
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: ORDINANCE: ANNEXATION AGREEMENT AMENDMENT (PRAIRIE GROVE COMMONS)
(STAR/STER)
AGENDA: NOVEMBER 1, 2022 VILLAGE BOARD MEETING
DATE: OCTOBER 28, 2022

ISSUE

Shall the Village Board approve an Ordinance approving an Annexation Agreement Amendment for a commercial subdivision known as Prairie Grove Commons.

DISCUSSION

The Village Board last discussed this matter at its October 4, 2022 meeting at which the Village Board provided direction relative to the proposed landscaping plans and agreed to proceed subject to acquisition of the access rights to IL 47 from IDOT and acquisition of the off-site easement for the proposed sanitary sewer.

At the last meeting there was some confusion concerning a bike path along IL 47. It has been confirmed the final engineering and PUD plans include the bike path as originally intended.

There also was discussion concerning the proposed landscaping plan, particularly the proposed entry wall features. The Village Board directed the applicant to substitute the entry wall wall feature with the typical rock outcropping design/technique proposed elsewhere along the perimeter of the PUD. The plans are being revised in accordance with the Board's direction.

Since the last meeting all signs are the access acquisition request is included in the Omnibus bill to be considered by the Illinois legislature in the November session.

The attached document is ready for Village Board approval. All of the exhibits have been reviewed and verified. The applicant/developer has indicated to Village staff their desire to proceed with or without access to IL 47 and ask the Village Board approve the Annexation Agreement Amendment without any conditions. The off-site (Cope) easement for the sanitary sewer is in hand and on the same meeting agenda for approval.

With the exception of various corrections to the final engineering plans and revised perimeter landscaping plan, all of the referenced exhibits are complete. Be advised, there is duplication between the Annexation Agreement Amendment and the PUD Ordinance documents and some exhibits are included in both documents but use different exhibit numbers.

The Annexation Agreement Amendment is not a 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 a replacement only 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.

Consideration of the Annexation Agreement Amendment assumes the off-site easement is approved by the Village Board, and is followed by four documents requiring approval by the Village Board: Special Use Permit for PUD and final plat of subdivision; TIF redevelopment agreement; a Resolution approving a grant of easement; and, an Ordinance proposing SSA #29.

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

COSTS

All costs associated with reviewing the application and supporting documents are the responsibility of the applicant.

ATTACHMENTS

- Ordinance Approving Annexation Agreement Amendment (Prairie Grove Commons)

RECOMMENDATION

The Village Board should approve the Ordinance Approving Annexation Agreement Amendment (Prairie Grove Commons), subject to Village Attorney and Village Engineer review.



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

Ordinance No. 20221101C

**AN ORDINANCE AUTHORIZING EXECUTION OF AN
FIRST AMENDMENT TO ANNEXATION AGREEMENT
(PRAIRIE GROVE COMMONS)**

Adopted by the Board of Trustees and President of the Village of Sugar Grove
this 1st day of November 2022

Published in pamphlet form by authority of the Board of Trustees
of the Village of Sugar Grove, Kane County, Illinois,
this 1st day of November 2022

ORDINANCE NO. 20221101C

AN ORDINANCE AUTHORIZING EXECUTION OF AN FIRST AMENDMENT TO ANNEXATION AGREEMENT (PRAIRIE GROVE COMMONS)

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 5/1-8 *et seq.*; and,

WHEREAS, SDP SUGAR GROVE, LLC, (“OWNER”) has petitioned for an amendment to the Annexation Agreement for the Prairie Grove Commons subdivision more accurately described in Exhibit A, attached hereto and made a part hereof by this reference, as it pertains to property therein owned by OWNER; and

WHEREAS, after due notice, the corporate authorities of the Village have held a public hearing on August 10, 2021 on the proposed amended agreement, similar in form and substance to the Agreement attached hereto; and,

WHEREAS, the corporate authorities have approved this Agreement; 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: AMENDED ANNEXATION AGREEMENT

That the Amended Annexation Agreement entered into by and between the VILLAGE OF SUGAR GROVE, an Illinois municipal corporation (the "VILLAGE"); and SDP SUGAR GROVE, LLC, (“OWNER”) setting forth terms and conditions relating to the territory described in **Exhibit A** is hereby incorporated by reference in this ordinance as if fully set forth in the body hereof, a copy of which is attached hereto as **Exhibit B**. Said **Exhibit B** is hereby approved and the Village President and Village Clerk are hereby authorized to execute said amended agreement on behalf of the Village of Sugar Grove.

SECTION TWO: RECORDING AND NOTICE

The Village Clerk is hereby authorized to record this Ordinance along with all exhibits in the Office of the Recorder of Kane County.

SECTION THREE: GENERAL PROVISIONS

REPEALER: All ordinances or portions thereof in conflict with this annexation 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 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, Kane County, Illinois this 1st day of November, 2022.

ATTEST:

Jennifer Konen,
President of the Board of Trustees

Alison Murphy,
Village Clerk

	Aye	Nay	Absent	Abstain
Trustee Matthew Bonnie	___	___	___	___
Trustee Sean Herron	___	___	___	___
Trustee Heidi Lendi	___	___	___	___
Trustee Michael Schomas	___	___	___	___
Trustee Ryan Walter	___	___	___	___
Trustee James F. White	___	___	___	___
President Jennifer Konen	___	___	___	___

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

(Agreement)

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

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 by reference, 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 agrees 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 **Exhibit “B”**, attached hereto and incorporated herein by reference. 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 franchisees, 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 (5) 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 (5) 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 set forth as **Exhibit “M”**, attached hereto and incorporated herein by reference, 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 franchisees, 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.

1) Prairie Grove Commons Unit Two

- a. **Galena Boulevard.** As part of Prairie Grove Commons Unit Two, Owner shall be required to dedicate 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”**, attached hereto and incorporated herein by reference. 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.
- b. **State Route-47.** As determined by IDOT.

2) Remainder Property

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.

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 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, permits, and access rights 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. Owner shall submit a request to IDOT for the release of the access control fee for IL-47 to obtain right-in right-out access rights in keeping with this paragraph. The Village agrees to contribute up to \$300,000.00 toward the release of said access control fee for IL-47, as more specifically outlined in the TIF Development Agreement, attached hereto as **Exhibit “D”** and incorporated herein by reference. The Village’s contribution shall be limited to this fee only, and shall not be used toward related costs and expenses such as engineering and attorneys’ fees.

In addition, 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 Lot 7 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. 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 Lot 7 and Lot 7 and State Route 47. The elevations for these two Monument Subdivision Signs, attached hereto as **Exhibit “E”** and incorporated herein by reference, 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”**, attached hereto and incorporated herein by reference, 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 feet (500’) 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-foot (500’) 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

As part of the development of the Unit 2, Owner shall extend water main and sanitary sewer line to the borders of Lots 1-5 of the Owner Property as depicted on **Exhibit C-2** of the Planned Unit Development Ordinance. As the Remainder Property develops, Owner shall extend the water main and sanitary sewer to the boundaries of the Remainder Property in accordance with the Village

Code and accepted engineering principals for developments of similar size and scope in the Chicago Metropolitan area.

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

Offsite Easements. The Village agrees to assist Owner in the acquisition of all necessary offsite easements, and specifically, two (2) for the extension of the sanitary sewer main. As of the date of this Agreement, one (1) of the required easements has been acquired and a copy of said grant of easement is attached hereto and incorporated herein as **Exhibit I-1.1**. With regard to the second easement, including the negotiation and purchase of said easements on behalf of Owner. Owner and Village shall equally share land acquisition costs for said easements, to a maximum Village reimbursement of \$100,000.00, which shall be paid from the TIF funds, as defined in the Tax Increment Financing Redevelopment Agreement entered into between Owner and Village. Any costs in excess of the Village's share of the contribution described in this paragraph shall be the sole responsibility of Owner. The second easement shall be in substantially the same form as **Exhibit I-1.2**, or in such other form as otherwise approved by the Village Attorney.

In addition, to the extent allowable by law, the Village may also elect to exercise its 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.

- 1) 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 **Exhibit "G"**, attached hereto and incorporated herein by reference.

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”**, attached hereto and incorporated herein by reference. 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

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 **Exhibits “I-1.1” and “I-1.2” (“Easements”)**, attached hereto and incorporated herein by reference, 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

Reserved.

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 Lot 7 is 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.

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 public improvements and shall be in substantially in the same form as **Exhibit N**, or as otherwise may be required by Village Ordinance, as amended from time to time. 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 Completion Security. Reductions of the Completion Security 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 Completion Security, 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 Completion 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 Completion Security, 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 Completion Security, as applicable, for public improvements upon submittal and acceptance by the Village of substitute Completion Security 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, 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 for the Owner Property that shall pay for the cost of maintenance of all stormwater management facilities and the private drive on Lot 7 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 and the private drive on Lot 7 as depicted on 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 and the private drive on Lot 7. 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 or the private drive on Lot 7 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”**, incorporated herein by reference, 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”**, incorporated herein by reference, 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 underling 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 benefits, duties, and provisions of this Agreement shall be binding on the heirs, successors, and/or assigns of the Owner and/or owners of record of the Owner Property. Except as otherwise expressly provided herein, upon the conveyance or assignment by Owner of its interest in the Owner Property to any successor, assign, or nominee, Owner shall be released from any and all further liability or responsibility under this Agreement, 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 Agreement to Owner shall also include any successor and/or assign of Owner for any lot conveyed by Owner to the successor and/or assigns.

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
c/o: Patrick Daly, Manager, 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 Signage 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>	Reserved
<u>Exhibit K</u>	Special Service Area Ordinance
<u>Exhibit L-1</u>	Exceptions and Deviations from Zoning and Subdivision Ordinances – Prairie Grove Commons Unit Two
<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
<u>Exhibit N</u>	Completion Security

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 and square footage shall not exceed 50% of the square footage of the primary indoor retail use.

Storage facilities- 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

[Click here for link of Exhibit C - Final Plat of Subdivision](#)

EXHIBIT D
TIF DEVELOPMENT AGREEMENT

Click here to link to Exhibit D - TIF Development Agreement

EXHIBIT E

MONUMENT SUBDIVISION SIGNS PLAN

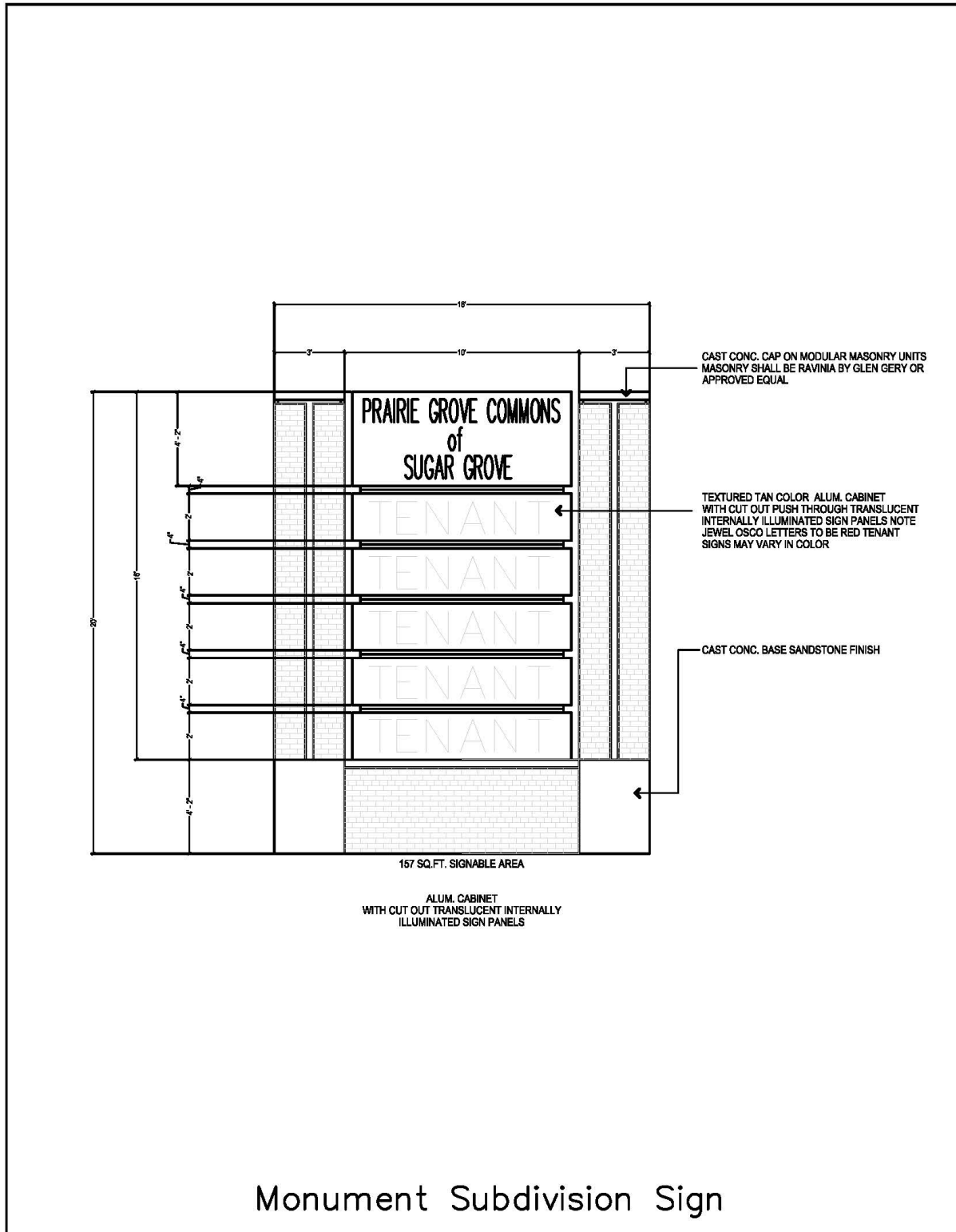


EXHIBIT F

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 Outlots 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, Lot 7 (private drive), 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 1-7 IN PRAIRIE GROVE COMMONS UNIT TWO; I.E., ALL OF THE LOTS IN UNIT TWO

EXHIBIT G
UTILITIES

[Click here for link to Exhibit G - Utilities](#)

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

[Click here for link to Exhibit I-1.1 - Sanitary Sewer Easement](#)

EXHIBIT I-1.2

SANITARY SEWER EASEMENT

**GRANT OF TEMPORARY CONSTRUCTION
AND PERMANENT DRAINAGE AND UTILITY
EASEMENT**

PREPARED BY & RETURN TO:

**Laura M. Julien
MICKEY, WILSON, WEILER, RENZI,
LENERT & JULIEN, P.C.
140 S. Municipal Drive
Sugar Grove, IL 60554**

**GRANT OF TEMPORARY CONSTRUCTION AND PERMANENT DRAINAGE AND UTILITY
EASEMENT**

THIS GRANT OF TEMPORARY CONSTRUCTION AND PERMANENT DRAINAGE AND UTILITY EASEMENT (“Grant”) is made and entered into as of this ___ day of ____, 2022, by and between **SUGAR GROVE INVESTMENTS, L.L.C.**, an Illinois limited liability company, 70 W. Madison Street, Suite 2300, Chicago, Illinois 60602; **MMB, L.L.C.**, an Illinois limited liability company, 70 W. Madison Street, Suite 2300, Chicago Illinois 60602; and **RCL, L.L.C.**, an Illinois limited liability company, 70 W. Madison Street, Suite 2300, Chicago, Illinois 60602, and their successors and assigns (“**Grantors**”) and **THE VILLAGE OF SUGAR GROVE**, an Illinois municipal corporation, 10 S. Municipal Drive, Sugar Grove, IL 60554, and its successors and assigns (“**Grantee**”) (as each may be individually referred to as a “**Party**” or collectively as the “**Parties**”).

RECITALS

WHEREAS, Grantors are the owners of record of certain real property identified by parcel numbers 14-15-300-013 & 14-16-400-014, Kane County, Illinois, and legally described on the attached **Exhibit A** (“**Grantors’ Property**”), incorporated herein by reference; and,

WHEREAS, Grantee desires to obtain a permanent drainage and utility easement (“**Permanent Easement**”) across certain portions of Grantors’ Property for the purposes of constructing, operating, and maintaining underground water, storm water, and sanitary sewer mains and related appurtenances (“**Facilities**”); and,

WHEREAS, to install the Facilities on Grantors’ Property, Grantee requires a temporary construction easement for the purpose of locating personnel, equipment, and material (“**Temporary Construction Easement**”); and,

WHEREAS, Grantors desire to grant Grantee both the Temporary Construction Easement and Permanent Easement (collectively, “**Easements**”) in and along Grantors’ Property at the locations set forth on **Exhibit B**, incorporated herein by reference, for the construction and installation of the Facilities in accordance with the terms and conditions of this Grant; and,

NOW, THEREFORE, in consideration of the foregoing recitals and mutual covenants hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The above recitals are incorporated herein by reference.

2. **Grant of Easements.**

A. Consideration. In consideration for the Grant of Easements set forth herein, Grantee shall pay Grantors a sum in the amount of Ten and 00/100 Dollars (\$10.00).

B. General Conditions. Grantors hereby grant and convey to Grantee, for the benefit of Grantee, both a Permanent Easement for the Facilities and a Temporary Construction Easement for the construction, maintenance and repair of said Facilities, together with the right of ingress and egress for the purpose of constructing and maintaining said Facilities, over, under, along, upon and through said Easements hereinafter described. Further, Grantors agree take any and all other actions necessary to effectuate this Grant.

The Easements described herein are all situated in unincorporated Kane County immediately adjacent to the corporate limits of the Village of Sugar Grove, County of Kane in the State of Illinois, and to the extent applicable, Grantors hereby release and waive all rights under and by virtue of the Homestead Exemption Laws of this State.

Grantee's rights in the Easements described above shall include the right to have third-parties enter onto Grantors' Property and utilize the Easements to perform the construction and maintenance activities to the Facilities herein described.

Grantee shall install, or cause to be installed, a twelve-inch (12") sewer in the within the Permanent Easement.. Grantors and Grantors' successors and assigns shall have the right to make connections to the Facilities at no cost, including tap-on fees, and without recapture or reimbursement. Grantee shall reserve sufficient capacity to service a residential development on Grantors' Property with a density of up to twelve (12) units per acre. Any development proposed at a later date is otherwise subject to Village review and approvals per the ordinances of the Village of Sugar Grove. The waiver of tap-on fees and reservation of capacity set forth in this paragraph shall be conditional upon the annexation of Grantors' Property into the Village of Sugar Grove.

C. Temporary Construction Easement. A temporary, non-exclusive easement over, under, in, along, across, and upon the portion of Grantors' Property shown on the attached and incorporated **Exhibit B**. Grantee may use the Temporary Construction Easement for the purposes of constructing and installing the Facilities, which shall include, but shall not be limited to, the right to conduct studies, tests, examination and surveys, the right to temporarily place and store equipment, vehicles and materials, and to erect structures, the right to trim, cut and remove all trees, structures, and any other obstruction or obstacles. The Temporary Construction Easement shall commence on the Effective Date of this Grant and shall automatically terminate and expire upon the completion of construction of the Facilities; provided, however, that Grantee shall have the right to utilize the Temporary Construction Easement as reasonably required in connection with the repair, replacement and maintenance of the Facilities following completion of construction of the Facilities. Upon the completion of any such construction, repair, replacement or maintenance, Grantee shall restore the Easements to the condition that existed prior to the commencement thereof. Grantee shall make reasonable efforts not interfere with the existing farm operation on Grantor's Property.

D. Permanent Easement. A permanent, non-exclusive drainage and utility easement over, under, in, along, across, and upon the portion of Grantors' Property shown on the attached and incorporated **Exhibit B**, including the right to ingress and egress for the lawful construction, installation, operation, maintenance, repair, replacement, and use of the Facilities. The Permanent Easement shall commence upon the effective date of this Grant and shall run with the land and continue in full force and effect until Grantee formally vacates the Permanent Easement. Grantors, successors and assigns, shall have access over the easement for construction of roads, driveways, berming and landscaping within the easement.

3. **Cost of Construction and Maintenance.** All work undertaken by Grantee or its licensees, successors in interest, or assigns, shall be at no expense to Grantors.

4. **Grantee's Obligations.** Grantee guarantees to Grantors that:

A. Restoration and Non-Interference. In the event the surface of any Easement is disturbed by Grantee's exercise of any of its easement rights under this Grant, such Easement shall be restored, as reasonably as practical, to the condition in which it existed at the commencement of such activities. Grantee shall not permit, operate, or install any object or improvement in the Easements which would in any way unreasonably restrict or interfere with Grantors' ingress and egress from Grantors' Property or the use of Grantors' Property by Grantors, their tenants, invitees, licensees and guests.

B. Indemnification. Grantee will indemnify and hold harmless Grantors and their agents and employees from and against all claims, damages, losses, and expenses arising out of or resulting from the performance of the work and caused by Grantee, Grantee's contractor, or anyone directly or indirectly employed by either of them, including but not limited to loss of farm rental income to Grantors resulting from the performance of the work. Grantee shall reimburse Grantors for any such loss upon demand.

5. **Grantors' Assurances.** Grantors, for themselves and their heirs, assigns and successors in interest, hereby covenants with Grantee, that Grantee's officers, agents, employees, or persons under contract with Grantee, may at any and all times, when necessary or convenient to do so, go over and upon the Easements, and do or perform any and all acts necessary or convenient for effectuating the purposes for which this grant is made; that Grantors shall not disturb, injure, molest, or in any manner interfere with any of said Facilities or material for laying, maintaining, operating or repairing the same in, over or upon the Easements. Grantors further covenants that no buildings, structures or fencing shall be constructed or placed on the Easements, and that Grantee shall have the right to remove any such buildings, structures, or fencing so constructed or placed.

6. **Additional Considerations.**

A. Title to Property. Full and complete title, ownership and use of Grantors' Property is hereby reserved to Grantors, subject only to the right, permission and authority expressly granted to Grantee with regard to the Easements in this Grant.

B. Title to Improvements. Title to the Facilities, as previously defined, that are installed within the Easements by or on behalf of Grantee or its successors, assigns, and licensees shall vest solely in Grantee.

C. Crop Damage. In consideration for crop damage, Grantee agrees that it will compensate Grantors (or the party farming Grantors' Property or the owner of the crops, as the case may be) in a fair and reasonable amount for the crop losses sustained from said damage and compensate Grantors (or the party farming Grantors' Property or owner of crops, as the case may be) in a fair and reasonable amount for the crop losses sustained from said damage and compensate Grantors (or the party farming Grantors' Property, as the case may be). The reasonable amount of any such loss shall be determined by then current crop prices as set forth in a generally available farm industry publication. In the event any act or omission of Grantee in connection with this Grant results in any loss of farm rent, Grantee shall reimburse Grantors for same based on the rent per acre under the most recent farm lease affecting Grantors Property.

D. No Recapture. Both Grantee and Grantors agree that there shall be no reimbursement to Grantors, nor any recapture, due for the improvements set forth herein.

E. Waiver of Future Village Connection Fee. Upon the annexation of Grantors' Property into the Village of Sugar Grove, Grantee hereby agrees to waive its connection fee for Grantors' Property to connect to Grantee's sanitary sewer main located within the Permanent Easement. This waiver shall be limited to one (1) connection of reasonable size required to serve Grantors' Property tributary to the proposed sewer by gravity, as determined by the Village Engineer of Grantee. This waiver shall not include fees payable to other entities or fees associated with third-party expenses (e.g., consultant review fees). This waiver is conditioned upon the

satisfaction of all other Village ordinances for making such a connection. This waiver is not transferrable or applicable to any other property within the Village of Sugar Grove.

F. Insurance. Grantee shall require insurance from any of Grantee's contractors performing work in the Easements for the construction, maintenance, and repair of the Facilities. A copy of said insurance shall be provided to Grantors prior to the commencement of work..Such insurance shall name Grantors as an additional insured.

7. Miscellaneous Provisions.

A. Amendments. Except as otherwise provided herein, this Grant may be amended or modified by, and only by written instrument duly authorized and executed by the Parties hereto.

B. Binding Effect. This Grant shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, beneficiaries, grantees, successors, and assigns, and shall run with the land.

C. Liberal Construction. This Grant and the rights and duties created hereby shall be liberally construed to give effect to the purpose and intent of the Parties hereto.

D. Captions and Paragraph Headings. The captions and paragraph headings inserted into this Grant are for convenience only and are not intended to, and shall not be construed to limit, enlarge, or affect the scope or intent of this Grant or the meaning of any provisions hereof.

E. Recitals and Exhibits. The recitals set forth at the beginning of this Grant and the exhibits attached hereto are incorporated into this Grant and made part of the substance hereof.

F. Governing Law. This Grant shall be governed by and construed in accordance with the laws of the State of Illinois and venue shall lie exclusively in the Sixteenth Judicial Circuit, Kane County, Illinois.

G. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or telecopied with confirmation of receipt, or two business days following deposit in the United States mail, by certified or regular mail, first-class postage paid, return receipt requested, and addressed to the appropriate party or parties as follows:

If to Grantors: c/o Ronald S. Cope
Schain Banks
70 West Madison Street, Suite 2300
Chicago, IL 60602

If to Grantee: Village of Sugar Grove
10 S. Municipal Drive
Sugar Grove, IL 60554
Attn: Village Administrator

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

MMB, L.L.C., an Illinois limited liability company

By: _____
Ronald S. Cope, Manager

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I, _____, a notary public, in and for said county and state aforesaid, do hereby certify that **Ronald S. Cope**, Manager of **MMB, L.L.C.**, an Illinois limited liability company, personally known to me the _____, and the same person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the foregoing instrument as their own free and voluntary act, for the uses and purposes therein set forth.

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

Notary Public

RCL, L.L.C., an Illinois limited liability company

By: _____
Ronald S. Cope, Manager

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

I, _____, a notary public, in and for said county and state aforesaid, do hereby certify that **Ronald S. Cope**, Manager of **RCL, L.L.C.**, an Illinois limited liability company, an Illinois limited liability company, personally known to me the _____, and the same person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the foregoing instrument as their own free and voluntary act, for the uses and purposes therein set forth.

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

Notary Public

GRANTEE:

VILLAGE OF SUGAR GROVE, an Illinois municipal corporation

By: _____
Name: _____
Title: _____

[illegible]

I, _____, a notary public, in and for said county and state aforesaid, do hereby certify that _____, _____ of **VILLAGE OF SUGAR GROVE**, an Illinois municipal corporation, personally known to me the _____, and the same person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the foregoing instrument as their own free and voluntary act, for the uses and purposes therein set forth.

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

Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF GRANTORS' PROPERTY

PINs #: 14-15-300-013 & 14-16-400-014

Common Address: Property 1/3 mile Easterly of the Southeast Corner of Route 47 and Galena Road, Sugar Grove, Illinois 60554

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 15 AND PART OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 38 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 15; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 15, 674.11 FEET TO A MONUMENTAL LIMESTONE; THENCE SOUTHERLY 5294.07 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER THAT IS 673.20 FEET (10.20 CHAINS) EASTERLY OF THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER AND ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 16 1308.12 FEET (19.82 CHAINS); THENCE NORTHERLY ALONG THE WEST LINE, AS FORMERLY MONUMENTED, OF A TRACT OF LAND CONVEYED TO HARRIETTE M. MCVAY BY DEED RECORDED AS DOCUMENT 1594484, 71.88 FEET TO THE NORTH LINE OF ILLINOIS STATE ROUTE 56 FOR A POINT OF BEGINNING; THENCE CONTINUING NORTHERLY ALONG THE WEST LINE, AS FORMERLY MONUMENTED, OF SAID MCVAY TRACT 2338.92 FEET TO THE SOUTHERLY LINE OF A TRACT OF LAND CONVEYED TO THE STATE OF ILLINOIS FOR HIGHWAY PURPOSES BY DOCUMENT 93K52850; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID STATE OF ILLINOIS TRACT, BEING A CURVE TO THE RIGHT HAVING A RADIUS OF 2467.16 FEET, TANGENT TO A LINE FORMING AN ANGLE OF 87 DEGREES 05 MINUTES 24 SECONDS WITH THE LAST DESCRIBED COURSE (MEASURED COUNTER-CLOCKWISE THEREFROM) 269.92 FEET; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID STATE OF ILLINOIS TRACT, TANGENT TO THE LAST DESCRIBED CURVE AT THE LAST DESCRIBED POINT 1911.31 FEET; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID STATE OF ILLINOIS TRACT, BEING A CURVE TO THE RIGHT, HAVING A RADIUS OF 22,140.75 FEET TANGENT TO THE LAST DESCRIBED COURSE 587.27 FEET TO A LINE DRAWN PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST QUARTER FROM A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER THAT IS 577.50 FEET (8.75 CHAINS) WESTERLY OF THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTHERLY PARALLEL WITH SAID EAST LINE 1871.70 FEET TO THE NORTHERLY LINE OF SAID STATE ROUTE; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID STATE ROUTE. BEING A CURVE TO THE RIGHT HAVING A RADIUS OF 4483.75 FEET TANGENT TO A LINE FORMING AN ANGLE OF 96 DEGREES 10 MINUTES 46 SECONDS WITH THE LAST DESCRIBED COURSE (MEASURED COUNTER-CLOCKWISE THEREFROM) 447.42 FEET; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID STATE ROUTE 2278.98 FEET TO THE POINT OF BEGINNING, IN SUGAR GROVE TOWNSHIP, KANE COUNTY, ILLINOIS.

EXHIBIT B

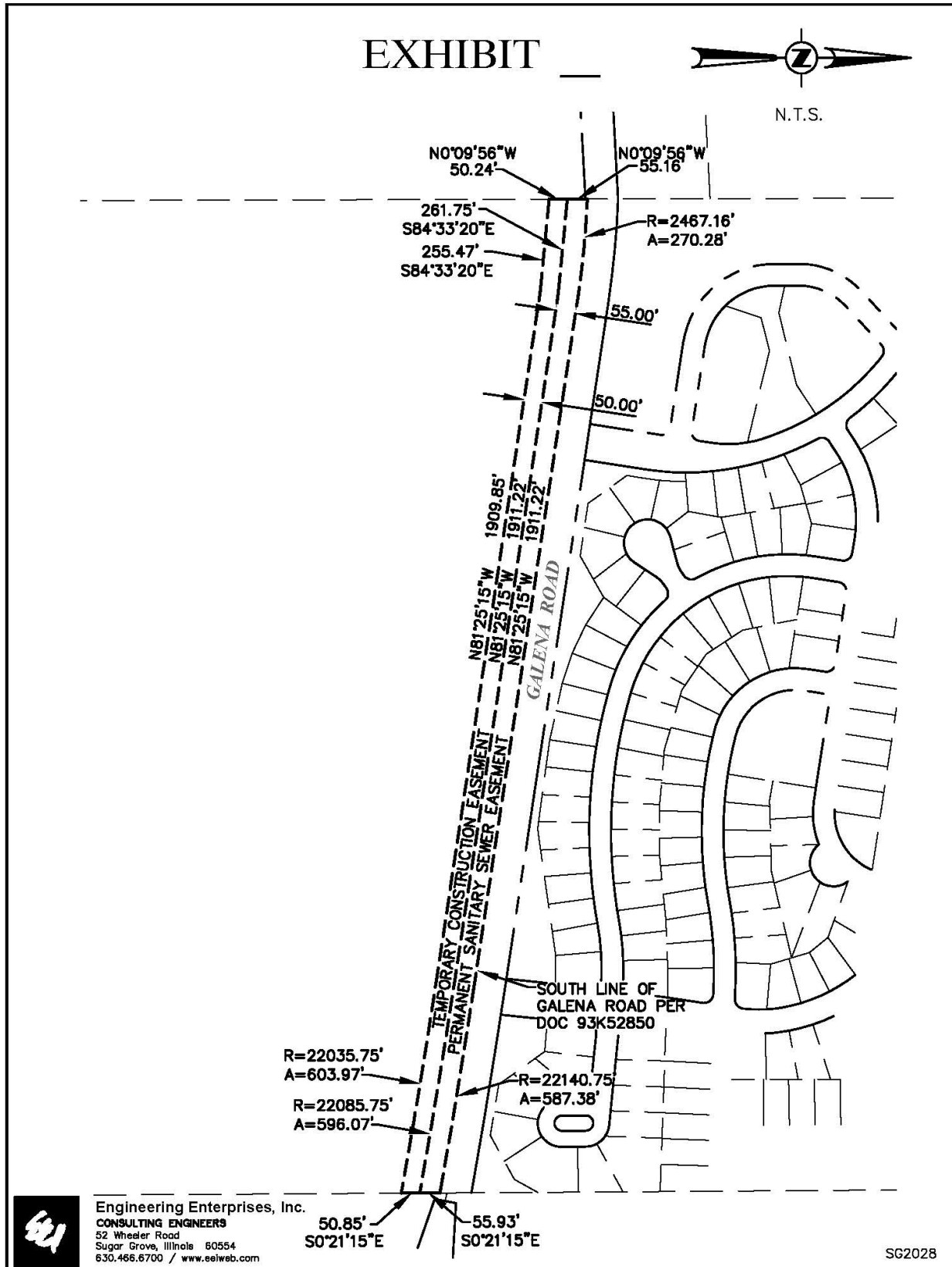


EXHIBIT I-2

STORMWATER MANAGEMENT EASEMENTS

[Click here for link to Exhibit I-2 - Stormwater Management Easements](#)

EXHIBIT J

RESERVED

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 and the private drive on Lot 7 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 DEVIATIONS FROM ZONING AND SUBDIVISION
ORDINANCES
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
11-4-9B	Permanent, Ground Mounted, Directional: Nonresidential: Monument or two-pole signs only that state directions within the lot such as "Entrance" or "Exit" or list address/suite numbers and the respective business name for directional purposes and subject to the maximum height, width, and area for the structure and face specified in subsection G of this section. Three (3) signs are allowed per lot, with the exception of lots with multiple buildings which are allowed one per building. Advertising matter is not allowed on these signs. These signs may not be illuminated. These are permitted in addition to those permitted by subsection F of this section	"Entrance" or "Exit" signs shall be permitted to be illuminated.	Most end users want illuminated "Entrance" and "Exit" signs.
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.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
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.
11-8-6E2	Minimum Lot width not less than 100 feet	No minimum lot width for lots 6 and 7	These are not buildable lots
11-8-6G	No more than 70% of lots shall be occupied with buildings, structures and impervious surfaces	No minimum requirement for Lot 7	Lot 7 is an access drive.
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').	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 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	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>
	the privacy of residents 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 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.

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
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. interior private drives 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. 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 slope 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

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>
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 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	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 the interior private drive 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>advertise on the Monument Subdivision Sign. A Monument Subdivision Sign at the entrance of the interior private drive 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 the interior private drive.</p> <p>"Of Sugar Grove" shall not be required</p>	
11-14-9-2-c	<p>Lot with freestanding/single-tenant building: Monument signs only advertising up to two (2) of the following: business name, logo, type of business, subject to the maximum height, width, and area for the structure and face specified in subsection G of this section. One sign is permitted, unless the site abuts two (2) or more public rights of way. In that case, up to two (2) signs are permitted. If two (2) signs are utilized, they must be placed along a separate right of way.</p>	<p>For purposes of this provision, Lot 7 shall be treated as a public right of way.</p>	<p>Each lot abuts a public right of way and Lot 7 (which is the continuation of a public right of way from the Unit 1 Property)</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</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>
	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.		
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 subdivider desires to construct a	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

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	subdivision in phases, a phasing plan shall also be submitted to the Village for approval.		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 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 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 interior private drives from the outlots, Sixty-six (66) foot right-of-way at Rt. 47 and the interior private 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	Elimination of this requirement in its entirety	Width of the right-of-way is larger than typical for portions of the interior private drive. There is no public health and safety issue. Additionally,

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	comparable cutoffs in place of rounded corners.		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 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.	As provided on Subdivision Plat and PUD Plan	Justifications for deviations from any of these requirements has been provided.
12-5-8E	All lots shall abut a publicly dedicated street	Not required for Lot 6	Lot 6 is detention lot
12-6-1B	Off Site Improvements: If it is determined that any existing infrastructure, including, but not limited to, water distribution	Elimination of this provision in its entirety. All infrastructure required as provided in the PUD plan, engineering, grading, roadway, or	All required improvements must be determined now, otherwise this provision will

<u>Code Section</u>	<u>Code Requirement</u>	<u>Modification Requested</u>	<u>Rationale</u>
	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	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.	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 Lot 7 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 Lot 7; 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. Lot 7 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.
11-13-13(B)1	In any case where a map amendment has been granted, and no building permit for development has been applied	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.

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

	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.		
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 five (5) sign panels.</p> <p>One individual business may not use more than one sign panel of the 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 Lot 7 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 Lot 7 and Rt. 47 has been requested by the Village as an amenity.

EXHIBIT M

PRAIRIE GROVE COMMONS UNIT TWO PUD ORDINANCE

Click here for link to Exhibit M - Prairie Grove Commons Unit Two PUD Ordinance

EXHIBIT N

COMPLETION SECURITY

**SAMPLE DOCUMENT FOR UNDERTAKING IN LIEU OF COMPLETION
BOND; IRREVOCABLE LETTER OF CREDIT:**

STATE OF ILLINOIS)
): ss.
COUNTY OF KANE)

WHEREAS, the Statutes of the State of Illinois grant to a municipal corporation the right to require that a developer constructing certain improvement with the community guarantee the construction of such improvements by a Completion Bond or other security acceptable to the community; and

WHEREAS, _____ desires to construct a (residential) (commercial (industrial) development within the Village of Sugar Grove, Illinois and that said municipality is willing to accept an undertaking from a financial institution in the nature of an irrevocable commitment in lieu of such Completion Bond,

NOW, THEREFORE, are the following representations made by the owner and/or developer to the Village of Sugar Grove, as follows:

1. That _____ is the owner and/or developer of the property legally described in Clause 2 of this undertaking, and shall hereinafter be referred to as "Owner"; and, that the Village of Sugar Grove shall hereinafter be referred to as Village.
2. That the Owner is the legal title holder or developer of the following described property:

(insert legal description)
3. That the Owner shall be required to install at his own cost and expense all necessary materials, labor and equipment to complete the public and private improvements as set forth in the Final Engineering Plans for Prairie Grove Commons Unit Two prepared by Craig R. Knoche & Associates Civil Engineers dated September 11, 2022, Revision 11.
4. That the Owner shall furnish qualified field supervision of the installation of all public improvements in the person of a professional engineer registered and licensed in the State of Illinois.
5. That the Owner shall not be entitled to the recording of the final plat or the issuance of Building Permits until and unless said Owner shall submit to the Village an irrevocable financial commitment from a bank, savings and loan or mortgage company approved by the Village in the amount certified by the Village engineer.

6. That the written irrevocable financial commitment shall be furnished to the Village from a banking or lending institution in substantially the form marked "Appendix A" and appended to this Agreement.
7. That the Owner guarantees the workmanship of the public improvements to be installed upon the site for a period of one year after their donation to the Village. Upon final completion of the public improvements the Owner shall execute a Bill of Sale for those items which are personal property and those items which are intended to be accepted by the Village for maintenance. For a period of one year after the granting of the Bill of Sale in the case of personal property and the acceptance for maintenance of any other public improvements, all necessary repairs to such facilities shall be the responsibility of the Owner.

IN WITNESS WHEREOF, _____ has hereunto set his hand and seal this ____ day of _____, 20__.

Owner

Owner

Approved by the Village of Sugar Grove this ____ day of _____, 20__.

By: _____

Village of Sugar Grove

Appendix A

(Letterhead of a Bank, Savings and Loan or Mortgage House)

_____, 20__

Village President and Board of Trustees
Village of Sugar Grove
10 S. Municipal Drive
Sugar Grove, IL 60554

Re: Subdivision Name: _____
Letter of Credit No.: _____
For Account Of: _____
Amount: _____
Date: _____

Gentlemen:

The undersigned (name of financial institution) by (name and title), its duly authorized agent, hereby establishes and issues this Irrevocable Letter of Credit in favor of the Village of Sugar Grove in the amount of \$_____, which represents 120% of the cost of the improvements described herein. Such credit is available to be drawn upon by said Village upon presentation to this Bank of your demand for payment accompanied by a copy of this Letter of Credit.

This letter of credit is issued for the purpose of securing and paying for the installation of the following public improvements in the aforesaid subdivision:

DIVISION "A" - SANITARY SEWERS
(engineer's estimate = _____)

DIVISION "B" - WATER MAIN
(engineer's estimate = _____)

DIVISION "C" - STORM SEWERS
(engineer's estimate = _____)

DIVISION "D" – STREETS
(engineer's estimate = _____)

DIVISION "E" - DETENTION BASIN
(engineer's estimate = _____)

DIVISION "F" - MISCELLANEOUS IMPROVEMENTS
(engineer's estimate = _____)

Total engineer's estimate = _____

The costs of the foregoing improvements are detailed in the attached Engineer's Cost Estimate.

The development is legally described as follows:

(Insert legal description)

Said public improvements shall be constructed by (subdivider), our customer, in accordance with the plans, specifications, completion schedules and cost estimates prepared by (subdivider's engineer).

The undersigned agrees that this Irrevocable Letter of Credit shall remain in full force and effect and pertain to any and all amendments or modifications which may be made from time to time to the plans, specifications and cost estimates for said modifications.

In no event shall this Irrevocable Letter of Credit or the obligations contained herein expire except upon prior written notice to the Village Clerk, by certified or registered mail, return receipt requested, at least ninety (90) days prior to said expiration date, that said Letter of Credit is about to expire. Said expiration date shall be extended as required to comply with this notice provision.

This Irrevocable Letter of Credit shall remain in effect until (expiration date), 20__, without regard to any default in payment of money owed to the Issuer by our customer and without regard to other claims which the Issuer may have against our customer, and in no event shall terminate without notice as specified above.

This Letter of Credit may be renewed by the Issuer or our customer prior to the above expiration date by submitting a new Letter of Credit of the same form and substance as this Letter of Credit to the Village Clerk in an amount equal to 120% of the estimated cost to complete and pay for the above-described improvements.

It is agreed that the following shall be considered a default by our customer and shall entitle the Village to make demand on this Letter of Credit:

- (1) That said Letter of Credit will expire within thirty (30) days and has not been renewed or extended and a replacement Letter of Credit has not been issued; or
- (2) That the Village of Sugar Grove has determined that the owner and/or subdivider has demonstrated that they will be unable to complete the improvement or that the

improvements covered by this commitment is the subject of lien claim(s) by contractors, subcontractors, or third parties, and such lien claim(s) has not been released or insured over with insurance reasonably acceptable to the Village within thirty (30) days after Developer has received notice thereof; or

- (3) That the owner and/or subdivider has been notified that the municipality finds that a breach of the owner's and/or subdivider's obligations under this Letter of Credit or an Ordinance Granting a Special Use for a Planned Unit Development and approving a Final Plat of Subdivision adopted by the Village on _____, as Ordinance No. _____ has occurred and has not been cured within a period of thirty (30) days.

The Issuer's obligation to the Village is based solely on this Irrevocable Letter of Credit engagement between this financial institution and the Village and is not subject to instructions from our customer.

It is recognized that the Village has directed our customer to proceed with the construction of public improvements upon the guarantee of this irrevocable commitment. It is further acknowledged that the consideration for this irrevocable commitment is provided by agreements between this financial institution and our customer.

This Irrevocable Letter of Credit sets forth in full the terms of the undertaking between the Issuer and the Village, and such undertaking shall not in any way be modified, amended, amplified, nor shall it be limited by reference to any document, instrument or agreement referred to herein, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement.

Demands on this Letter of Credit shall be made by presenting the Issuer with a letter from the Village Clerk of the Village of Sugar Grove demanding payment accompanied by the certificate of the Village Clerk of the Village of Sugar Grove certifying the basis for the default and demand on this Letter of Credit.

The undersigned agrees that this Letter of Credit shall not be reduced or discharged except upon receipt of a certificate of the Village Clerk of the Village of Sugar Grove certifying that this Letter of Credit may be reduced and the amount by which this Letter of Credit may be reduced. The outstanding balance of this Letter of Credit shall be the face amount of this Letter of Credit less any amount which is discharged upon certificate of the Village Clerk; provided, however, the outstanding balance of this Letter of Credit shall not be reduced to less than 10% of the initial face amount of the Letter of Credit until the Village Board of Trustees accepts the aforementioned improvements and a certificate of the Village Clerk certifying that the Letter of Credit has been released by the Village Board of Trustees of the Village.

All acts, requirements and other preconditions for the issuance of this Irrevocable Letter of Credit have been completed.

The undersigned further agrees and engages that it will be responsible and liable for attorney fees and court costs which may be incurred by the Village in enforcing collection of this Letter of Credit in accordance with it's terms.

We hereby engage with you that all demands for payment in conformity with the terms of this Irrevocable Letter of Credit will be duly honored on presentation to us prior to expiration of this Letter of Credit.

BY: _____ ATTEST: _____

Name: _____ Name: _____

Title: _____ Title: _____

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 _____, personally known to me to be the (title) of the (name of institution), and _____, personally known to me to be the (title) of said institution, and who are personally known to me to be the same persons whose names are subscribed to the foregoing Letter of Credit as such (title) and (title), respectively, and caused the corporate seal of said (name of institution) to be affixed thereto pursuant to authority given by the Board of Directors thereof, as their free and voluntary acts and as the free and voluntary act and deed of said institution.

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

Notary Public