period, the maximum annual assessment shall be increased effective each annual assessment year by _____ percent (___ %), or in an amount equal to the increase, if any, of the Consumer Price Index for the one-year period ending with the preceding month of December, whichever is greater. This annual increase in the maximum annual assessment shall occur automatically upon the commencement of each annual assessment year without the necessity of any action being taken with respect thereto by the Master Association. In the even the aforesaid Consumer Price Index is not published for whatever reason, then the increase in the maximum annual assessment, as provided herein, shall be calculated by using a substantially comparable index designated by the Board of Directors of the Master Association.

ii). Effective with commencement of the second and each subsequent annual assessment period, the maximum annual assessment may be increased above that established by the Consumer Price Index formula, for the next succeeding annual assessment year and at the end of each such annual assessment period, for each succeeding annual assessment year, provided that any such increase shall have the assent of two-thirds (2/3) of each class of Members who are voting by Delegates at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty days nor more than sixty days in advance of such meeting setting forth the purpose therefore.

iii). Subject to the provisions of paragraph (6) of this Section 6.06A relating to the obligation of Grantor to subsidize the Master Association for certain shortfalls in assessments, the Board of Directors of the Master Association may, at any time and from time to time, after consideration of the projected maintenance costs and other financial needs of the Master Association, and upon written notification to each Owner of the amount of the actual assessment to be levied, fix the actual assessment per each Assessment Unit at an amount less than the maximum, that the rate of assessment then in effect is less than may be necessary to adequately fund all maintenance costs and other financial needs of the Master Association, then the Board of Directors of the Master Association may increase the actual assessment per each Assessment Unit upon written notification thereof to each Owner, provided that the amount of the actual assessment per each Assessment Unit shall not be increased to an amount in excess of the maximum annual assessment for that annual assessment period.
iv). The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as incident to a merged or consolidation in which the Master Association is authorized to participate under its Articles of Incorporation.

v). The Master Association shall maintain an adequate reserve fund out of the assessments for the maintenance, repair and replacement of those elements or portions of the Master Association Property that must be maintained, repaired or replaced on a periodic basis.

5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER PARAGRAPHS (3), (B) AND (4) OF THIS SECTION. In addition to the Assessments authorized in this Section 6.06A, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of any capital improvement upon Master Association Property, including fixtures and personal property related thereto, or for the funding of any operating deficit incurred by the Master Association. Any such assessment shall have the assent of two-thirds (2/3) of the votes being exercised by Delegates at a meeting duly called for this purpose and shall be levied equally against each Assessment Unit, subject to the reduced assessments permitted under paragraph (6) of this Section 6.06A and under Section 6.08.

6. UNIFORM RATE OF ASSESSMENT. Annual and special assessments must be fixed at a uniform rate for all Assessment Units sufficient to meet the expected needs of the Master Association, subject to reduced assessments permitted under this paragraph (5) and Section 6.08 of this Master Declaration. Notwithstanding anything to the contrary contained in this Master Declaration, the rate of annual and special assessments set for any Assessment Unit owned by Grantor which are neither leased, shall be fixed at one-quarter (1/4) of the assessment rate for the other Assessment Units. In the event that, prior to the termination of the Period of Grantor Control, assessments for annual common expenses, exclusive of those amounts held by the Master Association during any particular annual assessment period because of such partial Grantor assessment, then Grantor shall collectively pay, on a pro rata basis as provided below, a sufficient amount up to the amount of full parity on such assessment, to the Master Association to meet any such shortfall. Such obligation to meet a shortfall shall continue after the end of the Period of Grantor control so long as written notice of such shortfall is given by the Master Association within sixty (60) days following the termination of the then current fiscal year of the Master Association at the time of the termination of the Period of Grantor control, but in no event shall such obligation continue for more than one (1) year following the termination of the Period of Grantor Control. In no event shall Grantor have any obligation for any such shortfall.
caused by expenditures for capital improvements, or by any decrease in assessments, including without limitation, the levying of any assessment in an amount less than the maximum for any common expense assessment period, which amount is established subsequent to the termination of the Period of Grantor unless the same has previously been approved in writing by Grantor. At the time any property which constitutes or is part of an Assessment Unit which is owned by Grantor is leased, rented or otherwise residentially or commercially occupied, that Assessment Unit shall be assessed at the uniform rate of assessment for other Assessment Units. Subject to the conditions hereinabove stated, Grantor shall pay a pro rata share of the amount necessary to meet each such shortfall in association assessments, up to the amount of full parity on such assessments, such pro rata share to be based on the amount of assessments due at parity for the Assessment Units owned by Grantor, compared with the amount of assessments due at such lesser rate from Grantor during the applicable annual assessment period.

7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. The initial annual assessment shall commence on the first day of the month following the leasing, renting or other residential occupancy of the first residence within the Property and the second and each subsequent annual assessment period shall correspond with the fiscal year of the Master Association. The Assessments may be made due and payable in monthly or quarterly installments per annum on such dates as determined by the Board of Directors of the Master Association, provided that the first annual assessment shall be adjusted according to the number of months in the first annual assessment year. Any Owner purchasing a Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property between installment due dates shall pay a pro rata share of the last installment due.

8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment of portion thereof which is not paid when due shall be delinquent. Any assessment or portion thereof which is not paid within ten (10) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum and the Master Association may assess a monthly late charge thereon in such reasonable amounts as determined from time to time by the Master Association. The Master Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property, and in the event a judgment is obtained, such judgment shall induce interest and late charges on the assessment, as above provided, and a reasonably attorney's fee to be fixed by the court, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use.
of the Master Association Property or abandonment of his Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land within the Property.

9. **WORKING CAPITAL.** The Grantor shall require the first Owner of each Lot, Townhouse, Condominium Unit, Apartment Building, Commercial Site or other parcel of land (other than Grantor) who purchases that Lot, Townhouse, Condominium Unit, Apartment Building, Commercial Site or other parcel of land from Grantor, to make a non-refundable working capital contribution to the Master Association in an amount equal to two (2) times the monthly installment of the annual common expenses assessment effective at the time of conveyance of the Lot, Townhouse, Condominium Unit, Apartment Building, Commercial Site or other parcel of land. All such contributions shall be held in a segregated account by the Master Association for its use and benefit as it deems desirable, including but not limited to ensuring that the Board of Directors of the Master Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board. Such deposit shall not relieve an Owner from making the regular payment of assessments as the same become due. Upon the transfer of his Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land, an Owner shall be entitled to a credit from his transferee in an amount equal to the unused portion of the first private Owner’s payment into the working capital fund which remains in the fund.

10. **SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the assessments provided for herein, including without limitation, any fees, costs, late charges or interest which may be levied by the Master Association in connection with unpaid assessments, shall be subordinate to the lien of any First Mortgage, sale or transfer of any Lot, Townhouse, Condominium Unit, Apartment Building, Commercial Site or any other parcel of land within the Property shall not affect the liens for said assessment charges except that sale or transfer of any Lot, Townhouse, Condominium Unit, Apartment Building, Commercial Property or other parcel of land within the Property, pursuant to foreclosure of any such First Mortgage, including any executor land sales contract, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall extinguish the lien of assessment charges which became due prior to any such sale, transfer, or foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure; provided, however, that any such delinquent assessment charges, including interest, late charges, costs and reasonable attorneys’ fees which are extinguished as provided herein may be reallocated and assessed to all Assessment Units as a common expense. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall relieve any Lot, Townhouse, Condominium Unit, Apartment Building, Commercial Site or other parcel of land within the
Property from liability for any assessment charges thereafter becoming due, nor from the lien thereof; provided, however, that in the event of foreclosure of a First Mortgage or the taking of a deed in lieu thereof, such First Mortgagee shall not be liable for unpaid assessments or other charges which accrue prior to the acquisition of title to the particular Lot, Townhouse, Condominium Unit, Apartment Building, Commercial Site or other parcel of land within the Property by such First Mortgagee.

B. RIGHT OF ENTRY AND ENFORCEMENT. To enter, after 24 hours written notice, without being liable to any Owner, upon any Lot or Commercial Site or into any Improvement, including any Condominium Unit, Townhouse, and Apartment Building, or onto any Local Common Area or Master Association Property, for the purpose of enforcing by peaceful means the Property Restrictions or for the purpose of maintaining for repairing any area. Improvement or other facility, if for any reason whatsoever the Owner thereof fails to maintain or repair any such area as required by the Property Restrictions. The Master Association shall also have the power and authority from time to time in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce by mandatory injunction or otherwise, or to restrain and enjoin any breach or threatened breach of, the Property Restrictions.

C. CONVEYANCES. To grant and convey to any person real property and interests therein, including fee title, easements, rights of way, mortages and deeds of trust, out of, in, on, over, or under any Master Association Property for the purpose of constructing, erecting, operating or maintaining thereon, therein, or thereunder:

1. Parks, parkways, open space, or other recreational facilities;

2. Roads, streets, walks, driveways, trails, and recreational paths;

3. Lines, cables, wires, conduits, pipelines or other devices for utility purposes;

4. Sewers, water systems, storm water drainage systems, sprinkler systems, and pipelines; and

5. Any similar public, quasi-public, or private improvements or facilities.

Nothing above contained, however, shall be construed to permit use or occupancy of any land, Improvements or other facility in a way which would violate applicable zoning or other development ordinances or use and occupancy restrictions imposed thereon by other provisions of this Master Declaration.

D. SECURITY SERVICES. To provide watchmen and guards at points of entry onto Property, for Association Property and at such other places and for such other purposes as the Board shall determine.
E. MANAGER. To retain and pay for the services of a person or firm (the “Manager”) to manage and operate the Master Association, including its Property, to the extent deemed advisable by the board, together with such other personnel as the Board shall determine advisable for the operation of the Master Association, the conduct of its business, and the management of its Property. Such personnel may be employed directly by the Master Association or may be furnished by the Manager. The Owners release the Master Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated. Each and every independent contract with a Manager, for comprehensive management services by or under the direction of said Manager, which is entered into by or otherwise made binding upon the Master Association, shall be terminable by the Master Association with or without cause, in the Board’s sole and absolute discretion, and upon no more than thirty days’ prior written notice, and shall have a term no longer then one year, subject to renewal at the option of the Board. Any such contract shall also require approval of the Veterans Administration or Federal Housing Administration pursuant to Section 10.07, and shall specifically state that notwithstanding any other provision contained in the contract, it shall be subject to this second paragraph of this Section 6.06E of this Master Declaration. The provisions of this paragraph are not intended to apply to any contract of employment between Master Association and its own employees, nor to any contract between the Master Association and its own employees, nor to any contract between the Master Association and any independent contractor for the provision of legal, accounting, special consulting, or other management-related services which are not comprehensive in nature. During the period of Grantor Control, Grantor may not act as Manager for the Master Association.

F. LEGAL AND ACCOUNTING SERVICES. To retain and pay for legal and accounting services necessary or proper in the operation of the Master Association, the operation and management of its Property, the enforcement of the Property Restrictions, or in the performance of any other duty, right, power or authority of the Master Association.

G. ASSOCIATION PROPERTY SERVICE. To pay for water, sewer, garbage removal, electricity, telephone, gas, snow removal, landscaping, gardening, and all other utilities, services and maintenance for the Master Association Property.

H. OTHER AREAS. To maintain and repair easements, roads, roadways, rights of way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes, entry details, guardhouses, and other areas of Property owned by the Master Association, and to maintain and repair any Property within Property owned by or leased to the City or any Special District, provided that a written agreement to perform such maintenance or repair work has been executed between the Master Association Board and with the City or a Special District, as applicable. The Master Association may also contribute toward the cost of operation and maintenance of private roads and any other Improvements or other facilities owned by Subassociations within Property but used in part by persons who are Members of the Master Association but not members of the Subassociation.
I. RECREATIONAL FACILITIES. It is contemplated that all recreational facilities will be owned and operated by either the City or special districts. However, the Master Association may own and operate any and all types of facilities for both active and passive recreation on Master Association Property. All Members and Permitted Users shall have the right to use any recreational property owned by the Master Association subject to rules and regulations adopted by the Board and subject to the right of the Board and restrict such use by Owners of Commercial Sites.

J. OTHER SERVICES AND PROPERTIES. To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Master Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of the Property Restrictions, this Master Declaration, or the Articles and Bylaws of the Master Association.

K. CONSTRUCTION ON ASSOCIATION PROPERTY. To construct new Improvements or additions to Master Association properties, or demolish existing Master Association Improvements, subject to the approval of the Master Architectural Committee as required in this Master Declaration.

L. COLLECTION FOR SUBASSOCIATION. To collect on behalf of and for the account of any Subassociation (but not to levy) any assessment made by a Subassociation created pursuant to this Master Declaration, provided that such Subassociation has delegated the right, authority and power to the Master Association to make such collections on its behalf.

M. CONTRACT. To enter into contracts and leases to perform any functions or exercise any rights, duties or responsibilities of the Master Association contained in this Master Declaration on such terms and provisions as the Board shall determine.

N. LICENSES. To obtain and hold any and all types of permits and licenses necessary or expedient for the performance of the Master Association's powers and duties.

O. REAL AND PERSONAL PROPERTY. To acquire and own and to dispose of all manner of real and personal property, whether by grant, gift or otherwise.

P. MERGE, CONSOLIDATE OR DISSOLVE. To merge, consolidate, or dissolve the Master Association, but, during the Period of Grantor Control, only with the consent of the Grantor, the Veterans Administration or Federal Housing Administration, as determined by the Grantor and three-fourths of the Nondeveloper Votes, and, after the Period of Grantor Control, only with the consent of three-fourths of all votes.

SECTION 6.07. INDEMNIFICATION

A. THIRD PARTY ACTIONS. The Master Association may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or
completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Master Association) by reason of the fact that he is or was a director, officer, employee, servant or agent of the Master Association, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Master Association, and, with respect to any criminal action or proceeding, he had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself create a presumption that he person did not act in good faith or in a manner which he reasonably believe to be in or not opposed to the best interests of the Master Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

B. DERIVATIVE ACTIONS. The Master Association may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, by or in the right of the Master Association to procure a judgment in its favor by reason of the facts that he is or was a director, officer, employee, servant or agent of the Master Association, against expenses (including attorneys' fees), actually and reasonably incurred by him in connection with the defense of such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Master Association, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Master Association unless and only to the extent that the court in which such action, proceeding or suit was brought shall determine upon application that, despite the adjudication of liability and in view of all the circumstances of the case, such person is fairly and reasonable entitled to indemnity for such expenses which such court shall deem proper.

C. DETERMINATION. Any indemnification which the Master Association has elected to provide under paragraph A or B of this Section 6.07 (unless ordered by a court) shall be made by the Master Association only as authorized in the specific case upon a determination that indemnification of the officer, director, employee, servant or agent is proper in the circumstances because he has me the applicable standard of conduct set forth in paragraph A or B of this Section 6.07. Such determination shall be made (a) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; provided, however, that if a director, officer, employee, servant or agent of the Master Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraph A or B of this Section 6.07, or in defense of any claim, issue or matter therein, then, to the extent that the Master Association has elected to provide indemnification, he shall automatically be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith without the necessity
of any such determination that he has met the applicable standard of conduct set forth in
paragraph A or B of this section 6.07.

D. PAYMENT IN ADVANCE. Expenses incurred in defending a civil action, suit or proceeding may, in the discretion of the Board, be paid by the Master Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board as provided in paragraph C of this Section 6.07 upon receipt of an undertaking by or on behalf of the director, officer, employee, servant or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Master Association as authorized in this Section 6.07.

E. INSURANCE. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, servant, or agent of the Master Association, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Master Association would have the power to indemnify him against such liability hereunder or otherwise; provided, however, that the Board shall purchase and maintain such insurance as provided in Section 6.05E(5).

F. OTHER COVERAGE. The indemnification provided by this Section 6.07 shall not be deemed exclusive of any other rights to which anyone seeking indemnification may be entitled under this Master Declaration, any agreement, vote of the Members, vote of disinterested directors, Illinois law, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and may continue as to a person who has ceased to be a director, officer, employee, servant or agent and may inure to the benefit of the heirs and personal representatives of such person.

SECTION 6.08. REDUCED ASSESSMENTS FOR COMMERCIAL SITES. Notwithstanding any other provision of this Master Declaration, the Board shall have the authority to levy reduced Assessments upon all Owners of Commercial Sites anywhere within the Property in the event that such Owners of Commercial Sites are not permitted to use some or all Master Association Property. Such reduced Assessments may be either mandatory or optional to the affected Owners, but in either case, Assessment reduction shall be accompanied by loss of the right to use such Association Property as the Board, in its sole discretion, may from time to time specify. Reduced Assessments thus levied shall hear a reasonable relationship, as determined by the Board in its sole discretion and based upon the budget adoption by the Board, to those expenses of the Master Association properly shared even by those Owners who have lost the right to use said specified Association Property. Payment of full Assessments by the Owner of a Commercial Site shall entitle the Owner, its lessees, and their employees to the use of Association Property in a manner and to the extent determined by the Board in its sole discretion; provided, however, that the manner and extent of such use may in no case exceed the equivalent of one family or five individual memberships per full Assessment paid by the Owner of each Commercial Site. For purposes of this subsection a “family membership” shall entitle one designated person and the members of his family who reside with him to the use of Association Property as though
such family resided on Property, and an “individual membership” shall entitle one designated person to the use of Association Property as though he resided on Property.

SECTION 6.09. DISEASED TREES. The Master Association may enter upon any part of Property at any time to inspect for, prevent and control diseased trees and other plant life and insect infestation of trees and other plant life. If any diseased or insect infested trees or other plant life are found, the Master Association may spray or remove diseased trees and other plant life, and take such other remedial measures as it deems expedient. The cost thereof applicable to privately owned property may be levied by the Master Association as a special assessment against such property pursuant to Section 6.06 hereof.

ARTICLE VII
ASSOCIATION PROPERTY

SECTION 7.01. USE. Except as provided in Section 6.08, each Member of the Master Association who resides in Property and each Permitted User, and each lessee of a Lot, a Condominium Unit, a Townhouse or a dwelling unit in an Apartment Building who, in each of these instances, resides in Property and the members of his family who reside with him, shall be entitled to use the Property of the Master Association, subject to the following:

A. The provisions of the Property Restrictions, and each person who uses Property of the Association, in using the same, shall be deemed to have agreed to comply therewith;

B. The right of the Association to charge reasonable dues and use and other fees;

C. The right of the Association to suspend the rights to the use of any Property of the Association by any Member or Permitted User for any period during which any Assessment against the Member’s property remains past due and unpaid; and, after Notice and Hearing by the Board, the right of the Association to invoke any remedy set forth above in Section 3.08 for any other infraction of the Property Restrictions.

D. The right of the Association to require that security deposits be made and kept with the Association to secure all sums, and to guarantee performance of all duties, due and owing or to become due and owing to the Association; and

E. Such covenants, conditions, and restrictions as may have been imposed by the Association or prior owners on Property of the Association.

SECTION 7.02. DAMAGE. Each Member and lessee described above in Section 7.01 shall be liable to the Master Association for any damage to Property of the Association which may be sustained by reason of the negligent or intentional misconduct of such person or his family, guest or invitees. If the property, the ownership or leasing of which entitles the Owner or lessee thereof to use Association Property, is owned or leased jointly or in common, the liability of all such joint or common Owners or lessees shall be joint and
several. The amount of such damage may be assessed against such person’s real and personal property on or within the Property as provided in Section 6.06, including the Leasehold estate of any lessee, and may be collected as provided in Article IX below for the collection of Assessments.

SECTION 7.03. DAMAGE AND DESTRUCTION. In the case of destruction of or damage to Association Property by fire or other casualty:

A. RECONSTRUCTION – MINOR. If the destruction of or damage to Association Property is not more than seventy-five percent (75%) of the replacement value of the Association Property so damaged or destroyed, such insurance proceeds shall be paid to the Association, which thereupon shall contract to repair or rebuild the Association Property so damaged; and if the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding the damage, the Master Association may levy a special Assessment to make good any deficiency.

B. RECONSTRUCTION – MAJOR. If the destruction of or damage to Association Property is more than seventy-five percent (75%) of the replacement value of the Association Property so damaged or destroyed, then:

1. The insurance proceeds shall be paid to such bank or trust company as may be designated by the Board, to be held in separate trust for the benefit of the Members, as their respective interests shall appear. The Association is authorized to enter, on behalf of the Members, into an agreement with such insurance trustee relating to its powers, duties and compensation, on such terms as the Board may approve consistent herewith.

2. The Association shall obtain firm bids from two or more responsible contractors to repair and rebuild any or all portions of the Association Property and shall call a special meeting of the Members to consider such bids. At such special meeting, the Members may, by three-fourths of the votes cast at such meeting, elect to reject such bids and, thus, elect not to rebuild. Failure to so reject such bids shall be deemed acceptance of such bid or bids as may be selected by the Board. If a bid is accepted, the Association may levy special Assessments on the Members to make up the deficiency between the total insurance proceeds and the contract price of repairing or rebuilding the Association Property and such Assessments and all insurance proceeds shall be paid to said insurance trustee to be used for such rebuilding. Such Assessments may be made due on such dates as the Association may designate, and the Association may borrow money to pay the aforesaid deficiency and may secure Assessments, by a pledge of or mortgage on any personal property owned by the Association or held by it in trust for the Members or by a mortgage or deed of trust on the facility to be rebuilt or on any other real property owned by the Association. If the Members elect not to rebuild, the proceeds, after payment for demolition of damaged structures and
clean-up of the premises, shall be retained by the Master Association for use in performing its functions under the Property Restrictions.

C. DECISION NOT TO RECONSTRUCT. If the Board determines not to rebuild any Association Property so destroyed or damaged, or to build facilities substantially different from those which were destroyed or damaged, it shall call a special meeting of the Delegates to consider such decision. If the Delegates, by three-fourths of the votes represented at such meeting, elect to ratify such decision, the Board shall act accordingly; but if the Delegates do not by such percentage elect to ratify such decision, the Board shall proceed to repair or rebuild the damaged or destroyed facility pursuant to paragraph A or B, as the case may be, of this Section 7.03.

SECTION 7.04. CONVEYANCE TO MASTER ASSOCIATION. Where any real or personal property, improved or otherwise, is conveyed to the Master Association by Grantor or any other Person, it shall be conveyed in fee simple with marketable title, free and clear of all liens, encumbrances, and prior grants, reservations or exceptions, except those contained in any deed conveying the property so conveyed to any Person owning any portion of the Property on the date this Master Declaration is first recorded, this Declaration and any other conditions, covenants, restrictions, easements or rights-of-way, if any, as are not inconsistent with and will not materially interfere with the intended use of such Property. No land or improvements located thereon may be leased by Grantor to the Master Association.

SECTION 7.05. EASEMENTS FOR ENCROACHMENTS. If any building or other Improvement located on Association Property encroaches or shall hereafter encroach upon a Lot or other parcel of land within Property, an easement for such encroachment and for the maintenance of the same shall and does exist. If any building or other Improvement located on a Lot or other parcel of land within the Property encroaches or shall hereafter encroach upon any Association Property, or upon an adjacent Lot or parcel of land, the Owner of that Lot or parcel shall and does have an easement for such encroachment and for the maintenance of the same. Such encroachment shall not be considered to be an encumbrance either on the Association Property, the Lot or other parcel of land. Encroachments referred herein include, but are not limited to, encroachments caused by error in the original construction of the building or other Improvement, by error in the recorded plate of the Property, by overhangs as designed, or by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Property or any part thereof.

SECTION 7.06. EASEMENTS DEEMED CREATED. All conveyances of Lots, Condominium Units, Townhouses, Commercial Sites, Apartment Buildings, or other parcels of land hereafter made, shall be construed to grant and reserve such reciprocal easements, uses and rights as are provided in this Master Declaration, even though no specific reference to such easements, uses or rights appears in such conveyance.

ARTICLE VIII
ARCHITECTURAL COMMITTEE

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SECTION 8.01. MEMBERS OF COMMITTEE. The Master Architectural Committee shall consist always of not less than three members nor more than nine members. The Board may reduce the number of members of the Committee to three and increase it up to nine as often as it wishes, provided that the Committee shall have an odd number of members at all times. Each member of the Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee may be removed at any time without cause.

SECTION 8.02. APPOINTMENT AND REMOVAL OF COMMITTEE MEMBERS. The Board shall have the right to appoint and remove all members of the Committee, except that Grantor shall appoint and remove all members of the Committee as provided in Section 6.05G.

SECTION 8.03. REVIEW OF PROPOSED CONSTRUCTION. Whenever in this Master Declaration or in any Supplemental Declaration the approval of the Master Architectural Committee is required, the Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which the Committee, in its sole discretion deems relevant. Committee approval shall be obtained for all Improvements on Property, including, but not limited to general site design and layout; interior road systems; location of driveways and other points of access to public and private roads, streets, ways and highways; street lights; perimeter fencing; mailbox design and location; and the location, size and design of all structures. Except as provided in Section 3.15 and 3.16 above, prior to commencement of any construction or installation of any Improvement on the Property, the Plans and Specifications thereof shall be submitted to the Master Architectural Committee, and construction thereof may not commence unless and until the Committee has approved such Plans and Specifications in writing. The Committee shall consider and act upon any and all Plans and Specifications in writing and shall give its approval or disapproval within such thirty (30) days shall be deemed approval of the Plans and Specifications being reviewed. The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Master Declaration, and perform such other duties assigned to it by this Master Declaration, and perform such other duties assigned to it by this Master Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Committee. The Committee shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding area of Property as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and area. The Committee may require its prior approval of individual structures and improvements, or may approve Plans and Specifications for building types, as it may determine in its sole discretion. The Committee may condition its approval of Plans and Specifications on such changes therein as it deems appropriate, and may require submission of additional Plans and Specifications or other information prior to approving or disapproving the material submitted. The Committee may also issue Rules or guidelines regarding anything relevant to its functions, including by not limited to minimum standards and procedures for the
submission of Plans and Specifications for approval. The Committee may require a reasonable fee to accompany each application for approval not to exceed $250.00 per applications. The committee may require such detail in Plans and Specifications submitted for its review and such other information as its deems proper, including without limitation, environmental impact statements and engineering certifications, reports or studies. Until receipt by the Committee of all required Plans and Specifications and other information, the Committee may postpone review of anything submitted for approval. The Committee may record additional restrictions on some or all of the Property subject to this Master Declaration consistent with the Committee’s authority under this Master Declaration.

SECTION 8.04. MEETINGS OF THE COMMITTEE. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing designate one of its members to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 8.09. In the absence of such designation, the vote of a majority of all of the members of the Committee, or the written consent of a majority of all of the members of the Committee taken without a meeting, shall constitute an act of the Committee.

SECTION 8.05. NO WAIVER OF FUTURE APPROVALS. The approval or consent of the Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or Specifications or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different Person.

SECTION 8.06. COMPENSATION OF MEMBERS. The members of the Committee shall be entitled to reasonable compensation from the Association for services rendered, together with reimbursement for expenses incurred by them in the performance of their duties hereunder. Such compensation shall be determined by Grantor while it has the right to approve or disapprove the members of the Committee pursuant to Section 8.02 above and thereafter by the Board.

SECTION 8.07. INSPECTION OF WORK.

A. COMPLETED WORK. Inspection of completed work and correction of defects therein shall proceed as follows:

1. Upon the completion of any Improvement for which approved Plans or Specifications are required under this Master Declaration, the Owner shall give written notice of completion to the Committee.

2. Within such reasonable time as the Committee may set in its Rules but not to exceed fifteen days thereafter, the Committee or its duly authorized representative may inspect such Improvement. If the Committee finds that
such work was not done in strict compliance with all approved Plant and specifications submitted for its prior approval, it shall notify the Owner in writing of such noncompliance within such period, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.

3. If upon the expiration of thirty days from the date of such notification the Owner shall have failed to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five days from the date of announcement of the Board ruling. If the Owner does not comply with the Board’s ruling within such period, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Master Association upon demand for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Master Association, the Board shall levy an assessment against such Owner and the Improvement in question and the land upon which the same is situated for reimbursement and the same shall constitute a lien upon such land and Improvement and be enforced as provided in this Master Declaration.

4. If for any reason after receipt of said written notice of completion from the Owner, the Committee fails to notify the Owner of any noncompliance within the period provided above in subparagraph (2) of Section 8.07A, the Improvement shall be deemed to be in accordance with said approved Plans and Specifications, unless such noncompliance constitutes a threat to public health or safety, in which event, the Committee’s failure to provide a notice of noncompliance within such period shall not prevent the Committee from taking all steps necessary to require the correction of such noncompliance. The authority of the Committee to require corrections of work which constitute a threat to public health and safety shall not be construed as imposing upon the Committee any obligation or duty to review, approve and inspect Improvements for health and safety or for any reason not specified in Section 8.08.

B. WORK IN PROGRESS. The Committee may inspect all work in progress and give notice of noncompliance as provided above in subparagraph (2) and (3) of Section 8.07A. If the Owner denies that such noncompliance exists, the procedures set out in subparagraph (3) of Section 8.07A shall be followed, except that no further work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the Board shall find that such noncompliance exists.
SECTION 8.08. NONLIABILITY OF VARIOUS PARTIES. Neither the Committee nor any member thereof, nor the Board or any member thereof, nor the Grantor or any member thereof shall be liable to the Association or to any Owner or any other Person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's, Board's or Grantor's respective duties under this Master Declaration unless due to the willful misconduct or bad faith of the Committee or its members, the Board or its members, or the Grantor or its members, as the case may be. Except insofar as its duties may be extended with respect to a particular area by a Supplemental Declaration filed by Grantor, the Committee shall review and approve or disapprove all Plans and Specifications submitted to it for any proposed Improvement, including the construction, alteration or addition thereof or thereto, on the bases of aesthetic considerations, the overall benefit or detriment which would result to the surrounding area and Property generally, and other factors which the Committee deems relative to assuring compliance with the terms and purposes of this Declaration and any Supplemental Declaration which encumbers said property. The committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building codes or other codes, ordinances, regulations or statues.

SECTION 8.09. VARIANCES. The Committee may authorize variances from compliance with any of the architectural provisions of this Master Declaration or any Supplemental Declaration, including restrictions upon height, bulk, size, shape, floor area, land area, placement of structures, set-backs, building envelopes, colors, materials, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations may, in the Committee's sole discretion, warrant. Such variances must be evidenced in writing and must be signed by at least a majority of all of the members of the Master Architectural Committee. If such a variance is granted, no violation of the covenants, conditions or restrictions contained in this Master Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Master Declaration, or of any Supplemental Declaration for any purpose except as to the particular property and particular provision and in the particular instance covered by the variance.

SECTION 8.10. OBLIGATIONS WITH RESPECT TO ZONING AND SUBDIVISIONS. The Master Architectural Committee shall require all Persons to comply fully with applicable development approvals given by the City Council of the City as the same may be amended from time to time. Prior to the submission to the City of any matter governed or meant to be governed by the zoning or other development ordinances of the City, such matters shall first be reviewed and approved by the Master Architectural Committee. Such approval shall be set forth upon any submission to the City. Failure to obtain such prior approval shall constitute a violation of this Master Declaration. The Committee may file of record a document specifying development approvals, such as
building permits, for specifically described property, with respect upon which the written approval of the Committee need not be set forth.

SECTION 8.11. RELINQUISHMENT OF ARCHITECTURAL CONTROL TO SUB-ASSOCIATION. During the Period of Grantor Control, Grantor may relinquish to any Subassociation or Architectural committee established pursuant to a Supplemental Declaration under Section 2.01 and 6.01 above the right to appoint its own architectural committee for the area which is subject to such Supplemental Declaration. After termination of the Period of Grantor Control, the Board of the Master Association may make such relinquishment. No such relinquishment shall be effective, however, without the written acceptance of such relinquishment by the Subassociation or by the other Architectural Committee if no Subassociation has been created. If such relinquishment is made and accepted, then the Architectural Committee of such Subassociation shall have all rights, powers, functions, duties and obligations with respect to the area subject to the Supplemental Declaration as are granted to the Master Architectural Committee by Sections 8.01 through 8.11 of this Article VIII or by any other sections of this Master Declaration and which have not been reserved by the Grantor or Board of the Master Association, and the Subassociation shall have all rights, powers, functions, duties and obligations with respect to such Subassociation architectural committee as are granted to the Master Association with respect to the Master Architectural Committee by said Section 8.01 through 8.11 or by any other sections of this Master Declaration which have not been reserved by the Grantor or Board of the Master Association. Notwithstanding the foregoing provision, the Grantor or the Board of the Master Association may reserve certain rights, powers, functions, duties or obligations to the Master Architectural Committee, in which event, the Master Architectural Committee shall continue to exercise such reserved rights, powers, duties or obligations.

SECTION 8.12. ALL ACTIONS IN WRITING. All approvals, denials, variances and other actions which the Master Architectural Committee is obligated or authorized to take pursuant to this Master Declaration or any Supplemental Declaration shall be in writing signed by at least one duly authorized member of the Master Architectural Committee. Any approval, denial, variance or other actions of the Master Architectural Committee not so taken in writing shall be null and void and of no force or effect.

ARTICLE IX
Funds and Assessments

SECTION 9.01. PROPERTY MAINTENANCE FUND. The Board shall establish a fund (the "Property Maintenance Fund") into which shall be deposited all money paid to the Master Association and from which disbursements shall be made in performing the functions of the Master Association under the Irongate Restrictions. The Property Maintenance Fund shall be divided into separate funds for current expenses, reserves and working capital and the accounting for the Fund shall reflect such separate funds. The funds of the Master association must be used solely for purposes related to the area and Improvements owned by the Association, or subjected by the Property Restrictions and maintenance and operation by the Association, for the Master Architectural Committee, or otherwise for purposes authorized by the Property Restrictions as they may from time to time be amended. No funds
of the Master Association may be used to maintain or improve any lands or Improvements owned by Grantor. Nothing contained herein shall limit, preclude or impair the establishment of other maintenance funds by any Subassociation pursuant to any Supplemental Declarations.

SECTION 9.02. REGULAR ANNUAL ASSESSMENTS. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Master Association during such year in performing its functions under the Property Restrictions, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year’s fund. Uniform and equal Assessment sufficient to pay such estimated net charges shall then be levied as provided in Section 6.06A. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time and from time to time levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Master Association during the fiscal year in equal monthly installments on or before the first day of each month, or in such other reasonable and uniform manner as the Board may determine; subject, however, to the limitations of Section 6.06A.

SECTION 9.03. SPECIAL ASSESSMENTS. In addition to the regular annual Assessments provided for above in Section 9.02, the Board shall levy special Assessments, upon the property and in the manner set forth in Section 6.06A.

SECTION 9.04. LATE CHARGES. If any Assessment, whether regular or special, is not paid within fifteen (15) days after it is due, or within such longer period of time after due as the Board may determine, the Owner may be required by the Board to pay a late charge of ten percent of the unpaid Assessment.

SECTION 9.05. UNPAID ASSESSMENTS AS PERSONAL LIABILITIES AND LIENS. The amount of any delinquent Assessment, whether regular or special, assessed against any property and any late payment charge attributable thereto, plus interest on such Assessment and charge at a rate of eighteen percent (18%) per annum simple interest, and the costs of collecting the same, including reasonable attorneys’ fees, shall be both a personal liability of the Owner, enforceable in any court of competent jurisdiction, and a lien upon the property of the defaulting Member and the Improvements thereon. Such lien shall be prior to any homestead exemption. Such lien may be foreclosed in the same manner as it provided in the laws of Illinois for the foreclosure of mortgages on real property. A certificate executed and acknowledged by any two members of the Board stating the indebtedness secured by such lien shall be conclusive upon the Master Association as to the amount of such indebtedness as of the date of the certificate, in favor of all Persons who rely thereon in good faith, and such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed Ten Dollars ($10.00).

SECTION 9.06. MORTGAGE PROTECTION. Notwithstanding any other provision of the Property Restrictions, any lien created under this Article IX of under any other Article of this Master Declaration or under any provisions of the Articles of Incorporation of the
Master Association, or under any of the organizational documents for any Subassociation, shall be subordinate to any First Mortgage of record, or first Deed of Trust of record, or executory land sales contract wherein the Administrator of Veterans Affairs of the Veterans Administration is seller (whether owned by the said Administrator, or assigned to another, and whether the said executory land sales contract is recorded or not), upon a Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other parcel of land made in good faith and for value. However, after the foreclosure of any such Deed of Trust or executory land sales contract, or after cancellation of any such land sales contract, or after any conveyance in lieu of foreclosure, such Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or parcel of land shall remain subject to the Property Restrictions and shall be liable for all regular Assessments and all special Assessments levied subsequent to completion of such foreclosure, or cancellation or forfeiture, or delivery of such conveyance in lieu of foreclosure, but falling due after such completion, cancellation, forfeiture, or delivery. Nothing contained herein shall extinguish, toll, or otherwise affect the personal obligation of an Owner to pay all Assessments.

SECTION 9.07. EFFECT OF AMENDMENTS ON MORTGAGES. No amendment of any provision of this Master Declaration nor of any other instrument of the Master Association shall in any way affect the priority of any lender or holder of any recorded First Mortgage or recorded first Deed of Trust, or of any executory land sales contract wherein the Administrator of Veterans Affairs of the Veterans Administration is named seller, whether the said contract is recorded or not, except upon the express written consent of such lender or holder; provided, however, that after the foreclosure of any such First Mortgage, first Deed of Trust, or executory land sales contract, or after cancellation or forfeiture of any such executory land sales contract, or after any conveyance in lieu of foreclosure, the property which was subject to such Mortgage or Deed of Trust, or executory land sales contract shall be fully subject to such amendment.

ARTICLE X
MISCELLANEOUS

SECTION 10.01. TERM. This Master Declaration, including all of the covenants, conditions and restrictions hereof, shall run until December 31, 2060, this Master Declaration, including all such covenants, conditions and restrictions shall be automatically extended for successive periods of ten years each, unless amended or extinguished by a written instrument executed by at least three-fourths of the Owners in Property and recorded in the office of the Recorder of Deeds in DeKalb County, Illinois.

SECTION 10.02. AMENDED. This Master Declaration may be amended as hereinafter indicated. During the Period of Grantor Control, amendment shall require the written approval of Grantor, of at least two-thirds of the Nondeveloper Votes (but only if such approval is required under Section 10.07 below), and of the Veterans Administration or Federal Housing Administration, as determined by the Grantor. The amendment shall be effected by recordation of an instrument setting forth the amendment and recordation of an instrument setting forth the amendment and recordation of an instrument setting for the
amendment and including a statement of Grantor’s consent, executed and acknowledged by Grantor; a statement executed and acknowledged by the president and secretary of the Master Association certifying that such amendment has been approved in writing by at least two-thirds of the Nondeveloper Votes entitled to be cast (but only if such approval is required under Section 10.07 below); and a statement of consent by either the Veterans Administration or the Federal Housing Administration, as determined by the grantor. After termination of the Period of Grantor Control, amendment shall require the approval of at least two-thirds of the total votes (including Grantor’s) as defined in Section 6.03A. Amendment shall be effected by recordation of an instrument setting for the amendment and including a statement executed and acknowledged by the president and secretary of the Master Association certifying that such amendment has been approved in writing by at least tow-thirds of the total votes entitled to be cast. Evidence sufficient to establish the truth of the Master Association certification on any recorded amendatory instrument shall be retained by the Master Association in its permanent files. Notwithstanding any other provisions of this Master Declaration, amendments of this Master Declaration to conform to the requirements of the Veterans Administration, Federal Housing Administration, Federal National Mortgage Corporation, Federal Home Loan Mortgage Corporation, Government National Mortgage Association or any other governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by such entities and/or to induce any of such agencies or entities to make, purchase, sell, insure or guarantee Deeds of Trust or Mortgages encumbering Lots, Townhouses, Condominium Units, Apartment Buildings, Commercial Sites, or other parts of Property, may be made by the Grantor without the consent of any of the Owners, Members or Mortgages. Any restriction placed of record by the Master Architectural Committee pursuant to its authority under this Master Declaration shall not be considered an amendment to this Master Declaration and shall not require any additional consents. Grantor hereby reserves and is granted the right and power to record, without any other consents, technical amendments to this Master Declaration at any time prior to termination of the Period of Grantor Control for the purposes of correcting spelling, grammar, dates or as is otherwise necessary to clarify the meaning of the provisions of this Master Declaration.

SECTION 10.03. NOTICES. Any notice permitted or required to be given by the Master Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third day (other than a Sunday or a legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the Person at the address given by such Person to the Master Association for the purpose of service of notices, or to the residence of such Person if no address has been given to the Master Association. Such address may be changed from time to time by notice in writing given by such Person to the Master Association.

SECTION 10.04. INTERPRETATION. The provisions of this Master Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development and operation of Property and of promoting and effectuating the fundamental concepts of Property as set forth in the RECITALS and DECLARATION of this Master
Declaraiton. This Declaration shall be construed and governed under the laws of the State of Illinois.

SECTION 10.05. ENFORCEMENT AND WAIVER.

A. RIGHT OF ENFORCEMENT. Except as otherwise provided herein, any Owner, at his own expense, Grantor, and the Board shall have the right to enforce all of the provisions of the Property Restrictions against any property within the Property and the Owners thereof. Such rights of enforcement shall include both damages for an injunctive relief against the breach of any such provision. The right of any Owner to so enforce such provisions shall be equally applicable without regard to whether the land (or other interest) of the Owner seeking such enforcement or the land (or other interest) whereon or with respect to which a violation of such provisions is alleged is initially set forth in Exhibit "A" or is hereafter subjected to this Declaration pursuant to Section 2.02 above.

B. VIOLATION A NUISANCE. Every act or omission whereby any provision of the Property Restrictions is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated by any Owner at his own expense, by the Grantor or the Board, whether or not the relief sought is for negative or affirmative action. However, only Grantor, the Board and the duly authorized agents of either of them may enforce by self-help any of the provisions of the Property Restrictions, and then only if such self-help is preceded by reasonable notice to the Owner in question.

C. VIOLATION OF LAW. Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, occupancy or use of any property within Property is hereby declared to be a violation of Property Restrictions and subject to all of the enforcement procedures set forth in said Restrictions.

D. REMEDIES CUMULATIVE. Each remedy provided by the Restrictions is cumulative and not exclusive.

E. NONWAIVER. The failure to enforce any provision of the Irongate Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said Restrictions.

SECTION 10.06. CONSTRUCTION.

A. RESTRICTIONS SEVERABLE. Notwithstanding the provisions of the foregoing Section 10.04, each of the provisions of the Property Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provisions.

B. SINGULAR INCLUDES PLURAL. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each induce the masculine, feminine and neuter.
C. CAPTIONS. All captions and titles used in this Master Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, Sections or Articles hereof.

SECTION 10.07. FEDERAL HOUSING ADMINISTRATION/VETERANS ADMINISTRATION APPROVAL. During the Period of Grantor Control, the following actions shall require approval of either the Veterans Administration or the Federal Housing Administration as determined by the Grantor: (a) annexation pursuant to Section 2.02; (b) conveyance of Master Association Property by the Master Association; (c) amendment of this Master Declaration; (d) merger, consolidation or dissolution of the Master Association; and (3) mortgaging of Association Property by the Master Association.

SECTION 10.08. MORTGAGEE’S RIGHTS. The following provisions are for the benefit of holders, insurers and guarantors of First Mortgages. To the extent applicable, necessary, or proper, the provisions of this Section 10.08 shall apply to both this Declaration and to the Articles and Bylaws of the Master Association.

A. NOTICES OF ACTION. A holder, insurer, or guarantor of a First Mortgage, who provides written request to the Master Association (such request to state the name and address of such holder, insurer, or guarantor and identification of the property encumbered thereby) shall be an “eligible holder” and shall be entitled to timely written notice of:

1. Any condemnation loss or casualty loss which affects a material portion for the property or which affects any Lot, condominium Unit, Townhouse, Apartment Building, Commercial Site or other properties on which there is a First Mortgage held, insured, or guaranteed by such eligible holder;

2. Any delinquency in the payment of assessments or charges owed by an Owner of a Lot, Condominium Unit, Townhouse, Apartment Building, Commercial Site or other property subject to a First Mortgage held, insured, or guaranteed by such eligible holder (or any First Mortgagee) for a period of sixty days;

3. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Master Association; or Any proposed action which would require the consent of a specified percentage of First Mortgagees, as required in paragraph B of this Section 10.08.

B. OTHER PROVISIONS FOR THE BENEFIT OF ELIGIBLE HOLDERS. To the extent permitted under Illinois law, the approval of at least fifty-one percent of the First Mortgagees shall be obtained before taking the following actions:
1. Restoration or repair of Master Association Property or Local Common Areas, after a partial condemnation or damage due to an insurable hazard, which will not be performed substantially in accordance with the original plans and specifications.

2. Any election to terminate the legal status of any portion of Master Association Property or Local Common Area after substantial destruction or a substantial taking in condemnation of such portion of Master Association Property or Local Common Area; or

3. Any decision to terminate professional management of the Master Association or any Subassociation.

C. AMENDMENTS TO DOCUMENTS. The following provisions do not apply to the addition of land in accordance with Section 2.02 or amendments permitted to be made solely by Grantor or restrictions that may be recorded by the Master Architectural committee under Section 10.02 above. If consent of any First Mortgagee is requested in writing pursuant hereto and a negative response is not received by the Master Association within thirty days after such First Mortgagee’s receipt thereof, then such First Mortgagee shall be deemed to have given its consent. 1. The consent of at least sixty-seven percent of the Owners, approval of the Grantor during the Period of Grantor Control, and the approval of at least 67 percent of the First Mortgagees shall be required to terminate the Master Association. 2. The consent of at least sixty-seven percent of the Owners, approval of the Grantor during the Period of Grantor Control, and the approval of at least fifty-one percent of the First Mortgagees shall be required to add to or amend any material provisions of the Property Restrictions which establish, provide for, govern, or regulate any of the following (an addition or amendment shall not be deemed material if it is for the purpose of correcting technical errors, for clarification or if such addition or amendment may be made solely by Grantor under Section 10.02 above):

1. Voting;

2. Assessments, assessment liens, or subordination of such liens;

3. Reserves for maintenance, repair, amend replacement of Master Association Property or Local Common Areas;

4. Insurance or fidelity bonds;

5. Right to use of Master Association Property or Local Common Areas;

6. Responsibility for maintenance and repair of Master Association Property or Local Common Areas;

7. Expansion or contraction of the Property or the addition, annexation, or withdrawal of property to or from this Master Declaration;
8. Boundaries of any Lots;

9. Convertibility of Lots, Condominium Units, Townhouses, Apartment Buildings or Commercial Sites into Master Association Property or Local Common Area, or convertibility of Master Association Property or Local Common Areas into Lots, Condominium Units, Townhouses, Apartment Buildings or Commercial Sites;

10. Leasing of Lots, Condominium Units, Townhouses, Apartment Units within Apartment Buildings or Commercial Sites;

11. Imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey a Lot, Condominium Unit, Townhouse, Apartment Building or Commercial Site; or

12. Any provisions which are for the express benefit of First Mortgagees.

D. FNMA/FHLMC APPROVAL REQUIREMENTS. Unless at least sixty-seven percent of the First Mortgagees (based on one vote for each First Mortgage owned) and sixty-seven percent of the Owners have given their prior written approval, the Master Association or any Subassociation shall not be entitled to:

1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or part of the Master Association Property or Local Common Area (the granting of easements for public utilities or for other public purposes consist with the intended use of such Master Association Property or Local Common Area shall not be deemed a transfer within the meaning of this clause);

2. Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;

3. By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Improvements on any part of the Property or the exterior maintenance of Improvements on any part of the Property, including Master Association Property and Local Common Areas;

5. Fail to maintain fire and extended coverage on insurable Property in an amount not less than one hundred percent of current replacement cost; or

6. Use hazard insurance proceeds for losses to Master Association Property or Local Common Areas for other than the repair, replacement, or
reconstruction of such Master Association Property or Local Common Areas, except as provided in Section 7.03.

SECTION 10.09. OTHER PROVISIONS.

A. SPECIAL SERVICE AREAS. The Grantor, and all Owners who accept a conveyance of any portion of the Property, shall be shall be conclusively deemed to have consented to, and waived any objection to, the creation of any Special Service Areas required to be created by the provisions of the Annexation Agreement.

B. ENFORCEMENT. The provisions of this Master Declaration shall not be binding upon the City, and the City shall have no obligation to enforce any of the provisions of this Master Declaration.

C. CONSENT. The consent of the Grantor, the Owners, or the Master Association shall not be required for any action permitted to be taken by the City under the provisions of the Annexation Agreement and/or this Master Declaration.

D. CITY EASEMENT RIGHTS. The City shall have the right of ingress and egress over, upon, and across all Local Common Areas and any portion of the Property used for rights-of-way.

E. DEDICATION. The Grantor, and the Master Association, shall have the right to dedicate to the City at any time, any portion of the Local Common Areas and any portion of the Property used for rights-of-way and parking.

F. MEMBERSHIP. Notwithstanding any other provisions of this Master Declaration, the City shall have no obligation to become a Member of the Master Association under any circumstances.

G. FINANCING. The Master Association shall not use the terms “special assessment” or “special service areas” in conjunction with any financing obtained by the Master Association.

H. EFFECT OF CITY ORDINANCES. This Master Declaration and any rules, bylaws or other guidelines promulgated by the Master Association hereunder create obligations on the Owners with the Property that are enforced solely by the Grantor and the Master Association. The City has no right or obligation to enforce any standard contained herein. In addition, the City and other governmental agencies with jurisdiction over the Property maintain ordinances and regulations, including the conditions contained in any annexation or development ordinances or agreements that govern the use of the Property. All Owners are required to comply with such ordinances and regulations as may be amended from time to time. Compliance with this Master Declaration or any Master Association rules does not guarantee compliance with applicable ordinances of the City.
I. AMENDMENTS. No provision of this Master Declaration shall be amended the effect of which is to add, amend, or eliminate rights and obligations of the City without the prior written consent of the City.

IN WITNESS WHEREOF, the Grantor has executed this Master Declaration the day and year first above written.

GRANTOR: IRONGATE REAL ESTATE DEVELOPMENT COMPANY, L.L.C., an Illinois limited liability company
By: Shodeen Management Company, its Manager

By: ______________________
Title: President

STATE OF ILLINOIS )
COUNTY OF KANE )

I, ______________________, a Notary Public in and for and residing in said County, in the state aforesaid, DO HEREBY CERTIFY that ______________________, President of Shodeen Management Company, an Illinois corporation, which is the sole Manager of IRONGATE REAL ESTATE DEVELOPMENT COMPANY, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Manager, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this _____ day of ________________, 2013.

______________________________
Notary Public
EXHIBIT "B"
ASSOCIATION PROPERTY OR
MASTER ASSOCIATION PROPERTY
EXHIBIT L:
Required Road Improvements and Geometry

(SEE EXHIBIT B – PRELIMINARY PLAT)
STATE OF ILLINOIS )
COUNTY OF DEKALB ) SS
CITY OF DEKALB )

Plat Cabinet 10
Slide 125A

I, DIANE K. WRIGHT, 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 13-14
APPROVING THE ANNEXATION OF PROPERTY FOR
THE CITY OF DEKALB, ILLINOIS—IRONGATE
DEVELOPMENT, AND APPROVING ZONING,
PRELIMINARY PLANS, AND GRANTING RELATED
DEVELOPMENTAL APPROVALS.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 28th of October, 2013.

WITNESS my hand and the official seal of said City this 8th day of May, 2014.

DIANE K. WRIGHT, Deputy City Clerk

Prepared by:
City Clerk
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115
ORDINANCE 13-14  Passed: October 28, 2013
APPROVING THE ANNEXATION OF PROPERTY FOR THE CITY OF DEKALB, ILLINOIS—IRONGATE DEVELOPMENT, AND APPROVING ZONING, PRELIMINARY PLANS, AND GRANTING RELATED DEVELOPMENTAL APPROVALS.

WHEREAS, the City of DeKalb is a home rule Illinois municipal corporation, with the power and authority granted to it under the Illinois Constitution of 1970, the Illinois Municipal Code, and the City Code of Ordinances; and,

WHEREAS, under Illinois law, the City of DeKalb has the ability and authority to enter into annexation and development agreements that provide for the annexation and subsequent orderly development of real property within the City; and,

WHEREAS, the City has complied with all applicable conditions precedent to the annexation of property and precedent to the execution of an annexation agreement, including the conduct of numerous and extensive public hearings, receiving recommendations from the Plan Commission, and considering the input of the public and of other units of government and public agencies that will be impacted by the proposed development of the property commonly referred to as the Irongate Development; and,

WHEREAS, through such extensive public process, there has been discussion, compromise and significant revision to the proposed development and related plans. Through that process, a draft annexation agreement has been developed; and,

WHEREAS, based upon the extensive process that this project has undergone, the City Council has determined that the most effective method for providing for the orderly development of the Irongate project is to approve this Ordinance, which includes an extensive list of requirements and conditions. The annexation and development of the Irongate property is authorized by this Ordinance, provided that all plans and the draft Annexation Agreement are updated to fully comply with these requirements; and,

WHEREAS, the City has determined that such annexation, annexation agreement, and subsequent development complies with all applicable laws and regulations and is in the best interests of the public, and preserves the public health, welfare, safety and morals;

THEREFORE BE IT ORDAINED AS FOLLOWS by the City Council of the City of DeKalb:

SECTION 1: ANNEXATION APPROVED

This Ordinance shall also approve the annexation of the Property contemplated by the attached plot of annexation. The City reserves all further and future approvals, including but not limited to phasing, final plats and plans, and related matters.
SECTION 2: GENERAL PROVISIONS

REPEALER: All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

SEVERABILITY: 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.

EFFECTIVE DATE: This Ordinance shall be in full force and effect on and after its approval, passage and publication in pamphlet form as provided by law. Publication date: October 28, 2013. Effective date: November 7, 2013.

ADOPTED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 28th day of October, 2013 and approved by me as Mayor on the same day. Motion carried on a roll call vote of 6-2. Aye: Finucane, Snow, Naylor, Baker, O’Leary, Rey. Nay: Jacobson, Lash. Mayor Rey declared the motion passed.

ATTEST:

ELIZABETH E. PEERBOOM, City Clerk

JOHN A. REY, Mayor