
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: DISCUSSION: ANNEXATION AGREEMENT AMENDMENT, SPECIAL USE PERMIT (PUD), TIF REDEVELOPMENT AGREEMENT, A/K/A PRAIRIE GROVE COMMONS
AGENDA: APRIL 5, 2022 VILLAGE BOARD MEETING
DATE: APRIL 1, 2022

ISSUE

Shall the Village Board discuss an Annexation Agreement Amendment, a Ordinance approving a Special Use Permit for a Planned Unit Development (PUD), and a TIF Redevelopment Agreement for the property at southwest corner of Galena Boulevard and Sugar Grove Parkway, commonly known as Prairie Grove Commons.

DISCUSSION

The Village Board last discussed this matter at its March 15, 2022 meeting at which the Village Board provided direction relative to the proposed development signs and financial assistance relative to certain off-site improvements to be reimbursed through the TIF district.

Since the last discussion by the Village Board, Village staff and the developer have continued working toward resolution of a number of wordsmithing issues in the documents, specifically clarifications and to make certain the documents are consistent in terms and terminology. Village staff believes the attached documents are ready for Village Board approval. All of the referenced exhibits are complete and included in the respective documents. Be advised, there is some duplication between the documents.

The final engineering plans are completed and approved; the off-site easements have been prepared and delivered for signatures and one has been returned; the final landscaping plans for the Galena Boulevard and IL 47 frontage has been provided; and, the access permit for IL 47 has been submitted to IDOT.

It is our understanding that IDOT is going to issue a letter demanding payment for the access to IL 47. We had hoped this outcome could be avoided. At this time we do not know what the cost of acquisition will be. It is possible IDOT's demand could be a deal-killer for the applicant. Village staff, consultants and the applicant continue to pursue all avenues to obtain IDOT approval for no fee public street access to IL 47.

There are three intertwined and related documents that will require Village Board approval in order for the project to move forward: Annexation Agreement Amendment, PUD Ordinance, and the TIF Redevelopment Agreement.

The Annexation Agreement Amendment is not a complete replacement of the current Annexation Agreement. There are many provision in the current Annexation Agreement that need to remain as they relate to the development of the Walgreen's site, extension of Division Drive and construction of Galena Boulevard, among other things. The Annexation Agreement Amendment is in effect a replacement for the non-Walgreen's property. It follows the same format as the original but the terms are updated to reflect the parties' desires with developing the property at this time.

The Ordinance Approving a Special Use Permit for a Planned Unit Development, commonly referred to as the PUD Ordinance, is the regulatory document governing the use and development of the property in (excrutiating) detail. You will note there are similarities between the PUD Ordinance and the Annexation Agreement Amendment, but these are two distinct documents created for distinct (legal) purposes.

The TIF Redevelopment Agreement is a necessary document when TIF funds are being used for developing property in a TIF district. In this instance, TIF funds collected from the increment created by the new development will be reimbursed to the developer according to a schedule and terms in the Redevelopment Agreement.

For your information, the Walgreen's site development is, technically, Unit One of the Praire Grove Commons development. With the six lots being approved with the Annexation Agreement and PUD Ordinance being a continuation of Praire Grove Commons they are referred to as Prairie Grove Commons Unit 2 in the documents. Future development areas on the property will be Unit 3, Unit 4, etc.

For your recollection, here are the highlights of the three documents (in no particular order of importance):

Zoning and Land Use. The underlying zoning will not go away. The B-3 classification will remain. Unlike the original Agreement, the Amendment requires development of the property as a PUD. The uses permitted on the property are aligned with the current Zoning Ordinance. Specifically, the Amendment limits permitted uses to those permitted in the retail, restuarant and office sections of the permitted use table in the Zoning Ordinance. Residential, civic, and industrial uses, otherwise permitted in the B-3 District, are specifically excluded from this property. The specifics for land use and design elements relating to the physical design of the property are provided in more detail in the PUD Ordinance.

The PUD Ordinance allows the developer to construct the first bank, hotel, car wash, hotel, and fuel station on the property without a Special Use Permit. Each subsequet bank, hotel , car wash, and fuel station will require a Special Use Permit.

Roads and Highways. The Annexation Agreement Amendment memorializes the design of existing and proposed roadways on the property by referencing the approved engineering plans. Division Drive will be extended south of Galena Boulevard and a new east-west street, Van Owen Street, wil be added south of Galena Boulevard to intersect with IL 47. The Village also retains the right to extend roads on this property to the west in the future.

The applicant desires to delay construction of necessary improvements in Galena Boulevard until demand warants the changes (the application submittal shows the pavement improvements necessary to accommodate traffic at full-build-out). The proposed improvements in Galena Boulevard are minor in scope but are necessary to accommodate traffic flow when traffic volume increases in the vicinity of Division and Galena Boulevard. The Developer will provide the additional right-of-way upfront, the actual roadway improvemtns will be determined on an as needed basis.

IL 47 (IDOT) Access. Access to IL 47 is essential to commercial development on the property. The applicant agrees to prepare all required plans for IDOT approval for the Village to submit. The

applicant will reimburse the Village for cost incurred in the application process. The application and plans have been submitted to IDOT. To the best of our knowledge, the proposed location and design of the access to IL 47, including relocation of the IL 47 ramp to US 30, is satisfactory to IDOT. At this time, the only uncertainty is a final decision on the purchase price for the access rights.

Division Drive reimbursement. The original Agreement included reimbursement of the Village's costs to extend Division Drive to Galena Boulevard. When Galena Boulevard was constructed Division Drive did not extend to it. The Village constructed the connection at its cost (\$146,658.00). The Amendment waives the reimbursement requirement.

Liquor Control Ordinance Amendments. The Amendment obligates the Village to issue a liquor license under the newly created "pour license" category in the Village's liquor control ordinance.

Economic Development Incentives. The original Agreement included a commitment by the Village to exercise sales tax rebates as an economic development incentive on the property. The Amendment removes the sales tax rebate agreement and acknowledges the TIF as a financial incentive. The Village agrees to commit up to \$940,000 (plus interest at 3.5%), of TIF funds generated by the subject property for specified TIF-eligible expenses. A separate TIF Redevelopment Agreement has been prepared and is attached for your review and approval.

Quick-Start Opportunity. Given the circumstances the developer finds himself, fast-start or quick-start construction is not unusual. The Agreement gives the developer the ability to begin construction of the public improvements, particularly mass grading, utilities and the off-site sanitary sewer, in advance of final recording of all of the necessary documents. The developer asked for permission to begin removing trees on the property in advance of drainage improvements and Village staff indicated this was acceptable. Be advised, tree removal may begin before the documents are approved. The quick-start ability is conditioned upon provision of an acceptable financial security to the Village and implementation of storm water pollution protection measures.

Burial of Utilities. The original Agreement included an obligation by the developer to bury existing overhead utilities along the property frontage and off-site, as well. The Amendment limits the developer's obligation to burying existing overhead utilities on the frontage of the property. The Village is currently pursuing the burial of off-site utilities utilizing TIF funds. The off-site utilities that need to be buried are located along the frontage of Walgreen's and Culver's and the two crossings over IL 47.

Off-Site Easements. The original Agreement included provisions for assistance from the Village in acquisition of any off-site easements for necessary utility improvements. The Village will be responsible for facilitating the off-site easements for the sanitary sewer improvements to serve the project. The off-site easements are prepared and have been delivered to the respective property owners for signatures. One property owner has signed and returned the easement.

Building Permits and Occupancy Permits. The original Agreement contained normal terms for issuing building and occupancy permits as the development schedule was typical. The proposed Amendment recognizes the sense of urgency to get public improvements and individual site improvements under construction simultaneously. Which implies special considerations need to be addressed ahead of time for issuing building and occupancy permits. The Amendment acknowledges building permits may be issued prior to completion of public improvements to serve the lots, but it is clear that final occupancy will not be considered or given if the public improvements, particularly utilities, are not completed and operational at the time of occupancy.

Stormwater Management Facilities. When Walgreen's was developed, development of the remainder of the property was imminent and a temporary stormwater detention basin was constructed on the property to serve the Walgreen's site development. The Agreement acknowledges the temporary detention basin and its relocation to the proposed new detention basin location (Lot 6), which will be constructed in phases as the property develops.

Development Signs. The developer will provide a development sign (similar to Sugar Grove Center) on Galena Boulevard at Division Drive and at Van Owen Street and IL 47 as directed by the Village Board.

Plan Approvals. As has been discussed in the past, the review and approval of Prairie Grove Commons is a hybrid of the approach specified in the Village Zoning Ordinance. The developer will provide a preliminary/final PUD plan for each phase of development as the property is developed, rather than providing a master plan and developing phases in accordance with the master plan. Each lot will be required to prepare a final PUD plan for approval by the Planning Commission and Village Board. Village staff has supported this approach only in this particular instance. The Amendment memorializes this approach and specifies how subsequent phases of development will be prepared, reviewed and approved. The Village Board retains complete discretion in the approval of subsequent phases of development, including building appearance and landscaping standards.

Village staff is of the opinion the required approval documents are all but complete, except as noted below.

Approval of the Annexation Agreement is the first of four specific actions required by the Village Board to complete the entitlement process for Prairie Grove Commons which are: an Annexation Agreement Amendment; approval of a PUD Ordinance; approval of a Subdivision Plat (Unit 2); approval of off-site Plats of Easement (sanitary sewer); and, an ordinance authorizing a TIF redevelopment agreement. An Ordinance establishing a back-up SSA for stormwater management facilities will follow.

Final approval of the PUD plans is greatly complicated by the unresolved nature of the IDOT access. The complication is IDOT needs to sign the plat of subdivision. If there is no agreement on the access to IL 47, IDOT will not sign the plat of subdivision. Without IDOT's signature, the plat will not be recorded at the Recorder's office. It is highly likely Village staff will recommend approval of the PUD Ordinance subject to IDOT approval.

The Annexation Agreement has a highlighted section (Section 3-A-2) which is we continue to wordsmith how to deal with setbacks on future development south of the future Van Owen Street if the Village exercises its demand to increase the right-of-way from 66-feet to 80-feet on Van Owen Street. We expect this to be resolved well before final action by the Village Board.

The PUD Ordinance for the development has been prepared. It will provide all of the necessary detail concerning the development and improvement of the property. The final engineering plans are complete and approved. The developer has begun the process to obtain permits from other agencies prior to construction.

The required public hearings for the Annexation Agreement Amendment and the Special Use Permit for PUD have been held. The Planning Commission recommended approval of the Special Use Permit for PUD.

COSTS

There are no costs to discuss the matter.

ATTACHMENTS

The following documents are complete and are ready for your review and approval.

- PC21-009 Special Use Permit for PUD
- PC21-009 Special Use Permit for PUD Findings of Fact
- Exhibits lists
- Ordinance Approving Annexation Agreement Amendment (Prairie Grove Commons)
- Ordinance Granting a Special Use Permit for a Planned Unit Development
- Ordinance Approving a TIF Redevelopment Agreement

Note: the attached Annexation Agreement Amendment, PUD Ordinance and TIF Redevelopment Agreement are all draft documents and subject to change prior to approval.

RECOMMENDATION

The Village Board should provide input and direction to Village staff and the applicant in order to prepare the documents for approval.

EXHIBITS LIST

<u>Annexation Agreement</u>	<u>PUD Ordinance</u>	<u>TIF Agreement</u>	
<u>Exhibit A</u>	<u>Exhibit A</u>	<u>Exhibit 8</u>	Legal Description
<u>Exhibit B</u>	<u>Exhibit B</u>	<u>Exhibit 5</u>	Permitted and Special Use List
<u>Exhibit C</u>	<u>Exhibit E</u>		Final Plat of Subdivision*
<u>Exhibit D</u>			TIF Development Agreement**
<u>Exhibit E</u>	<u>Exhibit G</u>		Monument Subdivision Signs Plan
<u>Exhibit F</u>			Reciprocal Easement Agreement (“REA”)
<u>Exhibit G</u>			Utilities*
<u>Exhibit H</u>			Private Property Traffic Enforcement Agreement
<u>Exhibit I-1.1</u>			Sanitary Sewer Easement*
<u>Exhibit I-1.2</u>			Sanitary Sewer Easement*
<u>Exhibit I-2</u>			Stormwater Management Easements*
<u>Exhibit J</u>			Snow Plowing Agreement
<u>Exhibit K</u>			Special Service Area Ordinance
<u>Exhibit L-1</u>	<u>Exhibit H</u>		Prairie Grove Commons Unit Two Deviations List
<u>Exhibit L-2</u>			Remainder Property Deviation List (Exclusive of PGC Unit 2).
<u>Exhibit M</u>		<u>Exhibit 7</u>	Prairie Grove Commons Unit Two PUD Ordinance**
	<u>Exhibit C-1</u>		PUD Plan*
	<u>Exhibit C-2</u>	<u>Exhibit 9</u>	Final Engineering—Prairie Grove Commons Unit 2 Plan*
	<u>Exhibit C-3</u>	<u>Exhibit 9</u>	Final Engineering—Public Road Improvements*
	<u>Exhibit C-4.1</u>		Perimeter Landscape Plan*
	<u>Exhibit C-4.2</u>		Native Landscape Plan*
	<u>Exhibit D-1</u>		Grant of Easement*
	<u>Exhibit D-2.1</u>		Temp Construction/Permanent Drainage & Utility Easement Agreement*
	<u>Exhibit D-2.2</u>		Temp Construction/Permanent Drainage & Utility Easement Agreement*
	<u>Exhibit F</u>		Termination of Temporary Drainage Easement
		<u>Exhibit 1</u>	Eligible Redevelopment Project Costs
		<u>Exhibit 2</u>	Request for Reimbursement
		<u>Exhibit 3</u>	Form of Transferee Assumption Agreement
		<u>Exhibit 4</u>	Description of Redevelopment Project and the Work
		<u>Exhibit 6</u>	Annexation Agreement Amendment**

***detached document file attached or link provided**

****exhibits within document are not duplicated**

VILLAGE PRESIDENT
Jennifer Konen

VILLAGE ADMINISTRATOR
Brent M. Eichelberger

VILLAGE CLERK
Alison Murphy



COMMUNITY DEVELOPMENT DEPARTMENT

VILLAGE TRUSTEES

Matthew Bonnie
Sean Herron
Heidi Lendi
Michael Schomas
Ryan Walter
James White

R E C O M M E N D A T I O N

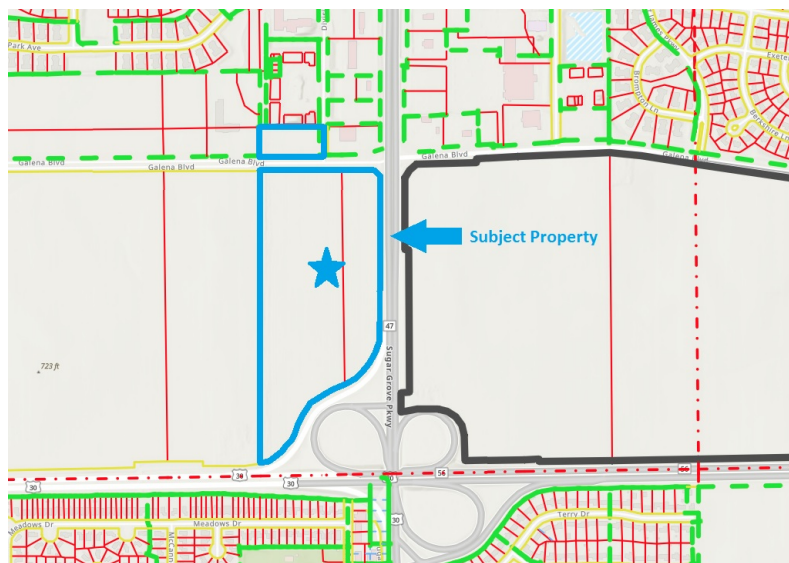
PC21-009

TO: Village President and Board of Trustees
FROM: Planning Commission
DATE: Meeting of July 21, 2021
Petition: 21-009
Special Use (PUD)
Southwest Corner of Galena and IL Route 47

PROPOSAL

The applicant is requesting a Special Use Permit for a Planned Unit Development for a property located on the southwest corner of Illinois Route 47 and Galena Boulevard. The undeveloped property at the northwest corner of Division Drive and Galena Boulevard also is included in the request.

LOCATION MAP



BACKGROUND & HISTORY

The subject property is currently farm land zoned B-3 District. The property is subject to an Annexation Agreement adopted in 2009 that entitle the property for a big-box retail user and accessory uses. The Walgreen's was part of the original development plan that was described in the Annexation Agreement and is the only development in the Annexation Agreement that was constructed. The plan approved by the Annexation Agreement is no longer economically viable. The applicant is preparing an Annexation Agreement amendment for the Village Board's consideration which will effectively divorce the current proposal from the original development plan.

The Annexation Agreement Amendment and the PUD approval will apply to the entire tract of land, except the Walgreen's site. The initial phase of development (Phase 2*) will include the frontage along the south side of Galena Boulevard and the west side of IL 47 up to a new intersection generally midway between Galena Boulevard and the US 30 entrance ramps. Detention for the entire tract of land will be constructed in phases on Lot 6 on the subdivision plat. A temporary detention basin currently exists on the property to serve Walgreens and Galena Boulevard. This basin will be relocated and the easement vacated. Also included in the development of the initial phase is the extension of Division Drive south of Galena Boulevard and a new east-west street to intersect with IL 47.

*[Technically, the Walgreen's site is Phase 1 in the eyes of the current Annexation Agreement. Amending the Annexation Agreement will not make the Walgreen's site disappear, thus the next phase of development being presented is Phase 2 despite it being the initial phase of development on the south side of Galena Boulevard].

While the applicant is requesting approval of a Planned Unit Development (PUD), the approach to developing the property is more like a commercial subdivision. That is the applicant will construct the required public improvements but will not be constructing the commercial buildings or other site improvements associated with future end users. The end users will construct their buildings and complete all lot improvements, including parking, utilities, landscaping, signs, and outdoor illumination. The end users will be required to return to the Planning Commission and Village Board for final PUD approval for their respective lot developments.

Also, unlike the typical PUD, there is no preliminary plan for development of the entire parcel. The commercial market is difficult to read, today, and the applicant cannot make representations for future development with the market in the transition that it is in. Village staff and the applicant have attempted to provide a plan for the initial phase that leaves open many options for the development of the remainder in the future.

The applicant cannot divulge who possible end users will be, but has commitments from national retailers for four of the proposed lots. Lot 1 is expected to be developed as an automobile service station and lots 2 thru 4 are anticipated to be developed as food service uses.

PUBLIC RESPONSE:

After due notice, a public hearing was held on July 21, 2021. There were no objectors present.

DISCUSSION:

Plans for a bike path was discussed. The applicants explained that they plan to extend the bike path on the south side of Galena to IL Route 47. Commissioners expressed that they do not agree with the request to eliminate the requirement for bike facilities on the property.

Traffic was discussed. Access for semis and larger trucks to the individual lots was brought up as a concern from the Plan Commissioners. The applicant stated that part of the IDOT application required a truck turning study for access into the site, as far as access into each individual lot that will part of the Final PUD application from each end user. The Commissioners suggested creating a place for parking of semis and larger trucks, the applicants responded with stating that that could also be part of the Final PUD. Commissioners discussed the figures presented in the traffic study and expressed concerns with the numbers. Javier Millan from KLOA explained the numbers to the Commissioners, and that the highest numbers are based on peak hours and on the entire development of the property being complete, to include the area that is not even being proposed to be developed yet. Commissioners inquired if IDOT would allow to have a traffic signal installed at the Galena and Division Drive intersection. The applicants explained that this would not be a possibility due to the proximity to the traffic signal at Galena and Route 47. Pedestrian crosswalks, lighting standards, signage, and FAA height limits were also discussed.

FINDINGS OF FACT:

Attached

RECOMMENDATION

After carefully considering the facts and public comments, the Planning Commission recommends the Village Board **approve** Petition #21-009, Special Use for a Planned Unit Development located at the southwest corner and Galena and Route 47 and adopt the standards for a Special Use, Standards for a PUD and the findings of facts for 11-11-6 as provided with the following condition:

1. Deviation of bicycle facilities not be approved

AYES: Eckert, Guddendorf, Jones, Wilson, Sabo, Bieritz, Ochsenschlager

NAYES: None

ABSENT: None

MOTION PASSED

STATE OF ILLINOIS)
)
COUNTY OF KANE) SS

Prepared by:

Laura M. Julien
Mickey, Wilson, Weiler, Renzi,
Lenert & Julien, P.C.
140 S. Municipal Drive
Sugar Grove, IL 60554

Return to after recording:

Village Clerk
Village of Sugar Grove
10 S. Municipal Drive
Sugar Grove, IL 60554

**FIRST AMENDMENT TO ANNEXATION AGREEMENT
(PRAIRIE GROVE COMMONS)**

This First Amendment to Annexation Agreement (“**Amendment**”), is made and entered into this ___ day of ___, 2022 (“**Effective Date**”), by and between the **VILLAGE OF SUGAR GROVE**, an Illinois municipal corporation (“**Village**”) and **SDP SUGAR GROVE, LLC**, an Illinois limited liability company, which shall include any successor Owner of all or part of the Owner Property, as hereinafter defined (“**Owner**”); as each may individually be referred to as a “**Party**” and collectively referred to as the “**Parties**.”

WITNESSETH

WHEREAS, the Village and the Owner’s predecessor in interest entered into an annexation agreement on January 21, 2010, recorded as Document No. 2010K005388 (“**Annexation Agreement**”) consisting of the Owner Property (defined below) and Prairie Grove Commons Unit One (commonly known as Walgreen’s) (“**Unit One Property**”); and,

WHEREAS, the Parties desire to amend and restate the Annexation Agreement for the Owner Property (as hereafter defined), replacing all provisions of the Annexation Agreement for the Owner Property with the restated provisions contained in this Amendment for the Owner Property only; and,

WHEREAS, Owner owns fee simple interest in the Owner Property which is legally described in **Exhibit “A”**, attached hereto and incorporated herein, consisting of approximately 36.69 acres, more or less (“**Owner Property**”); and,

WHEREAS, all notices required by law relating to this Amendment have been given to the persons or entities entitled to such notice pursuant to the applicable provisions of the Illinois Compiled Statutes; and,

WHEREAS, pursuant to due notice and publication in the manner provided by law, the appropriate zoning authorities of the Village have had such public hearing(s) and have taken all further action required by the provisions of 65 ILCS 5/11-15.1-3 and the ordinances of the Village relating to the procedure for the authorization, approval, and execution of this Amendment by the Village; and,

WHEREAS, in accordance with the powers granted to the Village by the provisions of 65 ILCS 5/11-15.1-1 through 15.1-5, inclusive, relating to Annexation Agreements, the Parties hereto wish to enter into this binding Amendment with respect to the Owner Property and to provide for various other matters related directly or indirectly to the Owner Property as authorized by the provisions of said statutes; and,

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and conditions herein contained, and by authority of and in accordance with the aforesaid statutes of the State of Illinois, the Parties agree as follows:

1. AMENDMENT TO ANNEXATION AGREEMENT

The Parties acknowledge that the Owner Property and Unit One Property were annexed into the Village and an Annexation Agreement was entered into pursuant to Ordinance No. 20090203A and recorded in the Office of the Kane County Recorder as Document No. 2010K005388. The Parties now wish to amend said Annexation Agreement as to the Owner Property only, in accordance with the provisions of the Illinois Compiled Statutes, 65 ILCS 5/11-15.1-1 through 15.1-5 inclusive, as pertaining to Annexation Agreements.

2. ZONING AND PLANNING

A. Zoning Classification and Development.

The Owner Property shall be classified as B-3 Regional Business District with such permitted and special uses as set forth in the attached **Exhibit “B”**. A Special Use Permit for a Planned Unit Development shall be issued for the portion of Owner Property designated as Prairie Grove Commons Unit Two (“**Prairie Grove Commons Unit Two**” or the “**Unit Two Property**”) subject to the requirements and restrictions specified in Section 2C below. No other development or use of the Owner Property (exclusive of the Unit Two Property and except as permitted by Section 22 hereof) except for utility extensions appurtenant to the Unit Two Property installed within easements granted to the Village or respective franchises, shall be permitted until compliance with Section 2C is made. The phasing of development of the Owner Property shall be subject to the approval of the Village. A deviation or special use approval granted by the Village for the Owner Property shall become null and void if a building permit is not applied for within five (5) years after the Effective Date of this Amendment on one of the five lots shown on the Prairie Grove Commons Unit Two PUD Plan. The Village may not

initiate a zoning map amendment unless a building permit has not been applied for within five (5) years after the Effective Date of this Amendment on one of the five lots shown on the Prairie Grove Commons Unit Two PUD Plan.

B. Final Plat and Plan Approval (Unit One Property).

A Final Plat of Subdivision for Prairie Grove Commons Unit One and related plans for said development were approved pursuant to Resolution No. 20090203CDA and recorded in the Office of the Kane County Recorder as Document Nos. 2010K060656 and 2010K060655 respectively. This Amendment does not affect the Unit One Property, which remains subject to the original Annexation Agreement.

C. Unit Two PUD Approval.

The Village, immediately after adoption of this Amendment, shall adopt *An Ordinance Granting a Special Use, Planned Unit Development Permit, and Approving a Final Plat of Subdivision in the Village of Sugar Grove, Kane County, Illinois* in the form attached as **Exhibit “M”** for Prairie Grove Commons Unit Two. (“Prairie Grove Commons Unit Two PUD Ordinance”).

The remainder of the Owner Property not included in Prairie Grove Commons Unit Two (“**Remainder Property**”) shall not be developed or used (except as permitted by Section 22 hereof) and except utility extensions appurtenant to the Unit Two Property installed within easements granted to the Village or respective franchises, until all required approvals are granted by the Village, including the creation of a new planned unit development for any such portion being developed, which shall be granted or denied in accordance with this Amendment and Village Ordinances.

In no case shall a planned unit development be approved with less than four (4) members of the corporate authorities voting in favor of said planned unit development. In the event of a meeting wherein only four (4) members of the corporate authorities are present, the Village shall, at the request of the Owner, continue said vote on said planned unit development to the next available meeting date.

D. Reserved.

E. Village Codes and Ordinances.

The Village and Owner agree that except as specifically modified by this Amendment and the attached drawings and exhibits, the Owner Property shall be developed in compliance with all ordinances, codes and regulations of the Village as amended from time to time, provided, however, that the application of any such ordinance, regulation or code shall not alter or eliminate any of the variances, bulk restrictions, and exceptions to ordinances provided for herein.

3. ROADS AND HIGHWAYS

A. Right-of-Way & Standards.

Owner shall be required to dedicate certain right-of-way in the manner set forth in this paragraph. All of the right-of-way specified herein shall be dedicated free of cost to the Village or the Village designated governmental authority, provided the dedication widths do not exceed the widths provided in this paragraph, and concurrent with the recording of the Final Plat of Subdivision for Prairie Grove Commons Unit Two. Notwithstanding the foregoing, the dedication of the additional fourteen (14) feet of right-of-way requested for Van Owen Drive shall be deferred until dedication is requested by the Village. Construction of roadway improvements for Prairie Grove Commons Unit Two shall be in accordance with the provisions contained in the Prairie Grove Commons Unit Two PUD Ordinance. Any future construction of roadway improvements for the Remainder Property shall be in accordance with generally accepted traffic engineering standards, Village Ordinances, and IDOT requirements, and shall not be required until necessitated by the development of the Remainder Property to complete road and highway improvements serving the Owner Property and/or necessary to respond to increased traffic demands generated by the Remainder Property based upon generally accepted traffic engineering standards. Any future construction of roadway improvements required for the Remainder Property as provided in the preceding sentence shall be considered at the time a planned unit development application is reviewed by the Village for the Remainder Property. The provisions of this paragraph shall not apply to any right of way obtained at the Village's cost.

- 1) **Galena Boulevard.** One hundred and forty (140) feet total for Galena Boulevard, which includes one hundred twenty (120) feet of existing right-of-way and twenty (20) feet of additional right-of-way, as generally shown on **Exhibit "C"**. For the purpose of implementing this provision, applicable setbacks will be measured from the end of the currently existing one hundred twenty (120) foot right-of-way. Any necessary deviations to effectuate this provision, which shall include reducing the parking/landscape and building setbacks, will be provided for as part of the PUD Ordinance for Prairie Grove Commons Unit Two or any future PUD Ordinance for the Remainder Property, if applicable.
- 2) **Van Owen Street.** Eighty (80) feet total of right of way for Van Owen Street, which includes sixty-six (66) feet of initial dedication as generally shown on **Exhibit "C"** and fourteen (14) feet of additional right-of-way on the south side of Van Owen Street at such time as requested by the Village. For the purpose of implementing this provision, applicable setbacks will be measured from the end of the currently existing sixty-six (66) foot right of way. Any necessary deviations to effectuate this provision, which shall include reducing the parking/landscape and building setbacks, will be provided as part of the PUD Ordinance for Prairie Grove Commons Unit Two or any future PUD Ordinance for the Remainder Property, if applicable.

3) **Division Drive.** Sixty-six (66) feet of right-of-way for Division Drive as generally shown on **Exhibit “C.”**

4) **IL-47.** As determined by IDOT.

B. Recapture For Roadways.

The Village represents that as of the date of the execution of this Amendment, Owner does not owe any recapture fees to the Village and the Village hereby waives the \$146,658.00 recapture obligation fee for its construction of North Division Drive as previously required by Section 3.B of the Annexation Agreement.

C. Reserved.

D. IDOT Access.

The Village shall seek and sponsor for public use, at Owner’s expense, and take all steps reasonably necessary to obtain from IDOT a second release of the access control rights on the Owner Property necessary to allow access to the Owner Property as set forth herein below. The Village recognizes the importance of a second access to the Owner Property. The Village and the Owner shall thereafter support, assist, and cooperate in obtaining such approvals and permits as may be required from time to time permitting at least one such additional access point to the Owner Property from State Route 47 south of Galena Boulevard and north of U.S. Route 30, in order to develop and use the Owner Property. The Parties acknowledge that the Village has submitted a request to IDOT for right-in right-out access in keeping with this paragraph. In the event that IDOT does not approve the requested access point, the Village shall, in good faith, continue to sponsor and support such access that the Village determines can be supported without jeopardizing full access to the parcel(s) east of the Owner Property. Notwithstanding the foregoing, while it is contemplated that a right-in, right-out access point may be sufficient at the time of the execution of this Amendment, the Village shall reserve the right to request a full access point or expansion to include a left-in access point in the future. Owner shall not be responsible for the cost of access beyond a right-in right-out unless it is necessary for the development of the Remainder Property as determined by generally accepted traffic engineering standards, Village Ordinances, and IDOT requirements. If a full access or left-in access point is approved in the future, the Village shall exercise reasonable efforts to preserve the right-in on Van Owen Street onto Lot 4 of Prairie Grove Commons Unit Two.

E. Reserved.

F. Reserved.

4. FEES, DONATIONS, AND CONTRIBUTIONS

A. Annexation and Development Related Fees.

Owner shall pay those fees uniformly imposed by Village Ordinance as amended from time to time, in such amount as shall be established from time to time by Village Ordinance. The Parties also acknowledge that there are many fees that could affect the Owner Property after

development which are not addressed herein (e.g., including, but not limited to, special event fees, business licensing fees, remodeling permit fees, etc.); this Amendment does not limit the Village's authority to impose such existing fees or other fees not yet imposed that are unrelated to the initial development of the Owner Property. The Village makes no representations or commitments as to fees or charges imposed by any other governmental or private entity having jurisdiction over the Owner Property.

B. Reserved.

C. Municipal Consultants' Fees.

Owner and Village agree that for the costs of review by experts and other consultants necessary for the review of the development of the Owner Property, Owner shall reimburse the Village as required in the Village's Ordinances and Resolutions (without markup, but subject to any penalties or late fees imposed by Village policies applicable to similarly situated users of Village services).

D. Reserved.

5. LAND ISSUES

A. Reserved.

B. Reserved.

C. Liquor Control Ordinance Amendments.

Upon written request of Owner, its authorized representative, or successor lot owner, and upon compliance with all terms of the Village's Liquor Control Ordinance and State of Illinois Liquor Control Regulations, the Village agrees to amend its Liquor Control Ordinance to create one (1) pour license for a motor vehicle fuel station on the Owner Property. This provision shall not be construed to prohibit the creation of additional liquor licenses for the Owner Property without further amendment of this Amendment.

D. Economic Incentive Agreements.

The Parties acknowledge and agree that due to changes in economic circumstances since the Annexation Agreement's inception, it is in the best interest of both Village and Owner to explore alternative economic incentives to support the development of the Owner Property, including the use of funds from the Northeast Airport Tax Increment Financing District #2 ("**TIF #2**"), adopted by the Village in 2015 and of which the Owner Property is part and as more specifically set forth in the TIF Development Agreement attached hereto as **Exhibit "D"**. The Parties agree that Owner's ability to seek reimbursement for eligible redevelopment costs through TIF #2 shall be limited to repayment from the increment generated by the development of the Owner Property as more particularly described in the TIF Development Agreement and is in lieu of the previously adopted Sales Tax Rebate Agreement, adopted on February 3, 2009, pursuant to Ordinance No. 20090203D and recorded as document number 2010K005389 with the Office of

the Kane County Recorder. At the same Village Board Meeting as the adoption of this Amendment, the Village shall adopt the TIF Development Agreement for the Owner Property in substantially the same form as **Exhibit “D”**. The execution of this Amendment shall constitute each Party’s consent to terminate and repeal said Sales Tax Rebate Agreement as applied to Owner Property effective as of the date of this Amendment and the Parties shall take all measures necessary and appropriate to effectuate this action. If any inconsistency between this paragraph and the TIF Development Agreement attached as **Exhibit “D”**, **Exhibit “D”** shall control.

6. SIGNAGE AND DEVELOPMENT ISSUES

A. Signage and Signage Maintenance

Signage shall be approved for the Owner Property as part of the final PUD plan review for the development of each individual lot. All signage shall be located on the Owner Property and comply with all Village Ordinances unless otherwise approved in the PUD Ordinance or any Final PUD or Final Plat and Plan for any portion of the Owner Property. In addition, no more than two (2) Permanent nonresidential permitted signs for a nonresidential subdivision of 10 or more acres (“**Monument Subdivision Signs**”), as defined in Section 11-14-9 of the Village Zoning Ordinance, shall be permitted. Said Monument Subdivision Signs shall be used exclusively for advertising businesses located on lots on the Owner Property having no direct frontage to Galena Boulevard or State Route 47. Monument Subdivision Signs shall be located on the Owner Property only at the intersection of Galena Boulevard and Division Drive and Van Owen Street and State Route 47. The elevations for these two Monument Subdivision Signs are attached as **Exhibit “E”** and are hereby approved by the Village.

All maintenance obligations related to signage shall be the responsibility of the Owner and/or successor lot owners or tenants. An easement shall be granted to the Village as part of a reciprocal easement agreement (“**REA**”) to be established by Owner for purposes of signage maintenance in the instance that Owner and/or successor lot owners or tenants fail to adequately maintain said signage. In that regard, the easement language set forth in **Exhibit “F”** shall be contained in the REA and shall not be amended or changed without approval of the Village (however, any such approval shall not require an amendment to this Amendment). The REA shall provide the Village the right, but not the obligation, to enter upon the Owner Property and perform any necessary maintenance activities at the cost and expense of the Owner and/or any successor lot owners or tenants. The Village’s rights under the REA, as provided in this paragraph, shall in no way limit the Village’s ability to enforce any Village Ordinances, code, rule, or regulation in any other manner available under law or equity.

B. Indemnification.

Owner hereby agrees to indemnify, defend, and hold harmless the Village, the Corporate Authorities (as defined by the Illinois Municipal Code and Village ordinance), all Village employees, officers, consultants, and the Sugar Grove Fire Protection District (collectively “**Indemnitees**”) from all claims, liabilities, costs and expenses incurred by or brought against all or any of the Indemnitees as a direct and proximate result of the construction of any buildings prior to the installation of the public street and water improvements required to service such

buildings. Owner shall be permitted to obtain building permits for each lot in the development as permitted by Village Ordinance or as otherwise specified in this Amendment. The foregoing indemnification provisions shall, in such case, apply for the benefit of Indemnitees for each lot.

C. Site Development.

Owner may undertake site preparation, mass grading, and installation of underground utilities prior to obtaining final plat of approval for the Owner Property, at its sole risk, provided: (a) the Village Engineer has reviewed and approved the proposed grading and utility plan; (b) the Village has issued a mass grading permit; (c) to the extent required herein, Owner has posted a performance bond acceptable to the Village as to form and issuer; and (d) soil erosion control, tree protection measures (if any are required by Village Ordinance), and any other governmental approvals are in place. Owner hereby agrees to indemnify, defend, and hold harmless the Indemnitees from all claims, liabilities, costs, and expenses incurred by or brought against any or all of the Indemnitees as a direct and proximate results of the mass grading and site development work permitted under this sub-paragraph.

During mass grading, Owner may stockpile topsoil and other fill material ("stockpile" shall be defined as any topsoil and other fill material that exceeds the grade of the previous development or final grading of engineering by one foot (1') or more) on those areas designated in the final set of engineering plans. Stockpiles shall be constructed and protected so as not to erode or cause the flooding or material runoff of adjacent lots or public improvements. All stockpiles must be removed within the earlier of three (3) years of the commencement of mass grading or the issuance of certificates of occupancy for all of lots 1-4 of Prairie Grove Commons Unit Two. For each phase of development on the Owner Property after Prairie Grove Commons Unit Two, each phase shall be allowed stockpiles as defined above. The stockpiles shall be removed within the earlier of three (3) years of the commencement of mass grading or the issuance of the last certificate of occupancy for each phase. In order to reduce stockpiles on the Owner Property, Owner, during the construction of Prairie Grove Commons Unit Two, shall establish berms along State Route 47 and Galena Boulevard as depicted on the final engineering plans. The berms shall be established by planting and establishing a native seed mix. The berms shall be maintained by Owner until the sale of the lot on which the berm is located. Upon the sale or transfer of any lot, the berm shall be maintained by the current owner of the lot in which the berm is located. If native seed mix is utilized, a maintenance plan and schedule shall be provided to the Village.

As a condition of site development approvals, the Village may require that any improvements (e.g., lighting, landscaping, paving, etc.) maintain a certain level of consistency with other developments across the same general corridor. In addition, visual and aesthetic compatibility shall be required within the development. Upon the Village's approval of plans for any portion of Owner Property, the Village may require subsequent submittals to conform with the previously approved elements.

D. Construction Offices and Trailers.

Upon application for and receipt of a building permit, Owner shall be permitted to set temporary construction offices on the Owner Property prior to obtaining final plat approval. Owner shall also be entitled to place contractor trailers on the site prior to final plat approval. Any construction office or contractor trailer shall be situated so as to ensure that it is more than five hundred (500) feet from any existing residential property except residential properties located south of U.S. Route 30. Said offices and/or trailers shall be moved, when and where required, throughout the course of the development of the Owner Property, to ensure that the required five hundred (500) foot separation continues to be adhered to at all times. The offices and/or trailers shall only be located on the Owner Property as approved by the Village and concurrent with an active permit and during times of actual construction, which shall be reviewed on an annual basis.

E. Extension of all Public Improvements

Owner shall extend the required public improvements to the borders of the Owner Property as reasonably determined by the Village using generally accepted engineering principals for developments of similar size and scope in the Chicago Metropolitan area and taking into consideration reasonably proposed suggestions or alternatives proposed by Owner's engineer. The Parties acknowledge and agree that the Village shall have the right, but not the obligation, to complete construction of Van Owen Street improvements on the Remainder Property, at the Village's cost and expense, to facilitate connection to the adjacent property west of the Owner Property ("**Adjacent Property**") upon notice to Owner. Upon such request, Owner shall dedicate sixty six (66) feet of right of way to the Village at no cost to the Village as required by Section 3(A) herein; provided however, if the Adjacent Property is developed for either a i) individual warehouse or distribution facilities of greater than one hundred thousand (100,000) square feet without an on-site sales function; or ii) a refuse or recycling use, such dedication shall be conditioned upon the Village restricting semi-truck traffic on the Adjacent Property from directly accessing the Owner Property to the extent allowable under State and Federal Law. Said obligation to restrict semi-truck traffic shall expire if the Owner Property is not seventy-five percent (75%) developed within six (6) years of approval of this Amendment. If Owner Property is seventy-five percent (75%) developed within six (6) years of approval of this Amendment, then this obligation shall expire fifteen (15) years following approval of this Amendment. Said restriction on semi-truck traffic shall not apply to deliveries made by trucks to or from Owner Property or to semi-truck traffic directly accessing the Adjacent Property (i.e., no cut through semi-truck traffic will be permitted).

Additionally, the Parties acknowledge and agree that the extension of sanitary sewer offsite shall be necessary, and that the Village will assist Owner with the procurement of easements as more specifically set forth in Section 6(F)(1) below.

F. Easements

1.) **Offsite Easements.** The Village agrees to assist Owner in the acquisition of all necessary offsite easements, including its use of the power of eminent domain to acquire the same. In such a case, Owner shall pay all costs incurred by the Village as a result thereof. Owner shall deposit the amount of such costs reasonably estimated by the Village into an escrow account prior to the commencement of such eminent domain proceedings by the Village and shall replenish said funds at such times and in such amounts as are required by the Village. Such funds shall be utilized solely to defray such costs and all funds, including interest, remaining in such escrow upon completion of such proceedings shall be refunded to Owner.

2.)

2.) **Additional Easements.** Upon Village's request, Owner shall dedicate at no cost to the Village any easements reasonably determined by the Village to be necessary for the construction, maintenance, and use of public improvements.

G. Burial of Utilities

Owner shall bury all existing utilities and all utilities constructed for the development (as each phase is developed), located on Owner Property and along all roadways/rights-of-way contiguous to the Owner Property as required by the Village Engineer and as approved by the Village, unless specifically prohibited by the applicable utility. The existing utilities to be buried as part of the development of Prairie Grove Commons Unit Two are more specifically set forth on the attached **Exhibit "G"**.

H. Traffic Enforcement

Prior to recording any final plat, Owner shall enter into a separate written agreement providing for traffic law enforcement on all private drives and parking areas of the Owner Property, which shall be in substantially the same form as **Exhibit "H"**. The Parties further agree that **Exhibit "H"** may be modified or amended by the Parties, which shall not require further amendment to this Amendment.

I. Cross Access Easements

Owner shall provide cross-access easements between lots within the Owner Property and also to land outside the Owner Property as reasonably required by the Village Engineer and Community Development Director. Such cross-access easements shall be limited and construed to be driveways, drive aisles, and pedestrian/bicycle ways within the Owner Property. All site improvements shall be constructed in such a manner so as to accommodate cross-access in the areas so identified.

J. Certain Subdivision Specifications

Any required improvements not otherwise specified in this Amendment shall be installed in accordance with the then current Subdivision Control Ordinance of the Village.

7. BUILDING AND OCCUPANCY PERMITS

A. Building Permits.

The Village agrees to issue each building permit for which Owner, or its authorized representative, applies within a reasonable time of the date of application therefore or to advise said applicant of objections to such issuance designating in writing the ordinances, regulations, or sections of this Amendment relied upon by the Village in so objecting. The Village agrees to issue such building permits upon the applicant's compliance with those provisions of the ordinances and regulations so designated by the Village, except to the extent such ordinances or regulations, or the applicability thereof, are modified by this Amendment. In order to expedite review, upon the mutual agreement of the Parties and upon Owner's agreement to pay for all review fees for a third-party review of Owner's application, if the Village exceeds ten (10) business days in reviewing a building permit application the Village shall employ a third-party professional review of said permit by a firm acceptable to and chosen by Village staff. In addition, Owner, its authorized representative, or any successor lot owner may apply for building permits prior to the installation and availability of storm sewer, sanitary sewer, and potable water service to such portion of the Owner Property. Permit applications will only be reviewed upon approval of final engineering and a final plat by the Village Board and upon Owner's submission of a timetable for its expected completion of utilities, which must be approved by the Village.

B. Occupancy Permits.

The Village shall issue occupancy permits within a reasonable time following application thereof, or post notice of denial, informing the applicant specifically as to the corrections necessary as a condition precedent to the issuance of an occupancy permit and designating the section of the code, ordinances, or sections of the Amendment relied upon by the Village at its request for correction. No occupancy permits shall be issued for such portions of the Owner Property until the availability of such utilities to the structure in question is demonstrated, including a binder course of pavement on the street fronting the structure seeking an occupancy permit. The Village agrees to issue temporary occupancy permits in accordance with Village ordinances, good for the period between November 1 and April 15 of each year, when exterior work, including but not limited to final grading work, parking lot and landscaping installation, cannot reasonably be completed. The Village agrees to issue "limited occupancy permits" solely for the installation of trade fixtures and stocking of shelves and merchandise, and for the training of employees when buildings have electricity, heating ventilation and air conditioning, water and sewer services, and fire suppression services functioning in the building. Limited occupancy permits shall be defined as permits to allow only the above activities and at the discretion of the Chief Building Official may be suspended or revoked for life safety issues without notice.

8. SANITARY AND STORM SEWER

A. Annexing to Fox Metro Water Reclamation District.

- 1.) Annexation.** The Owner Property is located in the Fox Metro Water Reclamation District (“**Fox Metro**”) FPA. Only Fox Metro has the present ability to provide sanitary service to the Owner Property. Owner agrees to file the necessary petitions and pay necessary fees to request the annexation of the Owner Property to Fox Metro. Village shall use its best efforts to assist Owner in the annexation process.
- 2.) Timing.** Village agrees that Owner, in its sole discretion, shall be allowed to determine the sequencing and timing of annexation to Fox Metro on a parcel-by-parcel basis, and that the entire site need not be annexed at the same time.
- 3.) Reserved.**

B. Easements Required for Fox Metro Water Reclamation District.

The Village agrees that to the extent applicable, it will: 1) support Owner’s engineering plans for sanitary sewer to the Owner Property, which Owner has submitted to Fox Metro using a single source of service and which shall not utilize either public or private lift stations or force mains which are hereby prohibited unless the Village Engineer, utilizing generally accepted engineering principles for developments of similar size and scope in the Chicago Metropolitan area, taking into consideration reasonable proposed suggestions or alternatives made by Owner’s engineer, determines that the Owner Property cannot be serviced without a force main or lift station and 2) Owner shall obtain the necessary easements as more specifically set forth on the attached **Exhibits “I-1.1” and “I-1.2” (“Easements”)** to connect sanitary sewer to the sanitary sewer system. These Easements can be modified by the Village Attorney without amendment to this Amendment. If necessary to service the Owner Property, at the time of final plat approval an easement for Fox Metro shall be provided through the Owner Property for the non-exclusive use by Fox Metro, its successors and/or assigns without cost to the Village or Fox Metro. However, should Fox Metro thereafter require additional easements that run through the Owner Property that are not necessary for the use of the Owner Property (i.e., to service other properties or to improve the overall service of Fox Metro but are not directly required to service the Owner Property), the Owners shall not be required to donate said easements (or other interests) and may negotiate the price of said easements with Fox Metro without violating the terms of this Amendment. Any such easement shall be in such width and location as is mutually agreeable to Owner and Fox Metro.

C. Sanitary and Storm Sewer Oversizing and Recapture

The Village represents that as of the date of the execution of this Amendment, to the best of its knowledge, no recapture fees are due and payable to the Village or due and payable to the Village on behalf of any person or entity with regard to any sanitary and storm sewer

improvements serving the Owner Property or as a result of connection to these utility improvements.

D. Temporary Sanitary Sewer

Subject to Village review and approval, Owner shall be allowed to construct on-site temporary sanitary sewer to service Prairie Grove Commons Unit Two in the instance that Owner has not yet obtained the Easements required in Section 8(B) hereof for the construction of the permanent sanitary sewer line and interim sanitary service is needed for Prairie Grove Commons Unit Two. Concurrent with Owner's construction of the temporary sanitary sewer, Owner must construct the on-site sections of the permanent sanitary sewer. The permanent off-site sanitary sewer must commence construction within twelve (12) months of the off-site Easements required in Section 8(B) hereof being obtained and recorded. The temporary on-site sanitary sewer must be abandoned to the Village's satisfaction within sixteen (16) months of Owner's acquisition of said Easements. Prior to construction of a temporary sewer, Owner shall provide the Village with an escrow or letter of credit in an amount acceptable to the Village's engineer to provide for Village managed construction of the permanent off-site sanitary sewer and the abandonment of the temporary sewer upon thirty (30) days written notice to Owner should Owner fail to meet the requirements of this Section. The surety shall be released by the Village upon the Village's acceptance of the permanent sanitary sewer improvements and the Village's approval of the abandonment of the temporary sanitary sewer, which acceptance and approval shall not be unreasonably withheld or delayed.

E. Storm Water Management.

- 1.) Owner shall comply with all United States Army Corps of Engineer and Illinois Department of Transportation District 1, Division of Water Resources, requirements in connection with any wetland areas located on the Owner Property and shall obtain permits from such agencies before construction begins on wetland areas and as a condition to any development approvals for said wetland areas to be granted by the Village. The Owner shall copy the Village with any plans, applications for permits, and issued permits relating to such wetland areas.
- 2.) Owner shall provide for the handling of storm water in accordance with the applicable Rules and Regulations of the United States Army Corps of Engineers, the Illinois Department of Transportation, District 1 Division of Water Resources, the Kane County Stormwater Ordinance, and any Village ordinances now or hereafter in effect. The storm water facilities shall include construction by Owner of storm drainage retention/detention facilities as may be required by such agencies and the Village Engineer. The size, depth, and outlet of the storm water detention areas is to be determine by final engineering plans based upon a controlled release rate of storm water runoff which shall not exceed the rate allowed by the Village Subdivision Control Ordinance.
- 3.) Upon development of the Owner Property and as a condition precedent to the approval by the Village of such development as required by the Annexation Agreement, the Owner

Property shall contain sufficient storm water management facilities to accommodate the Owner Property, Lot 1 in the Final Plat of Subdivision for Prairie Grove Commons Unit One, and the public roadways adjacent thereto pursuant to plans and permanent easements therefor approved by the Village as contemplated in the Annexation Agreement and set forth on the attached **Exhibit "I-2"**. This is intended to occur in accordance with and to fulfill the obligations set forth in the Clarification Letter dated February 16, 2012, and recorded as Document No. 2012K014037

9. WATER SUPPLY

A. Looping of Water Mains.

Owner agrees that the water system to ultimately service the entirety of the Owner Property shall be a looped water system. The basic looping of the water main is provided in the Prairie Grove Commons Unit Two final engineering plans. However, additional looping may be required depending on how the various lots develop. Any additional looping will be evaluated as engineering plans are prepared and reviewed for the individual lots. Both domestic and fire services to any given building shall be independently served from a looped water main. Additionally, no fire hydrant shall be installed on any water service line.

B. Water Main Oversizing and Recapture.

The Village represents that as of the date of the execution of this Amendment, to the best of its knowledge, no recapture fees are due and payable to the Village or due and payable to the Village on behalf of any person or entity with regard to any watermain improvements serving the Owner Property.

C. Connection to Village Water Main System.

Upon receipt of a properly completed application and payment of applicable connection fees, the Village shall be obligated to permit connection of the buildings contemplated to be built on the Owner Property, as provided in this Amendment, and the facilities for fire protection, to the Village's water supply system, and to supply water thereto, to the same extent as may be supplied to other similar structures and areas within the Village. Owner shall be responsible for the cost of all on-site water lines on the Owner Property and for all additional hook-on fees and user fees set forth in the Village's rules, regulations, and ordinances. All structures constructed on the Owner Property shall be required to use the Village water supply system to be dedicated and maintained by the Village. New privately owned and/or operated wells and new septic systems shall be prohibited. All existing wells on the Owner Property shall be properly capped per Kane County Health Department standards prior to commencement of mass grading.

10. CONSTRUCTION DELIVERY AND STREET AND SITE CLEAN UP

A. Street and Site Clean up

Owner acknowledges that, depending on weather conditions, construction traffic entering and leaving a construction site creates debris, especially dirt, stones, and mud clods 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 one thousand (1,000) feet of the entrance to Owner's construction site as needed 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 to comply with applicable ordinances of the Village. As security for such obligations, and as a condition of the issuance of any filing or grading permits, Owner agrees to deposit with the Village the sum of five thousand (\$5,000.00) dollars ("**Site Control Escrow**"). In the event Owner fails to clean the streets, mow weeds, pick-up debris (including trash or debris improperly deposited on the site by others), or repair or replace soil erosion control fencing as reasonably required, as herein provided, or within seventy-two (72) hours after receipt of written notice from the Village of Owner's failure to comply with this provision, then the Village may perform or contract with others to perform such undertaking and deduct the cost thereof from the Site Control Escrow. Owner shall within fifteen (15) business days following written notice from the Village, replenish the Site Control Escrow as funds are from time to time properly withdrawn therefrom by the Village, to maintain the same at a five thousand (\$5,000.00) dollar balance. All sums remaining on deposit with the Village pursuant to this provision shall be returned to Owner upon final acceptance by the Village of all public improvements, or completion of the development in accordance with the last Final Plat thereof, whichever shall be the last to occur.

B) Construction Access and Timing of Roadway Improvements.

1) Haul Road. A gravel haul road outside the right-of-way reasonably deemed satisfactory to both the Village and the Fire Protection District for emergency use must all be in place prior to issuance of any building permits. Notwithstanding the foregoing, no gravel haul road shall be required to be installed if Division Drive and Van Owen Street are constructed with base and binder course prior to issuing a building permit. Any haul road shall be removed upon the issuance of the first occupancy permit.

2) Roadway Improvements. Until such time as the final lift is installed, Owner shall maintain the binder course to the satisfaction of the Village, at Owner's sole cost and expense. The installation of final wearing surface or lift may be deferred for a period of up to thirty-six (36) months after installation of base and binder course or until eighty percent (80%) of the Prairie Grove Commons Unit Two lots are issued certificates of occupancy, whichever is sooner. Notwithstanding the foregoing, Owner may be required to complete the final wearing surface or lift upon request of the Village if necessitated by poor pavement conditions as determined by the Village Engineer. Owner shall warrant the quality of the construction of the roads in conformance with Village ordinances, and shall provide as part of its public improvement security a bond, cash deposit, or letter of credit for both the performance and maintenance of the roads in an amount of one hundred and twenty percent (120%) of the estimated cost said improvement.

3). Snow Removal. Owner shall enter into a Snow Plowing Agreement with the Village in substantially the same form as **Exhibit "J"**, which shall provide that the Village will perform snow and ice removal activities at Owner's sole cost and expense for the areas dedicated as public ways on the plat of subdivision prior to the Village's acceptance of said street and

roadway improvements. The Parties further agree that **Exhibit “J”** may be modified or amended by the Parties, which modification or future amendment shall not require further amendment to this Amendment.

11. APPEARANCE STANDARDS & APPROVALS

A. Design Elements.

The Village shall have the right to approve all architectural elevations and standards at the time of approval of each final plan for each lot and/or unit of the development. In no case shall the elevations be approved with less than four (4) members of the corporate authorities voting in favor of said elevations. The Village may require, as a condition of approval, that the architectural elevations and standards maintain a certain level of consistency with other buildings and developments across the same general corridor. In addition, visual and aesthetic compatibility shall be required within the development. Upon the Village’s approval of plans for any portion of the Owner Property, the Village may require subsequent submittals to conform with the previously approved design elements. In the event of a meeting wherein only four (4) members of the corporate authorities are present, the Village shall, at the request of the Owner, continue said vote to the next available meeting date.

B. Final Plat and Plan.

The Parties agree that the Final Plat and Final Plan approval for any portion of the Owner Property shall comply with Village ordinances for processing and approval of the same, except that the timing of the depositing of all security required hereunder or required under Village ordinances and the time periods for completion of all public improvements are hereby tolled notwithstanding the recording of the Final Plat until such times as Owner files with the Village a notice of intent to proceed with development of that portion of Owner Property (or any part thereof). Until such time as all such items that are required for the recording of a Final Plat and Plan hereunder are posted or complied with, the sale, assignment, or transfer of any lot in the Owner Property (except a transfer of the entire Owner Property to a single successor) is prohibited and any use of the Owner Property (except as permitted in Section 22 hereof) is prohibited. A portion of the Owner Property less than the entire Owner Property may be transferred so long as the requirements for the recording of a Final Plat and Plan are posted or complied with for the portion of the Owner Property which is transferred (“**Permitted Partial Transfer**”). Subsequent to any such Permitted Partial Transfer, a transfer of the entire remaining Owner Property to a single successor shall be permitted notwithstanding that a Final Plat and Plan may not have been recorded with respect to such remaining Owner Property.

C. Minor Changes.

The Village acknowledges that any change of lot lines from an approved PUD Plan or Final Plat of Subdivision shall not be considered a change if the lot lines are moved five (5) feet or less. Such changes may be approved by the Community Development Director, Village Administrator, or other Village personnel so empowered by the Village Board as the case may be.

12. DISCONNECTION

Owner and Village agree that Owner shall develop the Owner Property as a commercial subdivision to be commonly known as Prairie Grove Commons in accordance with the Final Plat and final engineering approved by the Village in accordance with the terms hereof, and shall not, as the Owner of said Owner Property, petition to disconnect any portion or all of said Owner Property from the Village.

13. LETTERS OF CREDIT OR BONDS

A. Letter of Credit or Bond.

Owner and/or any subsequent developer, as the case may be, shall post the appropriate letters of credit ("**Letter of Credit**"), or bonds ("**Subdivision Performance Bond**") (collectively, "**Completion Security**") as provided by state law for public improvements or, prior to the commencement of construction of public improvements of each phase of development of the Owner Property as provided by the Village Subdivision Control Ordinance.

The Completion Security shall be in the amount of one hundred and twenty percent (120%) of the engineer's estimated cost for the engineering and construction of said improvements. Said amount shall be reviewed by the Village Engineer and adjusted annually (with new security issued to cover any increase in the required amount) to reflect changes in the estimated costs. In the case of Default, all such engineering costs shall be adjusted to reflect inflation. The Completion Security shall be required to be posted in accordance with the Subdivision Control Ordinance. If Owner and/or subsequent developer elects to post a Subdivision Performance Bond, Owner and/or subsequent developer shall also deposit a separate cash amount ("**Cash Deposit**") equal to 5% of such Subdivision Performance Bond until the aggregate amount of Cash Deposits equals one hundred thousand dollars (\$100,000.00). The Cash Deposits are to secure the incidental costs of a breach under the Subdivision Performance Bond and may be drawn upon by the Village to cover costs unrecoverable under the Subdivision Performance Bond and all costs associated with pursuing said Subdivision Performance Bond, including, but not limited to: (1) attorneys' fees, (2) engineering fees and studies, (3) cost increases for public improvements not sufficiently covered under the Subdivision Performance Bond, and 4) expenses related to mitigation of damages due to a breach. Said amounts may be drawn after written notice is sent by the Village to Owner and/or subsequent developer informing them of said breach, provided said breach is not cured within thirty (30) days thereof.

B. Release or Reduction.

Owner and Village agree that upon substantial completion and inspection of public improvements in conformance with the Village Subdivision Control Ordinance (except as modified herein), Owner shall be entitled to a release and/or reduction of the applicable Letter of Credit or Subdivision Performance Bond. Reductions of Letters of Credit or Subdivision Performance Bonds shall be authorized by the Village when public improvement components are substantially completed (reductions shall not exceed ninety percent (90%) of engineer's estimate until acceptance of the public improvement by the Village Board). The amount shall be reduced

as each category of required land improvements is substantially completed. Land improvements shall be divided into the following two categories as applicable: Underground (sanitary sewers, water mains, storm sewers, drainageways and detention facilities) and Aboveground (streets and parkway, grading and seeding, miscellaneous improvements (landscaping, street signs, streetlights, pedestrian, or bicycle ways, etc.)). For purposes of the reduction of any Letter of Credit or Subdivision Performance Bond, streets in any phase of development will be deemed substantially completed when only the final lift of the roadway is left to be installed. Said subdivision security shall not be used for payment of contractors.

C. Acceptance of Improvements and Phasing of Development.

Owner shall have the right to develop the Owner Property in phases, as may be jointly determined by the Owner and Village. Underground improvements (sanitary sewers, water mains, storm sewers, drainageways, and detention facilities) shall only be required to be inspected and accepted upon completion of all underground improvements for the phase of the Owner Property then being developed. To the extent aboveground improvements are developed or installed in phases, the Village shall only be required to inspect and accept the same upon completion of all of the aboveground improvements in the phase of the Owner Property then being developed. Additionally, the Village shall only be required to inspect and accept any improvement that has a reasonable terminus and is contiguous to other previously accepted public improvements (so as to not require the Village to accept improvements in a piecemeal fashion), which may be improvements that are located off site of the Owner Property. Upon acceptance, Owner shall be entitled to a release of any Letter of Credit or Subdivision Performance Bond, subject to a Maintenance Bond remaining in place for an eighteen (18) month period from date of acceptance by the Village, in conformance with the Village Subdivision Control Ordinance.

D. Sale or Transfer by Owner.

Upon any sale or transfer of any portion of the Owner Property, the Owner herein shall be released from the obligations secured by its Letter of Credit and/or Subdivision Performance Bond, as applicable, for public improvements upon submittal and acceptance by the Village of a substitute Letter of Credit or Subdivision Performance Bond or other surety approved by the Village, securing the costs of the improvements set forth therein by the proposed successor.

14. SPECIAL SERVICE AREA

A. Establishment and Purpose.

Owner agrees that concurrently with the application for approval of the Final Plat of Subdivision for Prairie Grove Commons Unit Two of the development, Owner shall submit both statutory ordinances required to create a back-up Special Tax Service Area, and a consent executed by the then record owner of the Owner Property, creating a back-up Special Tax Service Area that shall pay for the cost of maintenance of all stormwater management facilities in the event such maintenance is not performed by Owner or its successors or assigns. The Parties agree that any ordinance for a back-up Special Tax Service Area shall be in substantially the same form as the attached **Exhibit “K”** and must be recorded prior to recording of the Final

Plat of Subdivision for Prairie Grove Commons Unit Two and prior to the approval of any future final plat of any portion of the Owner Property. Said Special Tax Service Area shall have a rate as reasonably determined by the Village Engineer. Owner, its successors or assigns, shall have full responsibility for carrying out maintenance of all detention areas of the Final Plat of Subdivision for Prairie Grove Commons Unit Two. A maintenance easement (“**Maintenance Area Easement**”) shall be established over the areas indicated on the Final Plat for each phase of development in favor of the Village and any future Owners Association, if any, that undertakes responsibility for the stormwater management facilities maintenance. The substance of the Maintenance Area Easement shall be as approved by legal counsel for the Village and Owner, which approvals shall not be unreasonably withheld. Any future expansion of stormwater management facilities shall be required to be subject to a backup SSA.

15. DEVIATIONS GRANTED

- A.** Those variances, deviations and exceptions to the codes and ordinances of the Village as set forth in the attached **Exhibit “L-1”** are hereby granted for Prairie Grove Commons Unit Two to Owner, its successors, and assigns. Those variances, deviations and exceptions to the codes and ordinances of the Village as set forth in the attached **Exhibit “L-2”** are hereby granted for the Remainder Property.
- B.** Owner, individual unit owners, or individual lot owners included in the Final Plat of Subdivision for Prairie Grove Commons Unit Two or any other portion of the Owner Property, may submit such future petitions to the Village from time to time for variances, deviations or exceptions to the Village Ordinances which do not alter the underlying zoning of the Owner Property as the Owner, individual unit or lot owners deem appropriate without the requirement that this Amendment be amended.

16. GENERAL OBLIGATIONS

A. Successor Owners.

The Village understands and acknowledges that Owner may sell individual lots or parcels, including but not limited to, parcels improved with common facilities, within the Owner Property. When title to a lot or parcel is conveyed to a person or entity other than Owner, then with respect to any obligations and commitments set forth in this Amendment which pertain to said lot or parcel and which have been agreed to by Owner, Owner as such, is exculpated from any personal liability or obligation to perform the commitments and obligations set forth in this Amendment which pertain to said lot or parcel, and the Village will look solely to the new owner of said lot or parcel for such performances. This exculpation shall also apply to subsequent sellers of any lot provided the obligation is borne by the new owner under the terms of this Amendment.

B. Reserved.

C. Recording.

This Amendment shall be recorded in the Office of the Recorder of Deeds of Kane County, Illinois.

D. Term of Amendment.

The term of this Amendment shall be for twenty (20) years from the date of execution hereof. All amendments to ordinances, codes, and regulations required pursuant to this Amendment, shall remain in effect during the term of this Amendment. The Zoning and Planned Unit Development Special Use designations granted in association herewith shall survive the expiration of this Amendment, unless otherwise specified herein.

17. TIME IS OF THE ESSENCE

It is understood and agreed by the Parties that time is of the essence in this Amendment, and that all Parties will make every reasonable effort to expedite the subject matter hereof. It is further understood and agreed by the Parties that the successful consummation of this Amendment requires their continued cooperation.

18. BINDING EFFECT AND TERM

This Amendment shall be binding upon and inure to the benefit of the Parties hereto, their successors and assigns, including, but not limited to, successor owners of record, lessees, and successor lessees, and upon any successor municipal authority of the Village and successor municipalities for a period of twenty (20) years from the later of the date of execution hereof and the state of adoption of the ordinances pursuant hereto. All Exhibits attached hereto are hereby incorporated herein by reference.

19. BREACH OF AMENDMENT

A. Remedy

Upon a breach of this Amendment any of the Parties in any court of competent jurisdiction by any action or proceeding at law or in equity, may exercise any remedy available at law or equity. Unless otherwise expressly provided herein, in the event of a material breach of this Amendment, the Parties agree that the defaulting Party shall have thirty (30) days after written notice of said breach to correct the same prior to the non-breaching Party's seeking of any remedy provided for herein. If such a breach cannot be corrected within thirty (30) days, the non-breaching Party shall not seek to exercise any remedy provided for herein as long as the defaulting Party has initiated the cure of said breach and is diligently prosecuting the cure of said breach.

B. Notice Required.

Before any failure of any Party of this Amendment to perform its obligations under this Amendment shall be deemed to be a breach of this Amendment, the Party claiming such a failure shall notify, in writing, by certified mail/receipt requested, the Party alleged to have failed to perform, stating the obligation allegedly not performed and the performance demanded.

C. Addresses.

Notice shall be provided at the following addresses:

To Owner: SDP Sugar Grove, LLC

With a copy to: ATTN: Patrick Daly, 2803 Butterfield Rd., Ste. 300, Oak Brook, IL 60523

With a copy to: ATTN: Tracy D. Kasson, Rathje Woodward LLC, 300 E. Roosevelt Rd., Suite 300, Wheaton, IL 60187

To Village: Village of Sugar Grove, 10 S. Municipal Drive, Sugar Grove, IL 60554

With a copy to: ATTN: Laura M. Julien, Mickey Wilson, Weiler, Renzi, Lenert & Julien, P.C., 140 S. Municipal Drive, Sugar Grove, IL 60554

A Party desiring to change its address for notice must give the other Party notice of the change in accordance with the notice requirements of this Amendment.

20. AMENDMENT TO PREVAIL OVER ORDINANCES

In the event of any conflict between this Amendment and any ordinances of the Village in force at the time of execution of this Amendment or enacted during the pendency of this Amendment, the provisions of this Amendment shall prevail to the extent of any such conflict or inconsistency. To the greatest extent possible, the Amendment and the PUD Ordinance shall be interpreted as fully compatible with one another. In the event there exists a conflict between any term, condition, or provision of the PUD Ordinance and the Amendment, the PUD Ordinance shall control with regard to the approval of any plat or plan specific to Prairie Grove Commons Unit Two. In the event there exists a conflict between any term, condition, or provision of the PUD Ordinance and Amendment that is intended to be a generally applicable obligation to the Owner Property, as defined in the Amendment, the Amendment shall control.

21. PARTIAL INVALIDITY OF AMENDMENT

If any provision of this Amendment (except those provisions relating to the requested rezoning of the Owner Property identified herein and the ordinances adopted in connection herewith), or its application to any person, entity, or property is held invalid, such provision shall be deemed to be excised here from and the invalidity thereof shall not affect the application or validity of any other terms, conditions and provisions of this Amendment and, to that end, any terms, conditions and provisions of this Amendment are declared to be severable. If for any reason during the term of this Amendment, any approval or permission granted hereunder regarding plans or plats of subdivision or zoning is declared invalid, the Village agrees to take whatever action is necessary to reconfirm such plans, plat approvals or zoning ordinances effectuating the zoning, variations and plat approvals proposed herein.

22. USE OF OWNER PROPERTY FOR FARMING

Any portion of the Owner Property, which is not improved for development as provided herein, may be used as follows: farming of crops provided Owner agrees not to cause or permit, a) irrigation of crops, b) keeping of livestock and c) farming procedures or methods that are substantially different from those previously practiced on Owner Property.

23. ARMS LENGTH NEGOTIATION

This Amendment contains all the terms and conditions agreed upon by the Parties hereto and no other prior agreement, regarding the subject matter hereof shall be deemed to exist to bind the Parties. The Parties acknowledge and agree that the terms and conditions of this Amendment, including the payment of any fees, have been reached through a process of good faith negotiation, both by principals and through counsel, and represent terms and conditions that are deemed by the Parties to be fair, reasonable, acceptable, and contractually binding upon each of them.

24. AMENDMENT TO ANNEXATION AGREEMENT

This Amendment, and any exhibits or attachments hereto, may be amended from time to time in writing with the consent of the Parties hereto. This Amendment may be amended from time to time by written agreement between the Village and the then legal owner of fee title to that portion of the Owner Property which is subject to and affected by such amendment; provided, that such amendment, if not executed by the then legal owner or owners of any other portion of the Owner Property, shall in no manner alter, amend, or modify any of the rights, duties or obligations as set forth in this Amendment as they pertain to such other portions of the Owner Property. Any amendment to Exhibits C-M may be processed by the Village without requiring an amendment of this Amendment.

25. NO OBLIGATION TO DEVELOP

Nothing contained in this Amendment shall be deemed to obligate Owner to develop the Owner Property, and Owner may instead continue to utilize any portion of the Owner Property it owns as provided for in Paragraph 22 hereof regardless of the underlying zoning. Once development has begun on any phase of the Owner Property, Owner shall be obligated to continue with the development of such phase of the Owner Property in accordance with this Amendment. Once commenced, if development of any such phase is not completed within three (3) years of the issuance of a building permit, then Owner shall be required to grade, stabilize, and plant with grass seed and maintain any such portions of Owner Property that had not completed as part of said phase.

IN WITNESS WHEREOF, the parties have executed this Annexation Agreement Amendment the day and year first above written.

VILLAGE:

VILLAGE OF SUGAR GROVE, a municipal corporation

By: _____

Name: _____

Its: _____

STATE OF ILLINOIS)
)
COUNTY OF _____) SS

I, _____, a notary public in and for said County in the State _foresaid,
DO HEREBY CERTIFY THAT _____, _____ of the **VILLAGE OF SUGAR GROVE**, a municipal corporation, personally known to me to be the same person whose name is subscribed to the foregoing **FIRST AMENDMENT TO ANNEXATION AGREEMENT**, appeared before me this day in person and acknowledged that he signed and delivered the said Agreement on behalf of the municipal corporation and as his free and voluntary act, for the uses and purposes therein set forth.
GIVEN under my hand and seal, this ____ day of _____, 2022.

NOTARY PUBLIC

OWNER:

SDP SUGAR GROVE, LLC, an Illinois limited liability company

By: _____

Name: _____

Its: _____

STATE OF ILLINOIS)
)
COUNTY OF _____) SS

I, _____, a notary public in and for said County in the State _foresaid,
DO HEREBY CERTIFY THAT _____, Manager of **SDP SUGAR GROVE, LLC**, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing **FIRST AMENDMENT TO ANNEXATION AGREEMENT**, appeared before me this day in person and acknowledged that he signed and delivered the said Agreement on behalf of the limited liability company and as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this ____ day of _____, 2022.

NOTARY PUBLIC

EXHIBITS LIST

<u>Exhibit A</u>	Legal Description
<u>Exhibit B</u>	Permitted and Special Use List
<u>Exhibit C</u>	Final Plat of Subdivision
<u>Exhibit D</u>	TIF Development Agreement
<u>Exhibit E</u>	Monument Subdivision Signs Plan
<u>Exhibit F</u>	Reciprocal Easement Agreement (“REA”)
<u>Exhibit G</u>	Utilities
<u>Exhibit H</u>	Private Property Traffic Enforcement Agreement
<u>Exhibit I-1.1</u>	Sanitary Sewer Easement
<u>Exhibit I-1.2</u>	Sanitary Sewer Easement
<u>Exhibit I-2</u>	Stormwater Management Easements
<u>Exhibit J</u>	Snow Plowing Agreement
<u>Exhibit K</u>	Special Service Area Ordinance
<u>Exhibit L-1</u>	Prairie Grove Commons Unit Two Deviations List
<u>Exhibit L-2</u>	Remainder Property Deviation List (Exclusive of Prairie Grove Commons Unit Two).
<u>Exhibit M</u>	Prairie Grove Commons Unit Two PUD Ordinance

EXHIBIT A

LEGAL DESCRIPTION

Property PIN: 14-16-400-016 & 14-16-300-012

Owner Property:

THAT PART OF THE SOUTH 1/2 OF SECTION 16, TOWNSHIP 38 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING IN THE CENTER OF THE AURORA AND DIXON ROAD 9.62 CHAINS WEST OF THE EAST LINE OF SAID SECTION; THENCE SOUTH TO THE SOUTH LINE OF SAID SECTION 16; THENCE WEST ALONG SAID SOUTH LINE TO THE CENTER LINE OF STATE ROUTE NO. 47; THENCE NORTH ALONG SAID CENTER LINE 395 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID SECTION 551.4 FEET; THENCE SOUTH PARALLEL WITH THE CENTER LINE OF STATE ROUTE 47, 395 FEET TO THE SOUTH LINE OF SAID SECTION; THENCE WEST ALONG SAID SOUTH LINE TO A POINT 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE NORTH 40 CHAINS TO THE NORTH LINE OF THE SOUTH 1/2 OF SAID SECTION; THENCE EAST ALONG SAID NORTH LINE TO THE CENTER LINE OF SAID STATE ROUTE 47; THENCE SOUTH ALONG SAID CENTER LINE TO THE CENTER LINE OF THE AURORA AND DIXON ROAD AFORESAID; THENCE EASTERLY ALONG THE CENTER LINE OF SAID AURORA AND DIXON ROAD TO THE POINT OF BEGINNING (EXCEPT THAT PART CONVEYED TO THE STATE OF ILLINOIS BY WARRANTY DEED RECORDED AUGUST 18, 1959 AS DOCUMENT 897944 AND ALSO EXCEPT THAT PART LYING EASTERLY OF SAID CENTER LINE OF STATE ROUTE 47 AND ALSO EXCEPTING THAT PART THEREOF FALLING IN LOT 1 IN PRAIRIE GROVE COMMONS UNIT ONE, RECORDED SEPTEMBER 15, 2010 AS DOCUMENT NUMBER 2010K060656 AND ALSO EXCEPT THAT PART DEDICATED FOR DIVISION DRIVE (66.0 FEET WIDE) ON SAID PLAT OF PRAIRIE GROVE COMMONS UNIT ONE, AND ALSO EXCEPT THAT PART OF THE LAND DEDICATED FOR ROADWAY AND UTILITY PURPOSES TO THE VILLAGE OF SUGAR GROVE RECORDED AS DOCUMENT 2008K039972 IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

Prairie Grove Commons Unit Two (Part of Owner Property):

THAT PART OF THE SOUTH HALF OF SECTION 16, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE RIGHT-OF-WAY DEDICATED AS GALENA BOULEVARD BY DOCUMENT 2008K039972, SAID POINT ALSO LYING ON A LINE DRAWN FROM A POINT ON THE SOUTH LINE OF SAID SECTION 16 WHICH IS 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE N89°35'19"E ALONG THE SOUTH LINE OF SAID GALENA BOULEVARD, 873.36 FEET TO AN ANGLE POINT IN SAID SOUTH LINE;

THENCE S45°13'43"E ALONG SAID SOUTH LINE, 43.23 FEET TO THE SOUTHEAST CORNER OF SAID GALENA BOULEVARD, SAID POINT LYING ON THE WEST LINE OF ILLINOIS ROUTE 47 AS DEDICATED BY DOCUMENT 897944; THENCE S0°04'31"E ALONG SAID WEST LINE, 642.34 FEET; THENCE S89°35'19"W, 360.19 FEET; THENCE N0°24'41"W, 111.00 FEET; THENCE N19°45'55"W, 273.23 FEET; THENCE N0°17'01"W, 29.21 FEET; THENCE S89°35'19"W, 420.00 FEET; THENCE S0°17'01"E, 398.00 FEET; THENCE N89°35'19"E, 105.00 FEET; THENCE S0°17'01"E, 1077.70 FEET; THENCE N89°42'59"E, 270.62 FEET TO A POINT ON SAID WEST LINE OF ILLINOIS ROUTE 47; THENCE CONTINUING SOUTHWESTERLY ALONG SAID WEST LINE, BEING A CIRCULAR CURVE HAVING A RADIUS OF 357.00 FEET CONCAVE TO THE SOUTHEAST, THE CHORD OF WHICH BEARS S39°14'19"W, 136.28 FEET; THENCE CONTINUING S28°18'09"W ALONG SAID WEST LINE, 195.17 FEET; THENCE SOUTHWESTERLY ALONG SAID WEST LINE, BEING A CIRCULAR CURVE HAVING A RADIUS OF 380.00 FEET CONCAVE TO THE NORTHWEST, THE CHORD OF WHICH BEARS S50°46'53"W, 298.17 FEET TO A POINT ON SAID LINE DRAWN FROM A POINT ON THE SOUTH LINE OF SAID SECTION 16 WHICH IS 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE N0°17'01"W ALONG SAID LINE, 2208.88 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

EXHIBIT B

PERMITTED AND SPECIAL USE LIST

PERMITTED USES

Only the uses identified in the *Commercial Uses* and *Office Uses* sections under the B-3 Zoning District of the Table of Permitted Uses (Section 11-4-22 of the Village Zoning Ordinance), and Planned Developments, in compliance with the applicable additional standards, conditions and requirements of Section 11-4-22-C of the Village Zoning Ordinance, except as provided otherwise herein, are permitted on the Owner Property, together with any uses added to the uses identified in the *Commercial Uses* and *Office Uses* sections under the B-3 Zoning District of Section 11-4-22 of the Village Zoning Ordinance.

In the event the following uses are established on the Owner Property, the additional standards, conditions and requirements shall apply:

Motor vehicle sales – must provide a minimum ten thousand (10,000) square feet of indoor showroom for displaying vehicles, not including office or garage space. Primary sales must be of new vehicles and shall be limited to automobiles, SUVs, pick-up trucks, motorcycles, ATVs and UTVs. The sale of any other type of vehicle shall require a special use permit.

Lumberyard - must be indoor only, unless accessory to a retail use.

Storage facility- must be an indoor, climate-controlled facility only, consisting of individual private storage spaces available for lease or rent to the general public, not for commercial purposes.

Notwithstanding Section 11-4-22 of the Village Zoning Ordinance, Developer is permitted to establish the first bank/financial institution, including drive-through service window, car wash, hotel, and motor vehicle fuel station on the Owner Property without a Special Use Permit. A Special Use Permit shall be required in order to establish and operate a second or more bank/financial institution, car wash, hotel, and motor vehicle fuel station on the Owner Property.

SECTION 11-4-22C

B-3 Commercial and Office Uses Contained in Zoning Ordinance Currently in Effect

Use	B-3 Zoning District
Commercial Uses	
Adult entertainment	
Art gallery	P
Auction room	S
Bank and financial institution	S
Banquet hall	P*
Banquet Hall, within 600 feet of a residential lot	S
Beauty shop, barbershop, and day spa	P
Bed and breakfast guesthouse	S
Bicycle sales and service	P
Car wash	S
Carpet and upholstery cleaners	S
Catering service	P
Cleaning and exterminating service	S
Clothing and costume rental store	P
Currency exchange	S
Drinking establishments	P
Equipment rental and leasing service	S
Event venue	
Florist	P
Food store	P
Food store, convenience	P
General repair service	P
General retail	P
Hotel, motel, and inn	S
Ice cream parlor	P
Laundry service	P*
Locksmith	P
Lumberyard	P
Mailing service	P
Medical supply rental	P
Motor vehicle fuel station	S
Motor vehicle parts retail	P*
Motor vehicle repair, Class I	P*
Motor vehicle repair, Class II	P*

Motor vehicle repair, Class III	
Motor vehicle repair, Class IV	
Motor vehicle sales	P*
Mulch, firewood sales	
Package liquor and wine, retail	P
Pawnshop	S
Pharmacy	P
Picture framing	P
Printing and publishing	P
Resale shop	P
Restaurant	P
Restaurant, alcohol service	P
Restaurant, carry out	P
Restaurant, drive-through	P
Restaurant, live entertainment, or dancing	S
Septic tank or sewer cleaning service	P
Small engine repair shop (not motor vehicles)	P
Sports and recreation, indoor	S
Sports and recreation, outdoor	S
Storage facilities	S
Tailor or dressmaker shop	P
Tattoo parlor	P
Taxidermist	P
Theater	P
Tobacco or vape shop	S
Undertaking establishment, funeral parlor and mortuary	P
Office Uses	
Contractor's office	P
Counseling service	P
General office	P
Medical laboratory	S
Medical office	P

*Refers to additional standards and criteria in section 11-4-23 for specific uses

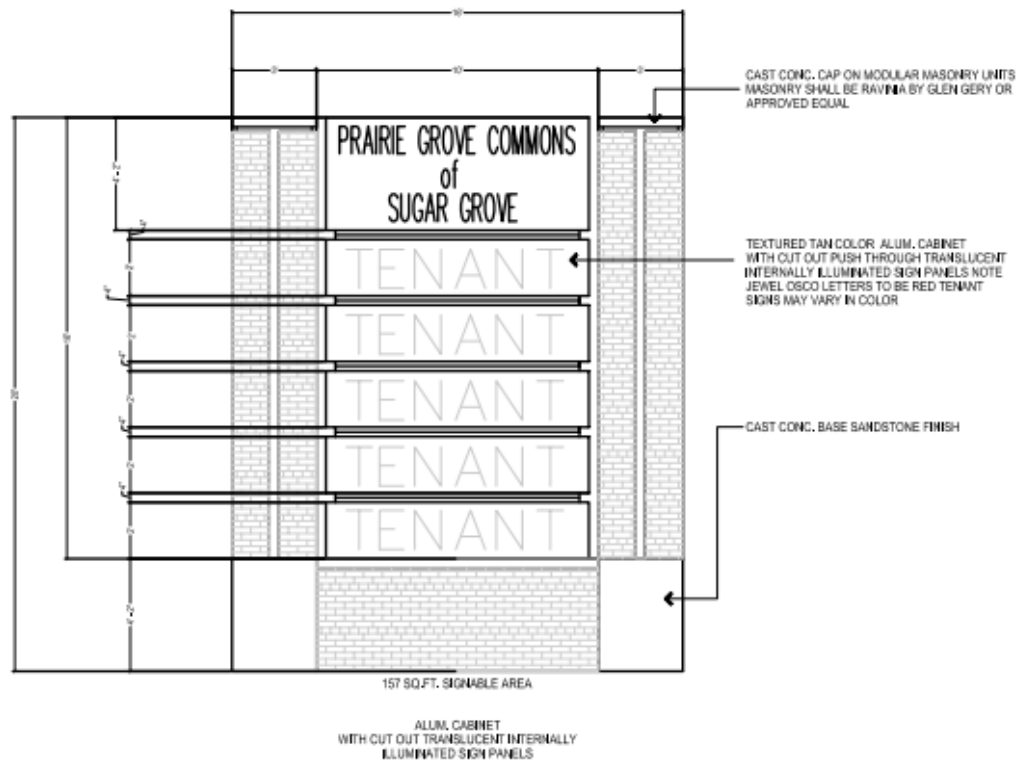
EXHIBIT C

FINAL PLAT OF SUBDIVISION

EXHIBIT D

TIF DEVELOPMENT AGREEMENT

MONUMENT SUBDIVISION SIGNS PLAN



Monument Subdivision Sign

EXHIBIT F

RECIPROCAL EASEMENT AGREEMENT

The Declaration of Reciprocal Easement Agreement by SDP SUGAR GROVE, LLC, for Prairie Grove Commons Unit Two shall contain the following provision:

*Declarant hereby acknowledges that it is in the best interests of the Declarant and the Owners from time to time that each other Owner maintain its Outlot in good condition and repair and that the Utility Facilities be maintained in good condition and repair. In order to ensure same, Declarant hereby grants, conveys and establishes for the benefit of the Village, a non-exclusive easement in, on, under, over and across all the Outlots for the purpose of maintaining and repairing the Utility Facilities, the Common Areas, and signage, in the event the Owner (the "**Defaulting Owner**") responsible for such maintenance and repair fails so to do. In the event a Defaulting Owner fails to perform any of the maintenance and/or repair obligations set forth herein within thirty (30) days after the giving of written notice by the Village to said Defaulting Owner specifying the nature of the default claimed (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, then, for such period of time as shall be reasonable under the circumstances), the Village shall have the right, but not the obligation to perform such maintenance and/or repair, and be reimbursed by the Defaulting Owner upon demand for the reasonable costs thereof together with Default Interest (defined below) from the date of expenditure until paid. In such event, the Village shall have the lien rights as set forth in Section 9.3 hereof.*

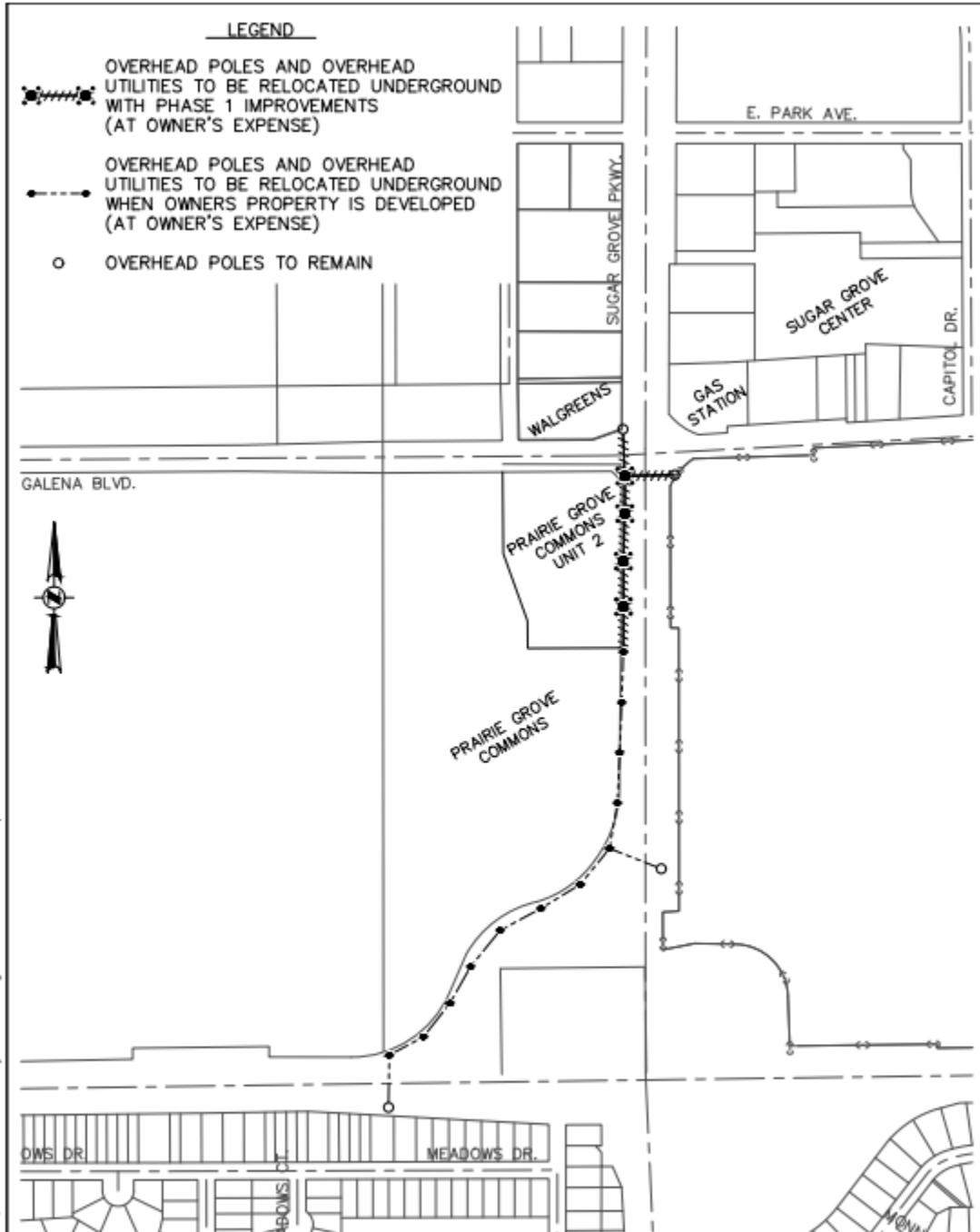
For the purposes of the REA, "Common Area" shall, at a minimum, be defined no less inclusive than the following:

The term "**Common Area**" shall mean the landscaped areas and facilities and systems for drainage and storage of storm water located from time to time on all the Outlots and those facilities located on the Owner Property outside of the Outlots that are appurtenant to the proper function of the utilities in the Outlots.

NOTE: BY WAY OF CLARIFICATION, THE DECLARATION OF RECIPROCAL EASEMENT AGREEMENT WHICH IS EXCERPTED ABOVE DEFINES THE "OUTLOTS" AS LOTS 1-6 IN PRAIRIE GROVE COMMONS UNIT TWO; I.E., ALL OF THE LOTS IN UNIT TWO

EXHIBIT G

UTILITIES



Plotted: September 23, 2021 @ 8:03 AM By: Kris Pung - Tab: Location Map 8.5x11

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OVERHEAD UTILITIES RELOCATION



Engineering Enterprises, Inc.
52 Wheeler Road
Sugar Grove, Illinois 60554
630.466.6700 - www.eelweb.com

SCALE:
1"=500'
DATE:
8/17/21

DRAWN BY:
KKP
REVISED:

Path: H:\SDSK\PROJ\SG_SUGAR GROVE\2021\SG2100\SG2028\SG2028-LOCATION

EXHIBIT H

PRIVATE PROPERTY TRAFFIC ENFORCEMENT AGREEMENT

WHEREAS, SDP Sugar Grove, LLC (“Owner”) is the owner of certain property located at _____ (“Owner Property”) legally described on the attached Exhibit and made a part hereof; and,

WHEREAS, said Property is situated within the Village of Sugar Grove (“Village”) Kane County, Illinois; and,

WHEREAS, Owner desires to authorize the Village to enforce certain traffic and parking regulations on said Property; and,

WHEREAS, the Village is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution and, pursuant to the power granted to it under 65 ILCS 5/101 et seq. the Village has the authority to contract with Owner to provide such regulations under the provisions of Chapter 625 ILCS 5/11-209; and,

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

1. The Preambles set forth above are incorporated herein by reference as a part of this Agreement.

2. Village is empowered to accomplish all or any part of the following within the legal boundary of the Owner Property, subject to Owner’s approval, which approval shall not be unreasonably withheld.

- a. Erection of regulatory signs, persons with disabilities parking area signs, parking signs, and all other traffic control signs.
- b. Prohibition or regulation of the turning of vehicles and vehicle types.
- c. Regulation of pedestrian crosswalks within parking lots.
- d. Designation of one-way traffic lanes.
- e. Establishment and regulation of loading zones.
- f. Regulation of stopping, standing or parking in specified areas of lots.
- g. Designation of fire and safety lanes.

- h. Provide for the removal and storage of abandoned vehicles.
- i. Provide for cost sharing of planning, installation, maintenance, and enforcement of parking and traffic regulations.
- j. Marking parking zones and signs indicating spaces reserved for persons with disabilities.
- k. Contracting for reasonable additional rules as local conditions may require.

3. That the cost of planning, installing, and maintenance of parking and traffic regulations markings, signs, striping, and painting pursuant to this contract shall be borne by the Owner.

4. This contract shall be effective and enforceable three (3) days after it has been recorded in the Office of the Recorder of Deeds of Kane County and shall continue to be in full force and effect for a period of twenty (20) years, except that after one (1) year from the effective date of this Agreement, either party may cancel this Agreement upon sixty (60) days written notice to the other party.

EXECUTED this _____ day of _____, 202__.

VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS

SDP SUGAR GROVE, LLC

By: _____

Its: _____

By: _____

Its: _____

STATE OF ILLINOIS)
) SS
 COUNTY OF KANE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that _____, who is personally known to me to be the _____ of SDP SUGAR GROVE, LLC, and personally known to me to be the same person whose name is subscribed to in the foregoing instrument, appeared before me this day in person and acknowledged as such, they signed, sealed and delivered said instrument pursuant said authority for the uses and purposes set forth therein.

GIVEN under my hand and official seal this ____ day of _____, 202__.

 Notary Public

My commission expires:

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that _____, who is personally known to me to be the _____ of the VILLAGE OF SUGAR GROVE, and personally known to me to be the same person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument pursuant to authority given by the Board of Trustees of the Village of Sugar Grove for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this ____ day of _____, 202__.

Notary Public

My commission expires:

EXHIBIT I-1.1

SANITARY SEWER EASEMENT

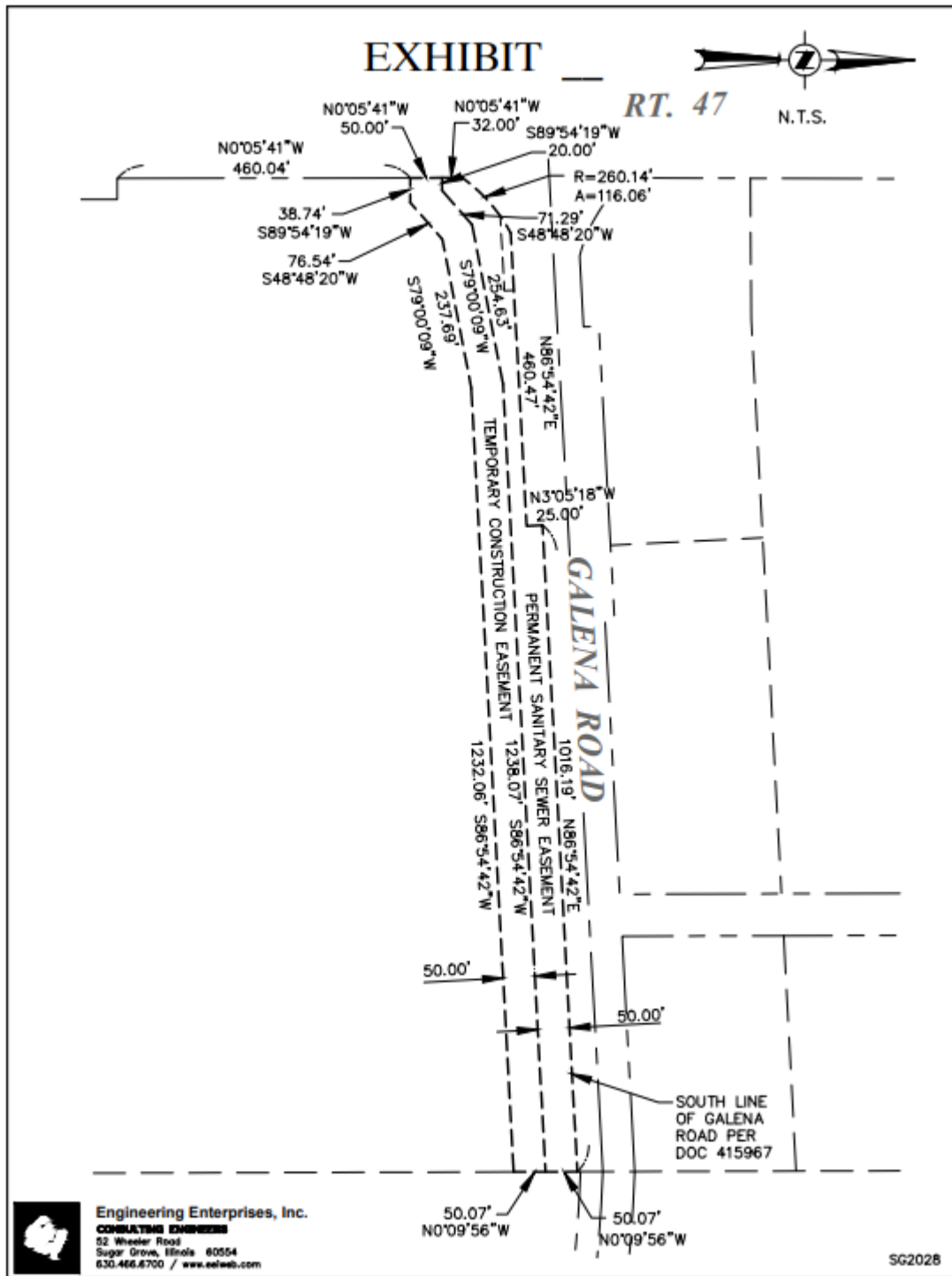


EXHIBIT I-1.2

SANITARY SEWER EASEMENT

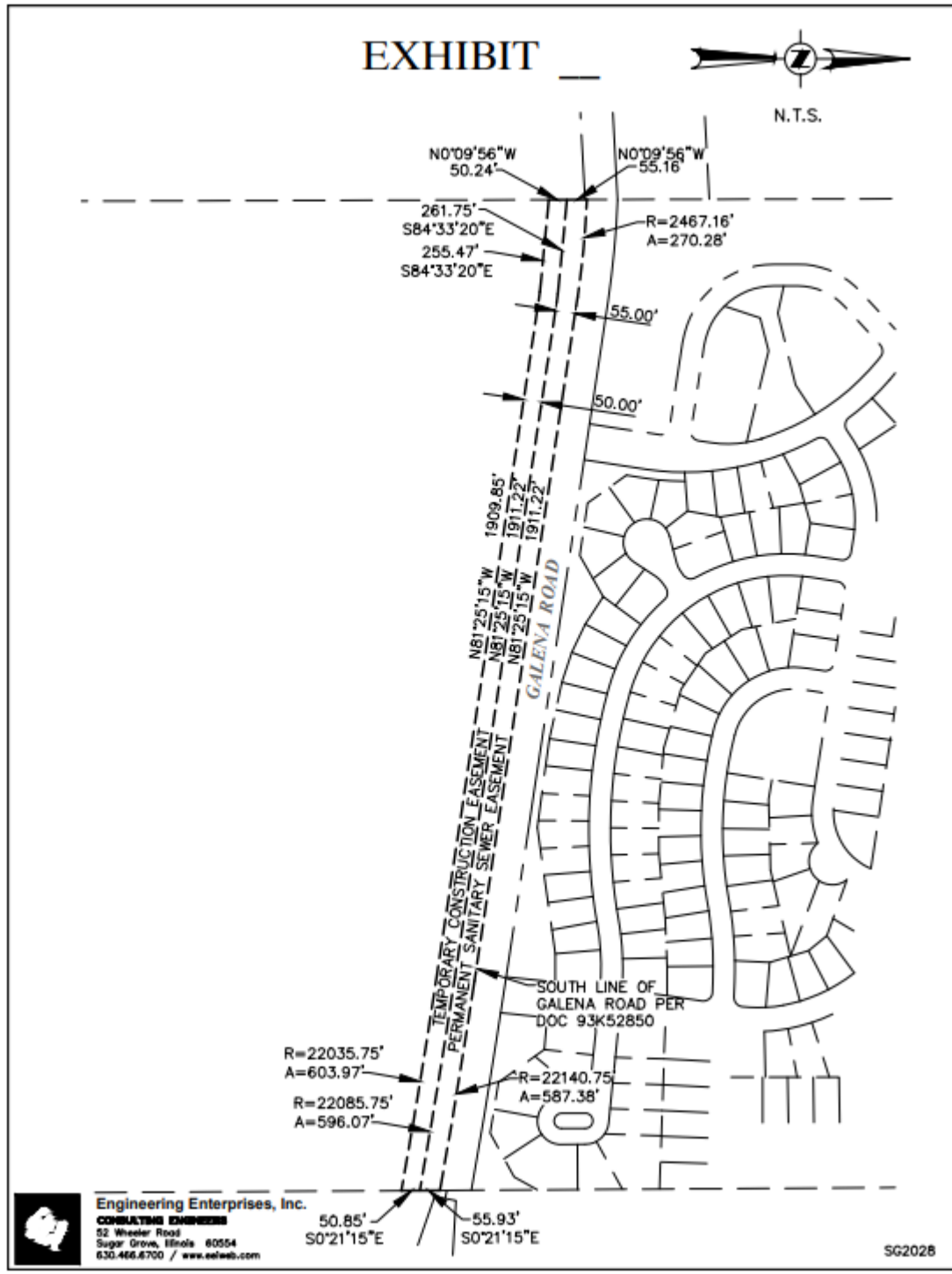


EXHIBIT I-2

STORMWATER MANAGEMENT EASEMENTS

EXHIBIT J

SNOW PLOWING AGREEMENT

This agreement ("Agreement") is entered into this ____ day of _____, 20__, by and between the Village of Sugar Grove, hereafter referred to as "Village", and _____, hereafter referred to as "Subdivider".

RECITALS

WHEREAS, Subdivider has recorded, in the Recorder's Office for Kane County, Illinois, a plat for a subdivision known as _____, in the Village of Sugar Grove, Kane County, Illinois, now hereafter referred to as "Subdivision"; and,

WHEREAS, Subdivider marked and dedicated certain streets and highways as public ways for public use on the plat of the Subdivision; and said Subdivision has been annexed and is within the corporate limits of the Village; and,

WHEREAS, Subdivider has laid out, opened, and improved for public use the streets and highways marked and indicated on the Subdivision plat, and the Village has not approved and accepted said improvements of the streets and highways constructed by the Subdivider.

NOW THEREFORE, in consideration of the mutual covenants contained herein, Village and Subdivider agree as follows:

1. The Village will furnish, when available, the necessary snow removal trucks, machinery, equipment, material, and personnel to plow, clear, and remove snow and ice from the streets and highways marked for public use on the Subdivision plat.

2. The Subdivider agrees that the Village will determine, to its own satisfaction, the following:

a. The necessity for snow and ice removal from the streets and highways in the Subdivision.

b. The availability of trucks, machinery, equipment, material and personnel for plowing, clearing, and removing snow and ice from the streets and highways in the Subdivision.

c. The manner and performance of the work to clear and remove snow and ice from the streets and highways in the Subdivision, and the sufficiency of the clearing or removal of snow and ice.

The Subdivider agrees with and accepts the decision of the Village on Items 2a, 2b, and 2c listed above.

3. The Subdivider agrees to keep the streets and highways, marked on the Subdivision plat and opened by the Subdivider for public use, in a safe condition, free and clear of obstructions, ruts, excavations and other conditions so the snow removal equipment can move, travel, and operate without undue delay, hinderance or danger to the personnel, equipment, or property of the Village.

4. If there is work in progress on any street or highway in the Subdivision, the Subdivider shall barricade and illuminate all obstructions, ruts, excavations, and other dangerous conditions. The Village, in its discretion may, but is not required to, clear and remove snow from any street or highway on which such work is in progress.

5. The Subdivider agrees to indemnify, defend, and hold harmless the Village of Sugar Grove, its officers, agents, and employees from any loss, damage, or expense arising out of or resulting from any activities that are subject to this Agreement except that which is caused by intentional acts or negligence of the Village, its officers, agents, or employees.

6. The Subdivider agrees to repair at his own expense any property, private or public, damaged by the Village during snow and/or ice removal operations on the streets and highways of the Subdivision except for such damage caused by intentional acts or negligence of the Village, its officers, agents, or employees.

7. The Subdivider agrees to pay to the Village the fee of \$ 140 per hour (equipment and labor) and \$110 per ton of salt each time the Village clears snow and/or ice from the streets and highways in the Subdivision from and after the date of execution of this agreement through December 31, 20____. Commencing January 1, 20____, and each January 1st thereafter until the Village accepts the streets and highways of the Subdivision for maintenance, the fee shall be increased.

8. This Agreement shall be automatically terminated only upon acceptance of the streets and highways of the Subdivision for maintenance by the Village as set forth in Section 12-4-6 of the Village's Subdivision Ordinance.

Approved and accepted this ____day of _____, 20____.

VILLAGE OF SUGAR GROVE

By: _____

Its: Village President

Attest: _____

Its: Village Clerk

SUBDIVIDER

By: _____

Its: _____

Attest: _____

Its: _____

EXHIBIT K

SPECIAL SERVICE AREA ORDINANCE

**AN ORDINANCE PROPOSING THE ESTABLISHMENT OF
SPECIAL SERVICE AREA NO. ____
FOR PRAIRIE GROVE COMMONS, VILLAGE OF SUGAR GROVE, ILLINOIS**

BE IT ORDAINED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows;

WHEREAS, the Village of Sugar Grove is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution and, pursuant to the powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

WHEREAS, pursuant to the provisions of the 1970 Constitution of the State of Illinois (the "Constitution"), the Village of Sugar Grove, Kane County, Illinois (the "Village"), is authorized to create special service areas in and for the Village; and

WHEREAS, special service areas are established by non-home rule units pursuant to Section 7(6) of Article VII of the Constitution, which provides that;

Municipalities...which are not home rule units shall have...powers...to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services;

and are established "in the manner provided by law" pursuant to the provisions of "AN ACT to provide the manner of levying or imposing taxes for the provision of special services to areas within the boundaries of home rule units and non-home rule municipalities and counties," approved September 21, 1973, as amended, and pursuant to the Revenue Act of 1939 of the State of Illinois, as amended; and

WHEREAS, it is in the public interest that the establishment of the area hereinafter described as a special service area for the purposes set forth herein and to be designated as the Prairie Grove Commons Special Service Area Number ____ of the Village (the "Area"), be considered; and

WHEREAS, the Area is compact and contiguous, totally within the corporate limits of the Village; and

WHEREAS, the Area will benefit specially from the municipal services to be provided by the Village (the "Services"), and the Services are unique and in addition to the services

provided to the Village as a whole, and it is, therefore, in the best interests of the Village that the establishment of the area be considered; and

WHEREAS, it is in the public interest that the levy of a direct annual *ad valorem* tax upon all taxable property within the Area be considered for the purpose of paying the cost of providing the Services; and

WHEREAS, the revenue from such tax shall be used solely and only for Services for which the Village is authorized under the provisions of the Illinois Municipal Code, as amended, to levy taxes or special assessments or to appropriate the funds of the Village, all of the Services to be in and for the Area and all of the necessary construction and maintenance to be on property now owned or to be acquired by the Village, or property in which the Village will obtain an interest sufficient for the provision of the services; and

WHEREAS, a public hearing is being held at 6:00 p.m., on the ___ day of _____, 2022 in the Municipal Building, 10 Municipal Drive, Sugar Grove, Illinois (the "Hearing"), to consider the establishment of the Area for the purpose of providing the Services and the levy of an additional direct annual *ad valorem* tax for the purpose of paying the cost thereof, all as described in the Notice of Public Hearing set forth in Section Two hereof (the "Notice"); and

WHEREAS, the Notice has been given by publication and mailing. Notice by publication was given by publication on a date, such date being not less than 15 days prior to the Hearing, in a newspaper of general circulation within the Village, there being no newspaper published therein. Notice by mailing was given by depositing the Notice in the United States Mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the Area. The Notice was mailed not less than 10 days prior to the time set for the Hearing. In the event taxes for the last preceding year not paid, the Notice was sent to the person last listed on the tax rolls prior to that year as the owner of said property; and

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows:

SECTION ONE: INCORPORATION OF PREAMBLES

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

SECTION TWO: NOTICE

The President and Board of Trustees determine that the Notice is in the proper statutory form as set forth as follows:

**SUBDIVISION SPECIAL SERVICE AREA
NOTICE OF HEARING
VILLAGE OF SUGAR GROVE, KANE COUNTY, ILLINOIS
SPECIAL SERVICE AREA NO. __**

NOTICE IS HEREBY GIVEN that on the __ the day of _____, 2022, at 6:00 p.m., in the Municipal Building, 10 Municipal Drive, Sugar Grove, Illinois, a hearing will be held by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, to consider the establishment of an *ad valorem* Special Service Area consisting of the following described territory:

(Legal Description).

The approximate location is: *the southwest corner of State Route 47 and Galena Boulevard, and property west of State Route 47 and north of Galena Boulevard*

Described as:

THAT PART OF THE SOUTH 1/2 OF SECTION 16, TOWNSHIP 38 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING IN THE CENTER OF THE AURORA AND DIXON ROAD 9.62 CHAINS WEST OF THE EAST LINE OF SAID SECTION; THENCE SOUTH TO THE SOUTH LINE OF SAID SECTION 16; THENCE WEST ALONG SAID SOUTH LINE TO THE CENTER LINE OF STATE ROUTE NO. 47; THENCE NORTH ALONG SAID CENTER LINE 395 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID SECTION 551.4 FEET; THENCE SOUTH PARALLEL WITH THE CENTER LINE OF STATE ROUTE 47, 395 FEET TO THE SOUTH LINE OF SAID SECTION; THENCE WEST ALONG SAID SOUTH LINE TO A POINT 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE NORTH 40 CHAINS TO THE NORTH LINE OF THE SOUTH 1/2 OF SAID SECTION; THENCE EAST ALONG SAID NORTH LINE TO THE CENTER LINE OF SAID STATE ROUTE 47; THENCE SOUTH ALONG SAID CENTER LINE TO THE CENTER LINE OF THE AURORA AND DIXON ROAD AFORESAID; THENCE EASTERLY ALONG THE CENTER LINE OF SAID AURORA AND DIXON ROAD TO THE POINT OF BEGINNING (EXCEPT THAT PART CONVEYED TO THE STATE OF ILLINOIS BY WARRANTY DEED RECORDED AUGUST 18, 1959 AS DOCUMENT 897944 AND ALSO EXCEPT THAT PART LYING EASTERLY OF SAID CENTER LINE OF STATE ROUTE 47 AND ALSO EXCEPTING THAT PART THEREOF FALLING IN LOT 1 IN PRAIRIE GROVE COMMONS UNIT ONE, RECORDED SEPTEMBER 15, 2010 AS DOCUMENT NUMBER 2010K060656 AND ALSO EXCEPT THAT PART DEDICATED FOR DIVISION DRIVE (66.0 FEET WIDE) ON SAID PLAT OF PRAIRIE GROVE COMMONS UNIT ONE, AND ALSO EXCEPT THAT PART OF THE LAND DEDICATED FOR ROADWAY AND UTILITY PURPOSES TO THE VILLAGE OF SUGAR GROVE RECORDED AS DOCUMENT 2008K039972 IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

The permanent index numbers (PINs) for each parcel located within the proposed area are:

14-16-400-016 & 14-16-300-012

All interested persons, including all persons owning taxable real property located within the Special Service Area, will be given an opportunity to be heard at the hearing regarding 1) the tax levy and an opportunity to file objections to the amount of the levy, 2) formation of the boundaries of the Area and may object to the formation of the Area and 3) the levy of taxes affecting said Area.

The purpose of the formation of Special Service Area No. __ in general is to provide for the maintenance, preservation, and upkeep of certain storm water management facilities located in Prairie Grove Commons in the event the individual property owners of said subdivision fails to do so, and the proposed municipal services are unique and are in addition to the improvements provided and/or maintained by the Village generally.

At the hearing, all persons affected will be given an opportunity to be heard. At the hearing, there will be considered the levy of an annual tax of not to exceed an annual rate of one-hundred and ten one-hundredths percent (1.1%, being 110¢ per \$100) of the equalized assessed value of the property in the proposed Special Service Area No. __, said tax to be levied for an indefinite period of time from and after the date of the Ordinance establishing said Area. Said taxes shall be in addition to all other taxes provided by law and shall be levied pursuant to the provisions of the Property Tax Code. Notwithstanding the foregoing, taxes shall not be levied hereunder and said Area shall be “dormant”, and shall take effect only if the applicable required owners association or property owner fails to maintain, repair or replace the stormwater management facilities and the Village chooses to assume some or all of said responsibilities. The hearing may be adjourned by the President and Board of Trustees to another date without further notice other than a motion to be entered upon the minutes of its meeting fixing the time and place of its adjournment.

If a petition signed by at least fifty-one percent (51%) of the electors residing within the proposed Special Service Area No. __ and by at least fifty-one (51%) of the owners of record of the land included within the boundaries of the proposed Area is filed with the Village Clerk within sixty (60) days following the final adjournment of the public hearing objecting to the establishment of the Area, the enlargement thereof, or the levy or imposition of a tax for the provision of special services to the Area, no such Area may be established or enlarged, or tax levied or imposed.

Dated: this __ day of _____, 2022.

Laura Julien, Village Attorney
for the Village of Sugar Grove

SECTION THREE: MISCELLANEOUS

The Village agrees to produce or file such forms, statements, proceedings and supporting documents as may be required and in a timely manner in order to establish the Area and levy the taxes and, if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the Village in these endeavors.

SECTION FOUR: EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Illinois, this ___ day of _____, 2022.

Jennifer Konen,
Village President

ATTEST:

Alison Murphy,
Village Clerk

	Aye	Nay	Absent	Abstain
Trustee Matt Bonnie				
Trustee Sean Herron	_____	_____	_____	_____
Trustee Heidi Lendi	_____	_____	_____	_____
Trustee Michael Schomas	_____	_____	_____	_____
Trustee Ryan Walter	_____	_____	_____	_____
Trustee James White	_____	_____	_____	_____

EXHIBIT L-1

EXCEPTIONS AND DEVIATION FROM ZONING ORDINANCE PRAIRIE GROVE COMMONS UNIT TWO

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
11-4-7E3	Height: No accessory use, accessory structure, or accessory building shall exceed the height of fifteen feet (15').	Modification for Lot 1 only: Accessory structures on Lot 1 shall not exceed the height of twenty feet (20') feet	This is the standard height of fuel canopies
11-12-3E, only as pertains to restaurants (fast food, sit down, and banquet halls)	Restaurants, fast food, Restaurants, sit down and banquet halls Off-street parking of (13) spaces per one thousand (1,000) square feet of floor area, plus eight (8) stacking spaces for each drive-up window through which food and drink is dispensed.	Off-street parking of ten (10) parking spaces per thousand (1,000) square feet of floor area, plus eight (8) stacking spaces for each drive-up window through which food and drink is dispensed.	This is more than adequate parking ratio for a restaurant use.
11-12-3E, only as pertains to restaurants (fast food)	Restaurants, fast food- Off-street parking of thirteen (13) spaces per one thousand (1,000) square feet of floor area, plus eight (8) stacking spaces for each drive-up window through which food and drink is dispensed	Modification for Lot 3 only: Seven (7) spaces per one thousand (1,000) square feet of floor area, plus eight (8) stacking spaces for each drive-up window through which food and drink is dispensed.	Plans from end user are only proposed to have twenty-eight (28) spaces, according to the square footage of the proposed building they should be required to have forty (40) spaces.
11-4-7F3b	Off-street parking shall be provided at a rate of thirteen (13) spaces per one thousand (1,000) square feet of area devoted to commercial outdoor dining.	Zero (0) spaces per one thousand (1,000) square feet of area devoted to outdoor dining.	The proposed end users do not have enough area devoted to outdoor dining that would require this additional parking.
11-8-6F1, 2, 3, 4, and 5	Yard and Setback Regulations: Every building hereafter erected or enlarged in this district shall provide and maintain a setback in accordance with the following: (1.) Minimum front and corner side yards: Not less than sixty feet (60') from a front or corner side lot line of a public or private street. (2.) Minimum interior side yards: Not less than ten feet (10') from an interior side lot line. (3.) Minimum rear yards: Not less than thirty feet (30') from a rear lot line. (4.) Transition yards: Where a side or rear lot line coincides with a side or rear lot line in a	All required building setbacks as shown on the PUD Plan.	The 2010 Annexation Agreement contained deviations for building setbacks. The deviation list in the 2010 Annexation Agreement provided for twenty (20) foot building setback in the rear yard or corner side yards. Although the 2010 Annexation Agreement did not address interior side yards, five (5) foot instead of ten (10) foot interior side yards are adequate setbacks because all of these outlots are part of an integrated development. In addition, Developer has

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	residential or institutional use, the interior side or rear yard requirements for a commercial lot shall be increased as follows: (a.) Interior side yard: Forty feet (40'); (b.) Rear yard: Forty feet (40'). (5.) Primary roads: Not less than seventy-five feet (75').		dedicated an additional twenty (20) feet of right-of-way on Galena Blvd. which require a reduction of any required setback along Galena Blvd. from seventy-five (75) feet to fifty- five (55) feet.
11-11-4B5	Yards: The required yards along the periphery of a planned unit development shall be at least equal in depth to those of the underlying zoning district, or the adjacent zoning district, whichever is greater. The Planning Commission/Zoning Board of Appeals may recommend greater setbacks from the boundary line of a planned unit development when determined necessary to protect the privacy of residents in both existing and proposed subdivisions.	Elimination of this requirement in its entirety. Substitute with required yards along periphery of the development as shown on the PUD Plan.	The 2010 Annexation Agreement deviation list contained periphery yard deviations. In addition, Developer has dedicated an additional twenty (20) feet of right-of-way on Galena Blvd. which require a reduction of any required setback along Galena Blvd.
11-11-4B6	Landscaping: At a minimum, the proposed planned unit development shall conform to the landscaping requirements set forth in this title. The Planning Commission/Zoning Board of Appeals may recommend landscaping in excess of these minimum standards where determined necessary to achieve the objectives set forth in this chapter.	Modification of this requirement as follows: Any deviations from the landscaping requirements set forth in this title are approved for any of the landscaping as provided on the PUD Plan, PUD ordinance or any plans approved as part of the PUD ordinance.	The 2010 Annexation Agreement deviation list contained periphery yard deviations. Several other landscaping deviations are requested as part of this development. In addition, Developer has dedicated an additional twenty (20) feet of right-of-way on Galena Blvd. which require a reduction of any required setback along Galena Blvd
11-11-4B14	14. Preliminary Approval: Preliminary approval of a planned unit development by the village board shall be null and void in the event that the petitioner has failed to obtain final planned unit development approval for at least the first phase of the development within eighteen (18) months of the date of the preliminary approval.	Approval of the Combined PUD Plans shall be deemed to be final planned unit development approval to satisfy the time period set forth in Section 11-11-4B-14 of the Village Zoning Ordinance to obtain final planned unit development approval	This deviation is provided in Section 2.1 of the PUD Ordinance.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
11-11-4B15	15. Completion: The planned unit development shall be substantially completed within the period of time specified by the petitioner unless an extension is requested by the petitioner and approved by the village board. All planned unit development phases shall be completed within two (2) years of final planned unit development approval for that phase, except when the size or complexity dictates a longer period, as may be granted by the village board, upon request by the petitioner.	Completion of Lots 1-5, inclusive, of the Prairie Grove Commons Unit Two PUD, as set forth in Section 11-11-4B-15 of the Village's Zoning Ordinance, shall be no later than five (5) years after the effective date of this Ordinance. Lots 1-5 inclusive shall be deemed "complete" to satisfy the requirements set forth in Section 11-11-4B-15 once a building permit is applied for on one of the five lots in the Prairie Grove Commons Unit Two PUD	This deviation is provided in Section 2.1 of the PUD Ordinance.
11-11-7(B)1b5	b. Major changes include... (5) Rearrangement of lots, blocks, and building tracts.	Section 11-11-7B1b5 shall be amended and the rearrangement of lots, blocks, and building tracts shall be deemed a minor change and an incidental field change that can be approved by the zoning official if the lot line is moved five (5) feet or less.	Paragraph 11C of the Amendment provides for this provision.
11-12-4A	Size: Each accessible parking stall shall consist of an eight foot (8')-wide parking space and an adjacent, diagonally striped, eight foot (8')-wide access aisle. The length of accessibility parking stalls shall be consistent with other parking stalls within the parking facility.	The diagonally striped eight foot (8') wide access aisle can be shared with an adjacent accessible parking space. The length of accessibility parking stalls shall be consistent with other parking stalls within the parking facility.	This provision allowed by revisions to Illinois Code regarding accessible parking space.
11-12-7A	Minimum Parking Lot Perimeter Landscape Yard (B-2): Street Lot Line: 30' Interior Lot Line: 10' ¹ Rear Lot Line: 10' Transition Lot Line: 30' Primary Road: 45'	The landscape yard setbacks provided in 11-12-7A for (B-2) shall not apply and all required landscape yard setbacks shall be allowed as shown on the PUD. Plan.	The Annexation Agreement contained deviations for landscape yard setbacks. The deviation list in the Annexation Agreement provided for a ten-foot rear landscape yard for any lot adjoining Rt. 47 or Galena Blvd. Division/ Van Owen Drive being constructed will only serve the lots contained on the Subject Property. Five-foot interior landscape setbacks are adequate because all these

¹ Setback may be reduced to 0 feet where off street parking facilities are shared.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
			lots abut an integrated development. In addition, Developer has dedicated an additional twenty (20) feet of right-of-way on Galena Blvd. which require a reduction of any required setback along Galena Blvd. from forty-five (45) feet to twenty-five (25) feet.
11-12-7C(6)	Berms shall be designed and installed in a meandering and undulating style at a maximum slop of four to one (4:1) and an average height of four feet (4") as measured from the average established grade. Trees shall be planted on the slope of the berm, not on the top of the berm	Berms along Galena Blvd. will have a average height of two (2) feet as measured from average established grade. Average established grade shall be measured from the nearest sidewalks in the public right-of-way.	With the twenty-foot dedication along Galena Blvd there will not be enough room within the setback for a four-foot-high berm.
11-12-11	Off street loading requirements	As provided in PUD ordinance.	Many of the proposed uses will not require dedicated loading berths
11-12-12	Off street loading standards	The off-street loading standards of Section 11-12-12 shall not apply and shall be as provided in the PUD ordinance.	Many of the proposed uses will not require dedicated loading berths.
11-13-10 H 1 and 11-13-12 I 5	Variations or Special Uses: An approval pursuant to the provisions of this zoning ordinance of a variation, special use, or special use for a planned development shall become null and void should a building permit to begin construction not be applied for within twelve (12) months of the approval of the ordinance, unless this time limit is expressly extended, by ordinance, by the village board of trustees.	A Variance or Special Use approval shall become null and void if a building permit is not applied for within five (5) years on one of the lots shown on the PUD Plan.	This section is provided in Section 2A of the Amendment.
11-13-13(B)1	In any case where a map amendment has been granted, and no building permit for development has been applied for within eighteen (18) months, the planning commission may initiate a public hearing, after due notice	The Village may not initiate a map amendment unless a building permit has not been applied for within five (5) years on one of the lots shown on the PUD Plan.	This deviation is provided in Section 2A of the Amendment.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	according to section 11-13-8 of this chapter has been given, and written notice sent to the applicant at the address contained in the application.		
11-14-9A1; 11-14-9G	Nonresidential Subdivision Sign (10 or more acres) ("Monument Subdivision Sign") Monument Subdivision Sign structure maximum height 16 feet, maximum width 12 feet, maximum area 170 sq. ft.; sign face maximum height 10 feet, maximum width 12 feet, maximum area 100 square feet.	<p>As to Nonresidential Subdivision Sign (10 or more acres) only ("Monument Subdivision Sign"): Monument Subdivision Sign structure shall have a maximum height of twenty (20) feet, maximum width of sixteen (16) feet, and maximum area of three hundred twenty (320) square feet; maximum sign face height of sixteen (16) feet, width of ten (10) feet, and maximum area of one hundred sixty (160) square feet with no more than five (5) sign panels.</p> <p>One individual business may not use the entire Monument Subdivision Sign to advertise its business. Businesses that have frontage along Rt. 47 or Galena shall not be permitted to advertise on the Monument Subdivision Sign. A Monument Subdivision Sign at the entrance of Van Owen and Rt. 47 shall be permitted as identified on the PUD Plans. A second Monument Subdivision Sign shall be located at the entrance at Galena Boulevard and Division Drive.</p> <p>"Of Sugar Grove" shall not be required</p>	Given the size and depth of the ultimate development of the Owner Property the proposed development sign is required to adequately provide signage for all end users, as per Section 6A of the Amendment. The proposed monument sign has the same dimensions as the sign for the Jewel Shopping Center. The shopping center identification sign at the entrance of Van Owen and Rt. 47 has been requested by the Village as an amenity.

EXCEPTIONS AND DEVIATIONS FROM SUBDIVISION ORDINANCE

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
12-1-3C	Improvements Of Land: No improvements, such as sidewalks, water supply, storm water drainage, sewage facilities, gas service, electric service or lighting, grading, paving, or surfacing of any street, shall be made within any proposed subdivision by any owner or owners or his or their agent, or by any utility whether publicly or privately owned or operated, at the request of such owner or owners or by his or their agent until the plans and plat have been reviewed by the village engineer, approved by the village board, and said plat has been recorded in the office of the Kane County recorder in accordance with the procedures set forth in this title. At the village's discretion, site improvements may be constructed prior to the recording of the final plat, but not prior to approval of the preliminary plat, if a site development permit is issued by the village. Said site development permit application form and fee is to be established by village policy.	Modification of this requirement as provided in Section 6C of the Amendment. .	These improvements necessary to commence in order to complete the development in a timelier fashion. The necessary security will be in place prior to these improvements commencing.
12-1-3D	Development of Land in Stages: Where a tract of land is proposed to be subdivided in several stages over a period of years, the subdivider shall have the entire subdivision designed and presented to the Village for final plan approval. The final plans shall include a phasing plan showing the boundaries of the proposed phases. Phase boundaries shall be located in accordance with the requirements of section 12-4-5-3 of this title.	Elimination of this requirement in its entirety.	Do not have a phasing plan for the entire development. Section 6.C and 13.C of the Amendment provide for subdivision by Phases of the Owner Property.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	Phases approved but for which construction has not begun within 4 years of final plan approval may be subject to revisions necessitated by changes to this title or other ordinances or policies of the Village which impact the subdivision. Such revisions shall be submitted to the Planning Commission/Zoning Board of Appeals for review and to the Board of Trustees for approval.		
12-4-5-3	The entire subdivision shall be designed and presented to the Village for final approval. If the subdivider desires to construct a subdivision in phases, a phasing plan shall also be submitted to the Village for approval.	Elimination of these provisions in their entirety	Sections 6.C and 13.C of the Amendment provide that the Owner Property may be developed in phases. The remainder of the Owner Property will be subdivided when end users are identified.
12-4-5-4A1 & 2	Sections 12-4-5-4A1 and 12-4-5-4A2 in their entirety	As modified by Section 13.A of the Amendment	Provided in Section 13.A of the Amendment.
12-4-6-A	Completion: All required land improvements shall be completed within two (2) years of the recording of the final plat unless prior to the expiration of the two (2) year period a time extension is requested by the subdivider and granted by the Village Board. A request for an extension shall halt the two (2) year period. No extension shall be granted unless adequate guarantee collateral has been received and approved by the village board.	All required land improvements shall be completed within two (2) years after receipt of all required permits from governmental bodies and agencies required to commence construction of the land except for any on-site improvements to Lot 5, and the completion of the detention pond for the remainder of the Owner Property, which will have no time limit.	There currently are no anticipated end user for Lot 5, and the remainder of the detention pond will not be constructed until the remainder of the Owner Property is developed.
12-4-6C and D and all subsections	Generally, requires the submission of a deposit of cash, letter of credit, or surety bond equal to 15% of the cost of the land improvements guaranteeing satisfactory performance of the land improvements and shall be held by the Village for a period of 18 months after acceptance of the improvements.	As modified by Section 13B and C of the Annexation Agreement.	Provided in the Amendment.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
12-5-3	Section 12-5-3 (Streets) in its entirety	This provision shall remain in effect, however, there shall be a modification of these requirements that differ from any of the requirements provided on the PUD Plan or and any other engineering, grading, roadway, or other Plan approved by the Village as part of the approved Planned Unit Development Ordinance, final engineering approved by the Village engineer or any final plans approved by staff or the Village as the case may be	Eighty (80) feet not needed for Right-in, Right-out and limited access to Van Owen Drive form the outlots, Sixty-six (66) foot right-of-way at Rt. 47 and Van Owen Drive is sufficient. Any other deviations from the requirements of this section are acceptable based on engineering and traffic engineering principles given the limited access and traffic on these proposed roadways.
12-5-3M	Property Lines at Intersections: Property lines at intersections shall be rounded with a twenty-five-foot (25') radius. The Village Board may recommend comparable cutoffs in place of rounded corners.	Elimination of this requirement in its entirety	Width of the right-of-way is larger than typical as Division Street ties into Van Owen Drive. There is no public health and safety issue. Additionally, several of these lots are under contract.
12-5-7C	Pedestrian Crosswalks: Pedestrian crosswalks not less than ten (10) feet wide shall be required where deemed necessary by the Village Board, to provide for pedestrian circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.	Sidewalks shall be as provided on the PUD Plan	Five (5) foot sidewalks are more than adequate for this Development.
12-5-8A	Appropriate Size: The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.	As provided on Subdivision Plat and PUD Plan	Justifications for deviations from any of these requirements have been provided.
12-5-8B	Minimum Standards: All lots shall meet the minimum depth, width, and area requirements of Title 11 of this Code for the district in which the subdivision is located. In the case of corner lots, the Planning Commission/Zoning Board of Appeals may recommend, and the Village Board may require a greater width in order to encourage the proper	As provided on Subdivision Plat and PUD Plan	Justifications for deviations from any of these requirements has been provided.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	development of intersection design and traffic safety and to secure uniform setback lines from any property line adjoining a street. After setbacks on both street frontages have been taken into account, corner lots shall have a buildable width at least equal to that of the smallest interior lot on the adjacent block.		
12-6-1B	Off Site Improvements: If it is determined that any existing infrastructure, including, but not limited to, water distribution systems, wastewater collection or treatment systems, storm sewers or other stormwater management facilities and street improvements, which may be situated either in part or entirely offsite is inadequate to facilitate a proposed subdivision when 100% built out, then improvements to any one or all of such facilities may be required	Elimination of this provision in its entirety. All infrastructure required as provided in the PUD plan, engineering, grading, roadway, or other Plan approved by the Village as part of the approved Planned Unit Development Ordinance, final engineering approved by the Village engineer or any final plans approved by staff or the Village as the case may be.	All required improvements must be determined now, otherwise this provision will have a detrimental impact on all lots
12-6-1C	Oversizing of Utilities: Where determined by overall utility planning, the Village Board may require certain utilities to be larger than necessary to serve the subdivision as delineated in the preliminary plan. In such case, a recapture agreement may be made to repay the subdivider the construction cost resulting from the increased design. The maximum duration of any recapture agreement shall be 10 years, except that street recapture agreements shall not be longer than 5 years. All engineering, insurance and inspection costs shall be paid by the subdivider.	Elimination of this provision in its entirety. All required utilities and streets, including sizes and widths, are as provided on the PUD Plan. All engineering, insurance, and inspection costs shall be paid by the subdivider.	Size of the utilities must be determined as part of the approval process

EXHIBIT L-2
EXCEPTIONS AND DEVIATION FROM ZONING ORDINANCE
PRAIRIE GROVE COMMONS – REMAINDER PROPERTY
(NON-UNIT TWO)

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
11-8-6F1, 2, 3, 4, and 5	Yard and Setback Regulations: Every building hereafter erected or enlarged in this district shall provide and maintain a setback in accordance with the following: (1.) Minimum front and corner side yards: Not less than sixty feet (60') from a front or corner side lot line of a public or private street. (2.) Minimum interior side yards: Not less than ten feet (10') from an interior side lot line. (3). Minimum rear yards: Not less than thirty feet (30') from a rear lot line. (4.) Transition yards: Where a side or rear lot line coincides with a side or rear lot line in a residential or institutional use, the interior side or rear yard requirements for a commercial lot shall be increased as follows: (a.) Interior side yard: Forty feet (40'); (b.) Rear yard: Forty feet (40'). (5.) Primary roads: Not less than seventy-five feet (75').	1) Any front or corner side yard abutting Division or Van Owen Drive 20 feet; 2) Rear yard 20 feet.; 3) Interior side yard 5 feet	The 2010 Annexation Agreement contained deviations for building setbacks. The deviation list in the 2010 Annexation Agreement provided for 20-foot building setback in the rear yard Although the 2010 Annexation Agreement did not address interior side yards, five foot instead of ten-foot interior side yards are adequate setbacks because all of these outlots are part of an integrated development.
11-11-4(B)14	Preliminary Approval: Preliminary approval of a planned unit development by the village board shall be null and void in the event that the petitioner has failed to obtain final planned unit development approval for at least the first phase of the development within eighteen (18) months of the date of the preliminary approval.	Final approval must be obtained no later than five (5) years after the date of preliminary plan approval.	This deviation is provided in Section 2.1 of the PUD Ordinance.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
11-11-7(B)1b5	Major changes include... (5) Rearrangement of lots, blocks, and building tracts.	The rearrangement of lots, blocks, and building tracts shall be deemed a minor change and an incidental field change that can be approved by the zoning official if the lot line is moved five (5) feet or less.	Paragraph 11C of the Amendment provides for this provision.
11-12-7A	Minimum Parking Lot Perimeter Landscape Yard: Street Lot Line: 30' Interior Lot Line: 10' ² Rear Lot Line: 10' Transition Lot Line: 30' Primary Road: 45'	1) 10 foot landscape setback for any lots abutting Division Drive or Van Owen Drive; 2) Five foot interior yard landscape setback.	The Annexation Agreement contained deviations for landscape yard setbacks. The deviation list in the Annexation Agreement provided for a ten-foot rear landscape yard for any lot adjoining Rt. 47 or Galena Blvd. Division/ Van Owen Drive being constructed will only serve the lots contained on the Subject Property. Five-foot interior landscape setbacks are adequate because all these lots abut an integrated development. These modifications will be consistent with those for Prairie Grove Commons Unit Two.
11-13-10 H 1 and 11-13-12 I 5	Variations or Special Uses: An approval pursuant to the provisions of this zoning ordinance of a variation, special use, or special use for a planned development shall become null and void should a building permit to begin construction not be applied for within twelve (12) months of the approval of the ordinance, unless this time limit is expressly extended, by ordinance, by the village board of trustees.	A Variance or Special Use approval shall become null and void if a building permit is not applied for within five (5) years on one of the Owner Property lots.	This section is provided in Section 2.A of the Amendment.

² Setback may be reduced to 0 feet where off street parking facilities are shared.

11-13-13(B)1	In any case where a map amendment has been granted, and no building permit for development has been applied for within eighteen (18) months, the planning commission may initiate a public hearing, after due notice according to section 11-13-9 of this chapter has been given, and written notice sent to the applicant at the address contained in the application.	Village may not initiate a map amendment unless no building permit has applied for within five (5) years on one of the lots on the Owner Property.	This deviation is provided in the Annexation Agreement.
11-14-9A1; 11-14-9G	Nonresidential Subdivision Sign (10 or more acres) ("Monument Subdivision Sign") Monument Subdivision Sign structure maximum height 16 feet, maximum width 12 feet, maximum area 170 sq. ft.; sign face maximum height 10 feet, maximum width 12 feet, maximum area 100 square feet.	<p>As to Nonresidential Subdivision Sign (10 or more acres) only ("Monument Subdivision Sign"): Monument Subdivision Sign structure shall have a maximum height of twenty (20) feet, maximum width of sixteen (16) feet, and maximum area of three hundred twenty (320) square feet; maximum sign face height of sixteen (16) feet, width of ten (10) feet, and maximum area of one hundred sixty (160) square feet with no more than five (5) sign panels.</p> <p>One individual business may not use the entire Monument Subdivision Sign to advertise its business. . Businesses that have frontage along Rt. 47 and Galena shall not be permitted to advertise on the Monument Subdivision Sign. A Monument Subdivision Sign at the entrance of Van Owen and Rt. 47 shall be permitted as identified on the PUD Plans. A second Monument Subdivision Sign shall be located at the entrance at Galena Boulevard and Division Drive.</p> <p>"Of Sugar Grove" shall not be required</p>	Given the size and depth of the ultimate development of the Owner Property the proposed development sign is required to adequately provide signage for all end users, as per Section 6A of the Amendment. The proposed monument sign has the same dimensions as the sign for the Jewel Shopping Center. The shopping center identification sign at the entrance of Van Owen and Rt. 47 has been requested by the Village as an amenity.

EXHIBIT M

PRAIRIE GROVE COMMONS UNIT TWO PUD ORDINANCE



**VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS**

ORDINANCE NO. _____

**An Ordinance Granting a Special Use for a Planned Unit Development
and Approving a Final Plat of Subdivision
(Prairie Grove Commons Unit Two)**

Adopted by the
Board of Trustees and President
of the Village of Sugar Grove
this __ day of _____, 2022

Published in Pamphlet Form
By Authority of the Board of Trustees
of the Village of Sugar Grove, Kane County, Illinois
this __ day of _____, 2022

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL USE FOR A PLANNED UNIT
DEVELOPMENT AND APPROVING A FINAL PLAT OF SUBDIVISION
(PRAIRIE GROVE COMMONS UNIT TWO)

WHEREAS, the Village of Sugar Grove (“**Village**”) is not a home rule municipality within Article VII, Section 6A of the 1970 Constitution of the State of Illinois, and therefore, acts pursuant to those powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

WHEREAS, Owner owns fee simple interest in the Owner Property which is legally described in **Exhibit “A”**, attached hereto and incorporated herein by reference, consisting of approximately 36.69 acres, more or less (“**Owner Property**”), which contains the land described in Section One hereinafter and is the subject of this Ordinance (“**Prairie Grove Commons Unit Two**” or “**Unit Two Property**”); and.

WHEREAS, the Unit Two Property is within the corporate boundaries of the Village and is presently zoned B-3 Regional Business District; and,

WHEREAS, the petitioner, SDP Sugar Grove, LLC (“**Owner**”) seeks approval of a Special Use for a Planned Unit Development and a Final Plat of Subdivision; and,

WHEREAS, the Village and Owner have entered into a certain First Amendment to Annexation Agreement (“**Amendment**”) approved pursuant to Ordinance No. _____; and,

WHEREAS, all hearings required to be held before agencies of the Village took place in accordance with all applicable laws and upon providing proper legal notice of the same, including publication; and,

WHEREAS, the Village’s Plan Commission/Zoning Board of Appeals (“**PC/ZBA**”) and the Village of Sugar Grove Board of Trustees (“**Village Board**”) have further found, pursuant to Sections 11-11-3, 11-11-4, 11-11-6, and 11-13-12 of the Village of Sugar Grove Code of Ordinances (“**Village Code**”) that the aforementioned request meets all of the requirements of the Village Code, with the Findings of Fact of the PC/ZBA hereby adopted by reference; and,

WHEREAS, the PC/ZBA, after consideration of an application to grant a Special Use for a Planned Unit Development and approval of a Final Plat of Subdivision for the Unit Two Property (as hereinafter defined) recommended to the Village Board approval of the same; and,

WHEREAS, the Village Board now wishes to approve said Special Use for a Planned Unit Development and Final Plat of Subdivision in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows:

SECTION ONE: ZONING CLASSIFICATION AND APPROVAL OF PLANNED UNIT DEVELOPMENT PERMIT

The property legally described on the attached **Exhibit “A”** is hereby approved as a B-3 Regional Business District with a Special Use for a Planned Unit Development, specifically permitting the uses set forth on **Exhibit “B”**, attached hereto and incorporated herein by reference. The Zoning Ordinance of the Village is hereby amended accordingly and the Village Clerk is directed to update the Village’s Zoning Map to reflect this designation.

SECTION TWO: APPROVAL OF PRELIMINARY/FINAL PLANS AND FINAL PLAT OF SUBDIVISION

- 1) **Final Approvals.** The following combined plans for the Unit Two Property have been reviewed by the PC/ZBA and the Village Board and are hereby approved. For purposes of this Ordinance, land improvements shall include the following categories of on-site and off-site improvements: sanitary sewers, water mains, storm sewers, street and roadway improvements (including construction of IDOT improvements, the installation of a crosswalk at Galena Boulevard, and berming along State Route 47 and Galena Boulevard), grading and seeding, drainageways and stormwater management facilities, and miscellaneous improvements (including, but not limited to, street signs, street lights, pedestrian ways (e.g. sidewalks, bike paths), burial of overhead lines, etc.) as generally depicted on **Exhibits “C-2” and “C-3”**, attached hereto and incorporated herein by reference (collectively “**Land Improvements**”).
 - a) Final PUD Plan for Lots 1 – 6 (“**Exhibit C-1**” – “**PUD Plan**” attached hereto and incorporated herein by reference), prepared by Craig R. Knoche & Associates with latest revision date of December 6, 2021;
 - b) Lots 1 – 6 on-site and off-site Final Engineering for Prairie Grove Commons Unit Two (“**Exhibit C-2**” – “**Final Engineering Prairie Grove Commons Unit Two**” attached hereto and incorporated herein by reference), prepared by Craig R. Knoche & Associates with latest revision date of February 28, 2022, subject to any final revisions approved by the Village Engineer;
 - c) Final Engineering for offsite public roadway improvements to be constructed by Owner (“**Exhibit C-3**” - “**Final Engineering for Public Road Improvements**” attached hereto and incorporated herein by reference), prepared by Craig R.

Knoche & Associates with latest revision date of November 11, 2021, subject to any final revisions as required by IDOT and approved by the Village Engineer.

- d) Final Perimeter Landscaping plan for State Route 47 and Galena Boulevard to be installed by end users as each is developed (**“Exhibit C-4.1” - “Perimeter Landscape Plan”** attached hereto and incorporated herein by reference), prepared by Pamela Self Landscape Architecture with latest revision date of March 1, 2022.
- e) Final Native Landscape Plan (**“Exhibit C-4.2” – “Native Landscape Plan”** attached hereto and incorporated herein by reference) prepared by Encap, Inc. with latest revision date of November 8, 2021.
- f) Grant of on-site easements (**“Exhibit D-1” – “Grant of Easement”** attached hereto and incorporated herein by reference), prepared by Craig R. Knoche & Associates with latest revision date of March 1, 2022, subject to any revisions as required by the Grantor and approved by the Village attorney.
- g) Off-site easements for Sanitary Sewer (**“Exhibits D-2.1 and D-2.2” – “Temporary Construction and Permanent Drainage and Utility Easement Agreement”** attached hereto and incorporated herein by reference), prepared by Mickey, Wilson, Weiler, Renzi, Lenert & Julien, P.C. subject to any revisions as required by the Grantor and approved by the Village attorney;
- h) Prairie Grove Commons Unit Two (Lots 1 through 6) Final Plat of Subdivision (**“Exhibit E” – “Final Plat of Subdivision”** attached hereto and incorporated herein by reference), prepared by Craig R. Knoche & Associates with latest revision date of March 1, 2022, subject to any final revisions approved by the Village Engineer;

The PUD Plan, Final Engineering Prairie Grove Commons Unit Two, Final Engineering for Public Road Improvements, Final Native Landscape Plan, and Perimeter Landscape Plan are sometimes referred to collectively as the **“Combined PUD Plans”**. Approval of the Combined PUD Plans shall be deemed to be final planned unit development approval to satisfy the time period set forth in Section 11-11-4B-14 of the Village Zoning Ordinance to obtain final planned unit development approval. All references in this Ordinance to a lot number (i.e., Lot 1, Lot 2, etc.) shall mean the corresponding lot as identified on the Final Plat of Subdivision and PUD Plan. Completion of Lots 1-5, inclusive, of the Prairie Grove Commons Unit Two PUD, as set forth in Section 11-11-4B-15 of the Village’s Zoning Ordinance, shall be no later than five (5) years after the effective date of this Ordinance. Lots 1-5 inclusive shall be deemed “complete” to satisfy the requirements set forth in Section 11-11-4B-15 once a building permit is applied for on one of the five lots in the Prairie Grove Commons Unit Two PUD . If a building permit is not applied for within five (5) years after the effective date of this Ordinance on one of the five lots in the Prairie Grove Commons Unit Two PUD, the PUD Plan shall expire and shall be null and void unless otherwise extended by the Village.

Owner shall have two (2) years after receipt of all required permits from governmental bodies and agencies required to commence construction of Land Improvements to complete all required Land Improvements on the Property (“**Land Improvement Completion Date**”) in accordance with Section 12-4-6-C of the Village’s Subdivision Ordinance, except for any stormwater improvements not required to service the Property, which shall not have a time limit, and provided that if an on-site temporary sewer is installed pursuant to Section 8.D of the Amendment, the completion date of the temporary and permanent sewer line shall be governed by 8.D of the Amendment. In addition, Owner shall be permitted to defer the installation of the sidewalk along Lot 4 (the north side of Van Owen Drive) and Lot 5 until such time as each respective lot is developed or upon the commencement of any subsequent phase of development of the Owner Property, whichever is sooner. If the Land Improvement Completion Date is not met, the approval of the PUD Plan shall expire and shall be null and void unless otherwise extended by the Village. Notwithstanding the foregoing, any individual lot contained in Prairie Grove Commons Unit Two which has been completed prior to this timeframe shall not lose its approvals pursuant to this provision.

- 2) **Final Plat Conditions.** Prior to recording the Final Plat, Owner shall be required to meet all requirements of the Village’s Subdivision Ordinance, except as otherwise modified by the Amendment.
- 3) **Future Final PUD Plans.** Owner is intending to sell Lots 1 – 5 to end users who will seek Village approval of the Final PUD Plans, as hereinafter defined, for each individual lot. Plans for final approval of the Planned Unit Development shall be submitted for review and approved by the Plan Commission and the Village Board pursuant to Section 11-11-6D of the Village’s Zoning Ordinance. The PC/ZBA shall recommend approval if said submittal is in substantial compliance with the Approved Final Plans or Combined PUD Plans approved by this Ordinance and the terms and provisions of this Ordinance. The final Planned Unit Development plans submitted by a lot owner or its designee for approval shall be referred to as “**Final PUD Plans**”. As part of reviewing Final PUD Plans, the Village shall have the right to review exterior architectural elevations for proposed buildings pursuant to the provisions of Paragraph 11 of the Amendment. Provided final engineering plans for a specific lot and Final PUD Plans have been approved by the Village within the Unit Two Property, Owner and its respective successors and assigns shall have the right to construct buildings, parking lots, driveways, utility lines, and other appropriate improvements within such lot, provided the same comply with the Village Code, except as otherwise provided in this Ordinance and the Amendment.

SECTION THREE: DEVELOPMENT CONDITIONS AND DEVIATIONS

- 1) **Land Uses and Lot Deviations.** Except as otherwise provided in this Ordinance or the Amendment, including the deviations to the Village Code contained in **Exhibit “H”** attached hereto and incorporated herein by reference, the development and use of the

Unit Two Property shall comply with the standards established under the “B-3” zoning classification as set forth in the Village Code and all applicable subdivision or other ordinances of the Village. If there is any conflict between the regulations of the Village Code, as amended from time to time, this Ordinance and the Amendment shall govern.

- a) **Uses.** Those uses listed as permitted uses in **Exhibit “B”** shall constitute permitted uses (whether they are permitted or special uses in the ordinances of the Village) on the Unit Two Property (individually a “**Permitted Use**” and collectively the “**Permitted Uses**”). Any uses listed as special uses on **Exhibit “B”** shall be deemed special uses on the Unit Two Property (individually “**Special Use**” and collectively “**Special Uses**”) (whether they are permitted or special uses in the ordinance of the Village) and shall require subsequent application by the applicable owner pursuant to provisions for special use under the Village Code. The Permitted Uses and Special Uses listed in **Exhibit “B”** shall survive any amendments to the Village Code. Any application for a special use shall be processed in conformance with the Village Code. Any permitted or special uses added after the Effective Date of this Ordinance to the table of permitted or special uses in the commercial and office sections of the B-3 Zoning District of the Village shall be allowed as additional Permitted Uses or Special Uses on the Unit Two Property, as the case may be, in addition to the Permitted Uses and Special Uses listed in **Exhibit “B”**.
- b) **Minimum Lot Size.** The minimum lot size shall be not less than 40,000 square feet on all lots except Lot 6. Lot 6 shall not have any minimum lot size or minimum lot width. Lots shall be as provided on the Final Plat and PUD Plan.
- c) **Accessory Structure Height.** Accessory structure height shall be as provided in the Village Code, except for accessory structures located on Lot 1. Accessory structures constructed on Lot 1 shall not exceed a height of twenty (20) feet.
- d) **Setback Requirements.** Building and landscaping setback requirements from public street rights-of-way, roadway easements, and adjacent land uses for each lot within the Unit Two Property shall be as identified on the PUD Plan attached as **Exhibit “C-1”**. If IDOT or the Village requests that Owner convey property or condemn property for additional right-of-way, a commensurate reduction in setbacks shall be granted to lots reduced in size by said additional right-of-way dedication so that the Unit Two Property shall continue to comply with this Ordinance and shall not be considered non-conforming by the Village.
- e) **Yard Requirements.** The required building, parking and landscape setback yards along the periphery and interior of the development shall be as shown on the PUD Plan.
- f) **Property Lines at Intersections.** The requirement that property lines at intersections shall be rounded with a twenty-five (25) foot radius shall be waived.

- g) **Sidewalks.** Sidewalks shall be as shown on the PUD Plan and shall be allowed to be constructed with a five (5) foot width.
- h) **Basin Slopes.** The underwater side slopes of wet basins from the safety ledge to the high-water elevation shall not be steeper than 3:1 (horizontal to vertical). All side slopes above normal water level shall be no steeper than 3:1 (horizontal to vertical).
- 2) **Parking and Loading Berth Requirements and Deviations.** Except as expressly deviated from in this Ordinance, the off-street parking regulations shall be governed by the regulations provided in Chapter 11 of the Village Code.
- a) **Accessible Parking.** The diagonally striped eight foot (8') wide access aisle may be shared with an adjacent accessible parking space. The length of accessibility parking stalls shall be consistent with other parking stalls within the parking area.
- b) **Location of Parking.** Parking for any use can be located either: 1) on the lot upon which the use is located; or, 2) on other lots within the Unit Two Property or outside the Unit Two Property with a properly recorded cross-access easement for parking between the two lots.
- c) **Parking for all Restaurants.** (Fast food, sit-down, carry-out, live entertainment, and banquet hall) parking requirements – ten (10) spaces per one thousand (1,000) square feet. Notwithstanding the foregoing, Lot 3 shall only require seven (7) spaces per one thousand (1,000) square feet. Zero (0) spaces per one thousand (1,000) square feet must be devoted to outdoor dining.
- d) **Loading Berths.** Off-street loading areas shall be provided at either the rear or side of the principal buildings for each lot or any adjoining lots, except as deviated by this Ordinance; however, off-street loading docks shall not be required to be provided. If a loading berth is added, it shall not be located adjacent to Galena Boulevard or State Route 47. The required number of loading berths for a particular use shall be as follows:

<u>GROSS FLOOR AREA</u>	<u>NUMBER (SIZE)</u>
0 – 11,000	0
11,000 – 15,000	1 (12' x 60')
15,000 – 50,000	2 (12' x 60')
50,000 - 100,000	3 (12' x 60')

Receipt or distribution of materials or merchandise by U.S. mail trucks, commercial express vehicles, United Parcel Service vehicles, and the like, shall be permitted at locations other than the required off-street loading locations.

- 3) **Signs.** Owner shall be permitted to construct, operate, and maintain temporary and permanent signs upon the various portions of the Unit Two Property owned or controlled by it, pursuant to a written agreement or easement and in accordance with this Ordinance and other ordinances of the Village.

a) **Permanent Nonresidential Permitted Signs for a Nonresidential Subdivision**

Ten (10) or More Acres in Size: A (“Monument Subdivision Sign”) shall be permitted as provided in the Amendment. The Monument Subdivision Sign approved by the Village is attached as **Exhibit “G”**). Said sign structure shall have a maximum height of twenty (20) feet, maximum width of sixteen (16) feet, and maximum area of three hundred twenty (320) square feet, maximum sign face height of sixteen (16) feet, width of ten (10) feet, and maximum area of one hundred sixty (160) square feet with five (5) sign panels. The maximum panel size for any user shall not exceed sixty (60) square feet. Each panel shall be of uniform size and shape. Only one user shall be identified per panel. A total of two (2) Monument Subdivision Signs shall be permitted as shown on the PUD Plan. One individual business may not use more than one panel of the Monument Subdivision Sign to advertise its business. Businesses that have frontage along State Route 47 and Galena Boulevard shall not be permitted to advertise on the Monument Subdivision Signs. In addition, one of the two Monument Subdivision Sign, as depicted in **Exhibit “G,”** shall be permitted on either lot adjoining Community Drive and State Route 47.

b) **Lot with Freestanding Single Tenant Building (“Monument Single Tenant Signs”)**.

Two (2) Monument Single Tenant Signs shall be permitted on each lot or resubdivided lot since all about two publicly dedicated streets as provided in Section 11-14-9-2-c of the Village’s Zoning Ordinance, but only one such sign per street frontage. This provision does not apply to directional signage, which each lot shall be permitted, in accordance with the Village Zoning Ordinance.

- c) **Maintenance.** All maintenance obligations related to signage shall be the responsibility of the Owner and/or successor lot owners or tenants. The Village shall be granted easement rights as provided in the Amendment, which shall provide the Village the right, but not the obligation, to perform maintenance in the instance that Owner and/or successor lot owners fail to adequately maintain signage. This easement shall not preclude the Village from pursuing other remedies available through law or equity.

- d) **Aesthetics and Illumination.** All lot owners shall be permitted to provide internal or external lighting (but not both) of any signs. There shall be no color restrictions on any wall or ground signs.

- 4) **Land Improvements.** All Land Improvements, including the burial of existing utilities, shall be constructed in substantial conformance with the Final Engineering and Final

Engineering for Public Road Improvements shown on **Exhibits “C-2” and “C-3”** as approved by the Village Engineer.

Binder course, rather than final pavement lift, on Division Drive/Van Owen Drive shall be acceptable for receipt of a temporary occupancy certificate for any building on the Unit Two Property in accordance with the provisions set forth in Section 10(B)(2) of the Amendment.

5) Landscaping Requirements and Deviations.

a) **Individual Lot Landscape Requirements.** Perimeter, parkway, and interior landscaping shall be shown on a Final Landscape Plan to be provided by each individual lot owner at the time it submits its application for Final PUD Plans approval by the Village (“**Lot Landscape Requirements**”). Any deviations from the landscaping requirements of the Village Code shall be as provided in the PUD Plan or as otherwise set forth herein and the deviation list attached as **Exhibit “H”**. The perimeter landscaping to be installed on State Route 47 and/or Galena Boulevard by each lot owner at the time each lot is developed is depicted on the Perimeter Landscape Plan. The Lot Landscape Requirements shall be installed prior to occupancy of any buildings on the Unit Two Property, weather permitting, or, in the event of adverse weather conditions, within sixty (60) days following the commencement of the next successive planting season following issuance of such occupancy permit.

b) **Owner Landscape Requirements.** Owner shall be responsible for the berms to be installed pursuant to Section 6.C of the Amendment and the burial of the overhead utility lines adjacent to Lots 1-4 (“**Overhead Utility Lines**”) (“**Owner Landscape Requirements**”). Burial of the Overhead Utility Lines shall be required to be installed as a condition of receiving an occupancy permit for any lot on the Unit Two Property.

6) **Building and Parking Envelope.** The PUD Plan (**Exhibit “C-1”**) identifies envelopes within which the building or buildings and parking lot on each lot within the Unit Two Property may be constructed (“**Building and Parking Envelope**”). The purpose of the Building and Parking Envelope is to provide reasonable flexibility in design, configuration, and location of the buildings within the Building and Parking Envelope. The actual building footprint and parking lot location for each building constructed within the Unit Two Property may be adjusted to meet the reasonable needs and requirements of the uses of such building provided the building footprint and parking lot location are located within the Building and Parking Envelope as identified on the PUD Plan.

7) **Sidewalks and Bike Path.** Each lot owner shall be required to construct sidewalks as identified on the PUD Plan (**Exhibit “C-1”**) and the Final Engineering Plans (**Exhibit “C-2”**). All sidewalks shall be installed continuously. The crosswalk located at Galena Boulevard and State Route 47, the bike path along State Route 47, and all sidewalks immediately along the Galena Boulevard and State Route 47 frontage and along Division

Drive in front of Lots 1- 3 shall be installed concurrently with the Division Drive. Notwithstanding the foregoing, the installation of the sidewalk along Lot 4 (north side of Van Owen Drive) and Lot 5 may be deferred until such time as each respective lot is developed or a subsequent phase of development of Owner Property occurs, whichever is sooner. These shall be the only sidewalks required to be constructed on the Unit Two Property. Security for improvements made pursuant to this provision shall be part of the overall subdivision guarantee.

- 8) **Exterior Lighting.** All exterior pole mounted lighting constructed on the Unit Two Property shall not exceed a maximum height of twenty-five (25) feet, measured from grade. Any lot owner may place accent lighting to illuminate the building and any of the lot's entrances, so long as such work is performed in accordance with the Village Code and in a manner that ensures that the light leaving the site and fixtures does not exceed the Village Code's photometric standards. Photometric plans for each lot shall be approved by the Village as part of each Final PUD Plans application. The Village may require that any such lighting maintain a certain level of consistency with other developments across the same general corridor. In addition, visual and aesthetic compatibility shall be required within the development.

9) **Improvements and Development of Land.**

- a) **Improvements of Land.** As per Section 6.C of the Amendment, Owner may undertake site preparation, mass grading, and installation of underground utilities prior to obtaining Final Plat of Subdivision approval for the Unit Two Property, at its sole risk, provided: (a) the Village Engineer has reviewed and approved the proposed grading and utility plan; (b) the Village has issued a mass grading permit; (c) to the extent required herein, Owner has posted a performance bond acceptable to the Village as to form and issuer; and (d) soil erosion control, tree protection measures (if any is required by Village Ordinance), and any other governmental approvals are in place. Owner hereby agrees to indemnify, defend, and hold harmless the Indemnitees (as defined in the Amendment) from all claims, liabilities, costs, and expenses incurred by or brought against any or all of the Indemnitees as a direct and proximate results of the mass grading and site development work permitted under this subparagraph.
- b) **Development of Land.** A phasing plan shall not be required for the entire development. Phasing shall be as per Section 6.C and 13.C of the Amendment. The Remainder Property, as hereinafter defined, will be subdivided when end users are identified.

- 10) **Stormwater.** The development of the Unit Two Property shall comply in all respects with the Kane County Stormwater Ordinance. In the event of a conflict between this Ordinance and the Kane County Stormwater Ordinance, the Kane County Stormwater Ordinance shall control.

The Final Engineering provides for the construction of a stormwater management facility on Lot 6 with associated easements on Lot 5 and the land adjoining the Unit Two Property “**Remainder Property**” to serve the Unit Two Property and the Remainder Property. The temporary drainage and utility easement, recorded as document 2008K039973 on May 9, 2008 on the Unit Two Property and the Remainder Property (“**Temporary Drainage Easement**”) shall be terminated pursuant to agreement attached as **Exhibit “F”**. (“**Termination Document**”). The Parties acknowledge that the Final Plat of Subdivision may be recorded without showing the Temporary Drainage Easement even though the Termination Document has not been recorded prior to recording the Final Plat of Subdivision so long as replacement easements are provided on the Final Plat and the required security is posted for the construction of the replacement stormwater improvements. Notwithstanding anything to the contrary provided herein, the Temporary Drainage Easement shall not terminate until the Termination Document is recorded.

- 11) **Special Service Areas.** A back-up special service area shall be established as per Section 14 of the Amendment.
- 12) **Traffic Enforcement.** A private property traffic enforcement agreement shall be entered into as per **Exhibit “H”** of the Amendment.
- 13) **Site Control Escrow.** Street and site clean-up and site control escrow shall be governed by Paragraph 10 of the Amendment.
- 14) **Cross Access Easements.** As provided in Section 6.I of the Amendment. Any cross access between lots, if any, will be provided as a part of reciprocal easement agreement or similar document to be executed and recorded by Owner at the time the Final Plat of Subdivision is recorded.
- 15) **Security.** Security shall be as provided in Section 13 of the Amendment.

SECTION FOUR: MISCELLANEOUS PROVISIONS

- 1) **Binding Nature of Conditions.** The benefits, duties, and provisions of this Ordinance shall be binding on the heirs, successors, and/or assigns of the Owner and/or owners of record of the Unit Two Property. Except as otherwise expressly provided herein, upon the conveyance or assignment by Owner of its interest in the Unit Two Property to any successor, assign, or nominee, Owner shall be released from any and all further liability or responsibility under this Ordinance, except to the extent previously undertaken by Owner, or for which Owner has posted security to perform an obligation in which case Owner shall be bound to continue to complete its performance unless a replacement bond or letter of credit is posted by the new owner or developer, and accepted by the Village, which shall not be unreasonably withheld. In such event, the original Owner shall be released from the underlying obligation to perform. The Village shall thereafter look only to the successor, assign, or nominee of Owner, as the case may be, concerning the performance of such duties and obligations of Owner hereby undertaken. Any references

in this Ordinance to Owner shall also include any successor and/or assign of Owner for any lot conveyed by Owner to the successor and/or assign.

- 2) **Fees.** Owner shall pay all Village fees (including, but not limited to, all engineering, plan review, and legal fees) incurred by the Village as a result of the granting of this Special Use and PUD and all fees specified by Village ordinance as generally applicable to other similar developments, except as modified by the Amendment.
- 3) **Village Ordinance Amendments.** All references to Village ordinances or similar terms shall be references to such ordinances as they are amended from time to time. This Ordinance may be amended from time to time upon application from the then legal owner of fee title to that portion of the Unit Two Property which is subject to and affected by such amendment; provided, that such amendment, if not executed by the then legal owner or owners of any other portion of the Unit Two Property, shall in no manner alter, amend, or modify any of the right, duties or obligations set forth in the Ordinance as they pertain to such other portions of the Unit Two Property. Any legal owner(s) of the Unit Two Property not seeking to amend this Ordinance shall not be required to consent to an amendment of this Ordinance. The provisions of this Ordinance shall supersede the provisions of any ordinance, code, or regulation of the Village which may be in conflict with the provisions hereof. Any lot owner filing an application for approval of Final PUD Plans or amendment to any previously approved plans or any other Zoning or Subdivision application provided in the Village Code (including but not limited to rezoning, special use, or plat of re-subdivision) that applies only to its individual lot shall not require any other lot owner's consent to any of these applications or approvals. Notwithstanding the foregoing, the Village may not initiate a zoning map amendment unless no building permit has been applied for within five (5) years on one of the lots shown on the PUD Plan.
- 4) **Changes in Use.** All uses must be developed in substantial conformance with this Ordinance and the Village Code and may not be expanded without prior Village approval in accordance with the Village Code, except as otherwise provided in this Ordinance.
- 5) **Items Not Considered Changes; Resubdivision.** The rearrangement of lots, blocks, and building tracts shall be deemed a minor change and an incidental field change if the lot line is moved five (5) feet or less. Such changes may be approved by the Community Development Director, Village Administrator, or other village personnel so empowered by the Village Board, as the case may be. Any changes to the Final Engineering attached as **Exhibit "C-2"** or Final Public Street Improvements attached as **Exhibit "C-3"** required by the Village Engineer or IDOT shall not be considered a change to this Ordinance and shall be considered an incidental field change that can be approved by the Village Engineer, or other Village personnel so empowered by the Village Board, as the case may be.
 - a) **Resubdivision.** Any lot may be resubdivided in conformance with the Plat Act, from time to time, into two (2) or more lots after or concurrently with the

initial plat of subdivision for each such lot. In the event, however, following the approval and recordation of the initial plat of subdivision of a lot contained within the Unit Two Property, Owner shall be entitled to resubdivided each such lot without further PC/ZBA review, provided the following conditions are met:

- i) All resubdivided lots shall comply with the standards of this Ordinance;
 - ii) Each resubdivided lot shall have access by way of fee title or easements in a form reasonably acceptable to the Village to:
 - 1. A public street for ingress and egress;
 - 2. Water mains;
 - 3. Sanitary sewers;
 - 4. Storm sewers;
 - 5. Electric distribution facilities; and,
 - 6. Such other public utilities as may be necessary and appropriate for the use and occupancy of such subdivided lot.
 - iii) Utilities for which easements or ownership shall be necessary, as set forth in ii) above, shall be installed and accepted or collateralized in accordance with the Village Code.
 - iv) Each subdivided lot shall have sufficient off-street parking located thereon as provided in the Village Zoning Ordinance or have access to and use of off-street parking on other portions of the Unit Two Property by way of easements, as provided in the Village Zoning Ordinance.
 - b) Owner shall have the right to resubdivide the Unit Two Property into lot configurations other than as shown on the PUD Plan or Final Plat of Subdivision, so long as each such lot platted complies with the requirements of the Village Code, except as amended by or otherwise provided in this Ordinance. A resubdivision of any approved final plat of subdivision shall not be considered a change to the final plat, the PUD Plan, or this Ordinance.
- 6) **Enactment of Ordinances.** The Village agrees to adopt any ordinances which are required to give legal effect to the matters contained in this Ordinance or to correct any technical defects which may arise after the execution of this Ordinance.
- 7) **Enforceability.** This Ordinance shall be enforceable by any of the parties hereto by an appropriate action at law or in equity to secure the performance of the terms, provisions, conditions, and covenants herein contained. Proper venue shall be in the Sixteenth Judicial Circuit, Kane County, Illinois.

- 8) **Expiration of Approvals.** A variation, deviation, or special use approval shall become null and void if a building permit is not applied for within five (5) years on one of the lots shown on the PUD Plan.
- 9) **Approval of Deviations.** As part of the approval of the Special Use for a Planned Unit Development of the Unit Two Property the Village approves the deviations/modifications from the Village Zoning Ordinance and Subdivision Ordinance for the Unit Two Property as provided in **Exhibit “H”**.
- 10) **On-Site and Off-Site Roadways.** All on-site and off-site improvements to all public roads (“Roadway Improvements”) located on the Unit Two Property or adjacent to the Unit Two Property are identified on **Exhibits “C-2” and “C-3”**. The Village shall not require Owner or any lot owner to construct or contribute any money or additional property or any other type of improvements for these Roadway Improvements or any other Land Improvements not specifically required under this Ordinance, including the Plans attached to this Ordinance, for any lot on the Unit Two Property, as part of the approved Combined PUD Plans, Approved Final Plans, or Final PUD Plans submitted by Owner or any lot owner for final approval of any of the Permitted Uses or Special Uses listed in **Exhibit “B”**. Additionally, the Owner or any lot owner, shall not be required to conduct or pay for any traffic studies that have not been already conducted by Owner as part of the approved Combined PUD Plans, Approved Final Plan, or Final PUD Plans submitted by Owner or any lot owner for final approval of any of the Permitted Uses or Special Uses listed in **Exhibit “B”** except, however, Owner shall pay for and conduct any traffic study required by IDOT for the Unit Two Property. The Roadway Improvements for all public or private roads shown in **Exhibit “C-2” and “C-3”** satisfy all provisions of Paragraph 3 of the Amendment.
- 11) **Access Locations.** The Village hereby approves the curb cut locations and access points as shown on **Exhibits “C-1” and “C-2”**. In addition, as part of any approved Final PUD Plans submitted by each lot owner, at least one curb cut on Division Drive shall be permitted by the Village for each lot and one additional curb cut on Van Owen Drive for Lot 4.
- 12) **No Obligation to Construct.** Nothing in this Ordinance shall be construed as requiring or obligating Owner to commence construction of any of the Land Improvements, private improvements, or buildings described in this Ordinance. However, once construction has commenced, Owner shall be obligated to continue with the development as more specifically set forth in Section 25 of the Amendment.
- 13) **Interpretation.** To the greatest extent possible, the Amendment and this Ordinance shall be interpreted as fully compatible with one another. In the event there exists a conflict between any term, condition, or provision of this Ordinance and Amendment, this Ordinance shall control with regard to the approval of any plat or plan specific to the Unit Two Property. In the event there exists a conflict between any term, condition, or provision of this Ordinance and Amendment that is intended to be a generally applicable

obligation to the Owner Property, as defined in the Amendment, the Amendment shall control.

SECTION FIVE: GENERAL PROVISIONS

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

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

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its approval, passage, and publication in pamphlet form as provided by law.

TITLES AND CAPTIONS. All article, section, and paragraph titles or captions contained in this Ordinance are for convenience only and shall not be deemed part of the context nor affect the interpretation of this Ordinance.

INCORPORATION OF EXHIBITS. All exhibits attached to this Ordinance are hereby incorporated herein and made a part of the substance hereof.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois this ____ day of _____, 2022.

Jennifer Konen,
Village President of the Village of Sugar Grove, Kane County, Illinois

ATTEST _____
Alison Murphy,
Village Clerk of the Village of Sugar Grove

EXHIBIT LIST

Exhibit A	Legal Description
Exhibit B	Permitted and Special Uses List
Exhibit C-1	PUD Plan
Exhibit C-2	Final Engineering – Prairie Grove Commons Unit Two
Exhibit C-3	Final Engineering - Public Road Improvements
Exhibit C-4.1	Perimeter Landscape Plan
Exhibit C-4.2	Native Landscape Plan
Exhibit D-1	Grant of Easement
Exhibit D-2.1	Temporary Construction and Permanent Drainage and Utility Easement Agreement
Exhibit D-2.2	Temporary Construction and Permanent Drainage and Utility Easement Agreement
Exhibit E	Final Plat of Subdivision
Exhibit F	Termination of Temporary Drainage Easement
Exhibit G	Monument Subdivision Sign
Exhibit H	Deviation List

EXHIBIT A

LEGAL DESCRIPTION

UNIT TWO PROPERTY (Part of Owner Property)

THAT PART OF THE SOUTH HALF OF SECTION 16, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE RIGHT-OF-WAY DEDICATED AS GALENA BOULEVARD BY DOCUMENT 2008K039972, SAID POINT ALSO LYING ON A LINE DRAWN FROM A POINT ON THE SOUTH LINE OF SAID SECTION 16 WHICH IS 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE N89°35'19"E ALONG THE SOUTH LINE OF SAID GALENA BOULEVARD, 873.36 FEET TO AN ANGLE POINT IN SAID SOUTH LINE; THENCE S45°13'43"E ALONG SAID SOUTH LINE, 43.23 FEET TO THE SOUTHEAST CORNER OF SAID GALENA BOULEVARD, SAID POINT LYING ON THE WEST LINE OF ILLINOIS ROUTE 47 AS DEDICATED BY DOCUMENT 897944; THENCE S0°04'31"E ALONG SAID WEST LINE, 642.34 FEET; THENCE S89°35'19"W, 360.19 FEET; THENCE N0°24'41"W, 111.00 FEET; THENCE N19°45'55"W, 273.23 FEET; THENCE N0°17'01"W, 29.21 FEET; THENCE S89°35'19"W, 420.00 FEET; THENCE S0°17'01"E, 398.00 FEET; THENCE N89°35'19"E, 105.00 FEET; THENCE S0°17'01"E, 1077.70 FEET; THENCE N89°42'59"E, 270.62 FEET TO A POINT ON SAID WEST LINE OF ILLINOIS ROUTE 47; THENCE CONTINUING SOUTHWESTERLY ALONG SAID WEST LINE, BEING A CIRCULAR CURVE HAVING A RADIUS OF 357.00 FEET CONCAVE TO THE SOUTHEAST, THE CHORD OF WHICH BEARS S39°14'19"W, 136.28 FEET; THENCE CONTINUING S28°18'09"W ALONG SAID WEST LINE, 195.17 FEET; THENCE SOUTHWESTERLY ALONG SAID WEST LINE, BEING A CIRCULAR CURVE HAVING A RADIUS OF 380.00 FEET CONCAVE TO THE NORTHWEST, THE CHORD OF WHICH BEARS S50°46'53"W, 298.17 FEET TO A POINT ON SAID LINE DRAWN FROM A POINT ON THE SOUTH LINE OF SAID SECTION 16 WHICH IS 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE N0°17'01"W ALONG SAID LINE, 2208.88 FEET TO THE POINT OF BEGINNING IN THE VILLAGE OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

Owner Property:

THAT PART OF THE SOUTH 1/2 OF SECTION 16, TOWNSHIP 38 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING IN THE CENTER OF THE AURORA AND DIXON ROAD 9.62 CHAINS WEST OF THE EAST LINE OF SAID SECTION; THENCE SOUTH TO THE SOUTH LINE OF SAID SECTION 16; THENCE WEST ALONG SAID SOUTH LINE TO THE CENTER LINE OF STATE ROUTE NO. 47; THENCE NORTH ALONG SAID CENTER LINE 395 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID SECTION 551.4 FEET; THENCE SOUTH PARALLEL WITH THE CENTER LINE OF STATE ROUTE 47, 395 FEET TO THE SOUTH LINE OF SAID SECTION; THENCE WEST ALONG SAID SOUTH LINE

TO A POINT 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE NORTH 40 CHAINS TO THE NORTH LINE OF THE SOUTH 1/2 OF SAID SECTION; THENCE EAST ALONG SAID NORTH LINE TO THE CENTER LINE OF SAID STATE ROUTE 47; THENCE SOUTH ALONG SAID CENTER LINE TO THE CENTER LINE OF THE AURORA AND DIXON ROAD AFORESAID; THENCE EASTERLY ALONG THE CENTER LINE OF SAID AURORA AND DIXON ROAD TO THE POINT OF BEGINNING (EXCEPT THAT PART CONVEYED TO THE STATE OF ILLINOIS BY WARRANTY DEED RECORDED AUGUST 18, 1959 AS DOCUMENT 897944 AND ALSO EXCEPT THAT PART LYING EASTERLY OF SAID CENTER LINE OF STATE ROUTE 47 AND ALSO EXCEPTING THAT PART THEREOF FALLING IN LOT 1 IN PRAIRIE GROVE COMMONS UNIT ONE, RECORDED SEPTEMBER 15, 2010 AS DOCUMENT NUMBER 2010K060656 AND ALSO EXCEPT THAT PART DEDICATED FOR DIVISION DRIVE (66.0 FEET WIDE) ON SAID PLAT OF PRAIRIE GROVE COMMONS UNIT ONE, AND ALSO EXCEPT THAT PART OF THE LAND DEDICATED FOR ROADWAY AND UTILITY PURPOSES TO THE VILLAGE OF SUGAR GROVE RECORDED AS DOCUMENT 2008K039972 IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

EXHIBIT B

PERMITTED AND SPECIAL USES LIST

PERMITTED USES

Only the uses identified in the *Commercial Uses* and *Office Uses* sections under the B-3 Zoning District of the Table of Permitted Uses (Section 11-4-22 of the Village Zoning Ordinance), and Planned Developments, in compliance with the applicable additional standards, conditions and requirements of Section 11-4-22-C of the Village Zoning Ordinance, except as provided otherwise herein, are permitted on the Owner Property, together with any uses added to the uses identified in the Commercial Uses and Office Uses sections under the B-3 Zoning District of Section 11-4-22 of the Village Zoning Ordinance.

In the event the following uses are established on the Unit Two Property, the additional standards, conditions and requirements shall apply:

Motor vehicle sales – must provide a minimum ten thousand (10,000) square feet of indoor showroom for displaying vehicles, not including office or garage space. Primary sales must be of new vehicles and shall be limited to automobiles, SUVs, pick-up trucks, motorcycles, ATVs and UTVs. The sale of any other type of vehicle shall require a special use permit.

Lumberyard – must be indoor only, unless accessory to a retail use and square footage shall not exceed 50% of the square footage of the primary indoor retail use.

Self-storage facility- must be an indoor, climate-controlled facility only, consisting of individual private storage spaces available for lease or rent to the general public, not for commercial purposes.

Notwithstanding Section 11-4-22 of the Village Zoning Ordinance, Owner is permitted to establish the first bank/financial institution, including drive-through service window, car wash, hotel, and motor vehicle fuel station on the Owner Property, as defined in the Amendment without a Special Use Permit. A Special Use Permit shall be required in order to establish and operate a second or more bank/financial institution, car wash, hotel, and motor vehicle fuel station on the Owner Property.

SECTION 11-4-22C

B-3 Commercial and Office Uses Contained in Zoning Ordinance Currently in Effect

Use	B-3 Zoning District
Commercial Uses	
Adult entertainment	
Art gallery	P
Auction room	S
Bank and financial institution	S
Banquet hall	P*
Banquet Hall, within 600 feet of a residential lot	S
Beauty shop, barbershop, and day spa	P
Bed and breakfast guesthouse	S
Bicycle sales and service	P
Car wash	S
Carpet and upholstery cleaners	S
Catering service	P
Cleaning and exterminating service	S
Clothing and costume rental store	P
Currency exchange	S
Drinking establishments	P
Equipment rental and leasing service	S
Event venue	
Florist	P
Food store	P
Food store, convenience	P
General repair service	P
General retail	P
Hotel, motel, and inn	S

Ice cream parlor	P
Laundry service	P*
Locksmith	P
Lumberyard	P
Mailing service	P
Medical supply rental	P
Motor vehicle fuel station	S
Motor vehicle parts retail	P*
Motor vehicle repair, Class I	P*
Motor vehicle repair, Class II	P*
Motor vehicle repair, Class III	
Motor vehicle repair, Class IV	
Motor vehicle sales	P*
Mulch, firewood sales	
Package liquor and wine, retail	P
Pawnshop	S
Pharmacy	P
Picture framing	P
Printing and publishing	P
Resale shop	P
Restaurant	P
Restaurant, alcohol service	P
Restaurant, carry out	P
Restaurant, drive-through	P
Restaurant, live entertainment, or dancing	S
Septic tank or sewer cleaning service	P
Small engine repair shop (not motor vehicles)	P
Sports and recreation, indoor	S
Sports and recreation, outdoor	S
Storage facilities	S
Tailor or dressmaker shop	P
Tattoo parlor	P

Taxidermist	P
Theater	P
Tobacco or vape shop	S
Undertaking establishment, funeral parlor and mortuary	P
Office Uses	
Contractor's office	P
Counseling service	P
General office	P
Medical laboratory	S
Medical office	P

***Refers to additional standards and criteria in section 11-4-23 for specific uses**

EXHIBIT C-1

PUD PLAN

EXHIBIT C-2

FINAL ENGINEERING

EXHIBIT C-3

FINAL ENGINEERING FOR PUBLIC ROAD IMPROVEMENTS

EXHIBIT C-4.1

PERIMETER LANDSCAPE PLAN

EXHIBIT C-4.2

NATIVE LANDSCAPE PLAN

EXHIBIT D-1

GRANT OF EASEMENT

EXHIBIT D-2.1

**TEMPORARY CONSTRUCTION AND PERMANENT DRAINAGE AND UTILITY
EASEMENT AGREEMENT**

EXHIBIT D-2.2

**TEMPORARY CONSTRUCTION AND PERMANENT DRAINAGE AND UTILITY
EASEMENT AGREEMENT**

EXHIBIT E

FINAL PLAT OF SUBDIVISION

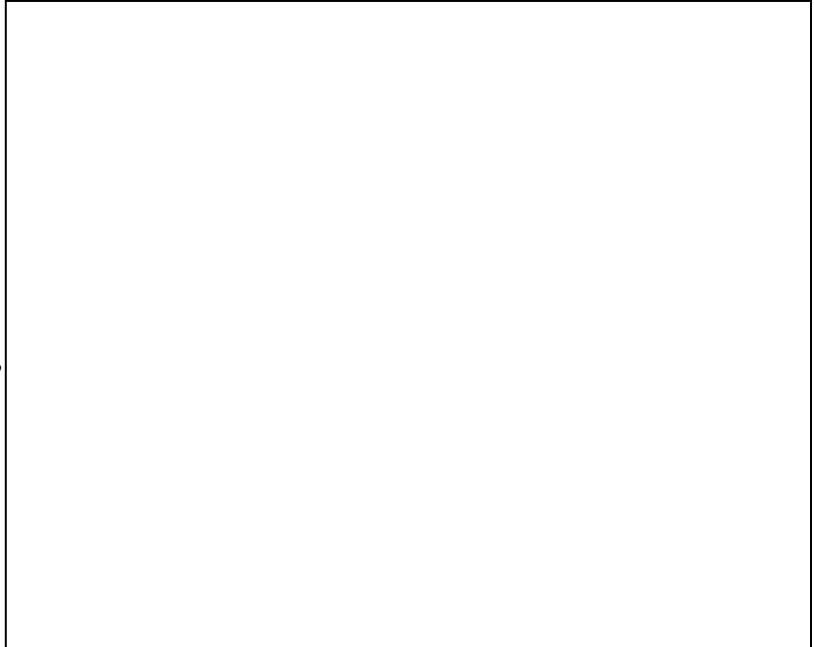
EXHIBIT F

TERMINATION OF TEMPORARY DRAINAGE EASEMENT

**THIS INSTRUMENT
PREPARED BY
AND RETURN TO:**

ALAN D. PEARLMAN

Law Offices of Alan D. Pearlman,
2803 Butterfield Road, Suite 300
Oak Brook, Illinois 60523



**TERMINATION OF TEMPORARY CONSTRUCTION EASEMENTS
AND TEMPORARY STORMWATER MANAGEMENT EASEMENT**

THIS TERMINATION OF TEMPORARY CONSTRUCTION EASEMENTS AND TEMPORARY STORMWATER MANAGEMENT EASEMENT ("Termination") is entered into as of the ____ day of _____, 2022 by and between the **VILLAGE OF SUGAR GROVE, KANE COUNTY, ILLINOIS ("Village ")** and **SDP SUGAR GROVE, LLC**, an Illinois limited liability company ("**SDP** ").

R E C I T A L S:

A. SDP is the owner of a certain parcel of land at the southwest corner of Galena Boulevard and Illinois Route 47, in the Village of Sugar Grove, Kane County, Illinois, as legally described on **Exhibit "A"** attached hereto and made a part hereof (the "**Property**").

B. The Property is encumbered by that certain Grant of Easement for Public Utilities and Shared Use Path for the benefit of the Village recorded in the Kane County Recorder's Office on May 9, 2008 as Document Number 2008K039973 (the "**Grant of Easement**").

C. The Grant of Easement included the following separate specific grants of easement (all as more specifically set forth therein): (i) temporary construction easements in favor of the Village over certain portions of the Property as shown on the Grant of Easement (the "**Temporary Construction Easements**"); and (ii) a temporary stormwater management easement in favor of the Village over certain portions of the Property as shown on the Grant of Easement (the "**Temporary Stormwater Easement**").

D. The Temporary Construction Easements and Temporary Stormwater Easement were intended to expire upon the satisfaction of certain conditions as set forth in the Grant of Easement; it being acknowledged, however, that the purpose of such conditions was to ensure that permanent stormwater facilities and easements necessary to serve the Property and certain other adjacent land (collectively, the "**Permanent Stormwater Facilities**") would be in place prior to the termination of the Temporary Construction Easements and Temporary Stormwater Easement.

E. On or before the date hereof the Permanent Stormwater Facilities are in place and operating.

F. The parties desire to memorialize the termination of the Temporary Construction Easements and Temporary Stormwater Easement as more specifically set forth below.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the Village and SDP do hereby agree as follows:

1. **Recitals, Definitions.** The aforesaid Recitals are hereby incorporated herein as if fully set forth in this Paragraph 1.

2. **Termination of Temporary Construction Easements and Temporary Stormwater Easement.** By execution and recordation hereof against the Property, the Village, as the beneficiary of the Temporary Construction Easements and Temporary Stormwater Easement, and SDP, as the sole owner of the Property burdened by the Temporary Construction Easements and Temporary Stormwater Easement, hereby declare that the Temporary Construction Easements and Temporary Stormwater Easement are terminated and null and void and of no further force or effect from and after the date hereof.

3. **Miscellaneous.** The headings, captions, numbering system, etc., are inserted only as a matter of convenience and may under no circumstances be considered in interpreting the provisions of this Termination. All of the provisions of this Termination are hereby made binding upon the personal representatives, heirs, successors, and assigns of both parties hereto. This Termination may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original, and all of which are identical. This Termination shall be construed under and in accordance with the laws of the State of Illinois.

[SIGNATURES APPEAR ON FOLLOWING PAGES]

Notary Public

SDP SUGAR GROVE, LLC, an Illinois limited liability company

By: _____

Name: _____

Its: _____

STATE OF ILLINOIS)
) **SS.**
COUNTY OF _____)

I, _____, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **PATRICK F. DALY**, Manager of SDP Sugar Grove, LLC, personally known to me to be the same person whose name is subscribed to the foregoing **Termination of Temporary Construction Easements and Temporary Stormwater Management Easement**, appeared before me this day in person and acknowledged that he signed and delivered the said instrument on behalf of said limited liability company and as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this ____ day of _____, 2022.

Notary Public

_____ ("Mortgagee"), holder of a
[Mortgage] dated as of _____, 2021, recorded in the Kane County
Recorder's Office on _____, 2021, as Document Number _____
_____ (the "Mortgage") hereby consents to the execution and joins in the attached
**Termination of Temporary Construction Easements and Temporary Stormwater
Management Easement.**

IN WITNESS WHEREOF, the Mortgagee has caused this Consent and Joinder of Lender to be signed by its duly authorized officer on its behalf as of this _____ day of _____, 2022.

Its:

STATE OF ILLINOIS)
COUNTY OF _____) SS:

I, _____, a Notary Public in and for said County and State, do hereby certify that _____, the _____ of _____, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of said Mortgagee, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this _____ day of _____, 2022.

Notary Public

EXHIBIT A

Legal Description of Property

THAT PART OF THE SOUTH 1/2 OF SECTION 16, TOWNSHIP 38 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING IN THE CENTER OF THE AURORA AND DIXON ROAD 9.62 CHAINS WEST OF THE EAST LINE OF SAID SECTION; THENCE SOUTH TO THE SOUTH LINE OF SAID SECTION 16; THENCE WEST ALONG SAID SOUTH LINE TO THE CENTER LINE OF STATE ROUTE NO. 47; THENCE NORTH ALONG SAID CENTER LINE 395 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID SECTION 551.4 FEET; THENCE SOUTH PARALLEL WITH THE CENTER LINE OF STATE ROUTE 47, 395 FEET TO THE SOUTH LINE OF SAID SECTION; THENCE WEST ALONG SAID SOUTH LINE TO A POINT 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE NORTH 40 CHAINS TO THE NORTH LINE OF THE SOUTH 1/2 OF SAID SECTION; THENCE EAST ALONG SAID NORTH LINE TO THE CENTER LINE OF SAID STATE ROUTE 47; THENCE SOUTH ALONG SAID CENTER LINE TO THE CENTER LINE OF THE AURORA AND DIXON ROAD AFORESAID; THENCE EASTERLY ALONG THE CENTER LINE OF SAID AURORA AND DIXON ROAD TO THE POINT OF BEGINNING (EXCEPT THAT PART CONVEYED TO THE STATE OF ILLINOIS BY WARRANTY DEED RECORDED AUGUST 18, 1959 AS DOCUMENT 897944 AND ALSO EXCEPT THAT PART LYING EASTERLY OF SAID CENTER LINE OF STATE ROUTE 47 AND ALSO EXCEPTING THAT PART THEREOF FALLING IN LOT 1 IN PRAIRIE GROVE COMMONS UNIT ONE, RECORDED SEPTEMBER 15, 2010 AS DOCUMENT NUMBER 2010K060656 AND ALSO EXCEPT THAT PART DEDICATED FOR DIVISION DRIVE (66.0 FEET WIDE) ON SAID PLAT OF PRAIRIE GROVE COMMONS UNIT ONE, AND ALSO EXCEPT THAT PART OF THE LAND DEDICATED FOR ROADWAY AND UTILITY PURPOSES TO THE VILLAGE OF SUGAR GROVE RECORDED AS DOCUMENT 2008K039972) IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

Commonly known as: Southwest Corner of Galena Blvd. and Illinois Route 47
Sugar Grove, IL

Permanent Index Numbers: 14-16-300-012
14-16-400-016

EXHIBIT G



EXHIBIT H

EXCEPTIONS AND DEVIATION FROM ZONING ORDINANCE PRAIRIE GROVE COMMONS UNIT TWO

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
11-4-7E3	Height: No accessory use, accessory structure, or accessory building shall exceed the height of fifteen feet (15').	Modification for Lot 1 only: Accessory structures on Lot 1 shall not exceed the height of twenty feet (20') feet	This is the standard height of fuel canopies
11-12-3E, only as pertains to restaurants (fast food, sit down, and banquet halls)	Restaurants, fast food, Restaurants, sit down and banquet halls Off-street parking of (13) spaces per one thousand (1,000) square feet of floor area, plus eight (8) stacking spaces for each drive-up window through which food and drink is dispensed.	Off-street parking of ten (10) parking spaces per thousand (1,000) square feet of floor area, plus eight (8) stacking spaces for each drive-up window through which food and drink is dispensed.	This is more than adequate parking ratio for a restaurant use.
11-12-3E, only as pertains to restaurants (fast food)	Restaurants, fast food- Off-street parking of thirteen (13) spaces per one thousand (1,000) square feet of floor area, plus eight (8) stacking spaces for each drive-up window through which food and drink is dispensed	Modification for Lot 3 only: Seven (7) spaces per one thousand (1,000) square feet of floor area, plus eight (8) stacking spaces for each drive-up window through which food and drink is dispensed.	Plans from end user are only proposed to have twenty-eight (28) spaces, according to the square footage of the proposed building they should be required to have forty (40) spaces.
11-4-7F3b	Off-street parking shall be provided at a rate of thirteen (13) spaces per one thousand (1,000) square feet of area devoted to commercial outdoor dining.	Zero (0) spaces per one thousand (1,000) square feet of area devoted to outdoor dining.	The proposed end users do not have enough area devoted to outdoor dining that would require this additional parking.
11-8-6F1, 2, 3, 4, and 5	Yard and Setback Regulations: Every building hereafter erected or enlarged in this district shall provide and	All required building setbacks as shown on the PUD Plan.	The 2010 Annexation Agreement contained deviations for building setbacks. The deviation list

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	maintain a setback in accordance with the following: (1.) Minimum front and corner side yards: Not less than sixty feet (60') from a front or corner side lot line of a public or private street. (2.) Minimum interior side yards: Not less than ten feet (10') from an interior side lot line. (3). Minimum rear yards: Not less than thirty feet (30') from a rear lot line. (4.) Transition yards: Where a side or rear lot line coincides with a side or rear lot line in a residential or institutional use, the interior side or rear yard requirements for a commercial lot shall be increased as follows: (a.) Interior side yard: Forty feet (40'); (b.) Rear yard: Forty feet (40'). (5.) Primary roads: Not less than seventy-five feet (75').		in the 2010 Annexation Agreement provided for twenty (20) foot building setback in the rear yard or corner side yards. Although the 2010 Annexation Agreement did not address interior side yards, five (5) foot instead of ten (10) foot interior side yards are adequate setbacks because all of these outlots are part of an integrated development. In addition, Developer has dedicated an additional twenty (20) feet of right-of-way on Galena Blvd. which require a reduction of any required setback along Galena Blvd. from seventy-five (75) feet to fifty- five (55) feet.
11-11-4B5	Yards: The required yards along the periphery of a planned unit development shall be at least equal in depth to those of the underlying zoning district, or the adjacent zoning district, whichever is greater. The Planning Commission/Zoning Board of Appeals may recommend greater setbacks from the boundary line of a planned unit development when determined necessary to protect the privacy of residents	Elimination of this requirement in its entirety. Substitute with required yards along periphery of the development as shown on the PUD Plan.	The 2010 Annexation Agreement deviation list contained periphery yard deviations. In addition, Developer has dedicated an additional twenty (20) feet of right-of-way on Galena Blvd. which require a reduction of any required setback along Galena Blvd.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	in both existing and proposed subdivisions.		
11-11-4B6	Landscaping: At a minimum, the proposed planned unit development shall conform to the landscaping requirements set forth in this title. The Planning Commission/Zoning Board of Appeals may recommend landscaping in excess of these minimum standards where determined necessary to achieve the objectives set forth in this chapter.	Modification of this requirement as follows: Any deviations from the landscaping requirements set forth in this title are approved for any of the landscaping as provided on the PUD Plan, PUD ordinance or any plans approved as part of the PUD ordinance.	The 2010 Annexation Agreement deviation list contained periphery yard deviations. Several other landscaping deviations are requested as part of this development. In addition, Developer has dedicated an additional twenty (20) feet of right-of-way on Galena Blvd. which require a reduction of any required setback along Galena Blvd
11-11-4B14	14. Preliminary Approval: Preliminary approval of a planned unit development by the village board shall be null and void in the event that the petitioner has failed to obtain final planned unit development approval for at least the first phase of the development within eighteen (18) months of the date of the preliminary approval.	Approval of the Combined PUD Plans shall be deemed to be final planned unit development approval to satisfy the time period set forth in Section 11-11-4B-14 of the Village Zoning Ordinance to obtain final planned unit development approval.	This deviation is provided in Section 2.1 of the PUD Ordinance
11-11-4B15	15. Completion: The planned unit development shall be substantially completed within the period of time specified by the petitioner unless an extension is requested by the petitioner and approved by the village board. All planned unit development phases shall be completed within two (2) years of final planned unit development approval for that phase, except when the size or	Completion of Lots 1-5, inclusive, of the Prairie Grove Commons Unit Two PUD, as set forth in Section 11-11-4B-15 of the Village's Zoning Ordinance, shall be no later than five (5) years after the effective date of this Ordinance. Lots 1-5 inclusive shall be deemed "complete" to satisfy the requirements set forth in Section 11-11-4B-15 once a building permit is applied for on one of the five lots in the Prairie	This deviation is provided in Section 2.14 of the PUD Ordinance.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	complexity dictates a longer period, as may be granted by the village board, upon request by the petitioner.	Grove Commons Unit Two PUD.	
11-11-7(B)1b5	b. Major changes include... (5) Rearrangement of lots, blocks, and building tracts.	Section 11-11-7B1b5 shall be amended and the rearrangement of lots, blocks, and building tracts shall be deemed a minor change and an incidental field change that can be approved by the zoning official if the lot line is moved five (5) feet or less.	Paragraph 11C of the Amendment provides for this provision.
11-12-4A	Size: Each accessible parking stall shall consist of an eight foot (8')-wide parking space and an adjacent, diagonally striped, eight foot (8')-wide access aisle. The length of accessibility parking stalls shall be consistent with other parking stalls within the parking facility.	The diagonally striped eight foot (8') wide access aisle can be shared with an adjacent accessible parking space. The length of accessibility parking stalls shall be consistent with other parking stalls within the parking facility.	This provision allowed by revisions to Illinois Code regarding accessible parking space.
11-12-7A	Minimum Parking Lot Perimeter Landscape Yard (B-2): Street Lot Line: 30' Interior Lot Line: 10'³ Rear Lot Line: 10' Transition Lot Line: 30' Primary Road: 45'	The landscape yard setbacks provided in 11-12-7A for (B-2) shall not apply and all required landscape yard setbacks shall be allowed as shown on the PUD. Plan.	The Annexation Agreement contained deviations for landscape yard setbacks. The deviation list in the Annexation Agreement provided for a ten-foot rear landscape yard for any lot adjoining Rt. 47 or Galena Blvd. Division/ Van Owen Drive being constructed will only serve the lots contained on the Subject Property. Five-foot interior landscape setbacks are adequate because all these lots abut an integrated development.

³ Setback may be reduced to 0 feet where off street parking facilities are shared.

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			In addition, Developer has dedicated an additional twenty (20) feet of right-of-way on Galena Blvd. which require a reduction of any required setback along Galena Blvd. from forty-five (45) feet to twenty-five (25) feet.
11-12-7C(6)	Berms shall be designed and installed in a meandering and undulating style at a maximum slop of four to one (4:1) and an average height of four feet (4") as measured from the average established grade. Trees shall be planted on the slope of the berm, not on the top of the berm	Berms along Galena Blvd. shall be installed in an undulating style with a minimum height of two (2) feet as measured from average established grade. Average established grade shall be measured from the nearest sidewalks in the public right-of-way.	With the twenty-foot dedication along Galena Blvd there will not be enough room within the setback for a four-foot-high berm.
11-12-11	Off street loading requirements	As provided in PUD ordinance.	Many of the proposed uses will not require dedicated loading berths
11-12-12	Off street loading standards	The off-street loading standards of Section 11-12-12 shall not apply and shall be as provided in the PUD ordinance.	Many of the proposed uses will not require dedicated loading berths.
11-13-10 H 1 and 11-13-12 I 5	Variations or Special Uses: An approval pursuant to the provisions of this zoning ordinance of a variation, special use, or special use for a planned development shall become null and void should a building permit to begin construction not be applied for within twelve (12) months of the approval of the ordinance, unless this time limit is expressly extended, by	A Variance or Special Use approval shall become null and void if a building permit is not applied for within five (5) years on one of the lots shown on the PUD Plan.	This section is provided in Section 2A of the Amendment.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	ordinance, by the village board of trustees.		
11-13-13(B)1	In any case where a map amendment has been granted, and no building permit for development has been applied for within eighteen (18) months, the planning commission may initiate a public hearing, after due notice according to section 11-13-8 of this chapter has been given, and written notice sent to the applicant at the address contained in the application.	The Village may not initiate a map amendment unless a building permit has not been applied for within five (5) years on one of the lots shown on the PUD Plan.	This deviation is provided in Section 2A of the Amendment.
11-14-9A1; 11-14-9G	Nonresidential Subdivision Sign (10 or more acres) ("Monument Subdivision Sign") Monument Subdivision Sign structure maximum height 16 feet, maximum width 12 feet, maximum area 170 sq. ft.; sign face maximum height 10 feet, maximum width 12 feet, maximum area 100 square feet.	As to Nonresidential Subdivision Sign (10 or more acres) only ("Monument Subdivision Sign"): Monument Subdivision Sign structure shall have a maximum height of twenty (20) feet, maximum width of sixteen (16) feet, and maximum area of three hundred twenty (320) square feet; maximum sign face height of sixteen (16) feet, width of ten (10) feet, and maximum area of one hundred sixty (160) square feet with five (5) sign panels. One individual business may not use more than one panel of the Monument Subdivision Sign to advertise its business. Businesses that have frontage along Rt. 47 or Galena shall not be permitted to advertise on the Monument Subdivision Sign. A Monument Subdivision Sign at the entrance of Van Owen and Rt. 47 shall be	Given the size and depth of the ultimate development of the Owner Property the proposed development sign is required to adequately provide signage for all end users, as per Section 6A of the Amendment. The proposed monument sign has the same dimensions as the sign for the Jewel Shopping Center. The shopping center identification sign at the entrance of Van Owen and Rt. 47 has been requested by the Village as an amenity.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
		<p>permitted as identified on the PUD Plans. A second Monument Subdivision Sign shall be located at the entrance at Galena Boulevard and Division Drive.</p> <p>“Of Sugar Grove” shall not be required</p>	

EXCEPTIONS AND DEVIATIONS FROM SUBDIVISION ORDINANCE

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
12-1-3C	<p>Improvements Of Land: No improvements, such as sidewalks, water supply, storm water drainage, sewage facilities, gas service, electric service or lighting, grading, paving, or surfacing of any street, shall be made within any proposed subdivision by any owner or owners or his or their agent, or by any utility whether publicly or privately owned or operated, at the request of such owner or owners or by his or their agent until the plans and plat have been reviewed by the village engineer, approved by the village board, and said plat has been recorded in the office of the Kane County recorder in accordance with the procedures set forth in this title. At the village’s discretion, site improvements may be constructed prior to the</p>	<p>Modification of this requirement as provided in Section 6C of the Amendment. .</p>	<p>These improvements necessary to commence in order to complete the development in a timelier fashion. The necessary security will be in place prior to these improvements commencing.</p>

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	recording of the final plat, but not prior to approval of the preliminary plat, if a site development permit is issued by the village. Said site development permit application form and fee is to be established by village policy.		
12-1-3D	Development of Land in Stages: Where a tract of land is proposed to be subdivided in several stages over a period of years, the subdivider shall have the entire subdivision designed and presented to the Village for final plan approval. The final plans shall include a phasing plan showing the boundaries of the proposed phases. Phase boundaries shall be located in accordance with the requirements of section 12-4-5-3 of this title. Phases approved but for which construction has not begun within 4 years of final plan approval may be subject to revisions necessitated by changes to this title or other ordinances or policies of the Village which impact the subdivision. Such revisions shall be submitted to the Planning Commission/Zoning Board of Appeals for review and to the Board of Trustees for approval.	Elimination of this requirement in its entirety.	Do not have a phasing plan for the entire development. Section 6.C and 13.C of the Amendment provide for subdivision by Phases of the Owner Property.
12-4-5-3	The entire subdivision shall be designed and presented to the Village for final approval. If the	Elimination of these provisions in their entirety	Sections 6.C and 13.C of the Amendment provide that the Owner Property may be

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	subdivider desires to construct a subdivision in phases, a phasing plan shall also be submitted to the Village for approval.		developed in phases. The remainder of the Owner Property will be subdivided when end users are identified.
12-4-5-4A1 & 2	Sections 12-4-5-4A1 and 12-4-5-4A2 in their entirety	As modified by Section 13.A of the Amendment	Provided in Section 13.A of the Amendment.
12-4-6-A	Completion: All required land improvements shall be completed within two (2) years of the recording of the final plat unless prior to the expiration of the two (2) year period a time extension is requested by the subdivider and granted by the Village Board. A request for an extension shall halt the two (2) year period. No extension shall be granted unless adequate guarantee collateral has been received and approved by the village board.	All required land improvements shall be completed within two (2) years after receipt of all required permits from governmental bodies and agencies required to commence construction of land improvements except for any on-site improvements to Lot 5, and the completion of the detention pond for the remainder of the Owner Property, which will have no time limit.	There currently are no anticipated end user for Lot 5, and the remainder of the detention pond will not be constructed until the remainder of the Owner Property is developed.
12-4-6C and D and all subsections	Generally, requires the submission of a deposit of cash, letter of credit, or surety bond equal to 15% of the cost of the land improvements guaranteeing satisfactory performance of the land improvements and shall be held by the Village for a period of 18 months after acceptance of the improvements.	As modified by Section 13B and C of the Annexation Agreement.	Provided in the Amendment.
12-5-3	Section 12-5-3 (Streets) in its entirety	This provision shall remain in effect, however, there shall be a modification of these requirements that differ from any of the requirements provided on the PUD Plan or and any other engineering, grading, roadway, or	Eighty (80) feet not needed for Right-in, Right-out and limited access to Van Owen Drive from the outlots, Sixty-six (66) foot right-of-way at Rt. 47 and Van Owen Drive is sufficient.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
		other Plan approved by the Village as part of the approved Planned Unit Development Ordinance, final engineering approved by the Village engineer or any final plans approved by staff or the Village as the case may be	Any other deviations from the requirements of this section are acceptable based on engineering and traffic engineering principles given the limited access and traffic on these proposed roadways.
12-5-3M	Property Lines at Intersections: Property lines at intersections shall be rounded with a twenty-five-foot (25') radius. The Village Board may recommend comparable cutoffs in place of rounded corners.	Elimination of this requirement in its entirety	Width of the right-of-way is larger than typical as Division Street ties into Van Owen Drive. There is no public health and safety issue. Additionally, several of these lots are under contract.
12-5-7C	Pedestrian Crosswalks: Pedestrian crosswalks not less than ten (10) feet wide shall be required where deemed necessary by the Village Board, to provide for pedestrian circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.	Sidewalks shall be as provided on the PUD Plan	Five (5) foot sidewalks are more than adequate for this Development.
12-5-8A	Appropriate Size: The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.	As provided on Subdivision Plat and PUD Plan	Justifications for deviations from any of these requirements have been provided.
12-5-8B	Minimum Standards: All lots shall meet the minimum depth, width, and area requirements of Title 11 of this Code for the district in which the subdivision is located. In the case of corner	As provided on Subdivision Plat and PUD Plan	Justifications for deviations from any of these requirements has been provided.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	lots, the Planning Commission/Zoning Board of Appeals may recommend, and the Village Board may require a greater width in order to encourage the proper development of intersection design and traffic safety and to secure uniform setback lines from any property line adjoining a street. After setbacks on both street frontages have been taken into account, corner lots shall have a buildable width at least equal to that of the smallest interior lot on the adjacent block.		
12-6-1B	Off Site Improvements: If it is determined that any existing infrastructure, including, but not limited to, water distribution systems, wastewater collection or treatment systems, storm sewers or other stormwater management facilities and street improvements, which may be situated either in part or entirely offsite is inadequate to facilitate a proposed subdivision when 100% built out, then improvements to any one or all of such facilities may be required	Elimination of this provision in its entirety. All infrastructure required as provided in the PUD plan, engineering, grading, roadway, or other Plan approved by the Village as part of the approved Planned Unit Development Ordinance, final engineering approved by the Village engineer or any final plans approved by staff or the Village as the case may be.	All required improvements must be determined now, otherwise this provision will have a detrimental impact on all lots
12-6-1C	Oversizing of Utilities: Where determined by overall utility planning, the Village Board may require certain utilities to be larger than necessary to serve the subdivision as delineated in the preliminary	Elimination of this provision in its entirety. All required utilities and streets, including sizes and widths, are as provided on the PUD Plan. All engineering, insurance, and inspection costs shall be paid by the subdivider.	Size of the utilities must be determined as part of the approval process

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	<p>plan. In such case, a recapture agreement may be made to repay the subdivider the construction cost resulting from the increased design. The maximum duration of any recapture agreement shall be 10 years, except that street recapture agreements shall not be longer than 5 years. All engineering, insurance and inspection costs shall be paid by the subdivider.</p>		

**TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT
ROUTE 47 COMMERCIAL DEVELOPMENT
SDP SUGAR GROVE, LLC**

This Tax Increment Financing Redevelopment Agreement (hereinafter referred to as "Agreement") is made and entered into as of _____, 2022 ("Effective Date"), by and between the VILLAGE OF SUGAR GROVE, ILLINOIS, an Illinois municipal corporation, and SDP SUGAR GROVE, LLC, an Illinois limited liability company.

RECITALS

- A. Developer is the owner of the Property depicted in Appendix A, and legally described in Exhibit 8.
- B. On May 5, 2015, in accordance with the TIF Act, the Village of Sugar Grove adopted Ordinance Nos. 2015-0505A, titled *An Ordinance Approving the Sugar Grove Northeast Airport Area Redevelopment Plan and Program*; 2015-0505B, titled *An Ordinance Designating the Sugar Grove Northeast Airport Area Tax Increment Finance #2*; and 2015-0505C, titled *An Ordinance Adopting Tax Increment Financing for the Sugar Grove Northeast Airport Area Tax Increment Finance District #2*, also known as the Sugar Grove Northeast Airport Area Tax Increment Finance #2 or the "Project Area."
- C. The Property is part of the Project Area.
- D. The TIF Act authorizes the Village to incentivize redevelopment within the Project Area in accordance with the conditions and requirements of the TIF Act.
- E. Between the Effective Date and through the term of this Agreement the Developer intends to perform all of the Work contemplated in this Agreement as part of Phase I of development of the Property and to develop Phase II at a later date. Notwithstanding the foregoing, Developer may construct the Permanent Sanitary Sewer Extension, as defined in Exhibit 4 of this Agreement, as part of Phase II as more specifically set forth in Section 2.1(d) hereof.
- F. The Developer seeks reimbursement for the Eligible Redevelopment Project Costs they will incur in constructing Phase I, and the Permanent Sanitary Sewer Extension if constructed in Phase II.

- G. To incentivize and induce the Developer to construct and complete Phase I, and the Permanent Sanitary Sewer Extension if not constructed as part of Phase I and as part of the Phase II, which will then enable the Developer to market the Property for Phase II to be developed at a later date, the Village has agreed to reimburse Developer for the Eligible Redevelopment Project Costs, all in accordance with the terms and provisions of the TIF Act and this Agreement.
- H. The Corporate Authorities, after due and careful consideration, have concluded that incentivizing the Developer to undertake construction of the Redevelopment Project, or cause it to be undertaken pursuant to this Agreement will: i) eliminate certain factors and characteristics found on the Property that cause, in part, the Project Area to be a blighted area; ii) produce increased tax revenues for the Village and other taxing districts authorized to levy taxes within Project Area; and iii) otherwise serve the best interests of the Village.
- I. The Corporate Authorities, after due and careful consideration, have also concluded that, but for the approval of this Agreement the Developer would not proceed with the Redevelopment Project without the use of tax increment financing assistance provided in this Agreement.
- J. The Village Board, after reviewing the Redevelopment Proposal submitted by the Developer, believes that the Redevelopment Project as set forth herein, and the performance of this Agreement, are in the best interests of the Village, and the health, safety, morals, and welfare of its residents, and in accord with the public purposes specified in the Redevelopment Plan.
- K. Capitalized terms in these recitals shall have the meaning given to them in Paragraph 1 of this Agreement.

AGREEMENT

In consideration of the above premises and the mutual obligations of the Parties, including the recitals hereof set forth which are incorporated herein by reference, the Parties hereto agree as follows:

1. Definitions As used in this Agreement, the following words and terms shall have the following meanings:

“Administration Fee(s)” a fee to be paid by the Developer to the Village for the creation and administration of this Agreement and all matters related to the context of this Agreement. The Administration Fee will be (1) an annual payment of an amount equal to **10%** of the

Developer's Share approved by the Village for reimbursement during each year, **not to exceed \$500.00 per year**. All Administration fees may be deducted from the Developer's Share until such time as the Administration Fees have been paid in full. Administration Fees may be waived at the discretion of the Village.

"Affiliate": Shall mean, with respect to any business entity, any other business entity directly or indirectly controlled (including at least 51% voting control) by or under direct or indirect common control with such business entity. A business entity shall be deemed to control another business entity if such controlling business entity possess solely, directly, or indirectly the power to direct, or cause the direction of, the management and policies of the second business entity whether through the ownership of voting securities, common directors, trustees, partnership interest or member interest.

"Agreement Term": The term of this Agreement shall commence on the Effective Date and end the earlier to occur of i) The expiration date of the Project Area which shall be December 31, 2038, or such later date to which the Village shall extend said expiration, ii) the date upon which all Parties have satisfied their obligations under this Agreement, or iii) the Village's election to terminate the Agreement for failure to commence or complete the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, as set forth in Paragraph 2.1 and Paragraph 17 below. The expiration of the Agreement Term will not bar any claim for an Event of Default under this Agreement that accrued prior to such expiration; nor shall it affect the Village's obligation to make payments due on Developer's Share in the year following such expiration upon the Village's receipt from the Kane County Treasurer of TIF Revenue for the final year of the Project Area.

"Annexation Agreement": collectively i) The Annexation Agreement governing the Property Dated January 21, 2010, and Recorded as Document No. 2010K005388 ("Original Annexation Agreement"); the Clarification Letter Agreement between the Village and the Developer's predecessor dated February 16, 2012 and recorded as Document No. 2012K014037 ("Clarification Letter"); and iii) the First Amendment to the Annexation Agreement to be adopted by the Village attached as Exhibit 6 to this Agreement ("First Amendment") which shall effect the Original Annexation Agreement and the Clarification Letter as set forth in such First Amendment.

"Construction Plans": Plans, drawings, specifications and related documents, for the construction of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, as shown on Exhibit 9, together with all supplements, amendments, or corrections, submitted by the Developer and approved by the Village Engineer and/or by the Illinois Department of Transportation, as the case may be.

“Corporate Authorities”: The President and Board of Trustees of the Village of Sugar Grove, Illinois.

“Developer”: SDP Sugar Grove, LLC, or a Person who has sought any rights or assumed any obligations with respect to the construction of Phase I or II of the Redevelopment Project, or a portion thereof, pursuant to either a Transferee Assumption Agreement or an amendment to this Agreement. Where the Developer is referred to in the singular in this Agreement it shall include the plural.

“Developer’s Share”: Means the percentage set forth on the following schedule of the annual TIF Revenue generated by the Property and received by the Village that shall be made available to reimburse the Developer for certain Eligible Redevelopment Project Costs incurred during the performance of the Work, or the Permanent Sanitary Sewer Extension, as hereinafter defined, if it is not constructed as part of the Work and is constructed in Phase II. Under no circumstances shall the Developer’s Share exceed the lesser of: (i) the percentage of Developer’s Share shown on the following schedule, (ii) the Eligible Project Costs expended by the Developer remaining to be paid during the year which such percentage applies, or (iii) the amount of the unreimbursed portion of the Reimbursement Limit.

CURRENT YEAR	YEAR ASSESSED	YEAR COLLECTED/ PAYMENT REIMBURSED	Payment Number	DEVELOPER’S SHARE
2022	2022	2023	1	80%
2023	2023	2024	2	80%
2024	2024	2025	3	80%
2025	2025	2026	4	75%
2026	2026	2027	5	75%
2027	2027	2028	6	75%
2028	2028	2029	7	70%
2029	2029	2030	8	70%
2030	2030	2031	9	70%
2031	2031	2032	10	65%
2032	2032	2033	11	65%
2033	2033	2034	12	65%

2034	2034	2035	13	60%
2035	2035	2036	14	60%
2036	2036	2037	15	60%
2037	2037	2038	16+*	60%*

*Only applicable in under special circumstances

The special circumstances referenced in the table above shall apply only in the event the expiration of the Project Area is extended by the Village and the Developer has not reached the Reimbursement Limit. In such a case, the Developer shall be eligible to continue receiving annually 60% of the TIF Revenues until either the Developer's Reimbursement Limit is reached or the expiration of the extended term, whichever shall first occur.

The cumulative total payments made in accordance with the Developer's Share during the Agreement Term shall not exceed the Reimbursement Limit. In no instance shall the Village be required to pay more than appears in each respective "Project Cost Category" identified on Exhibit A (i.e., \$275,000.00 for the relocation of U.S. Route 30 ramp off IL-47, \$600,000.00 for the Permanent Sanitary Sewer Extension, and \$65,000 for the costs of studies, etc.) until such time as the Work, or the Work and the Permanent Sanitary Sewer Extension if completed as part of Phase II, has been Substantially Complete. The parties agree that payment of Developer's Share will be paid by the Village as each item in the Project Cost Category identified in Exhibit A is Substantially Complete rather than when they all are Substantially Complete. At such time as Substantial Completion of the Work, and the Work and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, then the Village shall review any additional expenses in a "Project Cost Category" over the estimated cost and shall allow for reimbursement of any Eligible Redevelopment Project Costs up to the Reimbursement Limit.

The first payment of the Developer's Share will be calculated based on the TIF Revenues in the Special Allocation Fund after Substantial Completion of the Work, with the final payment being issued based on TIF Revenues assessed during the last year of the Agreement Term. Developer's Share shall be paid from the Special Allocation Fund. The Developer's Share may be subject to the deduction of an Administration Fee.

"Eligible Redevelopment Projects Costs": Any and all approved costs incurred in the construction of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, and authorized pursuant to Section 11-74.4-3 of the TIF Act, and that qualify under Section 11-74.4-3 (q) as determined by the Village, in the Village's reasonable discretion. Such approved projects and estimated costs are attached hereto as **"Exhibit 1 – Eligible Redevelopment Project Costs"**. Costs

incurred by the Developer which are not incurred in regard to such approved costs will not be eligible for reimbursement pursuant to this Agreement. The eligibility of any and all costs for reimbursement will be at the reasonable discretion of the Village. At the time of execution of this Agreement, the exact dollar figure of Eligible Redevelopment Project Costs is unknown. Actual Eligible Redevelopment Project Costs will have to be determined upon completion of the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, and submission of proof of costs incurred to be verified and accounted for by the Village. The total payment the Developer may receive in accordance with this Agreement will be limited by those approved actual Eligible Redevelopment Project Costs.

“Parties”: Collectively the Developer and the Village

“Person”: Any corporation, partnership, individual, joint venture, limited liability company, trust, estate, association, business, enterprise, proprietorship, government or any bureau, department, or agency thereof, or other legal entity of any kind, either public or private, and any legal successor, agent, representative, authorized assign, or fiduciary acting on behalf of any of the above.

“Phase I”: The development of a portion of the Property as provided in the PUD Ordinance and more particularly described in Exhibit 4.

“Phase II”: The development of the remainder of the Property not Part of Phase I for any of the Uses and as more particularly described in Exhibit 4.

“Project Area”: A certain area of the Village of Sugar Grove known as the “Sugar Grove Northeast Airport Area Tax Increment Finance #2”, also known commonly as TIF District #2 as described and defined in Village Ordinance No. 2015-0505B.

“Property”: That property to be used by Developer as more generally defined as being located at the southwest corner of Route 47 and Galena Boulevard and the northwest corner of Galena Boulevard and Division Drive, in the Village of Sugar Grove, Illinois 60554 (Kane County PIN(s): 14-16-300-012 & 14-16-400-016) and as shown visually and legally described in the attached Appendix A – Project Location and Exhibit 8 – Legal Description.

“PUD Ordinance”: The following Village ordinance to be adopted by the Village immediately after execution of this Agreement and attached as Exhibit 7 granting certain preliminary and final site plan, engineering plan, perimeter landscape plan, signage plan, and other a approvals, special use permit approval, final subdivision plat approval, and certain deviations from the Village Zoning Ordinance and Subdivision Ordinance with respect to the Redevelopment Project, as such ordinance may be amended by the Village upon application as provided in the PUD Ordinance.

“Redevelopment Plan”: A plan adopted pursuant to *An Ordinance Approving the Sugar Grove Northeast Airport Area Redevelopment Plan and Program #2*, which was approved on May 5, 2015, pursuant to Ordinance No. 2015-0505A, and as may be from time to time amended.

“Redevelopment Project”: Those activities generally described in Exhibit 4.

“Redevelopment Project Costs”: The sum total of all reasonable or necessary costs actually incurred and paid in performing the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, and any such costs incidental to the Redevelopment Plan or Redevelopment Project, provided however, that Redevelopment Project Costs shall not include any internal costs of Developer and shall not include any amounts for overhead, margin, profit or the like in connection with goods or services supplied to Developer by any Affiliate of Developer, except to the extent that such items are commercially reasonable and competitive with similar charges in arms-length transactions.

“Redevelopment Proposal”: Those activities generally described in Exhibit 4.

“Reimbursement Limit”: The maximum amount of money the Developer may be reimbursed in accordance with this Agreement; that amount not to exceed a dollar figure equal to **100%** of the Eligible Redevelopment Project Costs verified by the Village to have been incurred during the performance of the Work required to complete Phase I, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, by the Developer, for a total of **\$940,000, whichever is less**, plus simple interest of 3.5% calculated annually of the Eligible Redevelopment Costs that have not been reimbursed to Developer as part of the Developer’s Share.

“Requirements of Law”: All applicable federal, state, and Village laws, statutes, codes, ordinances, resolutions, rules, and regulations, as well as judicial decisions and orders binding on the Parties or the Redevelopment Project

“Special Allocation Fund”: The fund into which TIF Revenues are collected from the Project Area in accordance with the TIF Act and the TIF Ordinances.

“Substantial Completion”: The term “Substantial Completion” shall apply only to the portion of the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, that shall be dedicated to public use. Substantial Completion shall not occur until the requirements of Section 12-4-6-D-6 of the Village Code have been met with regard to the Permanent Sanitary Sewer Extension. Substantial Completion for the relocation of the U.S. Route 30 on-ramp to IL-47 shall occur

once it is open and available for use. Where weather conditions do not permit the installation of certain landscaping improvements or the laying of the surface course or final lift of asphalt pavement, the Village shall be permitted to retain enough of the Developer's Share to cover said costs. The Village shall not withhold its determination that Substantial Completion has been reached where the Developer has provided reasonable security for the completion of such portions of the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, that are delayed by such weather-related circumstances. For purposes of this Agreement, the terms "Substantially Complete" and "Substantially Completed" shall have the same meaning as "Substantial Completion."

"TIF Act": The Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et. seq.

"TIF District #2": TIF District #2 shall have the same definition as the Project Area.

"TIF Revenues": That portion of the ad valorem real estate taxes, if any, arising from the taxes levied upon the Property, which taxes are actually collected and paid to the Village, and deposited into the Special Allocation Fund and which are attributable to the increase in the equalized assessed valuation ("EAV") of the Property over and above the EAV of the Property during tax year 2021. The County Clerk of the County of Kane, Illinois has assessed the following EAVs for the Property:

PIN	Equalized Assessed Value for Tax Year 2021
14-16-300-012	\$15,311
14-16-400-016	\$6,077

All TIF Revenues shall be collected and disbursed pursuant and in accordance with the TIF Act, the TIF Ordinances and this Agreement, and which have been received by the Village on and after the establishment of TIF District #2.

"TIF Ordinances": The following Village ordinances adopted May 5, 2015:

1. Village of Sugar Grove Ordinance 2015-0505A entitled *An Ordinance Approving the Sugar Grove Northeast Airport Area Redevelopment Plan and Program #2,*
2. Village of Sugar Grove Ordinance 2015-0505B-entitled *An Ordinance Designating the Sugar Grove Northeast Airport Area Tax Increment Finance District #2,*
3. Village of Sugar Grove Ordinance No. 2015-0505C entitled *An Ordinance Adopting Tax Increment Financing for the Sugar Grove Northeast Airport Area Tax Increment Finance District #2.*

“Uncontrollable Circumstances”: Any of the following events and circumstances that materially change the costs or ability of a Party to carry out its obligations under this Agreement:

1. A change in the Requirements of Law;
2. Insurrection, riot, civil disturbance, sabotage, act of public enemy, explosion, nuclear incident, war, or naval blockade;
3. Epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather condition, or another similar act of God;
4. Governmental condemnation or taking; or
5. Strikes or labor disputes, other than those caused by the unlawful acts of one of the Developer or its partners or affiliated entities.
6. Governmental orders or directives due to the COVID-19 pandemic that require the construction of the Redevelopment Project to cease.

“Uses”: Any of the permitted or special uses listed attached in Exhibit 5.

“Village”: The Village of Sugar Grove, Kane County, Illinois

“Village Board”: The Village Board of the Village of Sugar Grove, Illinois.

“Work”: Shall mean the construction and installation of the following improvements, all as described and depicted in Exhibits 4 and 9 respectively:

1. The relocation of the US 30 on-ramp off IL 47 approximately 880 feet south of the proposed right-in access drive off IL 47 meeting the Illinois Department of Transportation (IDOT) requirements as depicted on the Construction Plans.
2. The Permanent Sanitary Sewer Extension if it is constructed as Part of Phase I. If the Permanent Sanitary Sewer Extension is not constructed as Part of Phase I it shall not be included in the definition of Work. If the Permanent Sanitary Sewer Extension is not constructed as Part of Phase I and not considered part of the Work, it still shall be an Eligible Redevelopment Projects Costs paid as part of Developer’s Share after Substantial Completion of the Permanent Sanitary Sewer Extension as depicted on

the Construction Plans.

"Zoning Approvals": All plat approvals, re-zoning or other zoning and ordinance changes, site plan approvals, conditional use permits, planned unit development approvals, or other subdivision, signage, zoning, or similar approvals required from the Village for the implementation of the Redevelopment Project and which are generally consistent with the Redevelopment Plan, this Agreement and all Requirements of Law, except as may be deviated, varied or modified by the Village pursuant to applicable provision of the Sugar Grove Municipal Code.

Capitalized terms not otherwise defined in this Agreement shall have the meaning ascribed to them in the Redevelopment Plan.

2. Redevelopment Project. The Village and Developer agree to carry out the Redevelopment Project in accordance with the PUD Ordinance, Annexation Agreement, any future Zoning Approvals, and this Agreement.

2.1 Developer Undertakings.

- a) The Developer agrees, subject to the terms and conditions in this Agreement, the Annexation Agreement, and the PUD Ordinance to undertake the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II , as more specifically set forth on Exhibit 4.
- b) The Developer agrees that all Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, and construction phases will be performed in accordance with all Requirements of Law that may pertain to the development of the Property, except as modified in any Annexation Agreement for the Property or the PUD Ordinance.
- c) The Developer agrees that all Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, is required to comply with regulations regarding the Americans With Disabilities Act of 1990 (ADA).
- d) The Work shall commence no more than 180 days after receipt of all required permits from the Village and all other government bodies and agencies, including but not limited to Kane County and IDOT, with Substantial Completion of the Phase I Work to be achieved within eighteen (18) months after the Phase I Work has commenced unless performance of the Work is delayed by Uncontrollable Circumstances, in which case the time for Substantial Completion shall be extended

for the period during which the Uncontrollable Circumstances prevail.

If the Permanent Sanitary Sewer Extension is not constructed as part of the Work, construction shall commence in accordance with Section 8.D of the Annexation Agreement, which provides that the permanent off-site sanitary sewer must commence construction within twelve (12) months of the off-site Easements required in Section 8(B) [of the Annexation Agreement] being obtained and recorded, or at the commencement of construction for Phase II, whichever is first to occur. In such a case, the temporary on-site sanitary sewer must be abandoned to the Village's satisfaction within sixteen (16) months of Developer's acquisition of all required easements.

With the exception of the Permanent Sanitary Sewer Extension, there shall be no time limits to construct Phase II.

- e) Nothing in this Agreement will be deemed or construed to obligate the Developer to proceed with the construction of the Redevelopment Project or any of the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II. However, if the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, is not commenced or completed within the times set forth in Paragraph 2.1(d) above, and the Developer fails to so commence or complete the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, within 30 days after receiving written demand from the Village to cure such failure, the Village may elect to terminate this Agreement without any further obligation to the Developer, provided, however, if upon due notice the Developer proceeds with due diligence and Uncontrollable Circumstances prevent fulfilment of its obligations, the 30 day period will be extended for such time as is reasonably necessary for Developer to meet its obligations herein as more specifically set forth in Section 21 hereof.
- f) Developer's obligations under this Agreement are limited to the Work described in this Agreement, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II. The Village acknowledges that all of the Work on the Property shall be performed as part of Phase I, or the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II. Developer intends to sell or lease the portion of the Property consisting of Phase I either before or after the Work is performed in a "pad ready" condition to persons who shall develop their individual lot for their business ("End Users"). These End Users shall be responsible for all other

improvements to open their business on their individual lot. Further, Developer shall not directly sell any portion of the Property to an End User that at the time of purchase asserts a tax-exempt status for its portion of the property purchased.

2.2 Village Undertaking. The Village agrees, subject to the terms and conditions hereof, to use diligent efforts to expeditiously consider all Zoning Approvals necessary to commence and complete the Redevelopment Project so long as the application and documentation of such Zoning Approval Requests are in general compliance with the Redevelopment Plan and Requirements of Law, except as modified or deviated in the Annexation Agreement, the PUD Ordinance, or any future Zoning Approvals for the Property. The Annexation Agreement, the PUD Ordinance, and this Agreement shall all be approved at the same meeting of the Village Board.

3. Acceptance of Proposal/Developer Selection. The Village hereby accepts the Redevelopment Proposal, as amended hereby for the Agreement Term, and selects the Developer exclusively to perform the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, as outlined herein, in accordance with the terms of this Agreement. In the event of any conflict between the Redevelopment Proposal or Redevelopment Plan and the terms of this Agreement, the terms of this Agreement shall control.

4. Plans and Approvals.

4.1 Changes. During the progress of the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, the Developer may make such reasonable changes, including, without limitation, modification of the construction schedule, including dates of commencement and completion, modification of the areas in which this Work is to be performed (and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and it is constructed as part of Phase II), expansion or deletion of items, and any and all such other changes as site conditions or orderly development may dictate and as may be in substantial conformance with the Redevelopment Plan and this Agreement, provided that the Developer shall first obtain the consent of the Village, which consent shall not be unreasonably withheld or delayed, before the Developer makes any such changes.

4.2 Zoning Approvals. The Village agrees to cooperate with the Developer and to expeditiously process and timely consider all applications for the Zoning Approvals which are in substantial conformance with the Redevelopment Plan, the Annexation Agreement, the PUD Ordinance (as applicable to the portion of the

Property referenced in the PUD Ordinance) and this Agreement in accordance with the Requirements of Law (except that with respect to the Village's Zoning Ordinances, Subdivision Ordinance or any other Village Code or ordinance, such applications may contain such nonconformance, deviations, modifications, or variance as are determined by the Village to be necessary to develop the Property) and to take all further actions relating to Zoning Approvals (after processing in accordance with Requirements of Law) as are consistent with the Redevelopment Plan, the Annexation Agreement, the PUD Ordinance and this Agreement.

5. Payment of the Developer's Share

5.1 Requests for Payment of the Developer's Share The Developer shall submit Requests for Payment of the Developer's Share ("Requests") in substantially the same form as set forth in Exhibit 2 - Request for Reimbursement on or before December 31st (each a "Payment Date") of any given year during the Agreement Term in order to be eligible to receive payment of the Developer's Share during that year. All Requests shall be accompanied by invoices, statements, vouchers, or bills for the amount requested (including evidence of payment thereof as to any amounts for which payment or reimbursement is requested and lien waivers for all services or materials furnished by subcontractors, except as to any retainage, related to amounts for which reimbursement is requested.) The Developer must also show proof that all Real Estate Property Taxes attributable to the Property Developer owns are paid in full. Payment of the Developer's Share, at the discretion of the Village, may be forfeited for any year in which appropriate requests for payment, including all applicable documents and proof of payment, are not supplied by December 31st. Forfeited payments will not count towards the applicable Reimbursement Limit, and will not be recoverable in future years. The acquisition, production, and submission of all necessary documents and information required to effectuate payment of the Developer's Share will be the sole responsibility of the Developer.

5.2 Village's Determination of Payment of the Developer's Share. The Village shall approve or disapprove with such approval not to be unreasonably withheld, any Request within 30 days of the submittal thereof. If the Village disapproves any Request or any portion thereof, it shall state in writing the reasons therefore and provide the Developer a reasonable opportunity to clarify, supplement, or correct the Request.

5.3 Payment of the Developer's Share. Within 30 days of receipt and deposit of the Property's TIF Revenues into the Village's Special Allocation Fund, the Village shall pay the Developer the annually approved payments pursuant to the

Developer's Share to the extent TIF Revenues are available in the Special Allocation Fund. Such payment shall continue until such time as the earlier of the following: (i) the Reimbursement Limit or Agreement Term is reached; (ii) the date the Project Area expires or is otherwise terminated in accordance with the TIF Act of TIF Ordinances; (iii) Subject to Uncontrollable Circumstances, and the expiration of the notice and Cure Period as provided in Section 21 the Developer has failed to meet to the deadlines for the start or Substantial Completion of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, as outlined within section 2.1(d), and no extensions have been granted. If the Developer requests reimbursement of Developer's Share, and if the Village authorizes the distribution of such funds in an amount greater than the then-existing balance of the TIF Revenues in the Special Allocation Fund, the Village shall distribute any approved but undistributed Developer's Share to Developer on the next Payment Date, or a Payment Date thereafter, provided that the Village has received and deposited additional TIF Revenues into the Special Allocation Fund, in an amount sufficient to cover all of a part of said authorized but undistributed Developer's Share.

5.4 Reimbursements Limited to Eligible Redevelopment Projects Cost. Nothing in this Agreement shall obligate the Village to pay or to reimburse the Developer for any costs that are not Eligible Redevelopment Project Costs as determined by the Village. The Developer shall, at the Village's request, provide itemized invoices, receipts or other information, if any, requested by the Village to confirm that any such costs are so incurred and do so qualify.

5.5 Village's Obligations Limited to TIF Revenues in Special Allocation Fund. Notwithstanding any other term or provision of this Agreement, the Village's obligations pursuant to this Agreement are limited to the TIF Revenues and from no other source, up to the Reimbursement Limit, should the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, be Substantially Completed. This Agreement does not compel the Village's General Fund, or any other source of funds, to provide monies for any amount or obligation identified herein. The Village's obligation to pay the Developer's Share and any other incentives to be provided under this Agreement is a limited obligation payable solely from the TIF Revenues deposited in the Special Allocation Fund and shall not be a general obligation of the Village or secured by the full faith and credit of the Village. Insufficiency of the TIF Revenues to pay the Developer's Share when due shall not be an event of default thereon, and no holder of the right to receive any incentive shall have any recourse whatsoever against the Village in the event that there are insufficient TIF Revenues.

5.6 Pledge of Developer's Share. The Developer may pledge payment of the Developer's Share, subject to the terms and conditions of this Agreement, to secure its loan for development and construction of the Redevelopment Project.

6. Notices Any notice, demand, or other communication required by this Agreement to be given by either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched i) by certified United States First Class Mail, postage prepaid; delivered personally; or by a nationally recognized overnight delivery service with signature required for delivery confirmation

1) In the case of the Developer, to:
SDP Sugar Grove, LLC
Attn: Mr. Patrick F. Daly
2803 Butterfield Rd., Ste 300
Oak Brook, Illinois 60523

2) In the case of the Village, to:
Village of Sugar Grove
Attn: TIF Administrator
10 S. Municipal Drive
Sugar Grove, Illinois 60554

With a copy to:

Mickey, Wilson, Weiler, Renzi, Lenert &
Julien, P.C.
Attn: Laura Julien, Village Attorney
140 S. Municipal Drive
Sugar Grove, Illinois 60554

or to such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

7. Conflict of Interest. The Parties agree to abide by all Requirements of Law relating to conflict of interest. Additionally, but not in limitation of the foregoing, no member of the Village Board or any branch of government of the Village who has any power of review or approval of any of the undertakings contemplated herein shall participate in any decisions relating thereto which affect his or her personal interests or the interests of any corporation, partnership, or other entity in which he or she is directly or indirectly interested. Any member, official, employee or agent of the Village now having or subsequently acquiring any personal interest, direct or indirect, or now having or subsequently acquiring any interest in any corporation, partnership or association which has any interest in the Project Area or the Redevelopment Project, or in any contract or proposed contract in connection with the redevelopment, rehabilitation or financing of the Project Area or the Redevelopment Project, shall immediately disclose in writing to the Village Board the nature of such interest and seek a determination with respect to such

interest by the Village Board and in the meantime shall not participate in or attempt to influence any actions or discussions relating to the Project Area.

8. Maintenance of Redevelopment Area. Until Substantial Completion has been reached, the Developer shall maintain or cause to be maintained all of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, and the Developer's Portion of the Redevelopment Project within its control in accordance with all federal, state and local laws, regulations, codes and ordinances.

9. Representative Not Personally Liable. No official, agent, employee, or representative of the Village shall be personally liable to the Developer in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

10. Release and Indemnification.

- a) Developer covenants and agrees that the Village and its governing body members, officers, agents, servants and employees ("Indemnified Parties") shall not be liable for, and agrees to indemnify and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the construction of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, during the performance of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II. The foregoing indemnification obligations shall not extend to claims which are alleged to have arisen out of the Village's own negligence or willful misconduct or the negligence or willful conduct of one or more of the Village Indemnified Parties.
- b) The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or any of its Affiliates or its officers, agents, servants or employees or any other person who may be about the Property due to any act of negligence of any person except to the extent that such liability is covered by and payable under applicable liability insurance.
- c) All covenants, stipulations, promises, agreements, and obligations of the Village contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the Village and not of any of its governing body members, officers, agents, servants, or employees in their individual capacities. No

official, employee, agent, or representative of the Village shall be personally liable to the Developer or any of its Affiliates in the event of a default or breach by any Party under this Agreement.

- d) Notwithstanding anything herein to the contrary, the Village shall not be liable to the Developer or any of its Affiliates for damages arising in any way from this Agreement, or any other obligation or agreement made in connection therewith or from any breach thereof, or arising from a declaration by a final judgment by a court of competent jurisdiction that all or any portion of the TIF Act is unconstitutional or that any ordinance of the Village adopted in connection with the Redevelopment Proposal, Redevelopment Plan or the TIF Act is invalid or unconstitutional in whole or in part; provided that nothing in this Section shall limit claims by Developer or any of its Affiliates against the Special Allocation Fund or actions by Developer seeking specific performance of relevant contracts, the Annexation Agreement, the PUD Ordinance, or any future Zoning Approvals.
- e) The Developer agrees to indemnify and hold the Indemnified Parties harmless from, and against any and all suits, claims, damages, liabilities and costs and attorney's fees (a "claim"), resulting from, arising out of, or in any way connected with (1) the negligence or willful misconduct of the Developer, its employees, agents or independent contractors in connection with the management, development, redevelopment and construction of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, prior to the any of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, being Substantially Completed. The foregoing indemnification obligations shall not extend to claims which are alleged to have arisen out of the Village's own negligence or willful misconduct or the negligence or willful misconduct of one or more of the Indemnified Parties.

11. Nondiscrimination. Developer and Village shall comply with Requirements of Law regarding equal employment, nondiscrimination, affirmative action, and prevailing wages.

12. Representation of the Village. The Village represents and warrants that:

- a) Organization and Authority. The Village (i) is an Illinois municipal corporation, and (ii) has full corporate power to execute and deliver and perform the terms and obligations of this Agreement. The Village has been authorized by all necessary action to execute and deliver this Agreement, which shall constitute the legal, valid, and binding obligation of the Village, enforceable in accordance with its terms.

- b) No Defaults or Violations of Law. The execution and delivery of this Agreement will not conflict with or result in a breach of any of the terms of, or constitute a default under any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Village is a party of by which it is bound or the Village's charter, or any of the rules or regulations applicable to the Village. To the best of the Village's knowledge, there are no proceedings pending against or affecting the Village in any court or before any governmental authority that involves the possibility of materially or adversely affecting the ability of the Village to perform its obligations under this Agreement

13. Representations of the Developer. The Developer represents and warrants that:

- a) Organization and Authority. The Developer (i) is an Illinois limited liability company, and (ii) has full authority and power to execute and deliver and perform the terms and obligations of this Agreement, which shall constitute the legal, valid, and binding obligation of the Developer, enforceable in accordance with its terms, and the Agreement shall constitute the legal, valid, and binding obligation of the Developer enforceable by Village in accordance with its terms.
- b) No Defaults or Violations of Law The execution and delivery of this Agreement, by the Developer will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Developer is a party or by which they are bound or their respective articles incorporation, bylaws, or any of the rules or regulations applicable to the Developer.
- c) Pending Litigation Except with regard to those matters which counsel to the Village and counsel to the Developer have discussed, no litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer, except claims which if adversely determined will not, in the opinion of counsel to the Developer, materially and adversely affect the financial condition or operations of the Developer. In addition (except with regard to those matters which counsel to the Village and counsel to the Developer have discussed), no litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement by the Developer or which would in any manner challenge or adversely affect the corporate existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer of the terms and provisions of this Agreement.

- d) Full Disclosure There is no fact which the Developer has not disclosed to the Village in writing which materially affects adversely or, so far as the Developer can now foresee, will materially affect adversely the financial condition of the Developer or its ability to own and operate its properties or to carry out its obligations under this Agreement.

14. Inspection. The Developer shall allow authorized representatives of the Village access to the Property from time to time upon reasonable advance notice prior to the Substantial Completion of the Work and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, for reasonable inspection thereof.

15. Choice of Law and Venue. This Agreement shall be taken and deemed to have been fully executed by Parties in, and governed by the laws of, the State of Illinois for all purposes and intents. Venue shall be in the Sixteenth Judicial Circuit, Kane County, Illinois.

16. Entire Agreement; Amendment. The Parties agree that this Agreement constitutes the entire agreement between the Parties and that no other agreements or representations other than those contained in this Agreement have been made by the Parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the Parties. Amendments or modifications to PUD Ordinance, Annexation Agreement or future Zoning Approvals may be considered and acted on by the Corporate Authorities without the same being deemed an amendment or modification to this Agreement. The Parties may agree to modify the exhibits to this Agreement or extend the time for the performance of a Party's obligation under this Agreement without amending or modifying this Agreement, subject to the Requirements of Law. Applications for an amendment to this Agreement which reference only a given portion of the Redevelopment Property or a given Phase need only be signed by the Person that owns such portion of the Redevelopment Property or Phase. The Village shall have the right to approve such amendment without the consent of the Persons who own the other portions of the Redevelopment Property and other Phases.

17. Termination. The Village shall retain the right to terminate this Agreement at any of the following moments: (i) the Reimbursement Limit is reached; (ii) the date the Project Area expires or is otherwise terminated in accordance with the TIF Act or TIF Ordinances; (iii) Subject to Uncontrollable Circumstances, and the expiration of the notice and Cure Period as provided in Section 21 the Developer has failed to meet to the deadlines for the start or Substantial Completion of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, as outlined within section 2.1(d), and no extensions have been granted. The expiration of the Agreement Term will not bar any claim for an Event of Default under this Agreement that

accrued prior to such expiration; nor shall it affect the Village's obligation to make payments due on Developer's Share in the year following such expiration upon its receipt of TIF Revenue for the final year of Project Area from the Kane County Treasurer.

18. Prevailing Wage.

- a) The Developer acknowledges that the Illinois Department of Labor currently takes the position as a matter of its enforcement policy that the TIF financing of the Redevelopment Project under this Agreement does not subject the Redevelopment Project to the Prevailing Wage Act unless the Redevelopment Project also receives funding from another public source. The Village makes no representation as to any such application of the Prevailing Wage Act to the Redevelopment Project, and any failure by the Developer to comply with the Prevailing Wage Act, if and to the extent subsequently found to be applicable by any legal authority having jurisdiction, shall not be deemed an Event of Default under this Agreement. Notwithstanding the foregoing sentence, the Developer agrees to assume all responsibility for any such compliance (or noncompliance) with the Prevailing Wage Act in connection with the Work under this Agreement, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, in the event of any action by any party to enforce its provisions. The Developer shall indemnify and hold harmless the Village, its agents, officers, and employees from and against all claims, fines, penalties, costs, and interest, including attorney fees and costs, which may arise from any violation of the Prevailing Wage Act in connection with the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II.
- b) The Developer agrees that any Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, performed by or for the Developer under this Agreement shall comply with all other Applicable Laws governing fair labor practices.

19. Severability. In the event any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

20. Nature, Survival and Transfer Obligations; Assignment. Except as hereinafter set forth, the obligations assumed by, and the rights that accrue to, the Developer under this Agreement shall run with the land and be binding upon and inure to the benefit of each of the Developer's successors and assigns (excluding any Excluded Transferee's), and each

future successor legal or beneficial owner of all or any portion of the Property. The Payment of Developer's Share of Eligible Redevelopment Project Costs, as provided in the Agreement, including, but not limited to, Section 5 of this Agreement, may, without the consent of the Village, be (i) assigned to or pledged as collateral to any lender providing project financing to the Developer or ii) the Developer may transfer or assign the Developer's Share of Eligible Redevelopment Project Costs at any time without consent of the Village to (a) any entity controlling, controlled by or under common control with Developer or (b) any entity in which the majority equity interest is owned by the parties that have a majority equity interest in Developer. (collectively "Pledge, Assignment, or Transfer of Developer's Share of Eligible Redevelopment Project Costs")

Except as provided in the paragraph above which provides the Pledge, Assignment or Transfer of Developer's Share of Eligible Redevelopment Project Costs, which shall not require the consent of the Village, the rights and obligations of the Developer under this Agreement shall not be assignable by the Developer, except upon prior written consent given by the Village. The Village shall not unreasonably withhold its consent provided that the nature of the Redevelopment Project is not substantially changed. No such assignment shall be deemed to release the Developer of its obligations to the Village under this Agreement unless the specific consent of the Village to release the Developer's obligations is first obtained in writing and a Transferee Assumption Agreement in substantially the same form as Exhibit 3 is executed by the Parties, which execution by the Village shall not be unreasonably withheld. The Village acknowledges that Developer intends to sell or lease various portions of the Property either before or after Substantial Completion of the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, which shall not require the Village's consent because these Persons shall not be responsible to compete the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, and shall not be entitled to Developer's Share ("Excluded Transferee"). No transfer by Developer to another Person of a portion of the Property shall operate as an assignment of the rights and obligations under this Agreement without an execution of a Transferee Assumption Agreement, including, but not limited, Developer's rights to collect Developer's Share after a transfer of any portion of the Property to another Person unless Developer specifically assigns it rights to receive its Developers Share in the Transferee Assumption Agreement.

For purposes of this Agreement, the term "transfer" includes any assignment, sale, transfer to a transfer in trust, or other disposition of the Property, or any beneficial interest in the Property, in whole or in part, by voluntary sale, sale and leaseback, consolidation, or otherwise. "Transfer" does not include any of the following, which shall not be deemed to be unpermitted transactions: involuntary sale, foreclosure, transfer to a receiver or a trustee in bankruptcy, mortgage, or collateral assignment in connection with financing,

lease, license, or occupancy agreement, easement, transfer by operation of law, any Pledge, Assignment or Transfer of Developer's Share of Eligible Redevelopment Project Costs, or a transfer to an Excluded Transferee.

21. Default/Remedies.

a) Default, Notice of Default and Cure Period.

Subject to Uncontrollable Circumstances and provisions for notice provided herein, if any of the Parties shall fail to perform or keep any material term or condition required to be performed or kept by such Party pursuant to this Agreement (an "**Event of Default**"), such Party shall, upon written notice from the other Party specifying the default(s) complained of by the injured Party, proceed to cure or remedy such default or breach within thirty (30) calendar days after receipt of such notice ("**Cure Period**"), provided, however, that in the event such default is incapable of being cured within the Cure Period and the defaulting Party commences to cure the default within the Cure Period and proceeds with due diligence to cure the same, the Cure Period will be extended for such time period as is reasonably necessary for curing the default. The injured Party may not initiate proceedings against the Party in default until the end of the Cure Period, or any extension of the Cure Period as provided in this section.

b) Forum and Remedies.

Upon the breach of this Agreement, any of the Parties hereto may, exclusively in the Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois, by action or proceeding at law or in equity secure the specific performance of the covenants and agreements herein contained or recover damages (except consequential damages) for the failure of performance or any of the above; provided however, the Villages sole remedy for an Event of Default of Section 2.1(d) regarding failure to meet the deadlines for the start or Substantial Completion of the Work, and the Permanent Sanitary Sewer System if constructed as part of Phase II, as outlined within Section 2.1(d) of this Agreement shall be termination of this Agreement by the Village.

In the event either Party shall institute legal action because of breach of any agreement or obligation contained in this Agreement, on the part of either Party to be kept or performed, the prevailing Party shall be entitled to recover all damages (except consequential damages), costs and expenses, including reasonable attorney's fees and costs incurred therefore. The rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise of, at the same time or different times, any

rights or remedies for the same default or for any other default by the other Party, as provided herein.

Any delay by any Party in instituting or prosecuting any actions or proceedings or asserting its rights under this Agreement shall not operate as a waiver of such rights in any way (it being the intent of this provision that such Party should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedies provided by law, equity or this Agreement because of the default involved). A waiver made by any Party with respect to any specific default by any other Party under this Agreement must be expressly and specifically made in writing and shall not be construed as a waiver of rights with respect to any other default by the defaulting party under this Agreement or with respect to the particular default except to the extent expressly and specifically waived in writing.

c) Mortgagees.

Whenever the Village shall deliver a notice of default to Developer with respect to any alleged Event of Default by Developer hereunder, the Village shall, at the same time, deliver to each Mortgagee (as defined below), a copy of such notice or demand, provided the Village has been advised in writing of the name and address of any such Mortgagee. Each such Mortgagee shall have the right to cure or remedy or commence to cure or remedy any such default after the expiration of the Cure Period, subject to the same conditions as are applicable to the Developer.

In the event the Developer's default is not one curable by a Mortgagee (i.e., insolvency or bankruptcy of the Developer), such Mortgagee may request, and the Village may agree, to enter into an assumption agreement with such Mortgagee.

Notwithstanding any provision herein to the contrary, the Developer shall be permitted to grant and convey to third parties (each a "**Mortgagee**") mortgage liens and other liens and encumbrances upon the Property as security for financing extended to the Developer from time to time in connection with the Redevelopment Project, or any portion thereof (each a "**Mortgage**"), without prior consent of the Village, and the Developer shall be permitted to collaterally assign and grant a security interest in its rights and interests hereunder to such Mortgagee pursuant to a security agreement ("**Assignment**"). In the event that any Mortgagee shall succeed to the Developer's interest in all or any portion of the Property pursuant to the exercise of remedies under any such Mortgage or Assignment, whether by foreclosure, deed in lieu of foreclosure and/or exercise of any rights under such documents, the Village hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement, so long

as such party enters into an assumption agreement. Execution of the assumption agreement shall not relieve the Developer from liability for any default of the Developer which occurred prior to the execution of the assumption agreement. If such Mortgagee does not enter into an assumption agreement, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound by those provisions of this Agreement which are covenants expressly running with the land and the Village shall not be obligated to make any disbursements of any proceeds of Developer's Share to such Mortgagee or any successor to such Mortgagee, unless agreed to by the Village in writing.

22. Intentionally Omitted.

23. Intentionally Omitted.

24. Intentionally Omitted.

25. Incorporation of Recitals and Exhibits. The statements, representations, covenants and recitations set forth in the foregoing Recitals are material to this Agreement and are incorporated into and made a part of this Agreement as though they were fully set forth in this Section 25. The Exhibits referred to in the Recitals in this Agreement and attached to or incorporated into it by textual reference in this Agreement are incorporated by reference into and made a part of this Agreement as though they were fully set forth in this Section 25.

26. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same Agreement.

27. Certificate of Continued Effectiveness. Within ten (10) business days after the written request by Developer, the Village shall execute and deliver to any existing or proposed mortgagee, lessor, grantee, or assignee a certificate stating that this Agreement is in full force and effect, that neither the Village nor Developer are in default under this Agreement and containing such other information as may be reasonably requested by such mortgagee, lessor, grantee, or assignee.

28. Changes in Laws. Unless otherwise explicitly provided in this Agreement, any reference to any Requirements of Law includes any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.

29. Interpretation. This Agreement is to be construed without regard to the identity of the Party who drafted the various provisions of this Agreement. Each provision of this

Agreement is to be construed as though both parties to this Agreement participated equally in the drafting of this Agreement. Any rule or construction that a document is to be construed against the drafting Party is not applicable to this Agreement

30. Headings. The table of contents, heading, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

31. No Joint Venture, Agency or Partnership Created. Neither anything in this Agreement nor any acts of the Parties to this Agreement shall be construed by the Parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such Parties.

IN WITNESS WHEREOF, the Village and Developer have caused this Agreement to be executed in their respective names and caused their respective seals to be affixed thereto and attested as to the date first above written.

"VILLAGE"

VILLAGE OF SUGAR GROVE, ILLINOIS

DATE: _____

Jennifer Konen, Village President

"DEVELOPER"

SDP SUGAR GROVE, LLC

DATE: _____

By: _____

Its: _____

EXHIBIT LIST

APPENDIX A	Project Location
EXHIBIT 1	Eligible Redevelopment Project Costs
EXHIBIT 2	Request for Reimbursement
EXHIBIT 3	Form of Transferee Assumption Agreement
EXHIBIT 4	Description of Redevelopment Project and the Work
EXHIBIT 5	Permitted and Special Use List
EXHIBIT 6	First Amendment to Annexation Agreement
EXHIBIT 7	PUD Ordinance
EXHIBIT 8	Legal Description of the Property
EXHIBIT 9	Construction Plans

APPENDIX A
Project Location

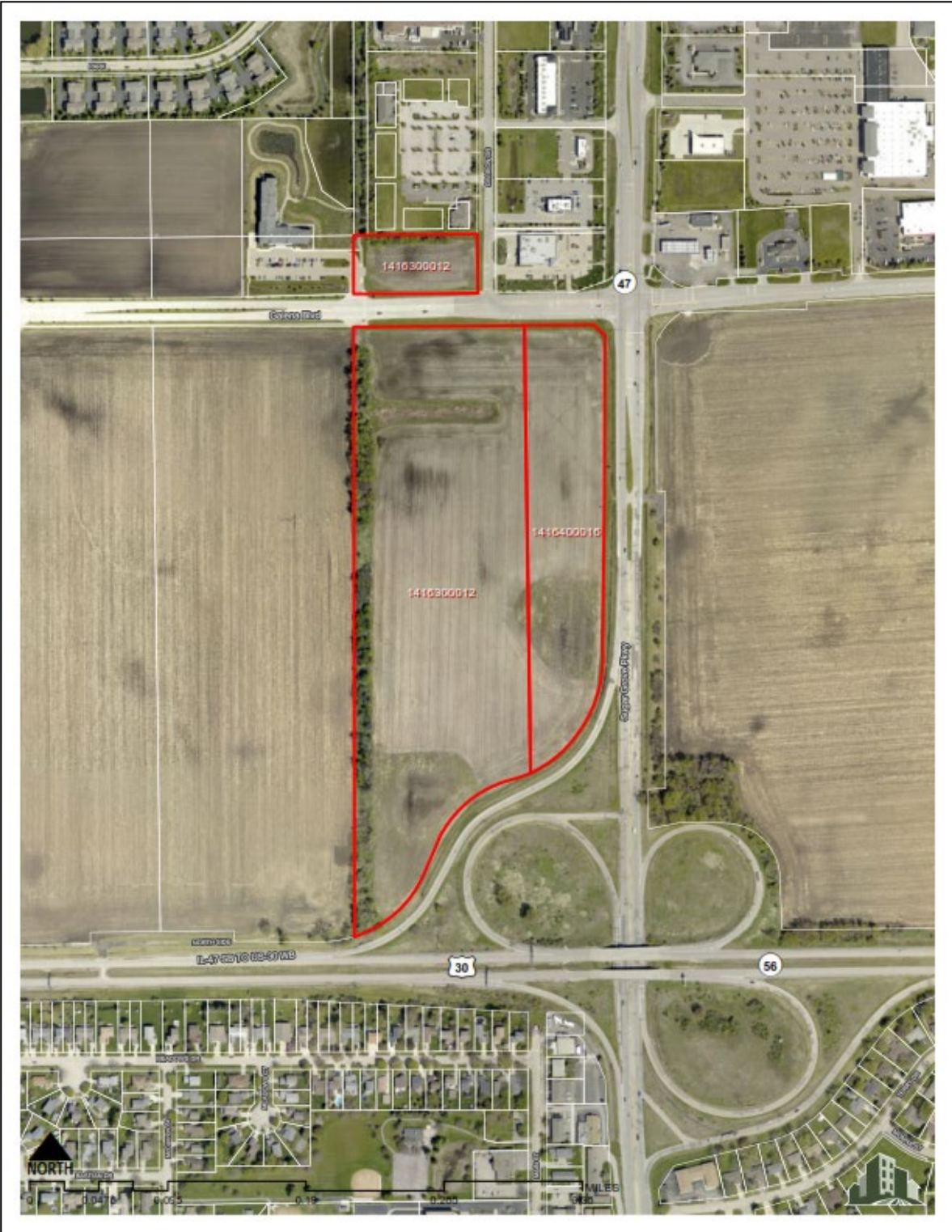




EXHIBIT 1
Eligible Redevelopment Project Costs

Project Cost Category:

Estimated Cost:

Relocation of the US 30 on-ramp off IL 47 approximately 880 feet south of the proposed right-in access drive off IL 47 meeting the Illinois Department of Transportation (IDOT) requirements as depicted on the Construction Plans	\$275,000
Extending the 10" to 12" Village of Sugar Grove intermediate sanitary sewer and mains from the point of connection to the existing 24" Fox Metro Interceptor approximately 5050 feet to the sanitary manhole No. 114 located at the southwest corner of Galena Boulevard and Division Drive as depicted on the Construction Plans.	\$600,000
Costs of studies, survey, development of plans, including site planning, geotechnical engineering, civil engineering design, traffic engineering design incurred for the Redevelopment Project	\$65,000

Simple interest of 3.5% calculated annually of the Eligible Redevelopment Costs that have not been reimbursed to Developer as part of the Developer's Share ⁴	To be calculated when Developer submits its Request for Payment of Developer's Share as provided in Section 5.1 of the Agreement
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⁴ As an example, if in year one \$940,000 of Eligible Redevelopment Costs have not been paid but were incurred by Developer and Substantially Completed as defined in the TIF Agreement, interest owed for that year would be \$32,900. In year two, if the Village paid \$200,000 to the Developer in Eligible Redevelopment Costs, so that in year two there were \$740,000 of Eligible Redevelopment Costs incurred that have not been paid to the Developer by the Village, the interest that year would be \$25,900. If in year three the Village paid another \$200,000 to the Developer in Eligible Redevelopment Costs, so that in year three there were \$540,000 of Eligible Redevelopment Costs incurred that have not been paid to the Developer, the interest that year would be \$18,900, and so on. Principal shall be paid first on the unpaid balance that was accumulated each year until the Eligible Project Costs have been paid in full. However, if one Project Cost Category has been completed and another Project Cost Category remains outstanding, the Village shall begin to repay interest on completed Project Cost Category. (E.g., If the Eligible Project Cost Reimbursement for the Rt. 47 On Ramp Relocation is paid in full to the Developer before any Eligible Project Costs are incurred by the Developer for the Permanent Sanitary Sewer Extension, then interest should start to be paid to the Developer for the Rt. 47 Relocation).

EXHIBIT 2
Request for Reimbursement

Request for Reimbursement of Eligible Redevelopment Project Costs

TO: TIF Administrator
Sugar Grove Village Hall
10 S. Municipal Drive
Sugar Grove, Illinois 60554

You are hereby requested and directed as per the Redevelopment Agreement between the Village of Sugar Grove, IL and _____ to pay the Developer's Share from the Special Allocation Fund for TIF Revenue generated on parcel(s): _____ during the _____ payable _____ property tax period, for those Eligible Redevelopment Project Costs related to the following Redevelopment Project Costs:

<u>Vendor</u>	<u>Description of Work Performed</u>	<u>Amount</u>

Total Costs Submitted: _____

Request # _____

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement. The undersigned is the Developer under the Redevelopment Agreement which request is being made between the Village and the Developer. The undersigned, on behalf of the Developer, hereby states and certifies to the Village that:

1. Each item listed above is a Eligible Project Cost and was incurred in connection with the construction of the Redevelopment Project.
2. All real estate taxes levied against the Property owned by the Developer have been paid in full proof of which is attached to this Request for Payment.
3. These Eligible Project Costs have been incurred by the Developer and have been paid by the Developer and are payable or reimbursable under the Redevelopment Agreement.
4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm, or corporation to receive payment of the amounts stated in this request, except to the extent that any such lien is being contested in good faith.
5. All necessary permits and approvals required for the portion of the Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, on the Redevelopment Project for which this certificate relates have been issued and are in full force and effect.
6. All Work, and the Permanent Sanitary Sewer Extension if it is not constructed as part of the Work and is constructed as part of Phase II, for which payment or reimbursement is requested, has been Substantially Completed in accordance with the terms of the Agreement.
7. All Administration Fees have been paid in full/I agree to have any unpaid Administration Fee's deducted from the Developer's Share, as necessary.

Dated this _____ day of _____, 20____

SDP SUGAR GROVE, LLC

By: _____

Its: _____

Approved for Payment:

VILLAGE OF SUGAR GROVE, ILLINOIS

EXHIBIT 3
Form of Transferee Assumption Agreement

TRANSFEE ASSUMPTION AGREEMENT

THIS TRANSFEE ASSUMPTION AGREEMENT ("**Agreement**") is made as of this ____ day of _____, 20__, by, between and among the **VILLAGE OF SUGAR GROVE**, an Illinois municipal corporation ("**Village**"), _____, a _____ ("**Owner**"), and _____ ("**Transferee**").

WITNESSETH:

WHEREAS, pursuant to that certain real estate sale contract dated _____, 20__, the Transferee agreed to purchase from [**NAME OF ENTITY TRANSFERRING ITS PROPERTY**] ("**Transferor**") certain real property situated in Kane County, Illinois and legally described in **Exhibit A** attached to and, by this reference, made a part of this Agreement ("**Transferred Property**"); and

WHEREAS, following the conveyance of the Transferred Property by Transferor, the Transferee will be the legal owner of the Property; and

WHEREAS, as a condition to the conveyance of the Transferred Property by Owner, the Village and Owner require that the Transferee agree to comply with all the terms, requirements, and obligations set forth in that certain Redevelopment Agreement, dated as of _____, 2022, and recorded in the office of the Kane County Recorder of Deeds on _____, 2022, as Document No. _____ ("**Redevelopment Agreement**") as and to the extent they pertain to the Transferred Property;

NOW, THEREFORE, in consideration of the agreement of Transferor to convey the Transferred Property to the Transferee, and of the Village to accept the transfer of obligations as provided herein and to grant the releases granted herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by, between, and among the Village, Owner, and the Transferee as follows:

1. **Recitals.** The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.
2. **Assumption of Obligations.** The Transferee, on its behalf and on behalf of its successors and assigns, hereby agrees, at its sole cost and expense, to comply with all of the

terms, requirements, and obligations of the Redevelopment Agreement, including all exhibits and attachments thereto, as and to the extent they pertain to the Transferred Property regardless of whether such terms, requirements, and obligations are to be performed and provided by, or are imposed upon, Owner.

3. **Payment of Village Fees and Costs.** In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Redevelopment Agreement or by applicable Village codes, ordinances, resolutions, rules, or regulations, the Transferee will pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering, and other consulting or administrative fees, costs, and expenses incurred in connection with the negotiation, preparation, consideration, and review of this Agreement.

4. **Acknowledgment and Release of Owner.** The Village hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the terms, requirements, and obligations of the Redevelopment Agreement, including all exhibits and attachments thereto, as and to the extent they pertain to the Transferred Property, and the Village hereby releases Owner from any personal liability for failure to comply with the terms, requirements, and obligations of the Redevelopment Agreement as and to the extent they pertain to the Transferred Property.⁵

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

ATTEST: **VILLAGE OF SUGAR GROVE,**
an Illinois municipal corporation

By: _____
Village Clerk

By: _____
Its: Village President

OWNER
_____, a _____

By: _____
Its: _____

⁵ The Specific Transferee Assumption Agreement will need to note if Developer's Share is being transferred to the Transferee, as well, or retained by the Developer.

TRANSFeree

_____, a _____

By: _____

Its: _____

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS.
COUNTY OF Kane)

This instrument was acknowledged before me on _____, 20__, by _____, the Village President of the **VILLAGE OF SUGAR GROVE**, an Illinois municipal corporation, and by _____, the Village Clerk of said municipal corporation.

Given under my hand and official seal this ____ day of _____, 20__.

Notary Public

My Commission expires:_____

[SEAL]

STATE OF ILLINOIS)
) SS.
COUNTY OF Kane)

This instrument was acknowledged before me on _____, 20__, by _____, the _____ of the **OWNER**, a _____.

Given under my hand and official seal this ____ day of _____, 20__.

Notary Public

My Commission expires:_____

[SEAL]

STATE OF ILLINOIS)
) SS.
COUNTY OF Kane)

 This instrument was acknowledged before me on _____, 20__, by _____, the
_____ of the **TRANSFeree**, a _____.

 Given under my hand and official seal this ____ day of _____, 20__.

Notary Public

My Commission expires: _____

[SEAL]

EXHIBIT 4
Description of Redevelopment Project and the Work

Developer intends to redevelop the Property located within the Village with the Redevelopment Project (defined below).

- The “Redevelopment Project” includes on the Property approximately 15,000 sf of retail contemplated in 4 outlots and additional retail/service uses on the proposed Lot 5 in Prairie Grove Commons Unit Two (which may be further subdivided into 2 lots); to be constructed by end users after the Developer completes Phase I. “Phase “I” includes:
- Construction of various site preparation and off-site improvements, including but not limited to: Sanitary Sewer extension from either i) the existing sanitary manhole at the northwest corner of Galena and Division, approximately 183 feet and mains to service the Property. This shall be a temporary sewer extension to service Phase I and shall not be an Eligible Redevelopment Project Costs (“Temporary Sewer Extension”); and, ii) Upon Developer’s procurement of the necessary utility easements, extending the 10” to 12” Village of Sugar Grove intermediate sanitary sewer and mains from the point of connection to the existing 24” Fox Metro Interceptor approximately 5050 feet to the sanitary manhole No. 114 located at the southwest corner of Galena Boulevard and Division Drive to service the Property (“Permanent Sanitary Sewer Extension”)
- Water extension from the existing 12” DIWM along the south side of Galena Blvd. and mains service the Property
- Relocation of the US 30 on-ramp off IL 47 approximately 880 feet south of the proposed right-in access drive off IL 47 meeting the Illinois Department of Transportation (IDOT) requirements.
- Pedestrian crossing including signalization for the Route 47 and Galena Blvd intersection.
- Construction of Division Drive and Van Owen Drive and related improvements to be dedicated to the Village on the Phase I portion of the Property.
- Off-site wetland mitigation for wetland located on the Property
- Stormwater Detention allocation for portions of Galena Boulevard, , Lot 1 of the Prairie Grove Commons Unit 1, the unsubdivided portion of the Property located at the northwest corner of Galena Boulevard and Division Drive, and Lots 1-6 in Prairie Grove Commons Unit Two, together with mains, pipe, and associated structures
- Mass grade lots 1-5 in the proposed Prairie Grove Commons Unit Two, together with

utility stubs, perimeter berming and seeding and other improvements depicted in the Construction Plans to create “pad ready” outlots to be sold, leased, or developed by Developer for any of the Uses contained in Exhibit 5 of the Agreement.

- All improvements for the Work, and the Permanent Sanitary Sewer Extension if not constructed as part of the Work and constructed as part of Phase II, as identified in the Construction Plans.

As part of “Phase II: The Developer intends to market for development in the future (i) additional retail/service uses on the portion of the Redevelopment Project Property which is on the north side of Galena Boulevard (which may be further subdivided into 2 lots); and (ii) a mixed use retail/service/hospitality development on the remainder of the Property, it being understood that any portion of the Property may be developed for any of the Uses provided in Exhibit 5 of the Agreement.. If the Permanent Sanitary Sewer Extension is not constructed as Part of Phase I it will be constructed as part of Phase II and the Temporary Sewer Extension removed. The Permanent Sanitary Sewer Extension shall be an Eligible Redevelopment Projects Costs paid as part of Developer’s Share after Substantial Completion of the Permanent Sanitary Sewer Extension regardless of whether it is constructed as part of Phase I or Phase II. Phase II shall require Future Zoning Approvals to subdivide the Property into additional lots, adopt another special use for a planned unit development together with approval of preliminary and final PUD plans (except for Lot 5) and construction of additional improvements to create “pad ready” sites to be sold, leased, or developed by Developer for any of the Uses contained in Exhibit 5 of the Agreement.

For purposes of this Agreement, the “Work” shall include:

- Relocation of the US 30 on-ramp off IL 47 approximately 880 feet south of the proposed right-in access drive off IL 47 meeting the Illinois Department of Transportation (IDOT) requirements as depicted on the Construction Plans.
- The Permanent Sanitary Sewer Extension if it is constructed as Part of Phase I above. If the Permanent Sanitary Sewer Extension is not constructed as Part of Phase I it shall not be included in the definition of Work. If the Permanent Sanitary Sewer Extension is not constructed as Part of Phase I and not considered part of the Work, it still shall be an Eligible Redevelopment Projects Costs paid as part of Developer’s Share after Substantial Completion of the Permanent Sanitary Sewer Extension as depicted on the Construction Plans.

EXHIBIT 5
Permitted and Special Use List

PERMITTED USES

Only the uses identified in the *Commercial Uses* and *Office Uses* sections under the B-3 Zoning District of the Table of Permitted Uses (Section 11-4-22 of the Village Zoning Ordinance), and Planned Developments, in compliance with the applicable additional standards, conditions and requirements of Section 11-4-22-C of the Village Zoning Ordinance, except as provided otherwise herein, are permitted on the Owner Property, together with any uses added to the uses identified in the Commercial Uses and Office Uses sections under the B-3 Zoning District of Section 11-4-22 of the Village Zoning Ordinance.

In the event the following uses are established on the Unit Two Property, the additional standards, conditions and requirements shall apply:

Motor vehicle sales – must provide a minimum ten thousand (10,000) square feet of indoor showroom for displaying vehicles, not including office or garage space. Primary sales must be of new vehicles and shall be limited to automobiles, SUVs, pick-up trucks, motorcycles, ATVs and UTVs. The sale of any other type of vehicle shall require a special use permit.

Lumberyard – must be indoor only, unless accessory to a retail use and square footage shall not exceed 50% of the square footage of the primary indoor retail use.

Self-storage facility- must be an indoor, climate-controlled facility only, consisting of individual private storage spaces available for lease or rent to the general public, not for commercial purposes.

Notwithstanding Section 11-4-22 of the Village Zoning Ordinance, Owner is permitted to establish the first bank/financial institution, including drive-through service window, car wash, hotel, and motor vehicle fuel station on the Owner Property, as defined in the Amendment without a Special Use Permit. A Special Use Permit shall be required in order to establish and operate a second or more bank/financial institution, car wash, hotel, and motor vehicle fuel station on the Owner Property.

SECTION 11-4-22C

B-3 Commercial and Office Uses Contained in Zoning Ordinance Currently in Effect

Use	B-3 Zoning District
Commercial Uses	
Adult entertainment	
Art gallery	P
Auction room	S
Bank and financial institution	S
Banquet hall	P*
Banquet Hall, within 600 feet of a residential lot	S
Beauty shop, barbershop, and day spa	P
Bed and breakfast guesthouse	S
Bicycle sales and service	P
Car wash	S
Carpet and upholstery cleaners	S
Catering service	P
Cleaning and exterminating service	S
Clothing and costume rental store	P
Currency exchange	S
Drinking establishments	P
Equipment rental and leasing service	S
Event venue	
Florist	P

Food store	P
Food store, convenience	P
General repair service	P
General retail	P
Hotel, motel, and inn	S
Ice cream parlor	P
Laundry service	P*
Locksmith	P
Lumberyard	P
Mailing service	P
Medical supply rental	P
Motor vehicle fuel station	S
Motor vehicle parts retail	P*
Motor vehicle repair, Class I	P*
Motor vehicle repair, Class II	P*
Motor vehicle repair, Class III	
Motor vehicle repair, Class IV	
Motor vehicle sales	P*
Mulch, firewood sales	
Package liquor and wine, retail	P
Pawnshop	S
Pharmacy	P
Picture framing	P
Printing and publishing	P
Resale shop	P
Restaurant	P
Restaurant, alcohol service	P
Restaurant, carry out	P
Restaurant, drive-through	P
Restaurant, live entertainment, or dancing	S
Septic tank or sewer cleaning service	P

Small engine repair shop (not motor vehicles)	P
Sports and recreation, indoor	S
Sports and recreation, outdoor	S
Storage facilities	S
Tailor or dressmaker shop	P
Tattoo parlor	P
Taxidermist	P
Theater	P
Tobacco or vape shop	S
Undertaking establishment, funeral parlor and mortuary	P
Office Uses	
Contractor's office	P
Counseling service	P
General office	P
Medical laboratory	S
Medical office	P

***Refers to additional standards and criteria in section 11-4-23 for specific uses**

EXHIBIT 6
First Amendment to Annexation Agreement

EXHIBIT 7
PUD Ordinance

EXHIBIT 8
Legal Description of the Property

LEGAL DESCRIPTION:

THAT PART OF THE SOUTH 1/2 OF SECTION 16, TOWNSHIP 38 NORTH, RANGE 7, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING IN THE CENTER OF THE AURORA AND DIXON ROAD 9.62 CHAINS WEST OF THE EAST LINE OF SAID SECTION; THENCE SOUTH TO THE SOUTH LINE OF SAID SECTION 16; THENCE WEST ALONG SAID SOUTH LINE TO THE CENTER LINE OF STATE ROUTE NO. 47; THENCE NORTH ALONG SAID CENTER LINE 395 FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID SECTION 551.4 FEET; THENCE SOUTH PARALLEL WITH THE CENTER LINE OF STATE ROUTE 47, 395 FEET TO THE SOUTH LINE OF SAID SECTION; THENCE WEST ALONG SAID SOUTH LINE TO A POINT 9.62 CHAINS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION; THENCE NORTH 40 CHAINS TO THE NORTH LINE OF THE SOUTH 1/2 OF SAID SECTION; THENCE EAST ALONG SAID NORTH LINE TO THE CENTER LINE OF SAID STATE ROUTE 47; THENCE SOUTH ALONG SAID CENTER LINE TO THE CENTER LINE OF THE AURORA AND DIXON ROAD AFORESAID; THENCE EASTERLY ALONG THE CENTER LINE OF SAID AURORA AND DIXON ROAD TO THE POINT OF BEGINNING (EXCEPT THAT PART CONVEYED TO THE STATE OF ILLINOIS BY WARRANTY DEED RECORDED AUGUST 18, 1959 AS DOCUMENT 897944 AND ALSO EXCEPT THAT PART LYING EASTERLY OF SAID CENTER LINE OF STATE ROUTE 47 AND ALSO EXCEPTING THAT PART THEREOF FALLING IN LOT 1 IN PRAIRIE GROVE COMMONS UNIT ONE, RECORDED SEPTEMBER 15, 2010 AS DOCUMENT NUMBER 2010K060656 AND ALSO EXCEPT THAT PART DEDICATED FOR DIVISION DRIVE (66.0 FEET WIDE) ON SAID PLAT OF PRAIRIE GROVE COMMONS UNIT ONE, AND ALSO EXCEPT THAT PART OF THE LAND DEDICATED FOR ROADWAY AND UTILITY PURPOSES TO THE VILLAGE OF SUGAR GROVE RECORDED AS DOCUMENT 2008K039972 IN THE TOWNSHIP OF SUGAR GROVE, KANE COUNTY, ILLINOIS.

EXHIBIT 9
Construction Plans

VILLAGE OF SUGAR GROVE STANDARDS

11-13-12F – Special Uses Standards: The Planning Commission/Zoning Board of Appeals shall not recommend, nor the Village Board approve a special use, unless it shall find, based upon the evidence presented to the Planning Commission/Zoning Board of Appeals in each specific case, that the special use:

- a. Will be harmonious with and in accordance with the general objectives of the comprehensive land use plan and/or this title.

RESPONSE: The Subject Property is zoned as B-3 as part of the Annexation Agreement entered into between the Village and prior owner in 2010 and meets many of the goals for the Route 47 corridor as provided in the comprehensive land use plan, including the following: i) Landscaping that provides year-round visual interest and will provide at least 30% of green space for each lot; ii) interior lot landscaping that softens the expanse of pavement.

- b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not alter the essential character of the same area.

RESPONSE: The intended character of the general vicinity is commercial with many commercial uses within the vicinity of the Subject Property. A new public road Division/Community Drive will be constructed to serve this development and perimeter landscaping will be installed as each end user is constructed that will match similar developments in the vicinity. Berms along Rt. 47 and Galena Blvd. will be installed as part of the construction of Division/Community Drive.

- c. Will not be hazardous or disturbing to existing or future neighborhood uses.

RESPONSE: All lots front on Rt. 47 or Galena Blvd, which are designed for commercial uses in this location. All yards and uses will be adjacent to land zoned commercial.

- d. Will be adequately served by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewers, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

RESPONSE: All of these services will exist or be constructed to adequately service the proposed uses.

- e. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the Village.

RESPONSE: Most of the uses in the B-3 district are tax generators to the Village and all of them will contribute to the economic tax base of the Village while requiring minimal Village services and no school or park district impact. The Subject Property also is part of a TIF district which recognizes it is not feasible for the Subject Property to be developed without the use of TIF funds.

- f. Will not involve uses, activities, processes, materials, equipment and/or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

RESPONSE: All performance standards of the code will be met regarding these proposed uses, except as deviated. All of the uses will be either permitted B-3 uses or special uses that will have the same or less effect than if located elsewhere in the B-3 District, given its location. The traffic report by KLOA shows that this development will not have detrimental effect on the intersection.

- g. Will have vehicular approaches to the property which shall be so designed as to not create an undue interference with traffic on surrounding public streets or highways.

RESPONSE: The Petitioner's traffic consultant, KLOA, has designed all vehicular approaches so as not to create an undue interference with traffic on surrounding public streets or highways for the ultimate buildout of the Subject Property and remainder property owned by the Petitioner. Improvements on Rt. 47 must obtain permits from IDOT. Division/ Community Drive is designed to adequately handle the anticipated traffic for the Subject Property and remainder property owned by the Petitioner.

- h. Will not increase the potential for flood damage to adjacent property, or require additional public expense for flood protection, rescue, or relief.

RESPONSE: The proposed development will meet all requirements of the Kane County stormwater ordinance.

- i. Will not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance to the Village.

RESPONSE: It will not. Property is vacant with very few trees.

11-11-4B – Planned Unit Development Standards: Unless otherwise approved by the Village Board, pursuant to recommendations of the Planning Commission/Zoning Board of Appeals, the following standards shall apply. Approval of exceptions from these standards is intended to be granted only when it is determined appropriate or necessary to achieve one of the objectives of section 11-11-1 of this chapter:

- 1. Ownership: The proposed planned unit development shall be under the unified control of the petitioner.

RESPONSE: Proposed PUD is under the unified control of the Petitioner.

2. Comprehensive Plan: The proposed planned unit development shall conform to the land uses, intent, and spirit of the comprehensive plan and other planning objectives established for the Village.

RESPONSE: PUD conforms to the land uses, intent, and spirit of the Comprehensive Plan as described in response A of the Special Use standards.

3. Compatibility: Uses permitted in a planned unit development shall be compatible with surrounding land uses.

RESPONSE: Uses permitted are compatible with surrounding land uses as described in response C of the Special Use standards.

4. Subdivided: Unless otherwise approved by the Village Board, only one principal building shall be constructed per parcel. Preliminary and final plats of subdivision shall be required in accordance with procedures set forth in the Subdivision Code, as may be amended from time to time.

RESPONSE: Subdivision plat will comply with the Code, except for the deviations listed as part of Petitioner's application.

5. Yards: The required yards along the periphery of a planned unit development shall be at least equal in depth to those of the underlying zoning district, or the adjacent zoning district, whichever is greater. The Planning Commission/Zoning Board of Appeals may recommend greater setbacks from the boundary line of a planned unit development when determined necessary to protect the privacy of residents in both existing and proposed subdivisions.

RESPONSE: Some deviations to the periphery landscape yards are necessary as delineated in the deviation list in order to develop the parcel pursuant to this site plan. Setbacks are more than adequate to adequately buffer adjoining land uses. These deviations are necessary for efficient land use patterns and more economic development of land. These deviations were anticipated at the time the Subject Property was annexed.

6. Landscaping: At a minimum, the proposed planned unit development shall conform to the landscaping requirements set forth in this title. The Planning Commission/Zoning Board of Appeals may recommend landscaping in excess of these minimum standards where determined necessary to achieve the objectives set forth in this chapter.

RESPONSE: Same rationale as for yard deviations.

7. Sidewalks: Sidewalks shall be constructed as required by the Village Engineer in residential, commercial, and industrial planned unit developments. In addition, walks shall be provided for convenient access for pedestrians between residential blocks and cul-de-sacs, as well as between differing land uses.

RESPONSE: Pedestrian plan shows more than adequate pedestrian access is provided along all public streets.

8. Public Streets:
a. All streets shall be publicly dedicated and constructed in accordance with applicable standards contained in the Subdivision Code, as may be amended from time to time.

RESPONSE: These requirements will be met except for the deviations listed as part of Petitioner's application.

b. The Planning Commission/Zoning Board of Appeals may recommend, and the Village Board approve, reduced rights-of-way or pavement width in residential subdivisions, but only in those instances where documentation is submitted that shows proposed widths will accommodate anticipated traffic associated with the planned unit development, as well as traffic that is expected to be generated by existing and planned development in the vicinity of the proposed project.

RESPONSE: This is not a residential subdivision.

9. Vehicular Access: Points of vehicular ingress and egress to the site shall be minimized to maintain the safety and operational efficiency of arterial streets and collector roadways. Where possible, cross access between properties shall be provided.

RESPONSE: Minimum cuts provided. After all roadway improvements are constructed, all roads shall operate at acceptable levels of service.

10. Screening: Where a nonresidential use abuts a residential use, landscape screening shall be provided. Screening shall be a minimum of six feet (6') in height, and shall include evergreen trees, not less than six feet (6') tall. Screening may also include walls, fences, berms, deciduous and ornamental trees, shrubs, or any combination thereof, in addition to the required evergreen trees.

RESPONSE: The Subject Property does not abut a residential use.

11. Underground Utilities: All utilities (including electric, telephone, gas, and cable TV) shall be installed underground.

RESPONSE: Petitioner's engineering plans show the existing overhead utilities that will be buried. All new utilities installed as part of the development of the Subject Property will be buried.

12. Tree Replacement/Mitigation: Where determined appropriate by the Planning measured six inches (6") in diameter at breast height (dbh), which are identified to be removed for construction shall be replaced in accordance with a tree replacement plan that is subject to review by the Planning Commission/Zoning Board of Appeals and approval by the Village Board:

RESPONSE: This entire section should not be applicable. Staff has concluded a tree replacement plan is not required based on the current condition of the Subject Property.

- a. The tree preservation plan shall show:

- (1) Protective fencing planned to be installed around the critical root zone of those trees identified for preservation, on both grading and landscape plans.

RESPONSE: N/A

- (2) Trees that will have their roots pruned by a certified arborist, to avoid tearing and other damage during construction.

RESPONSE: N/A

- (3) Locations where limestone and other materials that might negatively affect trees planned to be preserved will be stored on the property.

RESPONSE: N/A

- b. Where it is determined that trees six inches (6") dbh or greater must be removed to allow for proposed development, tree replacement will be required:

- (1) Not less than one (1) 3-inch caliper tree shall be required for each six inches (6") of tree proposed to be removed, as measured at breast height. However, in no instance shall more than three (3) 3-inch caliper replacement trees be required for any tree removed.

RESPONSE: N/A

- (2) Replacement trees shall be required in addition to any other landscaping that may be required by this title, except landscape screening. In this instance replacement trees can be used for screening a planned unit development and properties planned, zoned, or used for residential purposes.

RESPONSE: N/A

- (3) The number of trees that an individual property can support, according to good forestry practices, shall determine the number of replacement trees that will be required on an individual lot.

RESPONSE: N/A

13. Performance Standards: All activities associated with a commercial, industrial, or mixed use planned unit development shall conform to standards established by the Illinois Pollution Control Board or the Illinois Environmental Protection Agency, as may be amended from time to time, for noise, vibration, glare, odor, heat, etc.

RESPONSE: Performance standards for each end user will be evaluated by the Village at the time each end user applies for Final PUD approval.

14. Preliminary Approval: Preliminary approval of a planned unit development by the Village Board shall be null and void in the event that the petitioner has failed to obtain final planned unit development approval for at least the first phase of the development within eighteen (18) months of the date of the preliminary approval.

RESPONSE: Petitioner has requested a deviation from this requirement as provided in the Deviation list included in Petitioner's application.

15. Completion: The planned unit development shall be substantially completed within the period of time specified by the petitioner unless an extension is requested by the petitioner and approved by the Village Board. All planned unit development phases shall be completed within two (2) years of final planned unit development approval for that phase, except when the size or complexity dictates a longer period, as may be granted by the Village Board, upon request by the petitioner.

RESPONSE: Petitioner has requested a longer time period to complete the planned unit development phase for the Subject Property as provided in the Deviation list included in Petitioner's application.

16. Compliance With Zoning Or Other Codes And Ordinances: Where there is a conflict, or difference between the provisions of this chapter and those of other chapters of this title, or other codes and ordinances, the provisions of this chapter shall prevail. Except as otherwise set forth herein, all other applicable Village Code provisions shall apply.

RESPONSE: A Deviation list showing all required deviations from the Village's codes and ordinances is included in Petitioner's application.

17. Exceptions: The Planning Commission/Zoning Board of Appeals may recommend, and the Village Board approve, exceptions to standards and criteria as part of a planned unit development, when determined necessary to achieve the planning objectives set forth in this chapter.

RESPONSE: A Deviation list showing all required deviations from the Village's codes and ordinances is included in Petitioner's application.

18. Natural Features: Natural features worthy of preservation within the planned development district shall be identified on preliminary and final plans and shall be left unimproved. Where parks and environmental corridors illustrated on the land use plan pass through a proposed planned development district, that land shall be perpetually preserved in a manner prescribed by the Village Board.

RESPONSE: There are no natural features worthy of preservation.

Proposed Findings of Fact Pursuant to §11-11-6C8b

11-11-6-C8b - The statement of findings of fact shall also specify in what respects the proposal would, or would not be in the public interest, and shall, at a minimum, address:

RESPONSE: The proposed development is in the public interest. The property was annexed and zoned by the Village in 2010 for anticipated commercial development. The Village adopted a TIF which included the Subject Property in 2015, concluding the Subject Property and surrounding property included in TIF #2 is blighted. Development of the Subject Property will accomplish the TIF's goal, which is commercial development of the Subject Property.

- (1) The extent to which the proposed planned unit development departs from the zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, setbacks, lot area, bulk and use, and the reasons why such departures are, or are not in the public interest.

RESPONSE: A Deviation list showing all required deviations from the Village's codes and ordinances is included in Petitioner's application.

- (2) The extent to which the proposed planned unit development meets the requirements and standards of the planned unit development regulations, and the reasons why such departures are, or are not deemed to be in the public interest.

RESPONSE: A Deviation list showing all required deviations from the Village's codes and ordinances is included in Petitioner's application. The rationale for each deviation is provided in the deviation list.

- (3) The physical design of the proposed planned unit development, and the manner in which said design does, or does not:

(A) Make adequate provision for public services;

RESPONSE: A new public road will be constructed to service the Subject Property and all public utilities provided will be adequate to service the development.

(B) Provide adequate control over vehicular traffic;

RESPONSE: The Curb cut on Rt. 47 will be approved by IDOT and the curb cut on Galena Blvd is subject to approval by the Village as part of the PUD approval. The KLOA traffic report notes that both curb cuts will operate at acceptable levels of service.

(C) Provide for and protect designated open space; and

RESPONSE: This is a commercially zoned property that is anticipated for commercial development. The detention pond will service the Subject Property and will contained plantings that are best management practices.

(D) Furnish the amenities of light and air, recreation, and visual enjoyment.

RESPONSE: The Subject Property is zoned B-3 Commercial and is part of TIF #2. It is not a residential development.

(4) Compatibility of the proposed planned unit development with adjacent properties and neighborhoods.

RESPONSE: The Subject Property is zoned B-3 Commercial and is part of TIF #2. Compatibility with adjacent properties has been determined by the Village when it zoned the Subject Property B-3 and created TIF #2. The property south and west of the Subject Property is zoned B-3, also owned by the Petitioner, and will be developed in the future. Property to the west is identified as Commercial on the Village Comprehensive Plan. Property to the north on both sides of Rt. 47 is zoned B-3 and developed with commercial uses. Consequently, the proposed development is compatible with adjacent properties.

(5) The desirability of the proposed planned unit development, or lack thereof, for the Village's tax base and economic wellbeing.

RESPONSE: The Subject Property is part of TIF #2, which recognizes that the Subject Property is blighted and has not developed. The proposed development anticipates commercial sales tax generating business on most of the lots.

(6) The adequacy of the methods by which the proposed planned unit development:

(A) Provides control over pedestrian and vehicular traffic;

RESPONSE: Sidewalks will be installed as noted on the PUD plan and vehicular traffic will access the Subject Property via newly constructed Division/Community Drive via Galena Blvd. or Route 47.

(B) Makes provision of landscaping and open space;

RESPONSE: A detention pond using best management practices will be developed and more than adequate perimeter landscaping provided. At least 30% of each lot will contain pervious material

(C) Provides adequate parking, loading, and lighting; and

RESPONSE: These will be evaluated when each end user applies for final pud approval.

(D) Furnishes the amenities of light, air, and visual enjoyment.

RESPONSE: With the perimeter landscaping and detention pond and planting, plenty of light, air and visual enjoyment are provided.

(7) Compatibility with the comprehensive plan and the goals and policies for planning within the Village.

RESPONSE: The proposed development matches the commercial designation on the Village comprehensive plan. In addition, the preliminary PUD plan with the landscape setbacks and berms along Rt. 47 and Galena Blvd. and the landscaping that will be installed within the setbacks meets the goals of the Rt. 47 Corridor Plan.