ORDINANCE 13-48             Passed: July 22, 2013

AUTHORIZING THE MAYOR OF THE CITY OF
DEKALB, ILLINOIS TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT WITH
NORTHERN ILLINOIS UNIVERSITY
RELATING TO A COMMERCIAL
DEVELOPMENT WITHIN THE CITY OF
DEKALB (PAPPAS / ART ANNEX).

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

WHEREAS, the Corporate Authorities of the City have heretofore approved of the
redevelopment of a certain parcel of property in the City commonly referred to as the Pappas /
Smalls development, which is adjacent to the Art Annex Property owned by Northern Illinois
University (NIU); and,

WHEREAS, the Corporate Authorities have determined that the public health, welfare, safety
and morals are protected by the utilization of such policies, and in particular that the public
interest is served through the adoption of an intergovernmental agreement with NIU, including
related agreements with the developer identified therein; and,

WHEREAS, in order to effectuate such policies, the Council has determined that it is
appropriate to enter into an agreement with NIU and the developer; and,

WHEREAS, the City has the authority to enter into such an agreement pursuant to its Home
Rule powers, the applicable provisions of the Illinois Constitution, and the provisions of the
Intergovernmental Cooperation Act; and,

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

Section 1. Agreement Approved.

The agreement attached hereto as Exhibit A is approved and the Mayor is and shall be authorized
to execute the foregoing agreement, subject to: a) revisions acceptable to the Mayor; and, b) the
revision of such agreement to comply with the conditions or requirements of City Council, if
any, passed concurrently with this Ordinance. The Mayor is further authorized to execute a
subsequent intergovernmental agreement with NIU regarding this subject, on substantially the
same terms and conditions as outlined in the attached document, and to execute any documents
relating to easements, access rights, utility connections, or other similar matters, provided that
such documents are on substantially the same terms and conditions as outlined in the attached
document. To the extent that the agreement contemplates the inclusion of certain costs of
improving the NIU property within a development incentive that was previously approved for
the Pappas Development, the City Council approves of such amendment to the Pappas Development Incentive Agreement, provided that the costs shall be a component of the forgivable loan and the maximum amount of such forgivable loan shall not exceed the previously approved sum of $423,900. The Mayor shall be authorized to sign an amendment to the Pappas Development Incentive Agreement consistent with this revision.

Section 2. All ordinances or portions thereof in conflict with this ordinance are hereby repealed. All agreements in violation of the terms of this Ordinance shall be terminated, effective immediately.

Section 3. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

Section 4. This Ordinance shall be in full force and effect in accordance with Illinois law. Publication date: July 23, 2013. Effective date: August 2, 2013.

RECEIVED AND FILED ON JULY 22, 2013. PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 22nd day of July, 2013 and approved by me as Mayor on the same day. Passed on a roll call vote 7-0-1. Aye: Finucane, Lash, Snow, Naylor, Baker, O’Leary, Rey. Absent: Jacobson.

ATTEST:

LIZ PEERBOOM, City Clerk

JOHN REY, Mayor
DOCUMENT TYPE: Letter of Intent

DOCUMENT DATE: July 22, 2013

LEGAL DESCRIPTION (if applicable): Ordinance (No. 13-48)

Authorizing the Mayor of the City of DeKalb, Illinois, to enter into an intergovernmental agreement with Northern Illinois University relating to a commercial development within the city of DeKalb (Pappas Art Annex).
ORDINANCE 13-48       Passed: July 22, 2013

AUTHORIZING THE MAYOR OF THE CITY OF
DEKALB, ILLINOIS TO ENTER INTO AN
INTERGOVERNMENTAL AGREEMENT WITH
NORTHERN ILLINOIS UNIVERSITY
RELATING TO A COMMERCIAL
DEVELOPMENT WITHIN THE CITY OF
DEKALB (PAPPAS/ART ANNEX).

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

WHEREAS, the Corporate Authorities of the City have heretofore approved of the
redevelopment of a certain parcel of property in the City commonly referred to as the Pappas /
Smalls development, which is adjacent to the Art Annex Property owned by Northern Illinois
University (NIU); and,

WHEREAS, the Corporate Authorities have determined that the public health, welfare, safety
and morals are protected by the utilization of such policies, and in particular that the public
interest is served through the adoption of an intergovernmental agreement with NIU, including
related agreements with the developer identified therein; and,

WHEREAS, in order to effectuate such policies, the Council has determined that it is
appropriate to enter into an agreement with NIU and the developer; and,

WHEREAS, the City has the authority to enter into such an agreement pursuant to its Home
Rule powers, the applicable provisions of the Illinois Constitution, and the provisions of the
Intergovernmental Cooperation Act; and,

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

Section 1. Agreement Approved.

The agreement attached hereto as Exhibit A is approved and the Mayor is and shall be authorized
to execute the foregoing agreement, subject to: a) revisions acceptable to the Mayor; and, b) the
revision of such agreement to comply with the conditions or requirements of City Council, if
any, passed concurrently with this Ordinance. The Mayor is further authorized to execute a
subsequent intergovernmental agreement with NIU regarding this subject, on substantially the
same terms and conditions as outlined in the attached document, and to execute any documents
relating to easements, access rights, utility connections, or other similar matters, provided that
such documents are on substantially the same terms and conditions as outlined in the attached
document. To the extent that the agreement contemplates the inclusion of certain costs of
improving the NIU property within a development incentive that was previously approved for
the Pappas Development, the City Council approves of such amendment to the Pappas Development Incentive Agreement, provided that the costs shall be a component of the forgivable loan and the maximum amount of such forgivable loan shall not exceed the previously approved sum of $423,900. The Mayor shall be authorized to sign an amendment to the Pappas Development Incentive Agreement consistent with this revision.

Section 2. All ordinances or portions thereof in conflict with this ordinance are hereby repealed. All agreements in violation of the terms of this Ordinance shall be terminated, effective immediately.

Section 3. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

Section 4. This Ordinance shall be in full force and effect in accordance with Illinois law. Publication date: July 23, 2013. Effective date: August 2, 2013.

RECEIVED AND FILED ON JULY 22, 2013. PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 22nd day of July, 2013 and approved by me as Mayor on the same day. Passed on a roll call vote 7-0-1. Aye: Finucane, Lash, Snow, Naylor, Baker, O’Leary, Rey. Absent: Jacobson.

ATTEST:

LIZZIEERBOOM, City Clerk

JOHN REY, Mayor
LETTER OF INTENT

This Letter of Intent made and entered into this ___ day of July, 2013, by and between the Board of Trustees of Northern Illinois University, hereinafter referred to as "NIU," the City of DeKalb, hereinafter referred to as the "City," and Pappas Glasgow Development, LLC, hereinafter referred to as "Pappas Development."

WHEREAS, NIU owns the Art Annex building, hereinafter referred to as the "Art Annex," located in DeKalb, Illinois; and

WHEREAS, by that certain Grant of Easement dated September 21, 1984, and filed for record in the real estate records of DeKalb County, Illinois on October 29, 1984, as Document 84-06205 and that certain Grant of Easement dated October 8, 1984, and filed for record in the real estate records of DeKalb County, Illinois on October 29, 1984, as Document 84-06207, the predecessor in interest to the Small's Furniture property granted certain easements for the benefit of NIU; and

WHEREAS, NIU presently enjoys an easement on the north edge of the former Small's Furniture property, hereinafter referred to as "North Easement," as depicted on Attachment 1, attached to this Letter of Intent; and

WHEREAS, the City requires relocation of NIU's North Easement as depicted on Attachments 1 and 2, attached to this Letter of Intent; and

WHEREAS, Pappas Development requires temporary construction easements on the Art Annex property for construction staging for construction Pappas Development will be performing on the Art Annex and adjacent property; and

WHEREAS, Pappas Development will require parking spaces in the parking area of the Art Annex such as that depicted on Attachment 3; and an easement for locating a storm sewer as depicted on Attachment 4.

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereafter set forth, NIU, the City and Pappas Development agree as follows:

1. Recitals and Attachments. The foregoing recitals are incorporated in this Letter of Intent. The following exhibits are attached hereto and incorporated herein:

Attachment 1: Depiction of "North Easement" to be vacated.
Attachment 2: Depiction of new contemplated Ingress / Egress Easement.
Attachment 3: Depiction of new contemplated Parking Easement.
Attachment 4: Depiction of new contemplated storm sewer easement.
Attachment 5: Overall conceptual Site Plan for redevelopment of 2211 Sycamore Rd

2. Design of 2211 Sycamore Road, DeKalb, Ill. and Easement Area. Pappas Development will present the final engineering design of the redeveloped Pappas Development property at 2211 Sycamore Road, DeKalb, Ill., and adjacent easement areas to NIU. The final design will include
legal descriptions of the proposed easements over NIU property. The parties anticipate that the final design will conform to the Site Plan shown in Attachment 5, but reasonable deviations in such design shall be permitted to accommodate engineering, utility, and other requirements.

3. Easement Agreement. Upon receiving the final design of the redeveloped Pappas Development property and adjacent easement areas from Pappas Development, the parties will enter into an Easement Agreement which will include responsibility for costs as provided below in paragraph 5, and other mutually agreeable terms and provisions. In the aforementioned Easement Agreement, NIU shall agree: to accept relocation of its existing North Easement in accordance with Attachments 1 and 2; to grant Pappas Development a temporary construction easement on the Art Annex property for construction staging for construction to be performed on the Art Annex and adjacent property; to grant a parking easement to Pappas Development at the east end of NIU property in accordance with Attachment 3; to grant a storm sewer easement in accordance with Attachment 4; and to grant Pappas Development a temporary construction easement at the south end of NIU property. The parties acknowledge that, based upon the final design proposal for the easement areas requested by Pappas Development, the scope of the easements, costs and improvements currently contemplated by sections 3, 4 and 5 of this Letter of Intent may be altered through the mutual agreement of the Parties. In addition, the Parties agree that Pappas Development shall provide a cross-access agreement, in form and content acceptable to the Parties, within ninety days of the date on which a final intergovernmental agreement is executed, which cross-access agreement shall provide that the Art Annex parcel shall have the ability to cross the front of the Pappas Development to reach the stoplight on Sycamore Road located to the southwest of the Pappas Development. (This future easement is not reflected on the exhibits attached hereto).

4. Improvements. NIU will grant the easements listed in section 3 of this Letter of Intent in consideration of Pappas Development making improvements to the Art Annex, including, but not limited to: re-grading and re-paving the entire parking lot and the entrance to the Art Annex per standard NIU requirements, including any necessary curb repair; making any necessary repairs to the storm water manholes and underground piping that drain the NIU parking area; adjusting the flair of the north curb to the loading dock ramp, including any railing repair or replacement; replacing the wooden stair and railing to the customer entrance on the east side of the warehouse with a quality metal stair system approved by NIU; providing a new canvass awning over the customer entrance to the Art Annex; and painting the east facade of the Art Annex. NIU reserves the right to review all designs and submittals prior to bidding, and the City and Pappas Development agree to adopt all revisions so long as they conform to standard specifications used by NIU at its DeKalb Campus. When construction work performed by Pappas Development is finished, Pappas Development will cause all unused materials, machinery equipment or debris to be removed from the premises. Pappas Development shall make all reasonable efforts to assure safe access to and from the NIU property during construction that may occur on the Pappas Development site or the NIU property. The parties acknowledge that the painting, awning, stairway and related facade improvements are contingent upon the City creating TIF District boundaries to include the Art Annex to provide a funding source to fund those expenses as eligible costs. The City shall make all reasonable efforts to create TIF District boundaries to include the Art Annex property. The Parties acknowledge that, as a component of a pre-existing Development Agreement between the City and Pappas Development, Pappas Development is
eligible for a forgivable loan of up to $423,900.00 in development incentives. Pappas Development agrees that it shall undertake the façade improvements to the Art Annex property regardless of the receipt of any payment or incentive from the City. In the event that Pappas Development completes the façade improvements and incurs costs in accordance with all applicable legal requirements (e.g. Prevailing Wage), the cost of those improvements (up to $20,000.00) shall be eligible to include in Pappas Development’s eligible project costs under its Development Agreement with the City. However, the Incentive Limits as calculated in that Development Agreement shall not be adjusted, and the forgivable loan incentive shall remain subject to forgiveness as calculated in the Development Agreement.

5. Costs. Pappas Development is responsible for: a) the legal and recording costs to relocate the NIU easement, and to establish a parking easement on the east edge of the NIU property; b) the cost of any improvements under section 4 of this Letter of Intent that may ultimately be agreed upon (save for the façade improvements contemplated to be funded by TIF funds); c) maintaining the easement area together with any improvements constructed or installed thereon by the City or associated with the City’s use of the Easement Area; d) any damage to NIU’s property or that of third parties resulting from any exercise of the rights herein granted, including but not limited to soil erosion, subsidence or damage resulting therefrom. The City shall ensure that Pappas Development will promptly repair and restore to its original condition any of NIU’s property, including, but not limited to, roads, utilities, buildings and fences that may be altered, damaged or destroyed in connection with the exercise of the Easement or use of the Easement Area.

6. Utilities. Pappas Development will ensure that all utility connections to the Art Annex are protected and in working order at all times. The City shall provide for repair services for any water utility outages.

7. Release of Liability. Pappas Development agrees that NIU is to be free from all liability by reason of injury or death to persons or injury to property from whatever cause arising out of City’s or Pappas Development’s, their contractors’, agents’, officers’, members’, employees’, invitees’, or licensees’ exercise of rights granted pursuant to this Letter of Intent, the Easements or use of the Easement Areas or of the improvements or personal property of the City or Pappas Development thereto or therein, including any liability for injury or death to the person or property of City or Pappas Development, their contractors, agents, officers, members, employees, invitees, or licensees or to any property under the control or custody of City or Pappas Development. Pappas Development agrees to defend and indemnify the Board of Trustees of Northern Illinois University, its officers, employees and agents, and hold them harmless from any and all liability, loss, costs or obligations on account of, or arising out of, any such injury or losses caused or claimed to be caused by the exercise of the Easement or use of the Easement Area by City, Pappas Development or any other third parties, however occurring, other than those caused solely by the willful or negligent acts or omissions of NIU. Pappas Development agrees to provide insurance naming NIU, its trustees, officers, employees and agents and the City as additional insureds, covering the liabilities contemplated by this Section 7, for the duration of Pappas Development’s use of the easement areas as a requirement of the Easement Agreement.
8. **Re-Zoning.** At the time of any proposed redevelopment of the Art Annex property, the City and NIU shall cooperate to provide for the rezoning of such property to a General Commercial classification (or other then-current classification similar thereto), with development and use restrictions appropriate for the Property.

9. **TIF District.** NIU agrees to cooperate with the City in creating a TIF district including the Art Annex, the Pappas Development site and other adjoining sites the City may deem appropriate.

10. **Successor Ownership.** The Parties acknowledge that the easements being established herein shall be recorded against the various properties subject to the easements, and shall remain in place for successor property owners and assigns.

11. **Taxes.** Pappas Development alone shall pay any and all taxes, charges or use fee(s) levied by any governmental agency against Pappas Development's interest in the Easement Area, or against any of NIU's real property as a result of the Easement herein granted. All NIU property shall remain tax-exempt.

12. **NIU Use.** Pappas Development shall not materially interfere with the use by and operation and activities of NIU on its property, and Pappas Development shall follow such procedures on NIU's property as result in the least inconvenience to NIU. Pappas Development shall not cause liens of any kind to be placed against the Easement Area or any of NIU's real property.

NIU and the City agree to the terms of the foregoing Letter of Intent. The final terms of agreement between the parties shall be memorialized in a mutually acceptable intergovernmental agreement to come at a later date.

---

**Board of Trustees of Northern Illinois University**

By: [Signature]

**City of DeKalb**

By: [Signature]

**Pappas Glasgow Development, LLC**

By: [Signature]
INGRESS/EGRESS EASEMENT

Part of Lot A of C.M. Chatham Subdivision, a re-subdivision of part of Assessor's Lot 38 in Section Twelve (12), Township Forty (40) North, Range Four (4) East of the Third (3rd) Principal Meridian, DeKalb County, Illinois, bounded and described as follows, to-wit:

Commencing at the Intersection of the Northerly line of said Lot A with the existing Northerly Right-of-Way line for S.B.I. Route 23 (Piqua Road), said point being 320.0 feet Northeasterly of the Northeast Corner of said Lot A; thence Southwesterly along said Northerly Right-of-Way line at an angle of 104 degrees 57 minutes 31 seconds as measured clockwise from the Northerly line of said Lot A, a distance of 33.91 feet to the Point of Beginning of the following described easement; thence continuing Southwesterly along said Right-of-Way line, a distance of 24.00 feet; thence Northeasterly at an angle of 50 degrees 15 minutes 48 seconds as measured counterclockwise from the last described course, a distance of 87.30 feet; thence Northeasterly at an angle of 85 degrees 16 minutes 17 seconds as measured clockwise from the last described course, a distance of 187.65 feet; thence Southwesterly at an angle of 75 degrees 53 minutes 43 seconds as measured counterclockwise from the last described course, a distance of 140.00 feet; thence Southwesterly at an angle of 104 degrees 16 minutes 18 seconds as measured counterclockwise from the last described course, a distance of 70.48 feet to the Point of Beginning.

SURVEYOR'S STATEMENT

STATE OF ILLINOIS

COUNTY OF LEE

I hereby certify that I have prepared the attached map for easement purposes only.

IN WITNESS WHEREOF, I have affixed my hand and seal this the 30th day of November, 2014.

[Signature]

RICK A. EDDERS

LICENSED LAND SURVEYOR

No. 25-1523

S.P.L.S.

IN THE PRESENCE OF:

Joanne Edwards, 15906 N. Fisk Rd.

11:00 a.m. on November 30, 2014

ATTACHMENT 2

INGRESS/EGRESS EASEMENT
FOR
PAPPAS DEVELOPMENT
PARKING EASEMENT

Part of Lot A of C.M. Chestnut Subdivision, a re-subdivision of part of Assessor's Lot 35 in Section Twelve (T2), Township Forty (40) North, Range Forty (40) East of the Third (3rd) Principal Meridian, Shelby County, Illinois, bounded and described as follows:

Beginning at the intersection of the Northeast line of said Lot A with the existing Northeast Right-of-Way line for S.B.I. Route 23 (Tymanusa Road), said point being 32.0 feet Northeastly of the Northeast Corner of said Lot A; thence Northeastwardly along said Northeast line of Lot A, a distance of 253.65 feet; thence Southwesterly at an angle of 104 degrees 58 minutes 18 seconds as measured clockwise from the last described course, a distance of 15.52 feet to a point 15.52 feet Perpendicularly distant from the Northeast line of said Lot A; thence Southwesterly parallel to said Northeast line at an angle of 70 degrees 02 minutes 42 seconds as measured clockwise from the last described course, a distance of 237.81 feet to a point on the existing Northeast Right-of-Way line for said S.B.I. Route 23; thence Northeastwardly along said Right-of-Way line, at an angle of 104 degrees 57 minutes 31 seconds as measured clockwise from the last described course, a distance of 15.52 feet to the Point of Beginning.

SURVEYOR'S STATEMENT

STATE OF ILLINOIS
COUNTY OF LEE

I HEREBY CERTIFY that I have prepared the attached map for the purpose of conveying:

(Handwritten note: I have carefully done my best. I am personally responsible for the accuracy of the map.)

RICK A. BOYER
Professional Land Surveyor
No. 25-2329

My signature expires on November 30, 2014

ATTACHMENT 3

PARKING EASEMENT
FOR
PAPPAS DEVELOPMENT
STORM SEWER EASEMENT

Part of Lot A of C.M. Catesham Subdivision, a re-subdivision of part of Assessor's Lot 51 in Section Twelve (12), Township Forty (40) North, Range Four (4) East of the Third (3rd) Principal Meridian, Delaware County, Illinois, bounded and described as follows, to-wit:

Beginning at a point on the Southwesterly line of said Lot A, said point being 261.0 feet Southwesterly of the Southeast corner of said Lot A; thence Southwesterly along said Southwesterly line, a distance of 0.63 feet; thence Northwesterly at an angle of 31 degrees 02 minutes 15 seconds as measured counterclockwise from the last described course, a distance of 67.05 feet; thence Southwesterly at an angle of 47 degrees 38 minutes 23 seconds as measured counterclockwise from the last described course, a distance of 35.84 feet to the Point of Beginning.

SURVEYOR'S STATEMENT

STATE OF ILLINOIS )
COUNTY OF LEE )

I HEREBY CERTIFY that I have prepared the attached map for testamentary purposes only.

IN WITNESS WHEREOF, I have written my hand and sealed this 3rd day of 2013.

Rick A. Bowers
State Professional Land Surveyor
No. 35-2510

BySeal in presence of
December 30, 2013

STORM SEWER EASEMENT
FOR PAPPAS DEVELOPMENT

ATTACHMENT 4