I, RUTH A. SCOTT, do hereby certify that I am the duly appointed 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 2017-025

AUTHORIZING AN ANNEXATION AND DEVELOPMENT AGREEMENT, ANNEXING CERTAIN PROPERTY, REZONING TO PD-R PLANNED DEVELOPMENT RESIDENTIAL, AND APPROVING PLANS FOR THE PROPERTY LOCATED AT 1901 SYCAMORE ROAD, DEKALB, ILLINOIS (KISHWAUKEE COUNTRY CLUB, INC.)

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois on the 24th day of April, 2017, and the original is now on file at the City of DeKalb Municipal Building.

WITNESS my hand and the official seal of said City this 21st day of July, 2017.

RUTH A. SCOTT, Deputy City Clerk

Prepared by and Return to:
Deputy City Clerk Ruth Scott
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115
ORDINANCE 2017-025
PASSED: APRIL 24, 2017

AUTHORIZING AN ANNEXATION AND DEVELOPMENT AGREEMENT, ANNEXING CERTAIN PROPERTY, REZONING TO PD-R PLANNED DEVELOPMENT RESIDENTIAL, AND APPROVING PLANS FOR THE PROPERTY LOCATED AT 1901 SYCAMORE ROAD (KISHWAKEE COUNTRY CLUB, INC.).

WHEREAS, the City of DeKalb is a home rule municipality with the power and authority conferred upon it by the Illinois Municipal Code and the Constitution of the State of Illinois; and

WHEREAS, Kishwaukee Country Club, Inc. (Owner) petitioned the City to annex the property described in Exhibit A to the City of DeKalb and rezone it from the "SRF1" Single-Family Residential District to the PD-R Planned Development – Residential District; and

WHEREAS, the Owner petitioned the City to rezone the property described in Exhibit B from the "SFR2" Single-Family Residential District to the PD-R Planned Development – Residential District; and

WHEREAS, the City and Owner seek to enter into an Annexation and Development Agreement for the property described in Exhibits A and B (Subject Property) contemplated and approved therein; and

WHEREAS, the City and Owner have conducted all required public hearings before the Planning and Zoning Commission of the City of DeKalb and the City Council of the City of DeKalb for both the adoption of the rezoning for the Subject Property and for the adoption of the annexation and development agreement, and have otherwise satisfied all conditions precedent to the adoption of this Ordinance; and

WHEREAS, the City Council adopts the following findings of fact of the Planning and Zoning Commission of the City of DeKalb, finds that the proposed rezoning is in conformance with the applicable zoning factors contained therein, and finds that approval of this Ordinance, with the corresponding approval of the rezoning for the Subject Property and the approval of the annexation and development agreement, is in the public interest and promotes the public health, safety and welfare;

STANDARDS OF REZONING

1. The proposed rezoning conforms to the Comprehensive Plan, or conditions have changed to warrant the need for different types of land uses in that area. The proposed rezoning is appropriate considering the length of time the property has been vacant, as originally zoned, and taking into account the surrounding areas trend in development.
The 2005 Comprehensive Plan recommends the subject site for Parks and Recreation. The proposed annexation will bring an additional 52 acres into the City and will allow for consistent zoning for the clubhouse, pro shop and associated structures and for the “front nine” holes of the golf course. Staff believes that the proposed development meets the intent of the City’s Comprehensive Plan.

2. The proposed rezoning conforms to the intent and purpose of the Unified Development Ordinance.

Re-zoning of the subject site to the PD-R District will allow the project to comply with the regulations of the UDO except for waivers to the Unified Development Ordinance for landscaping, parking lot design, subdivision platting requirements and the continued use of the well water system. The exceptions to the UDO are justified based upon the nature of the use and the need to maintain an open space setting and aesthetically pleasing appearance of the facility.

3. The proposed rezoning will not have a significantly detrimental effect on the long-range development of adjacent properties or adjacent land uses.

The proposed rezoning, and associated annexation, will bring the golf course under more unified control. The remainder of the golf course is to the north, Hopkins Park is to the south, single family residential to the west and east and commercial to the southeast along Sycamore Road. The proposed rezoning should not have a detrimental effect on the adjacent properties or land uses.

4. The proposed rezoning constitutes an expansion of an existing zoning district that, due to the lack of undeveloped land, can no longer meet the demand for the intended land uses.

The subject property is proposed for “PD-R” Planned Development - Residential zoning. The “PD-R” District will allow the property to be used for uses that will be compatible with the surrounding area.

5. Adequate public facilities and services exist or can be provided.

Existing utilities already serve the site. The existing access off of Sycamore Road will be maintained and a new drive and improved parking area will be added. An existing water well will remain and will be used to water the golf course and the “halfway house”.

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

Section 1. Annexation and Development Agreement Approved: The City Council of the City of DeKalb hereby approves of the Annexation and Development Agreement
attached hereto as Exhibit C ("the Agreement"), and authorizes and directs the Mayor of the City of DeKalb to execute the Agreement, subject to such changes as shall be acceptable to him with the recommendation of City Staff.

Section 2. Annexation Approved: The City Council of the City of DeKalb hereby authorizes and directs the immediate annexation of the property described in the attached Exhibit A.

Section 3. Rezoning Authorized: The City Council of the City of DeKalb hereby approves of the rezoning of the Subject Property to the PD-R Planned Development Residential District consistent with all conditions, approvals, restrictions and limitations as defined in the Agreement approved herein.

Section 4. PD-R Planned Development Residential Standards: The provisions and restrictions related to the permitted uses, prohibited uses and other development and maintenance standards as described in the Agreement are hereby approved.

Section 5. Approved Plans: The “Plans” attached as “Group Exhibit B” to the Agreement are hereby approved subject to revisions acceptable to the Community Development Director or designee, in accordance with the review letter dated March 31, 2017, from the City of DeKalb, all provisions and requirements of this approval, the findings of fact and the Agreement. Approval of the “Final Plans” shall be in accordance with the governing provisions of the Agreement. Following approval of the “Final Plans” in accordance with the Agreement, the Community Development Director is authorized and directed to record any such plans as shall be appropriate for recording.

Section 6. Recording Directed: After execution by all parties, this Ordinance, the Agreement and “Plans” shall be recorded in the DeKalb County Recorder’s Office.

Section 7. Multiple Actions Approved: The City Council hereby expressly approves of the annexation agreement referenced above, the annexation of real property referenced above, the rezoning of said property, and the recording of related documents, within this Ordinance, as if each action was separately set out and approved.

Section 8. All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.

Section 9. 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 10. This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: April 25, 2017. Effective date: May 4, 2017.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 24th day of April, 2017 and approved by me as Mayor on the same day. Passed on First Reading by a 7-0-1 roll call vote. Aye: Jacobson, Finucane, Snow, Noreiko, Baker, Faivre, Rey. Nay: None. Absent: Marquardt.

ATTEST:

JENNIFER JEEP JOHNSON, City Clerk

JOHN A. REY, Mayor
EXHIBIT A

THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 11, PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 12, PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 13 AND PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 14, ALL IN TOWNSHIP 40 NORTH, RANGE 4 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 45 OF ASSESSORS LOTS OF SAID SECTION 12; THENCE SOUTHEASTERLY, ALONG THE SOUTHEASTERLY LINE OF GREENWOOD ACRES, 1424 FEET TO THE CENTER LINE OF S.B.I. ROUTE 23; THENCE SOUTHWESTERLY, ALONG SAID CENTER LINE, 1387 FEET TO THE NORTHEASTERLY LINE OF PROPERTY DESCRIBED IN DOCUMENT NO. 81-02179; THENCE NORTHWesterLY, ALONG SAID NORTHEASTERLY LINE, 918.4 FEET TO A SOUTH LINE OF PROPERTY DESCRIBED IN DOCUMENT NO. 357175; THENCE EASTERLY, ALONG A SOUTH LINE OF SAID PROPERTY, 558.1 FEET TO A SOUTHEAST CORNER OF SAID PROPERTY; THENCE NORTHERLY, ALONG AN EAST LINE OF SAID PROPERTY, 366 FEET TO A NORTHEAST CORNER OF SAID PROPERTY; THENCE WESTERLY, ALONG A NORTH LINE OF SAID PROPERTY, 1409.5 FEET; THENCE NORTHWesterLY, ALONG A NORTHERLY LINE OF SAID PROPERTY 300 FEET, MORE OR LESS, TO THE CENTER LINE OF THE KISHWAUKEE RIVER, AS ORIGINALLY LOCATED; THENCE NORTHEASTERLY, ALONG SAID CENTER LINE, TO THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTHERLY, ALONG SAID EAST LINE, 140 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF LOT 44 OF SAID ASSESSORS LOTS OF SECTION 12; THENCE SOUTHEASTERLY, ALONG THE NORTHERLY LINE OF SAID LOTS 44 AND 45, A DISTANCE OF 225.5 FEET TO THE NORTHWEST CORNER OF LOT 15 OF SAID GREENWOOD ACRES; THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID LOT 45, A DISTANCE OF 577.8 FEET TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PART OF SAID S.B.I. ROUTE 23 PREVIOUSLY ANNEXED, ALL IN DEKALB TOWNSHIP, DEKALB COUNTY, ILLINOIS.
EXHIBIT B

A PART OF SECTION 13 AND 14, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, DEKALB COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 20 OF JOHN W. TILTON'S THIRD ADDITION TO TILTON PARK; THENCE NORTH 33 DEGREES 43' EAST ALONG THE SOUTH-EASTERLY LINE OF SAID BLOCK 20, A DISTANCE OF 315.0 FEET TO A POINT ON THE SOUTH LINE OF BLOCK 24 OF TILTON'S FOURTH ADDITION TO TILTON PARK; THENCE SOUTHEASTERLY ALONG THE SOUTHERLY LINE OF SAID BLOCK 24, A DISTANCE OF 5.0 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 24; THENCE NORTH 41 DEGREES, 52' EAST ALONG THE SOUTHEASTERLY LINE OF SAID BLOCK 24, A DISTANCE OF 231.0 FEET TO THE SOUTHEASTERLY CORNER OF BLOCK 29 OF TILTON'S FIFTH ADDITION TO TILTON PARK; THENCE NORTH 49 DEGREES 39' EAST ALONG THE SOUTHEASTERLY LINE OF SAID BLOCK 29, A DISTANCE OF 319.53 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 29; THENCE SOUTH 68 DEGREES 08' EAST, A DISTANCE OF 523.7 FEET TO A POINT; THENCE SOUTH 88 DEGREES 01' EAST TO DISTANCE OF 1409.5 FEET TO A POINT; THENCE SOUTH 1 DEGREE, 59' WEST, A DISTANCE OF 366.0 FEET; THENCE NORTH 38 DEGREES 01' WEST, A DISTANCE OF 538.1 FEET TO A POINT, SAID POINT BEING ON THE EASTERLY LINE OF THE DEKALB COUNTY TUBERCULOSIS SANITARIUM PROPERTY; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID PROPERTY, A DISTANCE OF 97.6 FEET TO THE NORTHEAST CORNER THEREOF; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID SANITARIUM PROPERTY, A DISTANCE OF 29 ½ FEET TO AN ANGLE POINT IN SAID NORTHERLY PROPERTY LINE; THENCE SOUTHWESTERLY ALONG THE NORTHERLY LINE OF SAID SANITARIUM PROPERTY AND ALONG THE NORTHERLY LINE OF PROPERTY OF THE DEKALB PARK DISTRICT, KNOWN AS HOPKINS PARK, A DISTANCE OF 992.4 FEET TO AN ANGLE POINT IN THE NORTHERLY LINE OF SAID PARK DISTRICT PROPERTY, A DISTANCE OF 165 FEET, MORE OR LESS, TO A POINT IN THE CENTER LINE OF THE KISHWAKEE CHANNEL AS THE SAME ORIGINALLY EXISTED BEFORE RE-LOCATION; THENCE SOUTHWESTERLY AND WESTERLY ALONG THE CENTER LINE OF THE ORIGINAL CHANNEL OF THE KISHWAKEE RIVER TO A POINT WHICH POINT IS A COMMON CORNER BETWEEN PARCEL "B" AND PARCEL "C" OF THE ELLWOOD FARM PLAT; THENCE NORTH 56 DEGREES 17' WEST ALONG THE SOUTHERLY LINE OF SAID PARCEL "B" A DISTANCE OF 291.4 FEET TO THE POINT OF BEGINNING, SITUATED IN THE COUNTY OF DEKALB AND THE STATE OF ILLINOIS, SAID PROPERTY BEING A PORTION OF THE KISHWAKEE COUNTRY CLUB AND SOME LAND ADJACENT THERETO.
EXHIBIT C

4/11/17

Prepared By and Return To
City of DeKalb
ATTN: City Attorney
200 S. Fourth Street
DeKalb, IL 60115

KISHWAUKEE COUNTRY CLUB
ANNEXATION AND DEVELOPMENT AGREEMENT
CITY OF DEKALB
4/11/17

Page 2 of 27

RECITALS: 4

ARTICLE I: INCORPORATION OF RECITALS: 5

ARTICLE II: ANNEXATION AND ZONING OF THE PROPERTY: 5
  A. Annexation and Rezoning: 5
  B. Permitted Residential and Commercial Uses: 5
  C. Permitted Residential Uses: 6
  D. Golf Course Maintenance: 6
  E. Prohibited Uses: 6
  F. Special Uses: 7
  G. Building Related Provisions: 7
  H. Property Related Provisions: 8
  I. Parking Provisions: 8
  J. Permitted Outdoor Storage: 8
  K. Setbacks, Bulk Restrictions and Building Lines: 9
  L. Rezoning of Property: 9

ARTICLE III: DEVELOPMENT AND MAINTENANCE OF THE PROPERTY: 9
  A. Owner’s Responsibility to Maintain: 9
  B. Intentionally Omitted: 9
  C. Excavation and Grading: 9
  D. Intentionally Omitted: 10
  G. Stop Work Orders: 11
  H. Compliance with City Ordinances and Applicable Regulations: 11
  I. Site Control: 11
  J. Building Codes: 12
  K. Alarm: 12

ARTICLE IV: INFRASTRUCTURE: 12
  A. Water Mains and Potable Water Supply: 12
  B. Storm Water Retention, Facilities and Improvements: 13
  C. Sanitary Sewers: 13
  D. Utility Connections: 13
  E. Grant of Easements / Right of Way: 13

ARTICLE V: FEES AND CONTRIBUTIONS: 14
  A. Specified Fees: 14
  B. Fees Specifically and Uniquely Attributable: 14

ARTICLE VI: OPERATION OF THE PROPERTY: 14
  A. Acknowledgment of Application of Operational Standards: 14
  B. Operation Provisions: 14
  C. Public Safety Regulations: Trespass/Patrol Agreement: 14
  D. Knox Boxes: 14
  E. Commercial Property Registration and Inspection: 15

ARTICLE VII: MUTUAL ASSISTANCE: 15

ARTICLE VIII: REMEDIES: 15
  A. Breach Generally: 15
ARTICLE IX: TERM:..................................................................................................................16

ARTICLE X: MISCELLANEOUS: ..................................................................................................16

A. Amendment:..........................................................................................................................16
B. Severability:............................................................................................................................16
C. Entire Agreement:....................................................................................................................16
D. Successors and Assigns: .........................................................................................................17
E. Notices:....................................................................................................................................17
F. Time of Essence:......................................................................................................................17
G. Indemnification:.......................................................................................................................18
H. Exhibits:..................................................................................................................................18
I. Venue:......................................................................................................................................19
J. Survival of Provisions:..............................................................................................................19

Exhibit A: Legal Description........................................................................................................22

Group Exhibit B: Plans ..................................................................................................................23

Exhibit C: No Trespass / Patrol Agreement .................................................................................24

Exhibit D: Traffic Enforcement Agreement..................................................................................26

Exhibit E: Plat of Annexation.........................................................................................................27
This Annexation and Development Agreement (the "Agreement") is made and entered into this 1st day of July, 2017 by and among the City of DeKalb, an Illinois municipal corporation located in DeKalb County, Illinois, (the "City"), and Kishwaukee Country Club, Inc., (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 67.59 contiguous acres of real property situated at 1901 Sycamore Road, in the City of DeKalb, DeKalb County, Illinois, which property is legally described on Exhibit A attached hereto and incorporated herein by reference as the “Property”.

B. The Property is comprised of 7 separate parcel numbers comprising 7 separate parcels currently in use as a golf course, country club and related maintenance and support buildings. A portion of the Property is currently annexed to the City of DeKalb, but a majority of the property is currently in unincorporated DeKalb County. The Owner proposes to annex the entirety of the Property to the City and to develop the same with a newly constructed country club with a high level of amenities. The Property is proposed to be developed in accordance with the plans attached hereto as Group Exhibit B ("the Plans"), except as such plans are required to be modified under the terms of this Agreement. The Plans contemplate the construction of a building upon the Property ("the Building"), and provide preliminary architectural and elevation information, civil engineering and related utility plans.

C. The Parties acknowledge that the development contemplated by the Plans includes several deviations from otherwise applicable planning and zoning standards, and that thus the only way of accommodating the proposed development would be to utilize Planned Development-Residential ("PD-R") zoning. The Parties further acknowledge that use of PD-R zoning requires a development agreement to provide definition of the terms and requirements of the zoning district, and that this Agreement has been entered into to provide such definition.

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

E. The City acknowledges that the Owner's proposed use of the Property, as set forth in this Agreement, will be compatible with and will further the planning objectives of the City and that the annexation and redevelopment of the Property to the City will be of benefit to the City, will permit orderly growth, planning and development of the City, will increase the tax base of the City, and will promote and enhance the general welfare of the City and its residents. The Owner acknowledges that the City is not required to annex the Property nor to rezone the Property as PD-R, and that the City’s agreement to annex and rezone the Property in accordance with the provisions of this Agreement, to provide access to public utility services and other City services, and to otherwise perform the City’s obligations under this Agreement constitutes valuable, bargained-for consideration that benefits the Owner and the Property.

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

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

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

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

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

ARTICLE I: INCORPORATION OF RECITALS

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

ARTICLE II: ANNEXATION AND ZONING OF THE PROPERTY

A. Annexation and Rezoning:
That portion of the Property that has not previously been annexed to the City of DeKalb, namely as exists on the Plat of Annexation attached hereto as Exhibit E, shall hereafter be annexed to the City of DeKalb. The entirety of the Property shall be rezoned to PD-R in accordance with the terms of this Agreement. The City shall not require the submission of a plat of resubdivision, but the Parties acknowledge that if the Property is redeveloped in the future, the Property shall be required to be fully platted in accordance with then-current requirements.

B. Permitted Residential and Commercial Uses:
The Property shall be permitted to be developed and utilized in accordance with the Plans, after amendment in accordance with this Agreement and subject to such changes as shall later be authorized. The following uses shall be permitted in accordance with the enumerated standards:

1) The construction and maintenance of a golf course facility, golf course country club (including recreational, restaurant and banquet use of said facility), use of ancillary improvements as depicted on the Plans (including but not limited to swimming pools and recreational areas) and the operation of a retail Golf Club Pro Shop.
2) The conduct of indoor and outdoor banquet and special entertainment events.
3) The construction and maintenance of one or more buildings to house and repair country club golf carts and maintenance / groundskeeping equipment.
4) The Owner shall provide and maintain a facility for on-site management of the Property and the uses therein, substantially as described in the Plans.
The Parties acknowledge that the Owner has conceptually discussed the conversion of certain frontage along Sycamore Road from the current golf-course use to a commercial use with appropriate improvements. The City agrees that, should Owner determine to proceed with such plan, the City shall reasonably collaborate with Owner on the review of such plans and the preparation of an appropriate zoning approval.

C. **Permitted Residential Uses:**

There shall be no permitted residential uses on Property except as described above.

D. **Golf Course Maintenance:**

The Parties agree and acknowledge that the Owner engages in maintenance activities designed to preserve the use of the Property as a premium golf course, and acknowledge that such maintenance requires certain deviations from otherwise applicable standards. Thus, for the term of this Agreement, the City and Owner agree that, notwithstanding any contrary ordinance, resolution, code or other regulation adopted by the City, the City shall not attempt to enforce any ordinance against any portion of the Property which either:

1) Regulates the hours during which groundskeeping or maintenance equipment may operate on the Property (with the exception that the noise emanating from such equipment may be regulated between the time period starting thirty minutes after dusk and ending thirty minutes before dawn unless the Property is then-presently experiencing an emergency condition that requires longer duration of on-course maintenance work); or,

2) Regulates the lawful use of on-site wells or pumps to draw surface or subsurface water for the purpose of golf course or landscaping irrigation or for the purpose of providing water service to the ‘halfway house’ as currently installed (provided that all potable, fire suppression and domestic water use for structures other than the halfway house is through the water service connected to City-owned water mains).

E. **Prohibited Uses:**

None of the following uses shall be allowed in or on the Property:

1) Any use which is not expressly authorized as a Permitted or Special Use.
2) Any residential use.
3) Community residences.
4) Group homes.
5) Parking lots, as a principal use (and more specifically, any lease, rental or otherwise offering use of on-site parking by any party other than a resident or employee of the Property).
6) Outdoor storage of any form not expressly authorized herein.
7) Sales or construction trailers, intermodal shipping containers, van trailers or similar items used for storage or office purposes, temporary structures or similar appurtenances used for office, work or storage purposes. Any such item shall be deemed to be used for office, work or storage purposes if it remains on the Property in one exterior location for more than twenty-four (24) hours at any given time. Notwithstanding the foregoing, this Section shall not apply during any time when there is a building or demolition permit outstanding.
8) Adult oriented uses; adult bookstores or other establishment displaying, leasing, trading, or selling pornographic materials or any similar use as defined in the UDO, whether as a principal use or accessory to an allowed principal use (the foregoing not prohibiting a general audiences bookstore with not more than 1% of its merchandise being adult-oriented).
9) Animal boarding.
10) Fire, bankruptcy sale, wholesale, overstock auction house or their equivalent (except that a
Court-Ordered bankruptcy sale of less than thirty days duration shall be permitted).

11) Massage parlor or other similar massage establishment.

12) "Head shop", marijuana dispensary, hookah bars, or establishments that specialize primarily in the sale of tobacco, tobacco paraphernalia, glass pipes, implements utilized to burn or concentrate a substance for the purpose of permitting the smoke, fumes or vapor therefrom to be inhaled, or drug paraphernalia.

13) Cemeteries and mausoleums.

14) Funeral homes and mortuaries.

15) Automobile, truck, motorcycle, ATV, motor-scooter or motor vehicle/recreational vehicle/implement repair, service, sales, rentals, parts or components sales or installation, or maintenance.

16) 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 (except that temporary contractor offices present during demolition or construction activities on the Property shall be permitted).

17) Warehouses, whether accessory to a retail use, or self-service storage.

18) Tattoo parlor, massage parlor, psychic reading / tarot card shop.

19) Church or religious uses.

20) Gas or fuel station or any form of car wash or auto detailing center.

21) A dollar store or a discount department store or wholesale establishment.

22) A second-hand store.

23) A cash for gold store.

24) A full service, FDIC-insured bank, credit union, retail bank, consumer banking institution or savings and loan.

25) Currency exchange, money wiring, check cashing facility or equivalent (as a primary use).

26) Auto title loan or post-dated check or payday loan facility or equivalent, unless associated with a full-service federally-insured bank, credit union or savings and loan.

27) Pawn shops.

28) Fitness clubs or workout facilities (other than as permitted subordinate to the residential use described above).

29) Drive-thru facilities.

F. Special Uses:

Any special use contemplated for the Property shall require the amendment of this Agreement.

G. Building Related Provisions:

Owner shall comply with the following restrictions which shall be deemed to be applicable to the entire Building and Property, as a condition of this Agreement and the incentives included herein, and as a component of the zoning relief granted herein.

1) The Parties acknowledge that at the time of approval of this Agreement, the City has only reviewed architectural elevations and rough floor plans for the Building. Owner agrees and acknowledges that the entirety of the Building shall be subject to the submission and approval of appropriate building plans and permits. The Building shall be built and finished in premium materials such as LP Smartside siding, hardi-board or similar concrete/fiber board siding, vinyl or fiberglass clad windows, simulated shake-shingle roof and similar materials.

2) Owner shall be permitted to maintain the existing ancillary grounds equipment storage buildings as depicted on the Plans.

3) Following the completion of the Building, the Owner shall maintain all structures on the Property in good condition and shall take appropriate actions necessary to prevent the
deterioration of the Property or its appearance, excepting ordinary wear and tear that does not violate applicable property maintenance codes.

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

H. Property Related Provisions:

Owner shall comply with the following restrictions which shall be deemed to be applicable to the entire Building and Property, as a condition of this Agreement and the incentives included herein, and as a component of the zoning relief granted herein.

1) Owner shall collaborate with the City on the location and installation of fiber optic cables on the Property, in such locations as the City shall reasonably request, to permit service of the Property or other properties by fiber optic connections. Where Owner is running fiber optic cables on the Property or permitting others to cross the Property with such cables, Owner shall provide the City an opportunity to provide its own cables to be installed in the same location, at the cost and expense of the City.

2) Owner shall grant the City such public access and/or public utility easements as shall be reasonably requested by the City at the time of final plan approval, including but not limited to all easements required to operate and maintain the multi-use path along Sycamore Road.

3) The City expressly approves of the improvement and maintenance of the parking lot and drive aisle without curbing, in accordance with the Plans.

4) Any marketing signs, off-site signage or temporary signs of any form shall be installed only in strict compliance with the applicable provisions of the UDO pertaining to permitting and authorization of such signs.

I. Parking Provisions:

The City expressly approves of the parking areas as depicted in the Plans, and waives any applicable requirement for additional hard surface parking area. Further, the City acknowledges that, based upon the extensive grass areas available on site and the high level of maintenance that the Owner engages in relative to such grass areas, the Owner shall be permitted to make temporary use of grass areas for parking purposes during high-volume, short term events at the Property, provided that: a) adequate ingress/egress and emergency access routes are maintained at all times; b) no disruption or blockage of the fire lanes occurs; and, c) all such parking occurs solely on the private property of Owner.

J. Permitted Outdoor Storage:

Outdoor dumpsters, trash compactors, and similar rubbish disposal facilities shall be permitted on the Property in accordance with the approved final plans, provided that all such facilities shall be completely screened from view with a fence constructed of materials and colors matching the principal building it services as contemplated by the Plans. The outdoor trash facilities shall be constructed in accordance with the final plans, and shall be constructed of a weather-resistant material acceptable to the Community Development Director. Once constructed, the trash facilities shall be maintained at all times in good repair, and the Owner shall take all steps as shall be required to ensure that the main entry gates to the trash facilities are kept closed at all times when the facilities are not actively being serviced by a garbage truck. The Owner shall also be permitted to maintain outdoor trash cans and similar facilities on the golf course, in a fashion it determines to be appropriate from time to time.

The Owner shall be permitted to engage in outdoor storage of golf course maintenance equipment.
K. **Setbacks, Bulk Restrictions and Building Lines:**

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

L. **Rezoning of Property:**

The Parties agree that, for a period of fifty (50) years from date 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 and Owner without regard to statutory or common law zoning requisites and the agreement of the City and the Owner to an amendment of this Agreement on terms and conditions mutually acceptable to the City and the Owner, and further agree that the approvals described in this Agreement are based upon the City and Owner’s agreement with the zoning imposed under this Agreement. The Parties further agree that in the event the Owner seeks a rezoning or alteration of the zoning standards applicable to the Property, any provisions in the UDO contemplating a defined time period for review, comment or approval of a zoning application shall be deemed waived. Following that initial fifty-year term, the Property may be rezoned in accordance with the then-current practices and procedures applicable to rezoning requests.

**ARTICLE III: DEVELOPMENT AND MAINTENANCE OF THE PROPERTY:**

A. **Owner’s Responsibility to Maintain:**

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

B. **Intentionally Omitted:**

C. **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 the final plans for 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. Such work shall be undertaken at the Owner’s sole risk and without injury to the property of surrounding property owners.

2. **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.
3. **Truck Staging, Stockpile, Lane Closure:** Owner shall provide adequate space on the Property at all times for staging of trucks on the property, and construction deliveries or pickups shall not be permitted to queue on Sycamore Road. Additionally, Owner shall provide a designated on-site location for stockpiling of construction materials that permits trucks to load and unload entirely on the Property, without obstructing the flow of traffic on any public street or sidewalk. In the event that Owner’s construction plans require the temporary closure of any public street or sidewalk, prior to such closure, Owner shall submit a traffic control plan to the City Engineer, shall modify such plan to be acceptable to the City Engineer, and shall thereafter abide by such plan.

D. **Intentionally Omitted**

E. **Plan Review and Construction Supervision:** Owner shall maintain an escrow account with the City pursuant to a professional fee reimbursement agreement in form and content acceptable to the Community Development Director for planning and civil engineering services, and shall be responsible for the payment of all internal and third party planning and civil engineering fees incurred by the City with respect to the plan review, inspection or construction observation associated with the Property. This escrow account shall terminate upon the conclusion of the maintenance period described in the preceding paragraph. The Parties acknowledge that the escrow may be replenished from time to time, but will not be required to be established at a level in excess of $5,000 of funding at any one time.

F. **Plat and Plan Approval:** After approval of this Agreement, the Owner shall submit a revised set of plans that comply with all comments contained herein, all staff comments provided, and all conditions of approval established in the ordinance approving of this Agreement and the annexation and development of the Property. The Community Development Director is thereafter authorized to review and approve such plans (if conforming to the conditions of approval), and to append the revised Final Plans to this Agreement, prior to recording of this Agreement as more fully described below. If such plans do not comply with the terms of this Agreement, the Community Development Director shall determine whether the plans shall be processed as a Minor Amendment or Major Amendment as provided below. The determination as to whether such plans require a Minor Amendment or Major Amendment shall be in the sole and exclusive discretion of the Community Development Director.

1. **Minor Amendments:** In the event that, following approval of this agreement and prior to the issuance of a final certificate of occupancy, the Owner identifies minor revisions required to the Final Plans, the Owner may request review and approval of said minor revisions at the staff level. In the event that the Community Development Director agrees that the requested revisions are consistent with the zoning and use restrictions imposed herein, do not fundamentally alter the nature or configuration of the Property and are otherwise appropriate for review and approval at the staff level, the Director may review and approve such minor revisions. In the event that the Community Development Director does not reach that conclusion, the Director shall refer such plans for recommendation by the Planning and Zoning Commission and for approval by the City Council.

2. **Major Amendments:** Review and approval/denial of any such requested changes proposed by the Owner shall be reviewed by the Community Development Director to determine whether such changes constitute a major or minor change. Any proposed change treated as a major amendment to the proposed development shall follow the provisions of the UDO with a staff review and recommendation, Planning and Zoning Commission review and recommendation, and City
G. **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 ten days) and opportunity to comply. In the event that the Owner fails to meet any deadline imposed under the terms of this Agreement or otherwise violates any provision of this Agreement, the City may issue stop work orders for any work at the Property, pending either the posting of a security acceptable to the City to guarantee the completion of all work required, or the entry of the Parties into an amendment to this Agreement.

H. **Compliance with City Ordinances and Applicable Regulations:**

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

I. **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 500 feet of the entrance to Owner’s construction site, and take measures to control dust daily while construction is occurring on said site. Owner further agrees to periodically mow weeds, pick up trash and debris and repair and replace soil erosion control fencing so as to comply with applicable ordinances of the City, all of which activities may be contracted to its development trades and contractors. Owner shall also patch or repair damage to any roadway, path, driveway, sidewalk or other similar improvement which may be damaged during the course of Owner’s construction or maintenance activities. In the event Owner fails to clean the Property, mow weeds, pick-up debris or repair or replace soil erosion control fencing as required, or fails to patch or repair any street, path, roadway or sidewalk within ten days
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 invoke the Owner Surety. Owner shall, within 15 business days following written notice from the City, pay all such costs.

J. Building Codes:

In constructing improvements and conducting renovation on the Property, the Owner shall comply with all then-current building codes of the City of DeKalb or any other agency having jurisdiction over the Property, except as may be specifically modified and/or governed by this Agreement. At the time of any future amendments or modifications of the building or the Property, the Owner shall comply with the then-current code requirements of the City, except as may be specifically modified and/or governed by this Agreement. Notwithstanding the foregoing, the City agrees and acknowledges that the final installation of asphalt cannot occur until demolition is completed, the detention pond has been reshaped, and asphalt plants are open and operational for the season. The City agrees that it shall not unreasonably restrict or condition the issuance of a temporary certificate of occupancy based upon the non-completion of pavement, provided that the Property is safe to access for invitees and public safety responders, and such temporary certificate of occupancy shall have a term as determined by the Community Development Director.

K. Alarm:

The Owner shall install a full fire alarm system in compliance with applicable code requirements and shall, except during reasonable periods of maintenance, thereafter keep such systems in service, operational and in good repair.

L. Required Amendments to Final Plans: The approval of the Final Plans as referenced herein is conditioned upon the Owner’s modification of such plans to address all comments of the City Engineer and Community Development Department. At the time of drafting of this Agreement, the Owner had been provided with certain comments. Additional comments which must be addressed in a fashion acceptable to the City include:

1. Owner must revise the Final Plans to address any other conditions identified in the approval provided by City Council.

Such comments (and any other comments included in the approval of this Agreement by the City Council) shall be addressed with revisions to the Final Plans acceptable to the City Manager, based upon the recommendation of staff, in the City Manager’s sole and absolute discretion. Revised final plans shall be prepared prior to recording of this Agreement, and shall be attached to this Agreement as updated exhibits prior to recording. Such final, revised plans shall be required to be submitted within ninety (90) days of the date of approval of this Agreement or such longer period as shall be acceptable to the Community Development Director. In the event that the Owner fails to comply with the required modifications herein, this Agreement shall return to the City Council, which shall have the option to either strictly enforce this Agreement or to terminate this Agreement. Notwithstanding any other provision of this Agreement, until the revised Final Plans are submitted to and approved by the City, the documents appended hereto shall not be considered the Final Plans.

ARTICLE IV: INFRASTRUCTURE:

A. Water Mains and Potable Water Supply:

The Property is currently serviced by an existing connection to the City’s potable water system utilizing a private water service that connects to the water main in Sycamore Road. The Owner shall have
the right to continue to use such system and mains. Owner shall not be required to pay tap-on, connection or water capital fees. The Owner shall be responsible for constructing all on-site and off-site improvements necessary to connect to the Property and any development on the Property to the presently existing water mains and potable water supply of the City, and shall be responsible for paying all costs associated with the purchase of new water meters for the Property. 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. The Owner shall terminate any existing water service connection between the Owner’s existing well and any building served by City water, including but not limited to the proposed Building.

B. Storm Water Retention, Facilities and Improvements:

Except with respect to existing improvements, which the City acknowledges are compliant with current regulations, the Owner shall provide all necessary storm sewers, detention systems and compensatory storage in compliance with the UDO, the existing flood plain ordinance of the City and all other applicable laws and regulations, as modified or amended pursuant to the terms of this Agreement including all storm water calculations prepared by a licensed Illinois engineer. The Owner shall provide for the insurance, real estate taxes and maintenance of any Owner-constructed, on-site Retention/Detention areas including but not limited to mowing and landscape maintenance, regular litter pickup, flume repairs and underground pipe cleaning or repairs. The Owner agrees to follow DeKalb County and City of DeKalb stormwater management regulations as amended from time to time, and any other applicable ordinances, statutes or regulations in effect at the time of development. The storm water facilities and combined storm water control and detention system shall be constructed in accordance with specifications as required by the City Engineer.

C. Sanitary Sewers:

The Owner shall comply with all requirements of the DeKalb Sanitary District.

D. Utility Connections:

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 its obligations to obtain any and all easements and permits necessary to do so, at Owner’s sole cost and expense.

E. Grant of Easements / Right of Way:

The Parties acknowledge that at present, the City does not contemplate the installation of additional public utilities or street improvements in the vicinity of the Property. However, the Owner agrees and acknowledges that it shall grant to the City, at no cost to the City, easements or right of way along the perimeter of the Property upon request, if required for the construction or maintenance of public improvements owned or operated by the City, or by any governmental entity providing services to the Property. Such easements shall be limited in size as reasonably required to provide area for public
improvements.

ARTICLE V: FEES AND CONTRIBUTIONS:

A. Specified Fees:
The Owner shall pay all fees imposed under City Ordinance in the amount and in the time as described by such applicable Ordinance, unless waived herein. The City and Owner shall, at the time of payment of any required fee, cooperate to determine the amount of the fee due. There shall be no annexation or impact fees due in association with the annexation of the Property described herein.

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

ARTICLE VI. OPERATION OF THE PROPERTY:

A. Acknowledgment of Application of Operational Standards:
The Parties acknowledge and agree that the provisions of this Article VI relating to the operation of the Property following its rezoning and redevelopment are critical and integral to the zoning standards provided for herein. The Owner agrees and acknowledges to comply with the following standards and requirements, and acknowledges that they have been drafted to address the public safety concerns otherwise arising out of the operation of the development.

B. Operation Provisions:
Owner shall maintain the Property in good and attractive condition and shall ensure that the Building and Property are maintained and utilized in accordance with all applicable codes and regulations.

C. Public Safety Regulations: Trespass/Patrol Agreement:
The Parties shall keep in place at all times a No-Trespass Enforcement Agreement, in the then-current format utilized by the City of DeKalb (with such agreement currently being in the form attached hereto as Exhibit C, as modified), and shall cooperate at all times with regard to the enforcement of such Agreements. Owner shall also make itself and its management representative available for meetings with the City on a periodic basis (or as otherwise requested by the City) for the purpose of reviewing security plans, trespass enforcement lists or similar issues. The Parties shall also keep a Traffic Enforcement Agreement in effect, substantially in the form attached hereto as Exhibit D.

D. Knox Boxes:
The Owner shall install and maintain a ‘Knox Box’ entry systems for use by City of DeKalb emergency responders, at locations designated by the City of DeKalb Fire Chief, and shall ensure that such systems are available for use and operational at all times. At minimum, one (1) Knox Box shall be installed at an approved location on each primary entrance to the Building.
E. Commercial Property Registration and Inspection:

Owner and all successor owners of the Property shall voluntarily comply with the City's then-current requirements with regard to the registration and inspection of commercial or industrial properties within the City.

ARTICLE VII: MUTUAL ASSISTANCE:

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

ARTICLE VIII: REMEDIES:

A. Breach Generally:

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

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

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

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

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

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

ARTICLE IX: TERM:

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

In the event that the law requires any lesser term for this Agreement, then this Agreement shall remain in full force and effect for the maximum duration permitted by law, and in the event that any applicable law requires the specification of a duration, such duration shall be not less than fifty (50) years.

ARTICLE X: MISCELLANEOUS:

A. Amendment:

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

B. Severability:

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

C. Entire Agreement:

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

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

E. Notices:

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

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

With copies to:
City Manager
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115
Telephone: 815-748-2060
Email: Annemarie.gaura@cityofdekalb.com

City Attorney
City of DeKalb
200 South 4th Street
DeKalb, IL 60115
Telephone: 815-748-2093
Email: dean@frieders.com

If to the Owner:
Kishwaukee Country Club, Inc.
1901 Sycamore Road
DeKalb, IL 60115

With a Copy To:

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

F. Time of Essence:

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

The Owner covenants and agrees to pay, at its expense, any and all damages, expenses, liabilities and losses resulting from this Agreement, the construction and development activities of the Owner, or its agents, contractors and subcontractors, and to defend and indemnify and save the City and its officers, elected and appointed agents, employees, engineers and attorneys (collectively, the "Indemnifieds") harmless of, from and against such damages, expenses, liabilities and losses as a direct and proximate result of Owner's unlawful actions in furtherance of the terms hereof and the construction activities contemplated hereby, except to the extent such damages, expenses, liabilities and losses arise by reason of the negligence or willful or wanton act or omission of the Indemnifieds. The Owner shall provide satisfactory proof of comprehensive general liability insurance for the Property and the project during the time from approval of this Agreement until completion of the last improvement contemplated by the approved final plans.

The Parties acknowledge that this Agreement contemplates the payment, including direct payment, of expenses associated with the redevelopment of the Property under the Phase 1 Incentive, and contemplates the City's approval of plans. Under City Code, the Parties acknowledge that the City has a limited role in inspecting improvements and conducting construction observation. Notwithstanding the foregoing, the Parties agree and acknowledge that neither the Owner nor its personnel shall be acting as an employee or official representative of the City for purposes of being offered any protection or coverage under City insurance policies for tort immunity or other legal purposes. The Owner and City acknowledge that the provisions of this Agreement shall be construed, pursuant to Carney v. Union Pacific Railroad Company, 2016 IL 118984, to provide the City with the right to stop or resume work, to make inspections, to receive reports and to provide recommendations or suggestions pursuant to Section 414 of the Second Restatement of Torts, and that the Owner shall be considered to be fully independent of the City both in terms of tort liability and in terms of contractual liability to third parties. No provision of this Agreement shall be construed as the City retaining control of or having liability for the actions of the Owner or its contractors or subcontractors. The City shall have no liability for Owner's selection of personnel, employees or subcontractors, nor for the presence of dangerous conditions on any portion of the Property.

Owner shall have sole control over the manner and means of providing the work and services performed under this Agreement. The City's payment of any sums to Owner shall be limited to that described in this Agreement with respect to payment of the Development Incentive, and the City shall not reimburse any expenses, provide any benefits, withhold any employment taxes or otherwise have a financial relationship with Owner other than payment of the stated Development Incentive. The Owner shall be solely responsible for contracting for the construction of improvements, acquiring properties, paying or withholding of taxes, or otherwise complying with applicable laws and agreements relating to its employees or contractors.

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 as a proximate result of Owner's unlawful activities or construction on the Property and relating to any federally protected wetland, the delineation or failure to delineate wetlands, the protection or mitigation or failure to protect or mitigate wetlands, the identification of floodplains, or the construction of any improvement or structure in or near any wetland or floodplain area, within or outside the Property.

H. Exhibits:

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

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

J. **Survival of Provisions:**

The provisions of this Agreement relating to the remedies upon default and/or the recovery of any portion of the Development Incentive (through legal action, foreclosure, deed in lieu or other process) shall survive any termination of this Agreement.
4/11/17

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

City Clerk
4/11/17

OWNER:

KISHWAUKER COUNTRY CLUB, INC., an Illinois Corporation.

By: [Signature]  [Signature]

Attest:
EXHIBIT A

THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 11, PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 12, PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 13 AND PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 14, ALL IN TOWNSHIP 40 NORTH, RANGE 4 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 45 OF ASSESSORS LOTS OF SAID SECTION 12; THENCE SOUTHEASTERLY, ALONG THE SOUTHEASTERLY LINE OF GREENWOOD ACRES, 1424 FEET TO THE CENTER LINE OF S.B.I. ROUTE 23; THENCE SOUTHWESTERLY, ALONG SAID CENTER LINE, 1387 FEET TO THE NORTHEASTERLY LINE OF PROPERTY DESCRIBED IN DOCUMENT NO. 81-02179; THENCE NORTHWESTERLY, ALONG SAID NORTHEASTERLY LINE, 918.4 FEET TO A SOUTH LINE OF PROPERTY DESCRIBED IN DOCUMENT NO. 357175; THENCE EASTERLY, ALONG A SOUTH LINE OF SAID PROPERTY, 558.1 FEET TO A SOUTHEAST CORNER OF SAID PROPERTY; THENCE NORTHERLY, ALONG AN EAST LINE OF SAID PROPERTY, 366 FEET TO A NORTHEAST CORNER OF SAID PROPERTY; THENCE WESTERLY, ALONG A NORTH LINE OF SAID PROPERTY, 1409.5 FEET; THENCE NORTHWESTERLY, ALONG A NORTHERLY LINE OF SAID PROPERTY 300 FEET, MORE OR LESS, TO THE CENTER LINE OF THE KISHWAUKEE RIVER, AS ORIGINALLY LOCATED; THENCE NORTHEASTERLY, ALONG SAID CENTER LINE, TO THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTHERLY, ALONG SAID EAST LINE, 140 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF LOT 44 OF SAID ASSESSORS LOTS OF SECTION 12; THENCE SOUTHEASTERLY, ALONG THE NORTHERLY LINE OF SAID LOTS 44 AND 45, A DISTANCE OF 225.5 FEET TO THE NORTHWEST CORNER OF LOT 15 OF SAID GREENWOOD ACRES; THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID LOT 45, A DISTANCE OF 577.8 FEET TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PART OF SAID S.B.I. ROUTE 23 PREVIOUSLY ANNEXED, ALL IN DEKALB TOWNSHIP, DEKALB COUNTY, ILLINOIS.

A PART OF SECTION 13 AND 14, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE THIRD PRINCIPAL MERIDIAN, DEKALB COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 20 OF JOHN W. TILTON'S THIRD ADDITION TO TILTON PARK; THENCE NORTH 33 DEGREES 43' EAST ALONG THE SOUTH- EA THERLY LINE OF SAID BLOCK 20, A DISTANCE OF 315.0 FEET TO A POINT ON THE SOUTH LINE OF BLOCK 24 OF TILTON'S FOURTH ADDITION TO TILTON PARK; THENCE SOUTHEASTERLY ALONG THE SOUTHERLY LINE OF SAID BLOCK 24, A DISTANCE OF 5.0 FEET TO THE SOUTHEAST CORNER OF SAID BLOCK 24; THENCE NORTH 41 DEGREES, 52'EAST ALONG THE SOUTHEASTERLY LINE OF SAID BLOCK 24, A DISTANCE OF 231.0 FEET TO THE SOUTHEASTERLY CORNER OF BLOCK 29 OF TILTON'S FIFTH ADDITION TO TILTON PARK; THENCE NORTH 49 DEGREES 39' EAST ALONG THE SOUTHEASTERLY LINE OF SAID BLOCK 29, A DISTANCE OF 319.53 FEET TO THE
NORTHEAST CORNER OF SAID BLOCK 29; THENCE SOUTH 68 DEGREES 08’ EAST, A DISTANCE OF 523.7 FEET TO A POINT; THENCE SOUTH 88 DEGREES 01’ EAST TO DISTANCE OF 1409.5 FEET TO A POINT; THENCE SOUTH 1 DEGREE, 59’ WEST, A DISTANCE OF 366.0 FEET; THENCE NORTH 38 DEGREES 01’ WEST, A DISTANCE OF 538.1 FEET TO A POINT, SAID POINT BEING ON THE EASTERLY LINE OF THE Dekalb County Tuberculosis Sanitarium Property; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID PROPERTY, A DISTANCE OF 97.6 FEET TO THE NORTHEAST CORNER THEREOF; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID SANITARIUM PROPERTY, A DISTANCE OF 29 ½ FEET TO AN ANGLE POINT IN SAID NORTHERLY PROPERTY LINE; THENCE SOUTHWESTERLY ALONG THE NORTHERLY LINE OF SAID SANITARIUM PROPERTY AND ALONG THE NORTHERLY LINE OF PROPERTY OF THE DEKALB PARK DISTRICT, KNOWN AS HOPKINS PARK, A DISTANCE OF 992.4 FEET TO AN ANGLE POINT IN THE NORTHERLY LINE OF SAID PARK DISTRICT PROPERTY, A DISTANCE OF 165 FEET, MORE OR LESS, TO A POINT IN THE CENTER LINE OF THE KISHWAUKEE CHANNEL AS THE SAME ORIGINALLY EXISTED BEFORE RE-LOCATION; THENCE SOUTHWESTERLY AND WESTERLY ALONG THE CENTER LINE OF THE ORIGINAL CHANNEL OF THE KISHWAUKEE RIVER TO A POINT WHICH POINT IS A COMMON CORNER BETWEEN PARCEL “B” AND PARCEL “C” OF THE ELLWOOD FARM PLAT; THENCE NORTH 56 DEGREES 17’ WEST ALONG THE SOUTHERLY LINE OF SAID PARCEL “B” A DISTANCE OF 291.4 FEET TO THE POINT OF BEGINNING, SITUATED IN THE COUNTY OF DEKALB AND THE STATE OF ILLINOIS, SAID PROPERTY BEING A PORTION OF THE KISHWAUKEE COUNTRY CLUB AND SOME LAND ADJACENT THERETO.
Group Exhibit B: Plans

(Attached, with page numbering separately tracked from the pages of this Agreement, but incorporated herein by reference.)
DECREASE IN IMPERVIOUS AREA = 5410 S.F.
NO ADDITIONAL DETENTION REQUIRED.
ADDITIONAL DETENTION AS DESIGNED = 4333 S.F.
NOTE: THERE IS APPROX. 1300 S.F. OF OVERLAND FLOW BEHIND GYMNAZIUM
COUNTRY CLUB PROPERTY BEFORE EROSION FROM THE 1ST SET REACHES THE
KEESHADEE RIVER.
THE EXISTING DETENTION POND IS "CLOSED" VIA A WIDENED CHANNEL. THE
UPSTREAM CULVERT DISCHARGING INTO THE POND IS A 24'' X 47' ELLIPTICAL
PIECE, AND THE PIPE DRIVING THE POND IS AN 18''. WE ARE DECREASING THE
IMPERVIOUS AREA AND THEREFORE NOT ADJUSTING THE PIPE.
LED Light Fixture (Type 4 Distribution) (5600K/4000K 120-277V 125-MA) - BAL 019
2. US Architectural Lighting, 2P Pole Mount SMT-11-2-380 - BAL 019 Double Head
LED Light Fixture (Type 4 Distribution) (5600K/4000K 120-277V 125-MA) - BAL 019
3. US Architectural Lighting, Rollard Rear - 1LEDs - kW - BAL 019
All Lighting Units are to be Approved by Owner Prior to Ordering. Approved Equal May Be Used.

AVERAGE FOOT CANDLE = 1.52
Exhibit C: No Trespass / Patrol Agreement

Common Area Patrol / No-Trespass Enforcement Agreement

Property Address: 1901 SYCAMORE RD.
Commonly Known As: KISHWAUKEE COUNTRY CLUB, INC.
Property Owner: SAME AS ABOVE
Contact #: 815 758-6848
Property Manager: MIKE HARQUARDT
Contact #: SAME AS ABOVE
24 Hour Contact #:

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

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

- **Patrol Common Areas:** The City, its employees and agents are authorized and requested to enter into any common area of the Property that is accessible either to the public or to tenants of the Premises, including parking lots, open spaces, common hallways, gathering areas, or other similar common areas of the Property, for purposes of patrolling, observing, and enforcing the Codes and Ordinances of the City of DeKalb or any applicable State Statutes. For purposes of this Agreement and any charges arising out of the City’s activities on the Property, the City and its personnel shall be deemed to have been invited upon the common areas of the Property. Notwithstanding the foregoing, this shall not constitute authority for the City to enter into tenant private areas (e.g. individual tenant apartments or individual tenant businesses) without required legal authority (such as a search warrant, probable cause, exigent circumstances, etc. where required). The City is authorized to sign complaints, serve as complaining witness, and arrest or cite any person who has violated a State Statute or City Ordinance.
4/11/17

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

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

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

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

Agreed this 19th day of July, 2017.

Owner or Representative:

City of DeKalb:
EXHIBIT D: TRAFFIC ENFORCEMENT AGREEMENT

AGREEMENT

WHEREAS, Kishwaukee Country Club, Inc., its affiliates or subsidiaries (hereinafter collectively "OWNER"), is the Owner of a certain commercial or residential facility, or other facility as described in the Illinois Vehicle Code identified below, and named or identified as "Kishwaukee Country Club"; and,

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

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

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

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

That the CITY is empowered to enforce all privately signed traffic control devices on the Property, including but not limited to fire lanes, handicapped parking spaces and similar regulations.

OWNER shall be responsible for maintaining all traffic control measures and markings within the Property in good condition.

This Agreement shall be effective and enforceable three days after it has been recorded in the Office of the Recorder of Deeds of the county in which the COMPLEX is located and shall continue to be in full force and effect for a period of twenty years, except that after one year from the effective date of this Agreement, either party may cancel this Agreement upon sixty days' written notice to the other party.

EXECUTED this 13th day of JULY, 2017.

CITY OF DEKALB
DEKALB COUNTY, ILLINOIS

By: [Signature]

[Position]

OWNER

By: [Signature]

[Position]
4/11/17

Exhibit E: Plat of Annexation
I, RUTH A. SCOTT, do hereby certify that I am the duly appointed 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 2017-025

ANNEXING CERTAIN PROPERTY LOCATED AT 1901 SYCAMORE ROAD, DEKALB, ILLINOIS (KISHWAUKEE COUNTRY CLUB, INC.).

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois on the 24th day of April, 2017, and the original is now on file at the City of DeKalb Municipal Building.

WITNESS my hand and the official seal of said City this 29th day of September, 2017.

RUTH A. SCOTT
Deputy City Clerk

Prepared by and Return to:
Deputy City Clerk Ruth Scott
City of DeKalb
200 South Fourth Street
DeKalb, IL 60115
ORDINANCE 2017-025          PASSED: APRIL 24, 2017

ANNEXING CERTAIN PROPERTY LOCATED AT 1901
SYCAMORE ROAD, DEKALB, ILLINOIS (KISHWAUKEE
COUNTRY CLUB, INC.).

WHEREAS, the City of DeKalb is a home rule municipality with the power and authority
conferred upon it by the Illinois Municipal Code and the Constitution of the State of
Illinois; and

WHEREAS, Kishwaukee Country Club, Inc. (Owner) petitioned the City to annex the
property described in Exhibit A to the City of DeKalb and rezone it from the
“SRF1” Single-Family Residential District to the PD-R Planned Development —
Residential District; and

WHEREAS, the Owner petitioned the City to rezone the property described in Exhibit B
from the “SFR2” Single-Family Residential District to the PD-R Planned Development —
Residential District; and

WHEREAS, the City and Owner seek to enter into an Annexation and Development
Agreement for the property described in Exhibits A and B (Subject Property)
contemplated and approved therein; and

WHEREAS, the City and Owner have conducted all required public hearings before the
Planning and Zoning Commission of the City of DeKalb and the City Council of the City
of DeKalb for both the adoption of the rezoning for the Subject Property and for the
adoption of the annexation and development agreement, and have otherwise satisfied
all conditions precedent to the adoption of this Ordinance; and

WHEREAS, the City Council adopts the following findings of fact of the Planning and
Zoning Commission of the City of DeKalb, finds that the proposed rezoning is in
conformance with the applicable zoning factors contained therein, and finds that approval
of this Ordinance, with the corresponding approval of the rezoning for the Subject
Property and the approval of the annexation and development agreement, is in the public
interest and promotes the public health, safety and welfare;

STANDARDS OF REZONING

1. The proposed rezoning conforms to the Comprehensive Plan, or
conditions have changed to warrant the need for different types of land uses
in that area. The proposed rezoning is appropriate considering the length of
time the property has been vacant, as originally zoned, and taking into
account the surrounding areas trend in development.
The 2005 Comprehensive Plan recommends the subject site for Parks and Recreation. The proposed annexation will bring an additional 52 acres into the City and will allow for consistent zoning for the clubhouse, pro shop and associated structures and for the "front nine" holes of the golf course. Staff believes that the proposed development meets the intent of the City’s Comprehensive Plan.

2. The proposed rezoning conforms to the intent and purpose of the Unified Development Ordinance.

Re-zoning of the subject site to the PD-R District will allow the project to comply with the regulations of the UDO except for waivers to the Unified Development Ordinance for landscaping, parking lot design, subdivision platting requirements and the continued use of the well water system. The exceptions to the UDO are justified based upon the nature of the use and the need to maintain an open space setting and aesthetically pleasing appearance of the facility.

3. The proposed rezoning will not have a significantly detrimental effect on the long-range development of adjacent properties or adjacent land uses.

The proposed rezoning, and associated annexation, will bring the golf course under more unified control. The remainder of the golf course is to the north, Hopkins Park is to the south, single family residential to the west and east and commercial to the southeast along Sycamore Road. The proposed rezoning should not have a detrimental effect on the adjacent properties or land uses.

4. The proposed rezoning constitutes an expansion of an existing zoning district that, due to the lack of undeveloped land, can no longer meet the demand for the intended land uses.

The subject property is proposed for "PD-R" Planned Development - Residential zoning. The "PD-R" District will allow the property to be used for uses that will be compatible with the surrounding area.

5. Adequate public facilities and services exist or can be provided.

Existing utilities already serve the site. The existing access off of Sycamore Road will be maintained and a new drive and improved parking area will be added. An existing water well will remain and will be used to water the golf course and the "halfway house".

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

**Section 1. Annexation and Development Agreement Approved:** The City Council of the City of DeKalb hereby approves of the Annexation and Development Agreement
attached hereto as Exhibit C ("the Agreement"), and authorizes and directs the Mayor of
the City of DeKalb to execute the Agreement, subject to such changes as shall be
acceptable to him with the recommendation of City Staff.

Section 2. Annexation Approved: The City Council of the City of DeKalb hereby
authorizes and directs the immediate annexation of the property described in the attached
Exhibit A.

Section 3. Rezoning Authorized: The City Council of the City of DeKalb hereby
approves of the rezoning of the Subject Property to the PD-R Planned Development
Residential District consistent with all conditions, approvals, restrictions and limitations as
defined in the Agreement approved herein.

Section 4. PD-R Planned Development Residential Standards: The provisions and
restrictions related to the permitted uses, prohibited uses and other development and
maintenance standards as described in the Agreement are hereby approved.

Section 5. Approved Plans: The "Plans" attached as "Group Exhibit B" to the Agreement
are hereby approved subject to revisions acceptable to the Community Development
Director or designee, in accordance with the review letter dated March 31, 2017, from
the City of DeKalb, all provisions and requirements of this approval, the findings of fact
and the Agreement. Approval of the "Final Plans" shall be in accordance with the
governing provisions of the Agreement. Following approval of the "Final Plans" in
accordance with the Agreement, the Community Development Director is authorized
and directed to record any such plans as shall be appropriate for recording.

Section 6. Recording Directed: After execution by all parties, this Ordinance, the
Agreement and "Plans" shall be recorded in the DeKalb County Recorder's Office.

Section 7. Multiple Actions Approved: The City Council hereby expressly approves
of the annexation agreement referenced above, the annexation of real property
referenced above, the rezoning of said property, and the recording of related documents,
within this Ordinance, as if each action was separately set out and approved.

Section 8. All ordinances or portions thereof in conflict with this ordinance, including the
prior versions of the ordinances included above, are hereby repealed.

Section 9. 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 10. This Ordinance shall be in full force and effect after passage and
publication pursuant to law. Publication date: April 25, 2017. Effective date: May 4,
2017.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular
meeting thereof held on the 24th day of April, 2017 and approved by me as Mayor on
the same day. Passed on First Reading by a 7-0-1 roll call vote. Aye: Jacobson,

ATTEST:

JENNIFER JEEP JOHNSON, City Clerk

JOHN A. REY, Mayor
EXHIBIT A

THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 11, PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 12, PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 13 AND PART OF THE EAST HALF OF THE NORTHEAST QUARTER OF SECTION 14, ALL IN TOWNSHIP 40 NORTH, RANGE 4 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 45 OF ASSESSORS LOTS OF SAID SECTION 12; THENCE SOUTHEASTERLY, ALONG THE SOUTHEASTERLY LINE OF GREENWOOD ACRES, 1424 FEET TO THE CENTER LINE OF S.B.I. ROUTE 23; THENCE SOUTHWESTERLY, ALONG SAID CENTER LINE, 1387 FEET TO THE NORTHEASTERLY LINE OF PROPERTY DESCRIBED IN DOCUMENT NO. 81-02179; THENCE NORTHWESTERLY, ALONG SAID NORTHEASTERLY LINE, 918.4 FEET TO A SOUTH LINE OF PROPERTY DESCRIBED IN DOCUMENT NO. 357175; THENCE EASTERLY, ALONG A SOUTH LINE OF SAID PROPERTY, 558.1 FEET TO A SOUTHEAST CORNER OF SAID PROPERTY; THENCE NORTHERLY, ALONG AN EAST LINE OF SAID PROPERTY, 366 FEET TO A NORTHEAST CORNER OF SAID PROPERTY; THENCE WESTERLY, ALONG A NORTH LINE OF SAID PROPERTY, 1409.5 FEET; THENCE NORTHWESTERLY, ALONG A NORTHERLY LINE OF SAID PROPERTY 300 FEET, MORE OR LESS, TO THE CENTER LINE OF THE KISHWAUKEE RIVER, AS ORIGINALLY LOCATED; THENCE NORTHEASTERLY, ALONG SAID CENTER LINE, TO THE EAST LINE OF SAID SOUTHEAST QUARTER; THENCE SOUTHERLY, ALONG SAID EAST LINE, 140 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF LOT 44 OF SAID ASSESSORS LOTS OF SECTION 12; THENCE SOUTHEASTERLY, ALONG THE NORTHERLY LINE OF SAID LOTS 44 AND 45, A DISTANCE OF 225.5 FEET TO THE NORTHWEST CORNER OF LOT 15 OF SAID GREENWOOD ACRES; THENCE SOUTHERLY, ALONG THE EAST LINE OF SAID LOT 45, A DISTANCE OF 577.8 FEET TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PART OF SAID S.B.I. ROUTE 23 PREVIOUSLY ANNEXED, ALL IN DEKALB TOWNSHIP, DEKALB COUNTY, ILLINOIS.
A PART OF SECTION 13 AND 14, TOWNSHIP 40 NORTH, RANGE 4, EAST OF THE 
THIRD PRINCIPAL MERIDIAN, DEKALB COUNTY, ILLINOIS, DESCRIBED AS 
FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF BLOCK 20 OF JOHN W. 
TILTON'S THIRD ADDITION TO TILTON PARK; THENCE NORTH 33 DEGREES 43' 
EAST ALONG THE SOUTH- EASTERLY LINE OF SAID BLOCK 20, A DISTANCE OF 
315.0 FEET TO A POINT ON THE SOUTH LINE OF BLOCK 24 OF TILTON'S FOURTH 
ADDITION TO TILTON PARK; THENCE SOUTHEASTERLY ALONG THE 
SOUTHERLY LINE OF SAID BLOCK 24, A DISTANCE OF 5.0 FEET TO THE SOUTH- 
EAST CORNER OF SAID BLOCK 24; THENCE NORTH 41 DEGREES, 52' EAST 
ALONG THE SOUTHEASTERLY LINE OF SAID BLOCK 24, A DISTANCE OF 231.0 
FEET TO THE SOUTHEASTERLY CORNER OF BLOCK 29 OF TILTON'S FIFTH 
ADDITION TO TILTON PARK; THENCE NORTH 49 DEGREES 39' EAST ALONG THE 
SOUTHEASTERLY LINE OF SAID BLOCK 29, A DISTANCE OF 319.53 FEET TO THE 
NORTHEAST CORNER OF SAID BLOCK 29; THENCE SOUTH 68 DEGREES 08' 
EAST, A DISTANCE OF 523.7 FEET TO A POINT; THENCE SOUTH 88 DEGREES 
01' EAST TO DISTANCE OF 1409.5 FEET TO A POINT; THENCE SOUTH 1 DEGREE, 
59' WEST, A DISTANCE OF 366.0 FEET; THENCE NORTH 38 DEGREES 01' WEST, 
A DISTANCE OF 538.1 FEET TO A POINT, SAID POINT BEING ON THE EASTERLY 
LINE OF THE DEKALB COUNTY TUBERCULOSIS SANITARIUM PROPERTY; 
THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID PROPERTY, A 
DISTANCE OF 97.6 FEET TO THE NORTHEAST CORNER THEREOF; THENCE 
WESTERLY ALONG THE NORTHERLY LINE OF SAID SANITARIUM PROPERTY, A 
DISTANCE OF 29 ½ FEET TO AN ANGLE POINT IN SAID NORTHERLY PROPERTY 
LINE; THENCE SOUTHWESTERLY ALONG THE NORTHERLY LINE OF SAID 
SANITARIUM PROPERTY AND ALONG THE NORTHERLY LINE OF PROPERTY OF 
THE DEKALB PARK DISTRICT, KNOWN AS HOPKINS PARK, A DISTANCE OF 992.4 
FEET TO AN ANGLE POINT IN THE NORTHERLY LINE OF SAID PARK DISTRICT 
PROPERTY, A DISTANCE OF 165 FEET, MORE OR LESS, TO A POINT IN THE 
CENTER LINE OF THE KISHWAUKEE CHANNEL AS THE SAME ORIGINALLY 
EXISTED BEFORE RE- LOCATION; THENCE SOUTHWESTERLY AND WESTERLY 
ALONG THE CENTER LINE OF THE ORIGINAL CHANNEL OF THE KISHWAUKEE 
RIVER TO A POINT WHICH POINT IS A COMMON CORNER BETWEEN PARCEL "B" 
AND PARCEL "C" OF THE ELLWOOD FARM PLAT; THENCE NORTH 56 DEGREES 
17' WEST ALONG THE SOUTHERLY LINE OF SAID PARCEL "B" A DISTANCE OF 
291.4 FEET TO THE POINT OF BEGINNING, SITUATED IN THE COUNTY OF 
DEKALB AND THE STATE OF ILLINOIS, SAID PROPERTY BEING A PORTION OF 
THE KISHWAUKEE COUNTRY CLUB AND SOME LAND ADJACENT THERETO.