

AGENDA

PUBLIC HEARING OF THE VILLAGE OF ALGONQUIN CORPORATE AUTHORITIES

Ganek Municipal Center ~ 2200 Harnish Drive ~ Algonquin, IL

Wednesday, November 17, 2021

6:00 PM

1. Call to Order
2. Roll Call – Establish Quorum
3. Confirmation of Proper Publication and Filing of Documents
4. Summary Overview of Proposed Annexation/Development Agreement with L&H Farm Limited Partnership, owner, and NorthPoint Development, LLC, developer. The annexation/development agreement is for the property assigned property identification numbers 03-07-200-006 and 03-07-200-007 and generally located east of Huntley Road, south of Longmeadow Parkway, west of Randall Road and northwest of the western terminus of Grandview Drive. It is presently in unincorporated Kane County
5. Receive Public Comments
6. Receive Village Board Comments
7. Adjournment

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ORDER CONFIRMATION (CONTINUED)

Salesperson: BARBARA BEHRENS

Printed at 11/01/21 12:13 by bbeh-sm

Acct #: 100515

Ad #: 1933379

Status: New

PUBLIC NOTICE

Notice is hereby given that on Wednesday, November 17, 2021, at 6:00 p.m. at the Village of Algonquin Ganek Municipal Center, in the Board meeting room, located at 2200 Harnish Drive, Algonquin, Illinois 60102, a public hearing will be held to consider a proposed annexation agreement with L&H Farm Limited Partnership, owner, and NorthPoint Development, LLC, developer. The annexation agreement is for the property assigned property identification numbers 03-07-200-006 and 03-07-200-007 and generally located east of Huntley Road, south of Longmeadow Parkway, west of Randall Road and northwest of the western terminus of Grandview Drive. It is presently in unincorporated Kane County.

A copy of the proposed annexation agreement is available for public inspection at the Village Hall during regular business hours. The public is invited to attend and participate in the hearing.

Fred Martin, Village Clerk
Village of Algonquin

(Published in Northwest
Herald November 2, 2021)
1933379

LEGAL

PUBLIC NOTICES

PUBLIC NOTICE
STATE OF ILLINOIS SS
COUNTY OF McHENRY
IN THE CIRCUIT COURT OF
THE 22ND JUDICIAL
CIRCUIT McHENRY
COUNTY, ILLINOIS
EDMUND L. LECHOWICZ,
JR.,

Plaintiff,
vs.
GUS JOHNSON and ETHEL
JOHNSON, UNKNOWN
HEIRS and LEGATEES OF
GUS JOHNSON and ETHEL
JOHNSON, UNKNOWN
OWNERS and NONRECORD
CLAIMANTS,
Defendants.

No. 21CH000143
NOTICE OF PUBLICATION

The requisite Affidavit for Publication having been filed, Notice is hereby given: GUS JOHNSON and ETHEL JOHNSON, UNKNOWN HEIRS and LEGATEES OF GUS JOHNSON and ETHEL JOHNSON, UNKNOWN OWNERS and NON-RECORD CLAIMANTS. Defendants in the above-entitled suit, that this action has been filed in the Circuit Court of the Twenty-Second Judicial Circuit Court of McHenry County, Illinois, by the Plaintiff against you and other Defendants, praying for the termination of any interest you may have in real estate described as Parcel 2

PUBLIC NOTICES

in the Complaint filed herein and the entry of an Order Quietening Title to said real estate in Plaintiff, said Parcel 2 being legally described as follows:

All of the land in the Fox River Subdivision aforesaid lying between the North and South boundary lines of said Lot 14 extended Westerly to the Water's edge of Fox River, situated in the Township of Nunda, in the County of McHenry, in the State of Illinois.

AND
All that part of Lot 31 as originally platted per document 225167 in McHenry County, Illinois, Bounded by the North and South lines of said Lot 15 in Fox River Subdivision, extended Westerly to the water's edge of said Fox River, situated in the Township of Nunda, in the County of McHenry, in the State of Illinois.

And for such other relief prayed; that summons was duly issued out of the said Twenty-Second Judicial Circuit Court as provided by law, and that said suit is now pending.

NOW, THEREFORE, UNLESS YOU, the said above Defendants, file your Answer to the Complaint in the said suit or otherwise make your appearance therein, in the Office of the Clerk of the Court, at the Courthouse, in the City of Woodstock, Illinois, McHenry County, on or before the 30th day of November, 2021, default may be entered against you at any time after that day

PUBLIC NOTICES

and a Decree entered in accordance with the Prayer of said Complaint.

DATE 10/19/2021
KATHERINE M. KEEFE
Clerk of Court By: VMP

Steven J. Cuda
Hamer, Schuh & Cuda
Attorneys for Plaintiff
101 Van Buren Street
Woodstock, IL 60098
815-338-1334
ARDC #3121643

(Published in the Northwest
Herald October 26,
November 2, 9, 2021)
1930530

PUBLIC NOTICE
STATE OF ILLINOIS
IN THE CIRCUIT COURT OF
THE 22ND JUDICIAL CIRCUIT
McHENRY COUNTY

CASSIE S. HEAVEY
Plaintiff
vs.
MIKE B. STEINSDOERFER
Defendant

Case Number
21 DV 76

PUBLICATION NOTICE
NOTICE IS GIVEN YOU, defendants, MIKE B. STEINSDOERFER that this case has been commenced in this Court against you and other defendants, asking for judgement of dissolution of marriage and for other relief.

UNLESS YOU file your answer or otherwise file your appearance in this case in the office of the McHenry County Clerk of Court, McHenry County Government Center, 2200 N. Seminary Avenue, Room 136, Woodstock,

PUBLIC NOTICES

Illinois 60098, within 30 days of this notice, **A JUDGMENT OR DECREE BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.**

DATE 9/30/2021
KATHERINE M. KEEFE
Clerk of Court
By SAJ

RICHARD R. RODRIGUEZ
Attorney for
5404 W. Elm St. Ste D
McHenry, IL 60050
(815) 322-2262
rick@rrrodriguezlaw.com

(Published in the Northwest
Herald on October 19,
26, November 2, 2021)
1928744

PUBLIC NOTICE

STATE OF ILLINOIS,
CIRCUIT COURT
McHENRY COUNTY
PUBLICATION NOTICE
OF COURT DATE FOR
NAME CHANGE
(ADULT)

Request of:

Carolina Gontarz
Case Number
21MR 890

There will be a court date on my Request to change my name from:

Carolina Gontarz
to the new name of:
Carl Stan Sztaba Gontarz
The court hearing will be held: Dec. 6, 2021, at 8:45 a.m., 2200 N. Seminary Ave, Woodstock, IL 60098, McHenry County, in Courtroom # 201

/s/ Carolina Gontarz
Your Signature
Carolina Gontarz

PUBLIC NOTICES

Print Your Name

(Published in the Northwest
Herald October 26,
November 2, 9, 2021)
1930223

PUBLIC NOTICE
STATE OF ILLINOIS IN THE
CIRCUIT COURT OF THE
TWENTY-SECOND JUDICIAL
CIRCUIT McHENRY
COUNTY-IN PROBATE

In the Matter of the Estate of
THEODORE C MAREK JR
Deceased

CLAIM NOTICE
Case No. 21PR000351
Notice is given of the death of: THEODORE C MAREK JR of LAKE IN THE HILLS, IL Letters of office were issued on: 10/18/2021

to: Representative:
CAROL COHEN
671 TUSCANY DR
ALGONQUIN, IL 60102
whose attorney is:
ZUKOWSKI ROGERS
FLOOD & MCARDLE
50 VIRGINIA ST
CRYSTAL LAKE, IL 60014

Claims against the estate may be filed within six months from the date of first publication. Any claim not filed within six months from the date of first publication or claims not filed within three months from the date of mailing or delivery of Notice to Creditor, whichever is later, shall be barred.

Claims may be filed in the office of the Clerk of Circuit Court at the McHenry County Government Center, 2200 North Seminary Avenue, Woodstock, Illinois, 60098, or with the representative, or both.

Copies of claims filed with the Clerk must be mailed or delivered to the representa-

PUBLIC NOTICES

tive and to his attorney within ten days after it has been filed.

Katherine M. Keefe
Clerk of the Circuit Court

(Published in Northwest
Herald October 26,
November 2, 9, 2021)
1930284

PUBLIC NOTICE

**NOTICE OF
PUBLIC HEARING**

Notice is hereby given by the Board of Education of Marengo Community High School District #154 in the County of McHenry, State of Illinois, that a public hearing has been scheduled to approve the eLearning Plan. The hearing will be held at 7:00 p.m. on Monday, December 6, 2021 in the Media Center at Marengo Community High School, 110 Franks Road, Marengo, Illinois.

Jodie Kanaly, Secretary
Community High School
District #154 Board of
Education Marengo, IL
60152

(Published in the Northwest
Herald November 2, 2021)
1933225

PUBLIC NOTICE

Notice is hereby given that on Wednesday, November 17, 2021, at 6:00 p.m. at the Village of Algonquin Ganek Municipal Center, in the Board meeting room, located at 2200 Harnish Drive, Algonquin, Illinois 60102, a public hearing will be held to consider a proposed annexation agreement with L&H Farm Limited Partnership, owner, and

PUBLIC NOTICES

NorthPoint Development, LLC, developer. The annexation agreement is for the property assigned property identification numbers 03-07-200-006 and 03-07-200-007 and generally located east of Huntley Road, south of Longmeadow Parkway, west of Randall Road and northwest of the western terminus of Grandview Drive. It is presently in unincorporated Kane County.

A copy of the proposed annexation agreement is available for public inspection at the Village Hall during regular business hours. The public is invited to attend and participate in the hearing.

Fred Martin, Village Clerk
Village of Algonquin

(Published in Northwest
Herald November 2, 2021)
1933379

PUBLIC NOTICE

**BEFORE THE PLANNING
AND ZONING COMMISSION
OF THE CITY OF CRYSTAL
LAKE, McHENRY COUNTY,
ILLINOIS**

IN THE MATTER OF THE
PETITION OF
Seefried Industrial Properties,
Inc.

LEGAL NOTICE
Notice is hereby given in compliance with the Unified Development Ordinance of the City of Crystal Lake, Illinois that a public hearing will be held before the Planning and Zoning Commission upon the application by Seefried Industrial Properties, Inc., on behalf of The Curran Group,

PUBLIC NOTICES

Inc and Main Street Crossing Development, LLC ("Owners") for Rezoning to M-PUD, a Preliminary and Final Plat of Subdivision, and a Preliminary and Final Planned Unit Development, relating to the property at 275 Main Street in Crystal Lake, Illinois 60014.

PIN: 19-04-152-003, 19-04-152-004, 19-04-176-004, 19-04-176-003.

This application is filed for the purpose of seeking a Rezoning upon annexation to M PUD Manufacturing, with a Preliminary and Final Plat of Subdivision and Preliminary and Final Planned Unit Development to allow a new warehouse use, and any other changes as presented at the hearing, pursuant to Article 2, Article 4, Article 5 and Article 9. Plans for this project can be viewed at the Crystal Lake Community Development Department at City Hall.

A public hearing before the Planning and Zoning Commission for this request will be held at 7:00 p.m. on Wednesday November 17, 2021, at the Crystal Lake City Hall, 100 West Woodstock Street, at which time and place any person determining to be heard may be present.

Jeff Greenman, Chairperson
Planning and Zoning
Commission
City of Crystal Lake

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1931292

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ORDINANCE NO. 2021 – O _____

**AN ORDINANCE AUTHORIZING EXECUTION OF AN ANNEXATION AGREEMENT
CONCERNING CERTAIN PROPERTY KNOWN AS THE NORTHPOINT ALGONQUIN
CORPORATE CAMPUS TO THE VILLAGE OF ALGONQUIN (NORTHPOINT)**

WHEREAS, the Village of Algonquin, McHenry and Kane Counties, Illinois, is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village's home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, it is in the best interests of the Village of Algonquin, McHenry and Kane Counties, Illinois, that a certain Annexation Agreement, a true and correct copy of which is attached hereto and incorporated herein by reference, be entered into; and

WHEREAS, NorthPoint Development, L.L.C., developer, and L&H Farm Limited Partnership, property owner, are ready, willing and able to enter into said Agreement and to perform the obligations as required there under; and

WHEREAS, the statutory procedures provided in 65 ILCS 5/11-15.1-1 *et seq.* of the Illinois Municipal Code, as amended, have been fully complied with.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the VILLAGE OF ALGONQUIN, McHenry and Kane counties, Illinois, as follows:

SECTION 1: That the President be, and is hereby authorized and directed to execute, and the Village Clerk is authorized and directed to attest, duplicate original copies of the Annexation Agreement, a copy of which is attached hereto and made a part hereof as Exhibit A.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Aye:

Nay:

Absent:

Abstain:

APPROVED:

Village President Debby Sosine

(SEAL)

ATTEST: _____
Village Clerk Fred Martin

Passed: _____

Approved: _____

Published: _____

ANNEXATION AND DEVELOPMENT AGREEMENT
NorthPoint Algonquin Industrial Campus

This Annexation and Development Agreement (“Agreement”) is made as of the ____ day of November, 2021, by and between the Village of Algonquin, an Illinois home rule municipal corporation (the “Village”), and L&H Farm Limited Partnership (“Owner”) and NorthPoint Development, LLC or its affiliates or assigns pursuant to Section 14D of this Agreement (“Developer”). The Village, the Owner, and the Developer are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

WITNESSETH:

WHEREAS, the Owner is the owner of record of certain parcels of real property generally located east of Huntley Road, south of Longmeadow Parkway, west of Randall Road and northwest of the western terminus of Grandview Drive, in Kane County, Illinois, which consists of approximately 147.2 acres and is legally described on **Exhibit A** attached hereto (the “Property”); and

WHEREAS, the Developer is the contract purchaser of that portion of the Property described as the Industrial Development Parcel in Article 3 below; and

WHEREAS, the Developer or its affiliate wishes to acquire and develop the Industrial Development Parcel as a planned development in the B-P, Business Park District in accordance with the terms of this Agreement; and

WHEREAS, the Owner or its successor intends to develop of that portion of the Property described as the Commercial Development Parcel in Article 3 below as a planned development in the B-2, Business District in accordance with the terms of this Agreement; and

WHEREAS, the Parties have or will perform and execute all acts required by law to effectuate such annexation; and

WHEREAS, the Property is situated in the unincorporated area of Kane County and is contiguous to the incorporated territory of the Village; and

WHEREAS, there are no electors residing upon the Property to be annexed; and

WHEREAS, in reliance upon the development of the Property in the manner proposed, the Parties have executed all petitions and other documents that are necessary to accomplish the annexation of the Property to the Village; and

WHEREAS in accordance with the powers granted to the Village by the provisions of the Illinois Compiled Statutes, 65 ILCS 5/11-15.1-1 through 5/11-15.1-5, inclusive relating to Annexation Agreements, and the Village’s authority as a home rule unit of local government, the parties hereto wish to enter into a binding agreement with respect to the annexation of the Property to the Village and to provide for various other matters related directly or indirectly to

the annexation of the Property as authorized by the provisions of said statutes and home rule authority; and

WHEREAS, the Village has prepared and timely served all notices as required under the Illinois Compiled Statutes for a voluntary annexation; and

WHEREAS, pursuant to due notice and publication in the manner provided by law, the appropriate zoning authorities of the Village have held such public hearing and have taken all further action required by the provisions of Illinois Compiled Statutes, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, et seq.) and Division 15 of the Illinois Municipal Code, 65 ILCS 5/11-15.1-1 et. seq., and to the ordinances of the Village relating to the procedure for the authorization, approval and execution of this Agreement by the Village.

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 hereto agree as follows:

ARTICLE 1

INTRODUCTION

- A. The foregoing recitals are incorporated herein.
- B. The parties hereto enter into this Agreement pursuant to and in accordance with the provisions of the Illinois Municipal Code.
- C. The Owner and Developer have filed with the Village Clerk a petition for annexation of the Property to the Village conditioned upon the terms and provisions of this Agreement, which petition has been prepared, executed and filed in accordance with statutes, ordinances and the other requirements of the village.

ARTICLE 2

ANNEXATION; POSSIBLE DISCONNECTION

- A. The Owner and Developer have filed with the Village Clerk a duly executed petition pursuant to and in accordance with the provisions of 65 ILCS 5/7-1-8 to annex the Property to the Village subject to the approval of this Agreement. Concurrently with the execution of this Annexation and Development Agreement, the Village agrees to enact valid and binding ordinances (i) annexing the Property within the corporate boundaries of the Village (the “**Annexation Ordinance**”), and (ii) enacting those ordinances called for in Articles 3 and 4 below (with said Annexation Ordinance and the other ordinances called for in Articles 3 and 4 below being sometimes herein collectively referred to as the “**Annexation and Development Legislation**”).
- B. It is expressly understood that this Agreement, in its entirety, together with the aforesaid petitions for annexation, shall, at the request of the Owner and Developer, be null, void

and of no force and effect unless the Annexation and Development Legislation is enacted by the Village contemporaneously with the adoption of this Agreement by the Village.

- C. The Owner and Developer have filed with the Village Clerk a Plat of Annexation which contains an accurate map of the Property. Said Plat of Annexation prepared by Manhard Consulting, Ltd. with revision date of August 23, 2021, is incorporated herein as **Exhibit B**.
- D. Unless, within one hundred twenty (120) days following the date the Village executes this Agreement and enacts the Annexation and Development Legislation (the “**Developer Title Acquisition Deadline**”), the Developer documents to the Village’s reasonable satisfaction that the Developer or its nominee or assignee has acquired title to the Industrial Development Parcel then upon written demand from Owner to the Village (with copies to all other Parties), or at the election of the Village upon prior notice to the Owner and Developer, the Village shall enact all ordinances required to (i) disconnect the Property from the corporate limits of the Village, (ii) abrogate any plat of subdivision of the Property that has, as of said date, been approved and recorded, and (iii) repeal the TIF Legislation (as defined in Article 17 below) (the actions in the foregoing clauses (i) through (iii) being collectively called the “**Disconnection Legislation**”), all for the purpose of nullifying the Annexation and Development Legislation and the TIF Legislation. For the avoidance of doubt, Owner shall have no right to require Village to enact the Disconnection Legislation or to otherwise disconnect the Property from the Village nor shall the Village have the right to enact the Disconnection Legislation so long as Developer or Developer’s nominee or assignee completes the purchase of the Industrial Development Parcel by the Developer Title Acquisition Deadline.
- E. The Village represents that there is no boundary agreement, order, restriction, or other agreements that are binding upon the Village which would be violated by the Village’s annexation of the Property into the Village or the performance by the Village of its covenants as set forth in this Agreement.

ARTICLE 3 **ZONING**

- A. Contemporaneously with annexation of the Property, the Village shall adopt all necessary ordinances including, but not limited to, those amending the provisions of the Algonquin Zoning Ordinances (“**Zoning Ordinance**”) so as to provide for the following portions of the Property to be classified as Follows:
 - (i) Lot 1 on the Preliminary Plat of Re-Subdivision of the Property (the “Commercial Development Parcel”) shall be classified by Village ordinance within the Village’s B-2 Business District, General Retail classification planned development on terms and conditions consistent with this Agreement. The parties agree that future development will require submittal of a preliminary and final planned development; and

- (ii) Lots 2, 3, and 4 on the Preliminary Plat of Re-Subdivision of the Property, and any re-subdivisions or combinations thereof (collectively, the “Industrial Development Parcel”) shall be classified within the Village’s B-P Business Park District classification with the approval of a preliminary PUD on terms and conditions consistent with this Agreement so as to permit its development in substantial conformance to the Preliminary Industrial Development Plans as set forth in Section B of this Article 3.

B. Further, the Village agrees that the Industrial Development Parcel shall be developed in substantial compliance with the plans and documents submitted to the Village by the Developer, including the following, to wit:

1. The ALTA/NSPS Land Title Survey (4 sheets), titled “Proposed Industrial Business Park”, prepared by Manhard Consulting, Ltd. with latest revision date of 8/17/21.

- a. Sheet 1 – “ALTA/NSPS Land Title Survey”
- b. Sheet 2 – “ALTA/NSPS Land Title Survey”
- c. Sheet 3 – “ALTA/NSPS Land Title Survey”
- d. Sheet 4 – “ALTA/NSPS Land Title Survey”

2. The Final Plat of Subdivision (2 Lots only, 2 sheets), titled “Final Plat of Northpoint Algonquin Corporate Campus”, prepared by Manhard Consulting, Ltd. with latest revision date of 10/8/21 (the “Two-Lot Plat”).

- a. Sheet 1 – “Final Plat of Subdivision”
- b. Sheet 2 – “Final Plat of Subdivision”

3. The preliminary plat of re-Subdivision of the property (3 sheets), titled “**Preliminary Plat of Northpoint Corporate Campus**”, prepared by Manhard Consulting, Ltd. with latest revision date of 8/23/21 (the “Preliminary Plat of Re-Subdivision of the Property”).

- a. Sheet 1 – “Preliminary Plat of Subdivision”
- b. Sheet 2 – “Preliminary Plat of Subdivision”
- c. Sheet 3 – “Preliminary Plat of Subdivision”

4. The Preliminary Engineering Plans (6 sheets), titled “Proposed Improvements for Algonquin Corporate Campus” prepared by Manhard Consulting, Ltd. with latest revision date of 8/23/21.

- a. Sheet 1 – “Title Sheet”

- b. Sheet 2 – “Existing Conditions and Demolition Plan”
 - c. Sheet 3 – “Overall Site Plan”
 - d. Sheet 4 – “Utility Plan”
 - e. Sheet 5 – “Grading and Drainage Plan”
 - f. Sheet 6 – “Construction Details”
5. Concept Plan Exhibit (1 sheet), titled “Concept Plan Exhibit” prepared by Manhard Consulting Ltd. with latest revision date of 8/23/21.
6. Wetland Delineation Report prepared by Encap Incorporated dated 7/9/2021.
7. The Preliminary Landscape Plan (9 sheets), titled “Algonquin Industrial Park” prepared by Manhard Consulting, Ltd. with latest revision date of 8/23/21.
- a. Sheet 1 – “Cover Page”
 - b. Sheet 2 – “Overall Landscape Plan”
 - c. Sheet 3 – “NW Landscape Plan”
 - d. Sheet 4 – “W Landscape Plan”
 - e. Sheet 5 – “SW Landscape Plan”
 - f. Sheet 6 – “NE Landscape Plan”
 - g. Sheet 7 – “E Landscape Plan”
 - h. Sheet 8 – “SE Landscape Plan”
 - i. Sheet 9 – “Landscape Specifications”
8. The Architectural Plans prepared by Studio North Architecture with latest revision date of September 8, 2021 including the specs for the canopies prepared by Mapes Architectural Canopies with latest revision date of December 3, 2019.
9. The Phasing Plan (1 sheet), titled “Phase 1 Engineering Exhibit” prepared by Manhard Consulting, Ltd. with latest revision date of July 23, 2021; and
10. The approved departures set forth Schedule 3C attached hereto.

along with any additional conditions contained in the Annexation and Development Legislation enacted by the Village Board, all of which are incorporated herein by this reference (collectively the “**Preliminary Industrial Development Plans**”). Concurrently with the execution of this Agreement, the Village shall enact an ordinance approving the Preliminary Industrial Development Plans as part of the Village’s preliminary planned unit development approval for the Industrial Development Parcel. Prior to development of any portion of the Industrial Development Parcel, the Developer shall obtain approval from the Village Board of Trustees of final planned development plans for the Industrial Development Parcel, which the Village shall approve so long as they are in substantial conformance with the Preliminary Industrial Development Plans and with all conditions of approval, if any, included in the approving ordinances and this Agreement (the “Final Industrial Development Plans”).

- C. It is expressly agreed and understood that (i) Lots 3 and 4 as shown on the above-defined Overall Site Plan may be further subdivided to create smaller lots than shown therein (subject to meeting the requirements of the Village’s subdivision ordinance as modified in this Agreement, and (ii) the four (4) buildings shown thereon are conceptual only, and the Developer may build fewer buildings of differing sizes than Buildings 2, 3, 4, and / or 5 as shown on said Overall Site Plan.
- D. For the avoidance of doubt, hereby approved as departures from the general codes and ordinances of the Village as to (i) the Commercial Development Parcel are those items set forth in Part 1 of Schedule 3C attached hereto, (ii) the Preliminary Industrial Development Plans for the Industrial Development Parcel are those departures from the general codes and ordinances of the Village as are (A) set forth on Parts 1 and 2 of Schedule 3C attached hereto and (B) depicted on (or reasonably inferable from) the Preliminary Industrial Development Plans.
- E. Owner intends to initially retain ownership of the Commercial Development Parcel. The Developer shall have no obligations under this Agreement with respect to the Commercial Development Parcel other than with respect to the creation of the Commercial Development Parcel as a final platted lot and the installation of the Public Improvements to serve same, all as set forth in Article 4 below. Prior to development of any portion of the Commercial Development Parcel, the Owner or its successor (and not the Developer) shall obtain approval from the Village Board of Trustees of preliminary and final planned development plans.

ARTICLE 4

SUBDIVISION, PLATTING AND INITIAL CONSTRUCTION

- A. Contemporaneously with the execution of this Annexation and Development Agreement, the Village Board of Trustees shall adopt an ordinance authorizing the execution by the Village of the Two-Lot Plat. The Developer shall cause said Two-Lot Plat to be promptly recorded with the office of the Recorder of Deeds of Kane County, Illinois. It is acknowledged that the execution and recording of said Two-Lot Plat of Subdivision shall

not, in and of itself, entitle the Owner or Developer to proceed with development of any portion of the Property.

- B. The Developer has submitted to the Village the Preliminary Plat of Re-Subdivision of the Property and, concurrently with the execution of this Annexation and Development Agreement, the Village shall adopt an ordinance approving said Preliminary Plat of Re-Subdivision of the Property.
- C. Within one hundred eighty (180) days following the Village's approval of this Agreement and the enactment of the Annexation and Development Legislation, and prior to development of any portion of the Industrial Development Parcel, the Developer and Owner shall submit to the Village for its approval a final plat of re-subdivision as to all of the Property, which final plat (the "**Final Plat of Re-Subdivision of the Property**"), together with the associated engineering, shall be in substantial conformance to the Preliminary Plat of Re-Subdivision of the Property. Provided the aforesaid materials are found to be in substantial conformance to the Preliminary Plat of Re-Subdivision of the Property and the Preliminary Industrial Development Plans, and comply with the Algonquin Subdivision Ordinance ("Subdivision Ordinance") subject to any departures to same approved in this Agreement, the Village shall process and approve same in accordance with Illinois law. Building permits for facilities to be constructed on the Property will be reviewed for conformance to the 2018 International Building Code, or subsequent editions of the code as adopted by the Village. Subject to the review and approval of the Carpentersville Fire Protection District, fireman entry doors may be placed further apart than 100' for facilities constructed on the Industrial Development Parcel. Upon approval of same and the recording of the Final Plat of Re-Subdivision of the Property, the Developer agrees to install all of the public improvements identified in the final engineering associated with the approved Final Plat of Re-Subdivision of the Property which include detention area(s), storm water management system, streets, water mains and sanitary sewers to the boundary lines of the Property with connections as required to the extent reasonably necessary to service the Development (the "**Public Improvements**"). Surety bonds or letters of credit, in accordance with this Agreement, shall be furnished by the Developer for all such Public Improvements pursuant to the requirements of the Village Subdivision Ordinance.
- D. Along with its submittal to the Village of the Final Plat of Re-Subdivision of the Property, and prior to development of any portion of the Industrial Development Parcel, the Developer shall also submit to the Village final PUD plans with respect to the Industrial Development Parcel only, which final PUD plans for the Industrial Development Parcel (the "**Final PUD Plans for the Industrial Development Parcel**") shall be in substantial conformance to the Preliminary Industrial Development Plans except as provided in Subsection C of Article 3 and to departures otherwise approved in this Agreement.
- E. Once the Village has approved the initial Final Plat of Re-Subdivision of the Property and the Final PUD Plans for the Industrial Development Parcel, then except as provided in Article 7 below, the Developer (as to the Industrial Development Parcel) and the Owner

(as to the Commercial Development Parcel”) may later submit to the Village for its approval one or more revisions to the Final Plat of Re-Subdivision of the Property so as to further re-subdivide and / or consolidate the lots on their respective parcels (each a “**Future Final Plat of Re-Subdivision**”), and / or to allow for the phasing of development of their respective parcels. The Village shall approve any such Future Final Plat of Re-Subdivision so submitted, provided that (i) such plans and/or plats otherwise meet all the requirements of the Village ordinances as modified by this Agreement, (ii) all conditions imposed by the Village Board and contained in the ordinances approving any such Future Final Plat of Re-Subdivision not otherwise inconsistent with the density permitted under this Agreement, and (iii) the requested re-platting insures contiguity and proper service for the public improvements to each portion of the Property for which Future Final Plat of Subdivision approval is sought. Subject to Section 7 below, the proponent of such Future Final Plat of Re-Subdivision (whether the Developer or the Owner) shall be exclusively obligated to complete those portions of the public improvements approved as part of any such Future Final Plat of Re-Subdivision as required by the Village.

- F. On the Preliminary Plat of Re-Subdivision of the Property, the Developer has proposed and agreed to install, at Developer’s expense, a signal at the Broadsmore Drive / Randall Road intersection and to make other improvements to adjacent County Roads (collectively, the “**County Road Improvements**”). The Parties acknowledge and agree that (i) the Developer’s obligation to install the County Road Improvements is contingent upon the issuance of all required permits by the Kane County Division of Transportation (“**KDOT**”), and (ii) and if, notwithstanding its diligent and good faith efforts (excluding litigation, but including Developer’s request for non-financial assistance from the Village) the Developer is not able to procure such permits from KDOT for any one or more of the County Road Improvements by the date Developer submits to the Village for its approval the Final Plat of Re-Subdivision of the Property, then, at its election, the Developer shall have the right to proceed with the Final Plat of Re-Subdivision of the Property, with the Public Improvements, and with the development of the Industrial Development Parcel as approved in the Final PUD Plans for the Industrial Development Parcel, excluding from each of same the County Road Improvements not permitted by KDOT, and to postpone making the remainder of said non-permitted County Road Improvements until the date KDOT issues permits for same.
- G. Upon payment of all the platting fees identified in Article 6 of this Agreement the Village agrees to execute applications for Illinois Environmental Protection Agency (“IEPA”) permits for the extension of municipal utilities upon submittal by the Developer of final engineering plans with the understanding that the execution of said application shall not be considered an approval of final engineering and that no construction shall commence until final engineering has been approved by the Village, save and except as permitted in Article 5 A. hereof.
- H. Any modification to an approved plan which may be hereinafter sought by the Developer or Owner and which is deemed minor by the Village Manager may be approved by the Village administratively without submitting the modification to the Planning and Zoning

Commission or any committee of the Village Board. Any modification deemed to be a major modification shall be submitted to the Village for review in accordance with the procedures outlined in applicable sections of the Village's ordinance in effect at the time that the major modification is submitted. Any changes, whether they are determined to be major or minor, shall not be considered a revision to this Agreement.

- I. The Final Plat of Re-Subdivision of the Property shall be accompanied by a Declaration of Covenants, Conditions and Restrictions, one set for the Industrial Development Parcel and a separate set for the Commercial Development Parcel (“CCR’s”), which shall provide for the formation of property owners Associations (“Associations”). The Associations shall be responsible for the maintenance of the detention areas, common areas, and open space, common subdivision signage, common area landscaping and private streets, if any, (collectively, “Common Area Maintenance”). The CCR’s shall be submitted to the Village Staff and Village Attorney for review and approval as part of the final planned development approval process for the Industrial Development Parcel and Commercial Development Parcel. The CCR’s shall be recorded immediately subsequent to the recording of the Final Plat of Re-Subdivision of the Property, and the Village may withhold building permits to the specific development until such time as the CCR’s are properly recorded. The Associations shall not amend its CCR’s with regard to these Common Area Maintenance obligations or dissolve the Associations without the consent of the Village. The approved CCRs with respect to Common Area Maintenance shall not be revised so that they adversely affect the Village’s rights, nor shall the Associations be dissolved without the consent of the Village.
- J. Should the Associations fail to perform its obligations with respect to the Common Area Maintenance, the Village may, but shall not be obligated to, perform this work and costs incurred in connection therewith shall be assessed against the owner(s) of the property in the Associations.
- K. Upon payment of all the platting fees listed in Section 6-1.1 of this Agreement and the posting of letters of credit or performance bonds satisfactory to the Village, and after final plat and engineering approval and prior to recording of any phase of the Property, mass grading, excavation, and storm water detention work related to the construction of public improvements may proceed at the Developer’s sole risk, provided that the final erosion control plan has been approved by the Village Engineer, the detailed improvements plans and specifications have been submitted to the Village Engineer, the Village Engineer and Public Works Director have given approval to the portion of the plans relating to grading, and all erosion and siltation control measures shown on the plans or required by the Village Engineer and Public Works Director are in place. Where and to the extent that stream, floodplain or wetlands exist on the site, no grading shall be undertaken until the required state and federal permits, if needed, have been filed with the Village Engineer and approved by all appropriate agencies.
- L. As to any future Final Plat of Re-Subdivision sought after the approval of the original Final Plat of Re-Subdivision of the Property, the Village agrees that it will consider both

a preliminary and final re-subdivision (plat of consolidation) at the same time and as a single request.

ARTICLE 5

TREE PRESERVATION

- A. The Property, as it currently exists, has no trees of any significance, and as such, the Village waives its requirement that any tree survey be provided to the Village and waives the Tree Replacement requirements or Fee in lieu thereof as outlined in 5.15 of the Municipal Code as of the date of this Agreement. However, current, or future owners of the Property shall be subject to the provisions of the Village's Tree Replacement requirements as outlined in section 5.15 of the Municipal Code, as may be amended from time to time for any future trees planted on the Property.

ARTICLE 6

FEES

Developer shall pay the following fees to the Village:

- A. Annexation Fees: Within 10 days after passage of an ordinance annexing the Property, an annexation fee of Five Hundred Dollars (\$500.00) shall be paid by the Developer for each gross acre or prorated for any part thereof contained on the entire Property.
- B. Platting Fees: Developer shall pay to the Village at the time of approval of the initial Final 2-Lot Plat and before the execution, recording and filing of the final plat of subdivision, a platting fee calculated as follows: \$1,000.00 for each acre, pro-rated for portions of an acre, based upon the gross area of the Property.
- C. Building Permit, Certificate of Occupancy and Tap-On Fees: As part of the issuance of each building permit for the construction of a building on the various Lots within the Industrial Development Parcel or the Commercial Development Parcel, the Developer or the Owner, respectively, shall pay building permit fees, certificate of occupancy fees, tap-on fees and other similar fees shall be payable at time of permit and in accordance with this Agreement and the Village ordinance in existence as may be amended from time to time and as applied generally in the Village. After receipt of all proper and necessary documents and a complete application and the payment of all applicable fees, the Village shall, within a reasonable time consistent with the Village's practices and procedures, issue building permit or Certificates of Occupancy, as the case may be.
- D. Fire District Review Fee: Prior to the issuance of any building permits, the Developer shall pay a review fee of \$0.10 per square foot of industrial development contemplated to occur on the Industrial Development Parcel to the Algonquin/Lake in the Hills Fire Protection District. Similarly, as part of a subsequent final PUD application by the Owner or its successor as to the Commercial Development Parcel, the Owner or its successor shall pay a review fee of \$0.10 per square foot of proposed commercial buildings

development contemplated to occur on the Commercial Development Parcel to the Carpentersville and Countryside Fire Protection District.

- E. Kane County Road Improvement Fee: The Developer shall pay a road improvement impact fee to Kane County prior to the Village's issuance of a building permit for any Lot within the Industrial Development Parcel. The Owner or its successor shall pay a road improvement impact fee to Kane County prior to the Village's issuance of a building permit for any Lot within the Commercial Development Parcel. The amount of the impact fee will be determined by Kane County.
- F. Public Art Fee: At the time a building permit for any building within the Industrial Development Parcel is issued, the Developer shall pay a Public Art Fee of \$0.01 for each square foot of building footprint constructed within the Industrial Development Parcel. At the time a building permit for any building within the Commercial Development Parcel is issued, the Owner or its successor shall pay a Public Art Fee of \$0.01 for each square foot of building footprint constructed within the Commercial Development Parcel. A credit shall be allowed against the otherwise required Public Art Fee payable with respect to buildings constructed within the Industrial Development Parcel equal to the cost incurred to construct or establish public art within said Industrial Development Parcel and, similarly, a credit shall be allowed against the otherwise required Public Art Fee payable with respect to buildings constructed within the Commercial Development Parcel equal to the cost incurred to construct or establish public art within said Commercial Development Parcel.
- G. Other Fees: Developer agrees to reimburse the Village for reasonable attorneys' fees, planning consultants, engineering consultant's costs and any other professional costs incurred by the Village in connection with (i) the initial annexation, zoning, and platting of the entire Property, (ii) any subsequent re-zoning or re-platting the Industrial Development Parcel, and (iii) the construction and utility inspections for the public improvements required by the Final Engineering approved as part of the initial Final Plat of Re-Subdivision of the Property, and shall execute a Village Reimbursement of Fees Agreement. Upon request by the Developer, the Village shall furnish detailed invoices for services provided by the Village's retained consultants. If required deposits are depleted and not restored within 30 days of notice from the Village, no new building permits shall be reviewed or approved until said deposits are restored. The Owner or its successor shall pay any and all such fees as to any further development of the Commercial Development Parcel.
- H. Recapture: The Village acknowledges that to the best of its knowledge there are no recaptures due and owing from the Developer.
- I. Water/Sewer Connection Fees: Developer, and its successors and assigns shall be obligated to pay all sanitary sewer and potable water connection fees pertaining to connections made to serve development within the Industrial Development Parcel in accordance with Village ordinances in effect at the time of development, provided such ordinances are uniformly applied to all properties in the Village. Upon payment of same

by the Developer or its successors or assigns, physical connections shall be allowed. Similarly, Owner, and its successors and assigns shall be obligated to pay all sanitary sewer and potable water connection fees pertaining to connections made to serve development within the Commercial Development Parcel in accordance with Village ordinances in effect at the time of development, provided such ordinances are uniformly applied to all properties in the Village. Upon payment of same by the Owner or its successors or assigns, physical connections shall be allowed.

ARTICLE 7

IMPROVEMENTS

- A. Upon payment of all the platting fees listed in Article 6 of this Agreement and upon submittal of satisfactory documents by the Developer or Owner (as the case may be), the Village shall timely execute all permit applications submitted by the Developer or Owner necessary to apply for permits from the Army Corps of Engineers, IEPA and any other public or private agencies from whom permits may be required and shall cooperate with the Developer or Owner (as the case may be) in the securing of permits from such agencies.
- B. Upon the recording of the Final Plat of Re-Subdivision of the Property described in Section 4C above, the Developer shall be responsible for the construction and installation of those public improvements and utilities consisting of storm sewers, sanitary sewers, water mains, streets and appurtenant structures as were approved in the Final Engineering Plans approved with respect to said Final Plat of Re-Subdivision of the Property, are needed to adequately service the Property and to have facilities available for the use of adjacent properties in accordance with the Preliminary Industrial Development Plans, applicable Village ordinances and requirements and the following additional standards:
 - 1. Roadways, Right-of-Way and Pavement Width: Developer shall construct all streets and other public improvements in accordance with applicable Village ordinance and the Preliminary Industrial Development Plans as may be modified by the Village's review and approval of the final engineering plans. The Preliminary Industrial Development Plans, as approved by the Village Engineer and Public Works Director, sets forth the required rights-of-way, the required pavement cross sections and the pavement widths.
 - 2. Sanitary Sewers: The Developer shall be permitted to construct overhead sanitary sewer service lines for the individual buildings that are at depths less than that necessary to drain the basement by means of gravity alone.
 - 3. Subsurface Utilities: All new utilities to be installed in conjunction with development of the Property, both offsite and onsite, to include storm sewers, water mains, electric, gas, telephone and cable television (sanitary sewers are addressed in Article 7-B.2 hereinabove) shall be installed underground. In addition, Developer shall cause all existing overhead utility lines located adjacent to the Property to be placed underground at Developer's expense.

4. Off-Site Public Improvements: Developer shall be responsible for the construction and installation of those public improvements and utilities consisting of storm sewers, water mains and sanitary sewers, streets and appurtenant structures as described on the Preliminary Industrial Development Plans to adequately service the Property.
5. Wastewater Treatment: The Village currently has, and agrees to reserve sufficient capacity within its wastewater treatment facility to serve the approved development of the Property. Payment of the tap-on fees shall be on a per unit basis payable at the time of issuance of individual building permits. Subject to restrictions that may apply generally to all developers within the Village and subject to the availability of IEPA permits, Developer shall be entitled to, and the Village agrees to provide wastewater treatment capacity for all the buildings constructed on the Property upon the payment of the tap-on fee.
6. Water Supply: The Village has a fully functional potable water supply system sufficient to serve the proposed development of the Property subject to restrictions that may apply generally to all developers within the Village and subject to the availability of IEPA permits for water main extensions. The Village will assure potable water capacity to all units upon the payment of tap-on fees.
7. Storm Sewer: Developer will install and construct an on-site storm water detention facility as approved by the Village Engineer and Public Works Director. The discharge for said storm water facility shall incorporate an infiltration basin system, generally consistent with the Preliminary Industrial Development Plans.
8. Easements and Access: The Village shall, upon the request of the Developer, grant to utility companies which may provide utilities access to any part of the Property for construction and maintenance of utility easements over, under, across or through property owned or controlled by the Village as are necessary or appropriate for the development of the Property in accordance with the provisions of this Agreement, the Preliminary Industrial Development Plans or any approved preliminary or final plat for any development phase of the Property. Owner/Developer agree to cooperate with the Village to reasonably see that the most aesthetic equipment offered by the utility companies is used. Developer and Owner each agree to grant to the Village easements on the Industrial Development Property and the Commercial Development Property, respectively, as reasonably required from time to time for utility purposes, including access and maintenance thereof, at locations mutually satisfactory to the Village and the Developer or Owner (as the case may be).
9. The Preliminary PUD Plans for the Industrial Development Parcel contemplate that the Developer will, at its expense, extend Grandview Drive to the west of Randall Road to that point as shown on said plans (the “**Grandview Drive Extension**”). The Village acknowledges that the overall functionality of the Property will be enhanced by the Grandview Drive Extension. It is acknowledged that, if so extended, said Grandview Drive Extension will exist within the territorial jurisdiction of the Village

of Carpentersville. Within ninety (90) days following the Village's approvals of this Agreement and the enactment of the Annexation and Development Legislation, (i) the Owner shall petition the Village of Carpentersville to annex the minimum amount of the Owner's property south of the Property necessary to bring within the Village of Carpentersville the Owner's land on which the Grandview Drive Extension is to be constructed (the "**Annexation Strip**"), the cost of which petition and related submittals shall be paid for by the Developer) and (ii) upon annexation, the Developer, at its expense shall formally petition and apply to the Village of Carpentersville and to the Kane County Division of Transportation ("KDOT") for its / their consent and issuance of all permits required to enable the Developer to lawfully construct the Grandview Drive Extension, to be constructed at the expense of the Developer in accordance with the geometrics as generally shown on the Preliminary Industrial Development Plans, and specifically without any requirement for the installation of a traffic signal at its intersection with Randall Road (collectively, the "**Grandview Drive Extension Permits**"). The Village of Algonquin hereby agrees to use good faith efforts to enter into an intergovernmental agreement ("IGA") with the Village of Carpentersville providing, to the extent requested by said Village of Carpentersville, that until the farmland situated immediately south of the proposed Grandview Drive Extension is annexed and developed into the Village of Carpentersville, the Village of Algonquin will, at its expense, assume the responsibility for the maintenance and snow plowing of said Grandview Drive Extension. The Parties acknowledge and agree that (i) the Developer's obligation to install the Grandview Drive Extension is contingent upon the issuance of all required permits by the Village of Carpentersville ("**Carpentersville**"), and (ii) if, notwithstanding its diligent and good faith efforts (excluding litigation, but including Developer's request for non-financial assistance from the Village) the Developer is not able to procure such permits from Carpentersville for any one or more of the Grandview Drive Extension by the date Developer submits to the Village for its approval the Final Plat of Re-Subdivision of the Property, then, at its election, the Developer shall have the right to proceed with the Final Plat of Re-Subdivision of the Property, with the Public Improvements, and with the development of the Industrial Development Parcel as approved in the Final PUD Plans for the Industrial Development Parcel, excluding from each of same the Grandview Drive Extension not permitted by Carpentersville, and to postpone making the remainder of said non-permitted Grandview Drive Extension until the date Carpentersville issues permits for same. Developer does have the obligation to install a traffic signal at the Grandview Drive and Randall Road intersection..

10. For the avoidance of doubt, in connection with the approval of any preliminary and/or final PUD plans or other development approvals requested with respect to the Commercial Development Parcel by the Owner subsequent to the date of this Agreement, all public improvements required by such final plans shall be made by the Owner or its successor, and not by the Developer.
11. Developer shall construct at least 2 high-capacity EV Charging stations at each development pad.

12. Developer and Owner both agree to make a good faith effort to include in their respective building permit applications a proposed construction and design aimed at qualifying such construction for certification under the Leadership in Energy and Environmental Design (“LEED”) v4 for Building Design and Construction (as defined in the LEED update of July 25, 2019).
- C. Developer shall execute a Public Improvements Completion Agreement and complete all on-site and off-site improvements required to be made in connection final engineering plans approved in connection with the Final Plat of Re-Subdivision of the Property in accordance therewith.
- D. The Village agrees that, at the request of the Developer or the Owner (as the case may be) the Village will issue building permit(s) for the construction of noncombustible building components on the Property prior to the completion of utilities and streets. Conditions of any such building permit(s) shall be that the Village's Building Commissioner or his designee are satisfied that (i) access to the proposed building site(s) by fire and emergency vehicles ("Emergency Vehicular Access") is safe and adequate and (ii) the Developer or Owner (as the case may be) enters into a hold harmless and indemnity agreement in a form approved by the Village's Corporation Counsel. The Developer or Owner (as the case may be) shall also be allowed to construct both combustible and non-combustible parts of such structure before water for fire protection purposes is provided, so long as the Developer or Owner enters into a hold harmless and indemnity agreement in a form approved by the Village's Corporation Counsel. Without limiting the generality of the foregoing, the parties further agree with respect to the conditions of Emergency Vehicular Access that:
- a. such conditions shall be deemed satisfied as to any building proposed to be constructed on a Lot abutting Randall Road, Longmeadow Parkway, or Huntley Road; and
 - b. such conditions may also be satisfied by the installation of the gravel road base intended to serve as the base for the right-of-way approved by the Final Plat of Re-Subdivision of the Property.

ARTICLE 8

OFF-SITE STREETS AND CONSTRUCTION TRAFFIC

The Developer shall be responsible for the repair of any damage to any Village street or road resulting from development and construction activities on the Industrial Development Parcel. Similarly, the Owner shall be responsible for the repair of any damage to any Village street or road resulting from development and construction activities on the Commercial Development Parcel.

ARTICLE 9

GUARANTEES AND LETTERS OF CREDIT

- A. It is understood that prior to the construction of any streets or other public improvements, the Party proposing such construction (be it the Owner or the Developer) shall submit the required plans, final plat, specifications and engineer's estimate of probable cost for approval by the Village Engineer and Public Works Director, as provided herein, after which and upon providing the required letter of credit or surety bond, and after final plat approval and the issuance of a site development permit, the Party receiving the permit may proceed to construct said streets and other public improvements. Upon installation of the roadway base and binder course asphalt paving, and upon completion of other portions of the improvements, the letter of credit or surety bond may be reduced to an amount which, in the opinion of the Village Engineer, is sufficient to ensure completion of the work yet to be performed subject to Section 9-B below.

The Owner or the Developer (as the case may be) shall make all public improvements in accordance with the approved final engineering plans and, to the extent not modified herein, to the applicable ordinances of the Village and pursuant to the terms of this Agreement and the Parties' Public Improvement Completion Agreement, which will be constructed in accordance with the approved final engineering plans and the Owner or Developer's respective phasing plans (if any). The Party undertaking the construction of such public improvements, and such Party's agents, assigns, or successors shall guarantee the performance and fulfillment of any such requirements by submitting a customary payment and performance bond or letter of credit in favor of the Village in form and substance acceptable to the Village, issued by a reputable financial institution having assets in excess of \$100,000,000, in the amount of 120 percent of the cost of the improvements as approved by the Village Engineer and the Public Works Director.

- B. The Village may reduce such bond or letter of credit within 60 days after the Party that has posted the security request to the Village Engineer and Public Works Director to inspect the completed improvements or issue a denial within said period of time informing the Owner/Developer specifically as to what corrections are necessary to allow the reduction. Owner and Developer agree not to request a reduction to any one bond more than once every three months. Any request by the Developer for a reduction in its bond will be denied in the event the Developer is indebted to the Village or otherwise in violation of this Agreement and/or Village ordinances, until such time as the violations are corrected or payment made. Similarly, any request by the Owner for a reduction in its bond will be denied in the event the Owner is indebted to the Village or otherwise in violation of this Agreement and/or Village ordinances, until such time as the violations are corrected or payment made.
- C. Upon completion of the improvements and acceptance by the Village, the payment and performance bond shall be released. A maintenance bond equal to 15 percent of the approved total estimated cost shall be provided in accordance with the Subdivision Ordinance.

ARTICLE 10

CONSTRUCTION FACILITIES AND SIGNS

- A. Prior to commencement of construction, Developer or Owner (as the case may be) may submit to the Village a plan showing the location of all proposed temporary construction office and sales trailers, which shall be subject to the approval of the Village Building Commissioner. Each site plan shall indicate the general location of where all construction trailers, shall be located. Developer and Owner shall each be permitted a temporary office trailer to serve as the construction office. Said construction trailers shall be located at sites approve by the Building Commissioner. Sewer and water need not be connected to the temporary office and construction trailers. At a minimum, a gravel driveway shall be provided to accommodate vehicular travel to all temporary office and construction trailers. The Developer agrees to hold the Village harmless for any liability associated with the installation and operation of said the temporary office and construction trailers by the Developer. Similarly, the Owner agrees to hold the Village harmless for any liability associated with the installation and operation of said the temporary office and construction trailers by the Owner
- B. All signage shall be in strict conformance with the Sign Code.

ARTICLE 11

VILLAGE ORDINANCES

- A. The subdivision standards for public improvements on the Property shall be governed by the final engineering submitted by the Developer along with the proposed Final Plat of Re-Subdivision of the Property, and approved by the Village Engineer and the Public Works Director prior to approval of same by the Village Board.
- B. In no event shall any amendment to or modification of any Village ordinance, code, or regulation enacted subsequent to the date of this Agreement be applicable to the Property that would eliminate any of the permitted or special uses currently enumerated in the Village's B-2 Business District, General Retail District, or B-2 Business Park District; or would change a current allowed use to a special use; or make more restrictive any of the bulk regulations not specifically addressed in this Agreement. The Village agrees to use its best efforts to give Developer and Owner prior written notice of any other amendments, modifications or new ordinances, codes and regulations.
- C. Except as otherwise provided in this Agreement, the Village codes and ordinances, as amended from time to time, shall apply to the development of the Property provided such amendments apply to other properties similarly zoned within the corporate limits of the Village.
- D. If, during the term of this Agreement, except as otherwise specifically agreed upon in this Agreement, any existing, amended, modified or new ordinances, codes or regulations affecting the zoning, subdivision, development, construction of improvements, building or appurtenances, or any other development of any kind or character upon the Property, are amended or modified in a manner to impose less restrictive requirements on development of, or construction upon, properties in similarly zoned and developed

parcels within the Village (whether or not encompassed by agreements of annexation), then the benefit of such less restrictive requirements shall inure to the benefit of the Developer, and anything to the contrary contained herein notwithstanding, the Developer may elect to proceed with respect to the development of, or construction upon, the Property with the less restrictive amendment or modification applicable generally to similarly zoned properties within the Village.

- E. The Village, the Owner, and the Developer, and their successors and assigns may, by mutual consent, change, modify or otherwise agree to terms and conditions other than those set forth in this Agreement by the adoption of any ordinance by the Village amending the terms of this Agreement and the acceptance of same by the Developer or Owner (as the case may be) requesting same, subject to the provisions of 65 ILCS 5/11-15.1-1. However, only the written consent of the legal titleholder of that portion of the Property subject to be directly affected by such amendment (the legal titleholder requesting the amendment) and the Village shall be required to effect an amendment to this Agreement. Notwithstanding the foregoing, until the first to arrive of (i) the date as of which the Developer no longer owns any land within the Industrial Development Parcel, or (ii) the expiration of this Annexation Agreement, the Village shall not approve any amendment to the Annexation and Development Legislation pertaining to the Industrial Development Parcel without the prior written consent of the Developer.
- F. In the event of any conflict or inconsistency between this Agreement and any codes or ordinances of the Village, the provisions of this Agreement shall prevail.

ARTICLE 12

SALE OF PROPERTY

- A. It is expressly understood and agreed that (i) the Developer may sell or convey all or any part of the Industrial Development Parcel and / or (ii) the Owner may sell or convey all or any part of the Commercial Development Parcel, in either case to a purchaser (hereafter a “Successor Developer”), and upon each sale or conveyance, the Successor Developer shall be bound by and entitled to the benefits and obligations of this Agreement subject to the terms and conditions herein. When any such Successor Developer agrees to assume Developer’s obligations hereunder, and when the Village is notified of such proposed purchase and agreement, the Village hereby covenants and agrees that it shall consent to such assumption, and that it shall release the selling Developer or Owner, as the case may be, from its respective obligations hereunder with respect to that part of the Property so purchased, but only on the following conditions precedent to such sale and purchase:
 - 1. Provision has been made that all such public improvements required by this Agreement to complete all development responsibilities or Village ordinance or contemplated by any plat for the development of the parcel being sold will be installed and guaranteed in accordance with Article 9 of this Agreement and the ordinances of the Village; and

2. The Village has remaining in place some reasonable assurances of performance to assure the Village that any development responsibilities not yet satisfactorily completed by the Developer anywhere on the Property will be completed by the Successor Developer; and
 3. All monetary obligations of the selling Developer or Owner (as the case may be) due to the Village as of the time of conveyance and attributable to the Property conveyed have been satisfied in full; and
 4. The Successor Developer shall assume all unsatisfied obligations of the selling Developer or Owner (as the case may be) under this Agreement as to the portion of the Property being purchased as set forth in an agreement between Developer or Owner, the Successor Developer and the Village;
 5. The Village shall not unreasonably exercise its right to deny release herein.
- B. From and after the date the Developer completes the public improvements required by the Final Plat of Re-Subdivision of the Property, the provisions of Section 12-A shall not apply to the sale of a Lot to a purchaser which intends to hold such Lot for personal use or investment and not for the purpose of development and re-sale and subject to and contingent upon no monetary obligations being due the Village and there being no unsatisfied obligations of the portion of the Property being sold (a “**Non-Developer Purchaser**”).

ARTICLE 13

WINTER MAINTENANCE

Until the Village accepts the dedication of a street constructed within the Property, the Village shall have no obligation to keep such street plowed of ice and snow. It is agreed however, that any area that shall be or is likely to be occupied in whole or in part between November 15 and April 30 of the following year, the Village shall furnish, subject to availability, complete labor and material necessary for the removal of snow and ice from the streets constructed within such phase, provided the Developer and the Village have executed the Village’s customary form of sub-agreement entitled *Winter Maintenance Agreement*. In the event a *Winter Maintenance Agreement* is not executed by the Developer and the Village, the provisions of Chapter 22, Algonquin Subdivision Ordinance, of the Algonquin Municipal Code (particularly Section 22.08-J2) shall apply to the winter maintenance of such streets.

ARTICLE 14

MISCELLANEOUS

- A. If any provision of this Agreement (except those provisions relating to the requested rezoning of the tract identified herein and the ordinances adopted in connection therewith), 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 of validity of any other terms, conditions and provisions of this

Agreement and, to that end, any terms, conditions and provisions of this Agreement are declared to be severable.

- B. If, for any reason during the term of this Agreement, any approval or permission granted hereunder regarding plans or plats of subdivision or zoning are declared invalid, the Village agrees to take whatever lawful actions may be required to validate, ratify, legalize, and / or reconfirm same.
- C. All obligations of the Developer in this Agreement, including monetary obligations in existence now as well as those which may come to exist in the future as a result of this Agreement, shall constitute covenants running with the land and such monetary obligations shall also be liens upon the land. Developer hereby consents to the filing of a lien on the tract for which the obligations are owed when any obligations are more than 90 days overdue. Monetary obligations as used herein shall include professional fees incurred by the Village.
- D. Subject to the provisions of Section B of Article 12, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and assigns including, but not limited to, successor owners of record, successor developers, land lessees and successor land lessees, and upon any successor municipal authority of the village and successor municipalities for a period of ten (10) years from the later of the date of execution hereof and the date of adoption of the ordinance pursuant hereto. Village and Owner acknowledge and agree that the term “Developer” shall be defined to be any entity in which NorthPoint Development, LLC, NorthPoint Holdings, LLC, or NPD Management, LLC is a member and to which NorthPoint Development, LLC assigns its rights as contract purchaser for the Industrial Development Parcel.
- E. It is understood and agreed by the Parties that time is of the essence in this Agreement, and that all Parties will make every reasonable effort to expedite the subject matter hereof.
- F. The failure of any Party to insist upon the strict and prompt performance of the terms, covenants, agreements and conditions herein contained, or any of them, upon any other Party imposed, shall not constitute or be construed as a waiver or relinquishment of any Party’s rights thereafter to enforce such term, covenant, agreement or condition, but the same shall continue in full force and effect. If the performance of any covenant to be performed under this Agreement by any Party is delayed as a result of circumstances which are beyond the reasonable control of such Party (which circumstances may include acts of God, war, acts of civil disobedience, strikes or similar acts), the time for such performance shall be extended by the amount of time of such delay.
- G. The Parties shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out the terms and objectives of this Agreement and the intentions of the Parties as reflected by said terms, including, without limitation, the giving of such notices, the holding of such public hearings, the enactment by the Village of such resolutions and ordinances and the taking

of such other actions as may be necessary to enable the Parties' compliance with the terms and provisions of this Agreement and as may be necessary to give effect to the terms and objectives of this Agreement and the intentions of the Parties as reflected by said terms. The Parties shall cooperate fully with each other in seeking from any or all appropriate governmental bodies (whether federal, state, county or local) financial or other aid and assistance required or useful for the construction or improvement of property and facilities in and on the Property or for the provision of services to owners or occupants of the Property. It is further understood and agreed that the successful consummation of this Agreement and the development of the Property is in the best interests of all the Parties and requires their continued cooperation; however, nothing contained in this Agreement shall affect any Owner/Developer's right to mortgage, encumber or convey the Property as a whole or separately to one or several third parties.

ARTICLE 15

NOTICES AND REMEDIES

- A. Upon breach of this Agreement, 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, including, without limitation, the remedy of specific enforcement.
- B. Before any failure of any party to this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, by certified mail/return receipt requested, overnight mail by nationally recognized carrier, the party alleged to have failed to perform, performance shall be demanded, and such non-performance shall have remained uncured for thirty (30) consecutive days following such notice; provided, however, that if, by reason of the nature of such alleged non-performance, the cure thereof cannot be reasonably completed within thirty (30) days, then so long as the Party guilty of non-performance commences to cure same and diligently pursues the completion of such cure thereafter, then the time for cure shall be reasonably extended to allow for such cure.
- C. In and action or proceeding between the Parties arising under or in connection with this Agreement or the alleged breach or enforcement hereof, the Party(ies) prevailing in such proceeding shall be entitled to recover its / their costs and expenses, including, without limitation, reasonable attorney's and expert witness fees, from the non-prevailing Party(ies). In addition, if the Developer does not pay any fees provided for herein, the Village may withhold the issuance of building permits until payment is received, or if the appropriate security is not deposited, withhold approval of any plat of subdivision until the appropriate security is delivered. Village may use any remedies available to it to collect such fees and charges as are due.
- D. Notice shall be provided at the following addresses:

Village: Village Manager
 Village of Algonquin

2200 Harnish Road
Algonquin, Illinois 60102

Copy to: Kelly A. Cahill
Zukowski, Rogers, Flood & McArdle
50 Virginia Street
Crystal Lake, Illinois 60014
kcahill@zrfmlaw.com

Owner: L&H Farm Limited Partnership
10613 Brittany Avenue
Huntley, IL 60142

Copy to: James D. Skaar
Law Offices of James D. Skaar
220 South Third Street
Geneva, IL 60134
jim@skaarlaw.com

Developer: NorthPoint Development, LLC
4825 NW 41st Street, Suite 500
Riverside, MO 64150
Attn: Nathaniel Hagedorn

Copy to: NorthPoint Development, LLC
4825 NW 41st Street, Suite 500
Riverside, MO 64150
Attn: General Counsel

Copy to: Peter C. Bazos
Bazos, Freeman, Schuster & Pope, LLC
1250 Larkin Avenue, Suite 100
Elgin, Illinois 60123
pbazos@bazosfreeman.com

- E. It is hereby expressly agreed that no breach or default on the part of the Owner shall be attributable to, nor shall it prejudice the rights and entitlements of the Developer hereunder or the obligations of the Village to such Developer. Similarly, it is hereby expressly agreed that no breach or default on the part of the Developer shall be attributable to, nor shall it prejudice the rights and entitlements of the Owner hereunder or the obligations of the Village to such Owner.

ARTICLE 16
DEFENSE

The Village agrees to cooperate with Developer in the defense of any lawsuits of claims brought by any third-party in regard to the following matters:

- A. The Agreement;
- B. Annexation
- C. Zoning;
- D. Preliminary and final subdivision plats and
- E. TIF ordinances.

In the event of any such lawsuit naming the Village as a party, the Developer may elect to appear and defend the litigation, in which event the Village may also appear and be represented by its own counsel. In the alternative, the Developer may tender the defense of the matter to the Village, in which case the Developer and the Village shall, by mutual agreement, choose an attorney or attorneys to represent the Village and Developer in one case. In either event, the Developer shall reimburse the Village for the cost incurred by the Village in such defense, including reasonable attorneys' fees. The Village and Developer will cooperate with each other as necessary to defend any such losses.

The Developer shall pay all of the Village's reasonable attorneys' fees and expenses incurred in or related to the enforcement of the terms and provisions of this Agreement, including but not limited to the cost and/or fees of its attorneys, consultants and other professionals.

ARTICLE 17 **TIF LEGISLATION**

- A. Prior to the public hearing by the Village with respect to this Annexation and Development Agreement, the Village did conduct a public hearing with respect to the classification of the Property as a "redevelopment project area" (also known as "TIF District") as contemplated by 65 ILCS 5/11-74.4-1 et. seq. (the "TIF Act").
- B. In anticipation of the establishment of the Property as a TIF District, the Developer did submit to the Village for its consideration and approval a certain redevelopment agreement with respect to the industrial portion of the Property (the "**Industrial RDA**"), a copy of which is attached hereto as **Exhibit C**.
- C. Following the annexation of the Property into the Village and the adoption of the Annexation and Development Legislation (including, without limitation the Two-Lot Plat of Subdivision), the Village agrees that it shall, on or before December 8, 2021 (i) enact the TIF Legislation and (ii) execute and enter into the Industrial RDA with the Developer, and failing to do so, the Developer shall have those rights as set forth herein .
- D. Should the Property be disconnected from the Village pursuant to Section 2D above, then the Industrial RDA shall also be deemed to have been cancelled and rescinded.

[signature pages follow]

IN WITNESS WHEREOF, the parties set their hands and seals on the day and year first abovementioned.

OWNER: L&H Farm Limited Partnership, an Illinois limited partnership

By: _____

Name: Gerald Gaitsch

Its: Co-General Partner

DEVELOPER: NorthPoint Development, LLC, a Missouri limited liability company, licensed to do business in Illinois.

By: _____

Name: Nathaniel Hagedorn

Its: Manager

VILLAGE: Village of Algonquin

Village President Debby Sosine

ATTEST:

Village Clerk Fred Martin

Prepared by:

Kelly A. Cahill

Zukowski, Rogers, Flood & McArdle

50 Virginia Street

Crystal Lake, IL 60014

EXHIBIT A
Legal Description of Property
(Both the Commercial Development Parcel and the Industrial Development Parcel)

THAT PART OF THE EAST 1/2 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 7; THENCE NORTH 89 DEGREES 18 MINUTES 29 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHEAST 1/4, 95.42 FEET; THENCE SOUTH 00 DEGREES 41 MINUTES 31 SECONDS EAST, 80.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF LONGMEADOW BOULEVARD PER DOCUMENT 2014K047996 AND THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR THE FOLLOWING SEVEN (7) COURSES: (1) THENCE NORTH 89 DEGREES 18 MINUTES 30 SECONDS EAST, 1753.25 FEET; (2) THENCE SOUTH 00 DEGREES 41 MINUTES 30 SECONDS EAST, 10.00 FEET; (3) THENCE NORTH 89 DEGREES 18 MINUTES 30 SECONDS EAST, 300.00 FEET; (4) THENCE SOUTH 00 DEGREES 41 MINUTES 30 SECONDS EAST, 10.00 FEET; (5) THENCE NORTH 89 DEGREES 18 MINUTES 30 SECONDS EAST, 181.79 FEET TO A POINT OF CURVATURE; (6) THENCE EASTERLY 212.01 FEET, ALONG A CURVE CONCAVE SOUTH, HAVING A RADIUS OF 11,360.00 FEET, AND CHORD BEARING OF NORTH 89 DEGREES 50 MINUTES 35 SECONDS EAST, AND CHORD DISTANCE OF 212.01 FEET; (7) THENCE SOUTH 44 DEGREES 34 MINUTES 41 SECONDS EAST, 49.54 FEET TO THE WEST RIGHT-OF-WAY OF S. RANDALL ROAD PER DOCUMENT 97K057323; THENCE SOUTHERLY, 389.08 FEET ALONG A NON-TANGENT CURVE, CONCAVE EAST, HAVING A RADIUS OF 5,804.58 FEET, CHORD BEARING OF SOUTH 00 DEGREES 22 MINUTES 11 SECONDS EAST, AND CHORD DISTANCE OF 389.00 FEET; THENCE SOUTH 02 DEGREES 17 MINUTES 23 SECONDS EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 1901.65 FEET TO A NON-TANGENT CURVE; THENCE SOUTHERLY ALONG SAID WEST RIGHT-OF-WAY AND NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 10,945.15 FEET SUBTENDING A CHORD BEARING SOUTH 01 DEGREES 39 MINUTES 56 SECONDS EAST, A CHORD DISTANCE OF 238.54 FEET AND AN ARC DISTANCE OF 238.55 FEET TO A NON-RADIAL LINE AND A POINT ON SAID WESTERLY RIGHT-OF-WAY LINE; THENCE SOUTH 89 DEGREES 37 MINUTES 10 SECONDS WEST, 1593.69 FEET; THENCE NORTH 00 DEGREES 22 MINUTES 50 SECONDS WEST, 264.35 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 43 SECONDS WEST, 337.00 FEET; THENCE SOUTH 53 DEGREES 05 MINUTES 01 SECONDS WEST, 435.00 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF HUNTLEY ROAD AS MONUMENTED; THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY FOR THE FOLLOWING FIVE (5) COURSES: (1) THENCE NORTH 36 DEGREES 54 MINUTES 59 SECONDS WEST, 274.96 FEET TO A NON-TANGENT CURVE; (2) THENCE NORTHERLY ALONG SAID NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 924.56 FEET SUBTENDING A CHORD BEARING NORTH 18 DEGREES 51 MINUTES 50 SECONDS WEST, A CHORD DISTANCE OF 573.2 FEET AND AN ARC DISTANCE OF 582.61 FEET TO A NON-

RADIAL LINE; (3) THENCE NORTH 00 DEGREES 48 MINUTES 41 SECONDS WEST, 714.67 FEET TO A NON-TANGENT CURVE; (4) THENCE NORTHERLY ALONG SAID NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 1,179.28 FEET SUBTENDING A CHORD BEARING NORTH 03 DEGREES 45 MINUTES 21 SECONDS WEST, A CHORD DISTANCE OF 125.18 FEET AND AN ARC DISTANCE OF 125.24 FEET TO A NON-RADIAL LINE; (5) THENCE NORTH 00 DEGREES 48 MINUTES 41 SECONDS WEST, 248.15 FEET TO A POINT ON SAID NORTHEASTERLY RIGHT-OF-WAY LINE; THENCE NORTH 89 DEGREES 17 MINUTES 11 SECONDS EAST, TO THE EAST LINE OF HUNTLEY ROAD PER DOCUMENT 2014K047996, A DISTANCE OF 59.03 FEET; THENCE ALONG SAID EAST LINE OF HUNTLEY ROAD, NORTH 00 DEGREES 42 MINUTES 49 SECONDS WEST, 880.06 FEET; THENCE NORTH 44 DEGREES 17 MINUTES 50 SECONDS EAST ALONG SAID EAST LINE, 49.49 FEET TO SAID POINT OF BEGINNING, IN THE TOWNSHIP OF DUNDEE, KANE COUNTY, ILLINOIS.

PINs: 03-07-200-006 and 03-07-200-007

EXHIBIT B
Plat of Annexation

Exhibit C
Industrial RDA

Schedule 3C
Additionally Approved
Departures

Part 1: Departures pertaining to both the Commercial Development Parcel and the Industrial Development Parcel:

1. Front Yard setbacks for both parking and buildings from Randall Road shall be reduced to fifty (50) feet along Randall Road.
2. Front Yard setbacks for parking Lots from Longmeadow Parkway shall be reduced from fifty (50) feet to forty (40) feet along that section of Longmeadow Parkway that jogs to the south as it approaches its intersection with Randall Road from the west.
3. Front Yard setbacks along all of the new, internal subdivision roads shall be twenty-five (25) feet for parking and thirty (30) feet for buildings, in general, however, due to the curvilinear alignment of the roadways, the front yard dimension may be reduced in some areas as approved by Village Staff.

Part 2: Departures pertaining to only the Industrial Development Parcel:

1. The maximum wall and building structure height for the industrial buildings shall not exceed 49.5' above finished floor. All office HVAC units shall be screened from view by the exterior wall panels. Warehouse HVAC units that are visible from adjacent streets shall be screened from view with mechanical equipment screens.
2. Truck and semi-tractor trailer outdoor parking and storage shall be permitted to the extent such activities are ancillary to the business of the occupant of the building on the Lot on which such activities take place. . Screening of such tractor-trailer parking and storage, and screening of exterior truck docks shall be permitted to be accomplished by the use of landscape material in lieu of "the same masonry exterior materials as the principal buildings".
3. Landscaped parking islands shall not be required in connection with truck or trailer parking spaces. Islands at the ends of truck and trailer parking spaces shall be landscaped consistent with Village Code.
4. There shall be no prohibition as to the use of precast concrete wall panels facing Randall Road for industrial buildings that are designed substantially similar to the Representative Elevations.
5. The screening of exterior loading docks and overhead doors shall be permitted to be accomplished with non-deciduous landscaping or, at the election of the Developer, with fences with a finished side facing a public right-of-way.

**AFTER RECORDING
RETURN TO:**

Community Development
Village of Algonquin
2200 Harnish Drive
Algonquin, IL 60102

THIS SPACE FOR RECORDER'S USE ONLY

REDEVELOPMENT AGREEMENT

by and between

THE VILLAGE OF ALGONQUIN

and

NORTHPOINT DEVELOPMENT LLC

**(Property Located at the Southwest corner of
Randall Road and Longmeadow Parkway)**

DATED AS OF _____, 2021

PINs: 03-07-200-006 and 03-07-200-007

45
46
47
48
49
50
51
52
53
54

TABLE OF CONTENTS

SECTION 1.	RECITALS.	1
SECTION 2.	DEFINITIONS.	2
SECTION 3.	LIABILITY AND INDEMNITY OF VILLAGE.	8
SECTION 4.	NATURE, SURVIVAL, AND TRANSFER OF OBLIGATIONS.....	9
SECTION 5.	NORTHPOINT REPRESENTATIONS, COVENANTS, AND WARRANTIES.	10
SECTION 6.	ENFORCEMENT.	15
SECTION 7.	GENERAL PROVISIONS.....	15

REDEVELOPMENT AGREEMENT
by and between
THE VILLAGE OF ALGONQUIN
and
NORTHPOINT DEVELOPMENT LLC
(Property Located at the Southwest corner of
Randall Road and Longmeadow Parkway)

THIS REDEVELOPMENT AGREEMENT (the “**Agreement**”) is dated as of the ____ day of _____, 2021 (the “**Effective Date**” as defined herein), and is between the **VILLAGE OF ALGONQUIN**, an Illinois home rule municipal corporation (“**Village**”), and Northpoint Development LLC, an Illinois limited liability company (“**Northpoint**”).

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, the parties agree as follows:

SECTION 1. RECITALS.

A. The Village is authorized under the provisions of the Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-64.4-1 *et seq.* (“TIF Act”) to redevelop property and to finance redevelopment in accordance with the conditions and requirements set forth in the TIF Act.

B. To induce redevelopment pursuant to the Act, the Village has adopted the following ordinances on ____, 2021: (1) designating the “Longmeadow and Randall Redevelopment Project Area”; (2) approving the Tax Increment Financing Eligibility Report and Redevelopment Area Plan and Project for the Longmeadow and Randall Redevelopment Area”; and (3) adopting Tax Increment Financing for the Longmeadow and Randall Redevelopment Project Area” (items (1)-(3) are collectively referred to herein as the “TIF Ordinances”).

C. Northpoint represents to the Village that it is the contract purchaser of certain real property within the Longmeadow/Randall TIF consisting of two parcels assigned PINs 03-07-200-006 and 03-07-200-007 totaling 147 acres (the “Subject Property”). The Subject Property is legally described and depicted in **Exhibit A** hereto.

D. The Village desires for the Subject Property to be redeveloped with the “New Improvements” in accordance with the “Plans” as such terms are defined herein.

E. The Village has determined that (i) it is necessary for the successful completion of the New Improvements that the Village enter into this Agreement with Northpoint, (ii) it is economically infeasible for Northpoint to undertake the New Improvements without the various development incentives provided for in this Agreement, and (iii) it is desirable and in the Village’s best interests to assist Northpoint in the manner set forth herein to construct the New Improvements.

F. The Village is desirous of having the Subject Property developed (i) to eliminate vacant blight factors found on the Subject Property, (ii) to provide for the construction of the New Improvements, and (iii) to produce increased tax revenues for the various taxing districts authorized to levy taxes upon the Subject Property through the use of tax increment allocation financing for redevelopment projects.

G. Northpoint and the Village desire (i) to establish by this Agreement the terms and conditions for the New Improvements, and (ii) that the Subject Property be developed and used only in compliance with this Agreement and in compliance with the Requirements of Law.

SECTION 2. DEFINITIONS.

Whenever used in this Agreement, the following terms shall have the following meanings:

"Actual Total Costs": shall mean those amounts expended by Northpoint to construct the Project as contemplated by Exhibit E hereto.

"Act": shall mean the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 *et seq.*

"Approved Assignee": A person or entity (i) to whom or to which Northpoint desires to assign its rights or obligations under this Agreement and (ii) that has been approved as an assignee by the Village, in its sole discretion, in advance of such assignment and in writing in the form attached hereto as **Exhibit B**.

"Approved Documents": The following documents: (i) this Agreement; (ii) the "Plans; and (iii) all other documents approved by the Village for the New Improvements pursuant to Requirements of Law.

"Approved Eligible Redevelopment Project Costs": This term is defined in Section 3(C).

"Building Area": The area included within surrounding exterior walls or exterior and fire walls, exclusive of vent shafts and courts. Areas of the building not provided with surrounding wall shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above.

"Building 1": shall mean that structure designated as Building 1 with a minimum of _____ square footage of Building Area in the Plans.

"Building 2": shall mean that structure designated as Building 2 with a minimum of _____ square footage of Building Area in the Plans.

"Building 3": shall mean that structure designated as Building 3 with a minimum of _____ square footage of Building Area in the Plans.

"Building 4": shall mean that structure designated as Building 4 with a minimum of _____square footage of Building Area in the Plans.

"Building 5": shall mean that structure designated as Building 5 with a minimum of _____square footage of Building Area in the Plans.

"Corporate Authorities": The President and Board of Trustees of the Village.

"Eligible Redevelopment Project Costs": mean those improvements of the Project which (i) qualify as Redevelopment Project Costs under the Act, (ii) are eligible costs under the Redevelopment Plan, and (iii) the Village has agreed to pay for out of Net TIF Increment. The costs identified as Eligible Redevelopment Project Costs are included in **Exhibit C** attached hereto and made a part hereof relating to the construction of the New Improvements; and all in accordance with the amounts outlined in Section 3(A) of this Agreement.

"Incremental Property Taxes": means the ad valorem taxes, if any, arising from the taxes levied upon the Subject Property above in the Longmeadow/Randall TIF by any and all taxing districts having the power to tax real property in such TIF district, which taxes are attributable to the increase in the then current equalized assessed value of each taxable lot, block, tract or parcel of real property in the TIF district over and above the total initial equalized assessed value of each such piece of property, all as determined by the County Clerk of Kane County, Illinois as provided in TIF Act.

"New Improvements": shall mean i) excavation of the Subject Property, ii) on site and off site public water, sanitary sewer and storm sewer facilities, iii) on site and offsite public roadway improvements, iv) establishing stormwater management, flood mitigation and erosion control measures, v) establishing public street lighting, vi) landscaping on public areas and vii) extension of all necessary offsite utilities to the Subject Property and all other improvements depicted or contemplated in the Plans.

"Phase 1 New Improvements": shall mean all New Improvements depicted or contemplated in the Plans on those pages captioned "Phase 1".

"Phase 2 New Improvements": shall mean all New Improvements depicted or contemplated in the Plans on those pages captioned "Phase 2".

"Plans": shall mean the plans prepared by _____ consisting of ____pages.

"Project": shall mean each and every improvement on the final engineering plans for the Subject Property as well as the final plan or plat, including but not limited to the New Improvements and the Buildings, which shall substantially conform to the preliminary engineering plans and preliminary plan or plat except to the extent approved by the Village in its sole discretion.

“Redevelopment Plan”: shall mean the Longmeadow and Randall Tax Increment Financing Redevelopment Area Plan and Project.

“Requirements of Law”: All applicable federal, state, and local laws, statutes, codes, ordinances, resolutions, orders, rules, including regulations, as they may be adopted, amended, or changed from time to time, including all Village Laws. **“TIF Act”**: The Tax Increment Allocation Redevelopment Act, as amended, 65 ILCS 5/11-74.4-1, *et seq.*

“TIF District”: The Longmeadow and Randall Redevelopment Project Area created by the TIF Ordinances.

“Transferee Assumption Agreement”: An enforceable written agreement, in substantially the form attached as Exhibit B to this Agreement, pursuant to which an Approved Assignee agrees to be bound by the provisions of this Agreement.

“Village Laws”: The Village Code of Ordinances, including the Zoning Ordinance, and all other applicable ordinances, codes, rules, and regulations of the Village as they exist as of the Effective Date and as they may be amended from time to time thereafter.

“Zoning Ordinance”: Chapter 21 of the Village Code of Ordinances.

SECTION 3. TAX INCREMENT FINANCING ASSISTANCE

The Village agrees to provide the following to Northpoint, provided that the conditions precedent and subsequent set forth herein are completed, time being of the essence, and that Northpoint has not breached this Agreement with the Village, solely from the “Net TIF Increment” (as such term is hereinafter defined):

A. Generally. Subject to the terms, conditions and restrictions of this Agreement, the Village shall reimburse Northpoint for Eligible Redevelopment Project Costs, in the amounts described below (the “Maximum Reimbursement”) to pay for the costs of the New Improvements:

- i. The Maximum Reimbursement is the lesser of:
 - (i) \$20,996,000,
 - (ii) 17.1144% of the actual total costs for the Project, as set forth in Exhibit E, not to exceed 17.1144% of the actual total costs of each Phase, or
 - (iii) 100% of Eligible Redevelopment Project Costs for the Project, not to exceed 100% of the Eligible Redevelopment Project Costs for each Phase.

The term of the Agreement shall be 17 years. Assuming the Longmeadow and Randall Tax Increment Financing Redevelopment Area was adopted in 2021, the final payment

to Northpoint shall be no later than December 31, 2038, regardless of whether the full Maximum Reimbursement has been disbursed.

ii. Under no circumstance shall any Net TIF Increment be paid to Northpoint for items that are not considered Eligible Redevelopment Project Costs as set forth in this Agreement and as set forth in the TIF Act. In addition, in no event shall the Net TIF Increment paid to Northpoint by the Village exceed the Maximum Reimbursement. The exact amount of the reimbursement to Northpoint from the Net TIF Increment alone will be the actual cost incurred by Northpoint for Eligible Redevelopment Project Costs for the New Improvements as reviewed and approved by the Village (such review and approval to be solely for the purpose of confirming such costs are Eligible Redevelopment Project Costs), and provided the New Improvements are completed, but not to exceed the Maximum Reimbursement. No interest shall accrue on any Eligible Redevelopment Project Costs.

Payment is contingent upon Northpoint being paid only with the "Net TIF Increment" generated from the Subject Property and the conditions precedent herein.

The Parties agree that this Agreement shall have no effect and be null and void unless Northpoint acquires title to the Subject Property no later than December 31, 2021.

iii. **No Liability of the Village to Others for Northpoint's Expenses.** The Village shall have no obligation to direct payments to any other contractor, subcontractor, mechanic, or materialman providing services or materials for the New Improvements in and upon the Subject Property.

iv. **Reimbursement of Village Costs.** From the 40% of the Incremental Property Taxes the Village may:

- a) Reimburse itself for the administrative costs and expenses allowable pursuant to the TIF Act;
- b) Incur any other TIF Eligible Costs as allowed pursuant to the TIF Act; and
- c) Declare a surplus of the remaining amounts after the payments of costs in a) and b) above

B. Reimbursement. The Village shall cause payment from the Net TIF Increment to Northpoint to reimburse Northpoint for the reimbursable expenses described in paragraph 3(A) above incurred with respect to the New Improvements, up to the Maximum Reimbursement amount, as follows:

i. Beginning the tax year after Northpoint completes the Phase I New Improvements on the Subject Property, Northpoint shall be entitled to receive, on an annual basis, payment of the "Net TIF Increment," as defined below, generated by the Subject Property alone, contingent upon such Net TIF Increment having been received by the Village, not to exceed the Maximum Reimbursement.

ii. "Net TIF Increment" shall mean sixty percent (60%) of the TIF increment generated from the Subject Property alone during the term of Longmeadow/Randall TIF but under no circumstances less any Incremental Property Taxes that are already necessary to comply with mandatory payments to other taxing districts required by TIF Act or any intergovernmental agreement, or other Incremental Property Taxes required to be declared surplus or otherwise to be paid by the Village. Northpoint shall not be entitled to any additional compensation beyond the Net TIF Increment received even if the Longmeadow/Randall TIF expires prior to Northpoint receiving the Maximum Reimbursement contemplated in subparagraph 3(A) above. To the extent that there are any filings for Certificates of Error, PTAB appeals or Circuit Court adjudications relating to property taxes on all or part of the Subject Property, to the extent that there is a rebate of property taxes, such amounts shall be deducted from the Net TIF Increment otherwise due Northpoint.

iii. On each November 1 of each year commencing with November 1, 2022 (each an "Accounting Date"), the Village shall determine the amount of Net TIF Increment that has been received to such Accounting Date. The Village shall deposit the Net TIF Increment determined on each Accounting Date in the TIF Fund no later than December 31 of each calendar year of such Accounting Date, if the Phase I New Improvements have been completed and the costs certified by the Village Engineer and the Net TIF Increment are received by the Village. Prior to the first payment, Northpoint shall provide the Village supporting documentation (as well as any other documentation reasonably requested by the Village) of the TIF eligible redevelopment expenses, as set forth in **Exhibit C**, for the New Improvements. In order to continue receiving the Net TIF Increment, Northpoint shall construct the New Phase I and II Improvements and Buildings 1, 2, 3, 4 and 5 in accordance with the deadlines set forth in this Agreement. Time is of the essence.

iv. Nothing in this Agreement shall obligate the Village to pay any amount other than those property taxes actually generated by the Subject Property and received by the Village as the Net TIF Increment, nor obligate the Village to pay any Net TIF Increment contrary to Illinois law. Nothing in this Agreement shall obligate the Village to pay Northpoint in any instance where Northpoint has not paid the full property tax due on the Subject Property.

v. For the remainder of the term of the TIF District, Northpoint agrees that it shall be a condition of the Village's obligation to pay Net TIF Increment to Northpoint per the terms and conditions of this Agreement. Northpoint further covenants that it will not utilize any portion of the Subject Property for residential apartments or condominium or any other residential use. This provision is a covenant which shall run with the Subject Property for the remaining term of this Agreement.

C. Procedure for Reimbursement of Eligible Redevelopment Project Costs. For reimbursement of Eligible Redevelopment Project Costs in accordance with this Agreement, Northpoint shall submit to the Village written invoices or other documentation evidencing Northpoint's expenditure of Eligible Redevelopment Project Costs, and a statement certifying such submission, in the form attached hereto as **Exhibit D ("Form of Reimbursement Request")**,

not more than once per quarter to the Village. Each Reimbursement Request shall be accompanied by (i) a detailed description to determine eligibility; (ii) an inspection report by a Village representative if the cost incurred is for a physical improvement, the cost of such inspection shall be paid for by Northpoint; (iii) sworn statements and lien waivers for any material, fixtures, apparatus, machinery, services, or labor provided by any contractor, subcontractor, or other person included in the Eligible Redevelopment Project Costs for which reimbursement is sought; (iv) bills, contracts, and invoices relative to the Eligible Redevelopment Project Costs; and (v) other documents or information that the Village shall reasonably require to evidence appropriate payment of Eligible Redevelopment Project Costs. The Village shall approve or disapprove a Reimbursement Request within thirty (30) days after its receipt of all required documents or such other time frame beyond thirty (30) days which is acceptable to Northpoint; provided, the Village may disapprove a Reimbursement Request if the requirements for reimbursement set forth in this Agreement have not been satisfied or Northpoint has not completed other obligations in accordance with the deadlines in this Agreement. Such approval will be evidenced by the Village's adoption of a resolution approving such Reimbursement Request ("**Approval Resolution**") identifying which Eligible Redevelopment Project Costs identified in the Reimbursement Request have been approved for payment ("**Approved Eligible Redevelopment Project Costs**"), it being acknowledged and agreed that all Eligible Redevelopment Project Costs which are included in a Reimbursement Request shall be approved for payment if the Reimbursement Request and its accompanying documents, and the construction to the date of the Reimbursement Request, conform to the requirements of this Agreement. If the Village finds an error or deficiency in any Reimbursement Request itself, the Village shall specify such error or deficiency in reasonable detail within thirty (30) days after the date the Village receives the Reimbursement Request.

The Village may reimburse Northpoint, pursuant to the Agreement, for Eligible Redevelopment Cost incurred prior to the execution of this Agreement, if Northpoint provides expense documentation acceptable to the Village and to the extent provided in this Agreement. The Village shall include such Eligible Redevelopment Cost expenses within the first reimbursement request, provided Northpoint has documented these costs in a manner acceptable to the Village.

D. Defaults and Remedies.

i. The occurrence of any one or more of the following events, shall constitute an "Event of Default" by Northpoint hereunder:

(i) the failure of Northpoint to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Northpoint under this Agreement or any other agreement with the Village;

(ii) the making or furnishing by Northpoint to the Village of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or the Annexation agreement with the Village which is untrue or misleading in any material respect;

(iii) the commencement of any proceedings in bankruptcy by or against Northpoint or for the liquidation or reorganization of Northpoint, or alleging that Northpoint is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of Northpoint's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving Northpoint; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(vi) the appointment of a receiver or trustee for Northpoint, for any substantial part of Northpoint's assets or the institution of any proceedings for the dissolution, or full or partial liquidation, or the merger or consolidation, of Northpoint; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(v) the entry of any judgment or order against Northpoint which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

ii. Upon the occurrence of an Event of Default, the Village may pursue any or all of the following remedies: terminate this Agreement and any other agreements to which the Village and Northpoint are or shall be parties, suspend disbursement of the Net TIF Increment, and/or obtain reimbursement of the Net TIF Increment funds paid. The Village may, by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to damages, injunctive relief or the specific performance of the agreements contained herein.

SECTION 4. LIABILITY AND INDEMNITY OF VILLAGE.

A. Village Review. Northpoint acknowledges and agrees that the Village is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the Village's review and approval of any plans for the Subject Property or the New Improvements, or the issuance of any approvals, permits, certificates, or acceptances, for the development or use of the Subject Property or the New Improvements, and that the Village's review and approval of any such plans and the Improvements and issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure Northpoint, or any of its heirs, successors, assigns, tenants, and licensees, or any third party, against damage or injury of any kind at any time.

B. No recourse under or upon any obligation, covenant, or agreement or for any monetary claim based thereon or otherwise in respect thereof shall be had by Northpoint against the Village, its officers, agents, and employees, in excess of the Net TIF Increment which has been received by the Village, subject to the terms and conditions herein, and no liability, right, or claim

at law or in equity shall attach to or shall be incurred by the Village, its officers, agents, and employees other than the Net TIF Increment, and all and any such rights or claims of Northpoint against the Village, its officers, agents, and employees are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

C. Village Procedure. The parties acknowledge and agree that notices, meetings, and hearings have been properly given and held by the Village with respect to the approval of this Agreement and agree not to challenge such approval on the grounds of any procedural infirmity or of any denial of any procedural right.

SECTION 5. NATURE, SURVIVAL, AND TRANSFER OF OBLIGATIONS.

A. Term. This Agreement shall terminate upon the earliest of the following to occur: i) Northpoint receiving the Maximum Reimbursement or ii) the expiration of the TIF District or iii) the Village ceasing to receive the Net TIF Increment or iv) 17 years from the establishment of the TIF District. In addition, this Agreement will terminate at the Village's option in its sole discretion with no liability to the Village if the Subject Property or any portion thereof is owned by any person or entity other than Northpoint or an Approved Assignee.

B. Assignment of Rights and Obligations. After the New Improvements have been completed, Northpoint may assign its rights and obligations under this Agreement only to an Approved Assignee, subject to and contingent upon the Village's approval which may be withheld in its sole discretion. Upon an Approved Assignee becoming bound to the obligations created in this Agreement, including the execution by an Approved Assignee of a Transferee Assumption Agreement in the form included as Exhibit B and presented to the Village Board for its consideration, the liability of Northpoint for such obligations shall be released to the extent of the Approved Assignee's specific and express assumption of such liability.

C. Recordation; Binding Nature. This Agreement shall be recorded against the Subject Property and this Agreement and all obligations and rights of Northpoint under this Agreement shall run with the Subject Property and each portion thereof and bind and benefit Northpoint, an Approved Assignee, or any other future fee simple developer of the Subject Property approved by the Village. However, this Agreement is subject to termination by the Village if Northpoint conveys the Subject Property or any portion thereof to any person or entity that is not an Approved Assignee and no further Net TIF Increment shall be paid. Northpoint shall remain liable for any breach of this Agreement that occurs while it owns the Subject Property or any portion thereof. If this Agreement is terminated, then any party may record a release of this Agreement.

D. Notice; Transferee Assumption Agreement. To assure that an Approved Assignee has notice of this Agreement and the obligations created by it, Northpoint shall:

- (i) notify the Village in writing at least 30 days prior to any date upon which Northpoint transfers a legal or beneficial interest in any portion of the Subject Property to any Approved Assignee; and

- (ii) incorporate, by reference, this Agreement into any and all real estate sales contracts entered into for the sale of all or any portion of the Subject Property to any Approved Assignee as well as any other agreement between Northpoint and the Village; and
- (iii) require, prior to the transfer of all or any portion of the Subject Property or any legal or equitable interest therein to an Approved Assignee, the Approved Assignee to execute a Transferee Assumption Agreement.

The failure of Northpoint, to provide the Village with a fully executed copy of a Transferee Assumption Agreement required above shall result in Northpoint remaining fully liable for all of its obligations under this Agreement but shall not relieve the Approved Assignee of its liability for all such obligations as a successor to the Northpoint.

SECTION 6. DEVELOPMENT OF THE SUBJECT PROPERTY.

A. The Village agrees to expeditiously review plans and specifications for the Subject Property (which is contemplated to be constructed in phases) and to approve or reject plans in writing within 15 business days of submittal. The Village agrees to provide written notice to Northpoint within the normal course of their approval process, not to exceed 15 business days. Material changes to the final engineering plans approved by the Village for the Subject Property (or any phase thereof) shall require the prior approval of the Village. In any case where the approval or consent of the Village is required, such approval or consent shall not be unreasonably withheld, conditioned or delayed.

Northpoint agrees that is shall complete construction of the following items by the deadlines set forth below:

<u>Phase I</u>	<u>Completion Deadline</u>
Phase I New Improvements	December 31, 2023
Building 1	April 30, 2023
Building 2	April 30, 2024
Building 3	April 30, 2025
 <u>Phase II</u>	
Phase II New Improvements	December 31, 2026
Building 4	April 30, 2026
Building 5	April 30, 2027

Each of Buildings 1, 2, 3, 4, and 5 shall be deemed completed if it is constructed in accordance with all Village Laws and receives a certificate of occupancy.

B. Prior to the commencement of the roads to be dedicated to the Village on the Subject Property, Northpoint shall require that the general contractor be bonded for its payment

by a surety having an AA rating or better using a bond approved by the Village. The Village shall be named as obligee or co-obligee on any such bond.

C. If Northpoint fail to complete any of the New Improvements in a timely manner, then the Village has, but shall not be limited to, any of these following rights and remedies:

i. the right to terminate this Agreement and cease all disbursement of Net TIF Increment not yet disbursed pursuant hereto;

ii. the right (but not the obligation) to complete those New Improvements that are public improvements and to pay for the costs for TIF Eligible improvements out of the Net TIF Increment. In the event that the aggregate cost of completing such improvements exceeds the amount of the Net TIF Increment available Northpoint shall reimburse the Village for public improvements in excess of the Net TIF Increment; and

iii. reimbursement of the Net TIF Increment from Northpoint.

D. Prior to commencement of the New Improvements, Northpoint shall provide and maintain, at Northpoint's expense, the insurance coverage and requirements set forth below:

i. Workers Compensation and Employers Liability. Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident, illness or disease.

ii. Commercial General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The Village is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

iii. All Risk Property. All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the New Improvements. The Village is to be named as an additional insured and loss payee/mortgagee if applicable.

iv. Construction. Prior to the construction of any portion of the New Improvements, Northpoint will cause its architects, contractors, subcontractors, project managers and other parties constructing the New Improvements to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability. Workers Compensation Insurance, as prescribed by applicable law covering all

employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

(ii) Commercial General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The Village is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the construction of the New Improvement.

(iii) Automobile Liability (Primary and Umbrella). When any motor vehicles (owned, non-owned and hired) are used in connection with the construction of the New Improvement and/or any of the Buildings 1-5, the Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The Village is to be named as an additional insured on a primary, non-contributory basis.

(iv) All Risk/Builders Risk. When Northpoint undertakes any Construction of the New Improvement, Northpoint must provide or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the construction of the New Improvements. The Village is to be named as an additional insured and loss payee/mortgagee if applicable.

(v) Professional Liability. When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$10,000,000. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of construction of the New Improvement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

v. Post Construction. All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The Village is to be named as an additional insured and loss payee/mortgagee if applicable.

vi. Other Requirements. Northpoint must furnish the Village Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The receipt of any certificate does not constitute agreement by the Village that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the Village to obtain certificates or other insurance evidence from Northpoint is not a waiver by the Village of any requirements for Northpoint to obtain and maintain the specified coverages. Non-conforming insurance does not relieve Northpoint of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions constitute a violation of the Agreement, and the Village retains the right to stop work and/or terminate agreement until proper evidence of insurance is provided.

The insurance must provide for 30 days prior written notice to be given to the Village in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on reference insurance coverages must be borne by Northpoint and Contractors.

Northpoint hereby waives and agrees to require their insurers to waive their rights of subrogation against the Village, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Northpoint in no way limit Northpoint's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the Village do not contribute with insurance provided by Northpoint under this Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

Northpoint must require its general contractor and subcontractors to provide the insurance required herein, or Northpoint may provide the coverages for its contractor and subcontractors. All contractors and subcontractors are subject to the same insurance requirements of Northpoint unless otherwise specified in this Agreement.

SECTION 7. INDEMNIFICATION.

i. General Indemnity. Northpoint agrees to indemnify, pay defend and hold the Village and its elected and appointed officials, employees, agents and affiliates (individually and "A Indemnatee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suites, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation,

the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitees shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

- (i) Northpoint's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (ii) Northpoint's or any contractor's failure to pay general contractors, subcontractors or materialmen in connection with the TIF-Eligible improvements or any other improvement on the Subject Property or proximately there; or
- (iii) the existence of any material misrepresentation or omission in this Agreement; or
- (iv) Northpoint's failure to cure any misrepresentation in this Agreement or any other agreement with the Village;

provided, however, that Northpoint shall have no obligation to an Indemnatee arising from the wanton or willful misconduct of that Indemnatee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Northpoint shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 7 shall survive the termination of this Agreement.

SECTION 8. NORTHPOINT REPRESENTATIONS, COVENANTS, AND WARRANTIES.

Northpoint, and each person executing this Agreement on behalf of Northpoint, represent, warrant, and covenant, as of the date of this Agreement, that:

- (i) Northpoint is an Illinois limited liability company, duly organized, validly existing, qualified to do business in Illinois and is in good standing with the Secretary of State's office;
- (ii) Northpoint has the right, power, and authority to enter into, execute, deliver and perform this Agreement;
- (iii) the execution, delivery and performance by Northpoint of this Agreement has been duly authorized by all necessary limited liability company action, and does not and will not violate its operating agreement, as amended and supplemented, or any applicable Requirements of Law, or constitute a breach of or default under, or require any consent under,

any agreement, instrument, or document to which Northpoint is now a party or by which Northpoint is now or may become bound;

(iv) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened, or affecting Northpoint which would impair its ability to perform under this Agreement; and

(v) Northpoint shall apply for and shall maintain all government permits, certificates, and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct and complete the New Improvements as required by this Agreement.

All warranties, representations, covenants and agreements of Northpoint contained in this Section 6 and elsewhere in this Agreement shall be true, accurate, and complete at the time of Northpoint's execution of this Agreement, and shall survive the execution, delivery, and acceptance hereof by the parties hereto.

SECTION 9. ENFORCEMENT.

The parties hereto may, in law or in equity, by suit, action, mandamus, or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement; provided, however, that Northpoint agrees that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages against any elected or appointed officials, officers, employees, agents, representatives, engineers or attorneys of or for the Village, on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement beyond any amount of the Net TIF Increment. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village shall be entitled to withhold the issuance of building permits or certificates of occupancy for any and all buildings and structures within the Subject Property if Northpoint has failed or refused to meet fully any of its obligations under this Agreement more than 15 days after Northpoint has received written notice of such failure or refusal. In the event of a judicial proceeding brought by one party to this Agreement against the other party to this Agreement, the prevailing party in such judicial proceeding shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with such judicial proceeding.

SECTION 10. GENERAL PROVISIONS.

A. Notice. Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i), personally; (ii) by overnight delivery via a reputable overnight courier; or (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (i) actual receipt; (ii) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (iii) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the

requirements of this Section, each party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to Village shall be addressed to, and delivered at, the following address:

Village of Algonquin
2200 Harnish Drive
Algonquin, Illinois 60102
Attention: Village Manager Tim Schloneger
timschloneger@algonquin.org

With a copy to:
Kelly A. Cahill
Zukowski, Rogers, Flood and McArdle
50 Virginia Street
Crystal Lake, Illinois 60014
kcahill@zrfmlaw.com

Notices and communications to Northpoint shall be addressed to, and delivered at, the following address:

Developer: NorthPoint Development, LLC
4825 NW 41st Street, Suite 500
Riverside, MO 64150
Attn: David Salinas
dsalinas@northpointkc.com

Copy to: Peter C. Bazos
Bazos, Freeman, Schuster & Pope, LLC
1250 Larkin Avenue, Suite 100
Elgin, Illinois 60123
pbazos@bazosfreeman.com

B. Time of the Essence; Calendar Days. Time is of the essence in the performance of all terms and provisions of this Agreement. Unless otherwise provided in this Agreement, any reference to “day” or “days” shall mean calendar days and not business days. If the date required for the giving of any notice or the performance of any obligation falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

C. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be

cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

D. Non-Waiver. Neither the Village nor Northpoint shall be under any obligation to exercise any of the rights granted to it in this Agreement. The failure of the Village or Northpoint to exercise at any time any such right shall not be deemed or construed to be a waiver thereof, nor shall such failure void or affect the Village's or Northpoint's right to enforce such right or any other right.

E. Governing Law. This Agreement shall be governed by the laws of the State of Illinois, without regard to its conflicts of laws rules, and the sole and exclusive venue for any disputes arising out of this Agreement shall be the Circuit Court of the 22nd Judicial Circuit, McHenry County, Illinois.

F. Severability. If any provision of this Agreement is held invalid, such provision shall be deemed to be removed therefrom and the invalidity thereof shall not affect any of the other provisions contained herein.

G. No Superceding Annexation Agreement. This Agreement does not supercede, abrogate, modify or replace in any way the Annexation Agreement between the Village and Northpoint

H. Exhibits. Exhibits A through E attached to this Agreement are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an Exhibit and the text of this Agreement, the text of this Agreement shall control.

I. Amendments and Modifications. No amendment or modification to this Agreement shall be effective unless and until it is reduced to writing and approved and executed by all parties to this Agreement in accordance with all applicable statutory procedures.

J. No Third Party Beneficiaries. No claim as a third party beneficiary under this Agreement by any person, firm or corporation shall be made, or be valid, against the Village or Northpoint.

K. Counterparts. This Agreement may be executed in counterpart, each of which shall constitute an original document, which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date first above written.

ATTEST:

VILLAGE OF ALGONQUIN, an Illinois home rule
municipal corporation

Village Clerk Fred Martin

By: _____
Village President Debby Sosine

List of Exhibits:

Exhibit A	Legal description and depiction of the Subject Property
Exhibit B	Form of Transferee Assumption Agreement
Exhibit C	Redevelopment Project Costs
Exhibit D	Form of Reimbursement Request
Exhibit E	Project Budget

ACKNOWLEDGEMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF MCHENRY)

The foregoing instrument was acknowledged before me on _____, 2021, by Debby Sosine, Village President of the **VILLAGE OF ALGONQUIN**, an Illinois home rule municipal corporation, and by Fred Martin, the Village Clerk of said municipal corporation.

Given under my hand and official seal this ____ day of _____, 2021.

Signature of Notary

SEAL

My Commission expires: _____

ATTEST:

NORTHPOINT DEVELOPMENT, LLC

By:

Manager Nathaniel Hagedorn

ACKNOWLEDGEMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 2021, by Nathaniel Hagedorn, its Manager and authorized agent of **NORTHPOINT DEVELOPMENT, LLC** which individual is known to me to be the identical person who signed the foregoing instrument as such officer of the Company for and on behalf of said Company, and that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of the Company, for the uses and purposes therein mentioned.

Given under my hand and official seal this ____ day of _____, 2021.

Signature of Notary

SEAL

My Commission expires: _____

EXHIBIT A
Legal Description of the Subject Property

THAT PART OF THE EAST 1/2 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 7; THENCE NORTH 89 DEGREES 18 MINUTES 29 SECONDS EAST ALONG THE NORTH LINE OF SAID NORTHEAST 1/4, 95.42 FEET; THENCE SOUTH 00 DEGREES 41 MINUTES 31 SECONDS EAST, 80.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF LONGMEADOW BOULEVARD PER DOCUMENT 2014K047996 AND THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR THE FOLLOWING SEVEN (7) COURSES: (1) THENCE NORTH 89 DEGREES 18 MINUTES 30 SECONDS EAST, 1753.25 FEET; (2) THENCE SOUTH 00 DEGREES 41 MINUTES 30 SECONDS EAST, 10.00 FEET; (3) THENCE NORTH 89 DEGREES 18 MINUTES 30 SECONDS EAST, 300.00 FEET; (4) THENCE SOUTH 00 DEGREES 41 MINUTES 30 SECONDS EAST, 10.00 FEET; (5) THENCE NORTH 89 DEGREES 18 MINUTES 30 SECONDS EAST, 181.79 FEET TO A POINT OF CURVATURE; (6) THENCE EASTERLY 212.01 FEET, ALONG A CURVE CONCAVE SOUTH, HAVING A RADIUS OF 11,360.00 FEET, AND CHORD BEARING OF NORTH 89 DEGREES 50 MINUTES 35 SECONDS EAST, AND CHORD DISTANCE OF 212.01 FEET; (7) THENCE SOUTH 44 DEGREES 34 MINUTES 41 SECONDS EAST, 49.54 FEET TO THE WEST RIGHT-OF-WAY OF S. RANDALL ROAD PER DOCUMENT 97K057323; THENCE SOUTHERLY, 389.08 FEET ALONG A NON-TANGENT CURVE, CONCAVE EAST, HAVING A RADIUS OF 5,804.58 FEET, CHORD BEARING OF SOUTH 00 DEGREES 22 MINUTES 11 SECONDS EAST, AND CHORD DISTANCE OF 389.00 FEET; THENCE SOUTH 02 DEGREES 17 MINUTES 23 SECONDS EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 1901.65 FEET TO A NON-TANGENT CURVE; THENCE SOUTHERLY ALONG SAID WEST RIGHT-OF-WAY AND NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 10,945.15 FEET SUBTENDING A CHORD BEARING SOUTH 01 DEGREES 39 MINUTES 56 SECONDS EAST, A CHORD DISTANCE OF 238.54 FEET AND AN ARC DISTANCE OF 238.55 FEET TO A NON-RADIAL LINE AND A POINT ON SAID WESTERLY RIGHT-OF-WAY LINE; THENCE SOUTH 89 DEGREES 37 MINUTES 10 SECONDS WEST, 1593.69 FEET; THENCE NORTH 00 DEGREES 22 MINUTES 50 SECONDS WEST, 264.35 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 43 SECONDS WEST, 337.00 FEET; THENCE SOUTH 53 DEGREES 05 MINUTES 01 SECONDS WEST, 435.00 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF HUNTLEY ROAD AS MONUMENTED; THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY FOR THE FOLLOWING FIVE (5) COURSES: (1) THENCE NORTH 36 DEGREES 54 MINUTES 59 SECONDS WEST, 274.96 FEET TO A NON-TANGENT CURVE; (2) THENCE NORTHERLY ALONG SAID NON-TANGENT CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 924.56 FEET SUBTENDING A CHORD BEARING NORTH 18 DEGREES 51 MINUTES 50 SECONDS WEST, A CHORD DISTANCE OF 573.2 FEET AND AN ARC DISTANCE OF 582.61 FEET TO A NON-RADIAL LINE; (3) THENCE NORTH 00 DEGREES 48 MINUTES 41 SECONDS WEST, 714.67 FEET TO A NON-TANGENT CURVE; (4) THENCE NORTHERLY ALONG SAID

NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 1,179.28 FEET SUBTENDING A CHORD BEARING NORTH 03 DEGREES 45 MINUTES 21 SECONDS WEST, A CHORD DISTANCE OF 125.18 FEET AND AN ARC DISTANCE OF 125.24 FEET TO A NON-RADIAL LINE; (5) THENCE NORTH 00 DEGREES 48 MINUTES 41 SECONDS WEST, 248.15 FEET TO A POINT ON SAID NORTHEASTERLY RIGHT-OF-WAY LINE; THENCE NORTH 89 DEGREES 17 MINUTES 11 SECONDS EAST, TO THE EAST LINE OF HUNTLEY ROAD PER DOCUMENT 2014K047996, A DISTANCE OF 59.03 FEET; THENCE ALONG SAID EAST LINE OF HUNTLEY ROAD, NORTH 00 DEGREES 42 MINUTES 49 SECONDS WEST, 880.06 FEET; THENCE NORTH 44 DEGREES 17 MINUTES 50 SECONDS EAST ALONG SAID EAST LINE, 49.49 FEET TO SAID POINT OF BEGINNING, IN THE TOWNSHIP OF DUNDEE, KANE COUNTY, ILLINOIS.

PINs: 03-07-200-006 and 03-07-200-007