



## AGENDA

### PLANNING AND ZONING COMMITTEE

Planning and Zoning Committee: September 30, 2025 at 6:00 PM  
Village Hall 740 Hillgrove Avenue, Western Springs, IL 60558

**A. Call to Order**

**B. Approval of Minutes**

1. August 12, 2025

**C. Public Comment**

**D. Considerations**

1. Heritage Crossings Redevelopment and Maintenance Agreement Addendum and Updated Plat

**E. New Business**

1. 2026 Fiscal Year: Community Development Budget Proposal
2. Comprehensive Plan Update

**F. Other Business**

**G. Adjournment**

Individuals with disabilities who plan to attend / participate in this meeting and who require accommodations to allow them to observe and participate, or who have questions regarding accessibility of the meeting or facilities, are requested to contact Jill Izzo at 708-246-1800, extension 127.

Planning and Zoning Committee  
Village Board Room  
August 12<sup>th</sup>, 2025, 7:15 p.m.

**Present:** Al Fink, Trustee (Chairman)  
Amy Avakian, Trustee  
Heidi Rudolph, Village President  
Ellen Baer, Village Manager  
Heather Valone, Director of Community Development  
Kelsey Fawell, Senior Planner  
Chris Cone, Western Springs Historical Society  
Jon Mills, Theatre of Western Springs

**Call to Order:** Chairman Fink called the meeting to order at 7:00 p.m. Chairman Fink and Trustee Avakian were both in attendance.

**Approval of Minutes:** Chairman Fink made a motion to approve the meeting minutes for June 10, 2025. Trustee Avakian seconded the motion to approve. A voice vote was conducted, and the minutes were approved with both Trustees voting aye.

**Public Comment:** Chairman Fink asked if there were any members of the public in attendance that wanted to speak or provide comments. No member of the audience responded.

**Property Improvement Grant Program Request: 4384 Hampton Avenue, Fire Suppression and Alarm Upgrades:** Director Valone provided a brief summary of the application and the recommendation from the Economic Development Commission.

Chairman Fink indicated that this request would be a good use of the program. Chairman Fink asked if there were any questions. Hearing none, Chairman Fink made a motion to recommend this agenda item to the President and Board of Trustees for their meeting on September 8, 2025. Trustee Avakian seconded the motion to approve. A voice vote was conducted and the motion was approved with both Trustees voting aye.

**Western Springs Park District and Western Springs Business Association – Requests for Special Event Liquor License and Temporary Use Permit for Harvest Fest 2025 – Revised**

**Application:** Director Valone provided an update on the Harvest Fest special event. The Western Springs Park District has partnered with local schools to include a fun run and expand the activities taking place as part of Harvest Fest. No action is needed; this is just an update. Director Valone asked if there were any questions.

**Western Springs Historical Society – Request for a Temporary Use Permit for the Paint the Town Plein Air 2025 Special Event:** Director Valone provided a brief summary of the application and history of the event. Director Valone asked if there were any questions.

Chairman Fink and Trustee Avakian agreed that this was a great event. Chairman Fink made a motion to recommend this agenda item to the President and Board of Trustees for their meeting on September 8, 2025. Trustee Avakian seconded the motion to approve. A voice vote was conducted and the motion was approved with both Trustees voting aye.

**New Business:** Director Valone confirmed that there was no new business to discuss.

**Other Business:** Director Valone confirmed that there was no other business to discuss, other than related to scheduling the next meeting was had. Village staff would follow-up with the Committee members related to scheduling the next meeting.

**Adjournment:** Chairman Fink made a motion to adjourn the meeting. Trustee Avakian seconded the motion. A voice vote was conducted with both Trustees voting aye. Meeting is adjourned at 7:29 p.m.

Draft



## AGENDA ITEM SUMMARY

### PLANNING AND ZONING COMMITTEE

Planning and Zoning Committee: September 30, 2025

#### AGENDA ITEM D.1.

**To:** Planning and Zoning Committee

**From:** Heather Valone, Director of Community Development

**CC:** Ellen Baer, Village Manager, Casey Biernacki, Deputy Village Manager, Kelsey Fawell, Senior Planner, Jill Izzo, Deputy Village Clerk, Michael Jurusik, Village Attorney, Anne Skrodzki, Village Attorney

**RE:** Heritage Crossings Redevelopment and Maintenance Agreement Addendum and Updated Plat

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#### Recommendation

Consider a recommendation to approve the addendum to the redevelopment and maintenance agreement and plat of resubdivision for Heritage Crossing.

#### Summary

On February 10, 2025, the Village Board approved Resolution No. 25-2879, "A Resolution Authorizing The Approval And Execution Of Redevelopment And Maintenance Agreement By And Between The Village Of Western Springs, Illinois And McNaughton Development, LLC For The Heritage Crossing Residential Townhome Development (5600 South Wolf Road, Western Springs, Illinois)" ("R 25-2879") (Attachment 1). Exhibit B contains the redevelopment and maintenance agreement (the "Agreement"). Section 5 of the Agreement placed certain conditions on the approvals. Subsection 5(i) required that the developer, McNaughton Development, LLC (the "Developer"), commence site improvement work not more than 180 calendar days after the Village Board's approval of the conditional use permit for a planned development. The Development Control Ordinance (DCO), Subsection 10-8-6 (Schedule of Construction), indicates that conditional use for a planned development expires after one year after the approval date, if the project work has not yet started.

While demolition of the former office building and parking lot is complete, site improvements have not started due to pending permits from the Cook County Department of Transportation and Highways (CCDOTH) and the Metropolitan Water Reclamation District. The Developer has requested an extension of the 180-day deadline (Attachment 2). The Village issues permit(s) for work only after an applicant obtains all required outside agency approvals.

As part of the permitting process, CCDOTH has requested a update to the plat of resubdivision that was approved on February 10, 2025 via Ordinance No. 25-3243. CCDOTH has requested an additional public utility and drainage easement in their (CCDOTH) favor for the area adjacent to the culvert. Attachment 3 contains the updated plat of resubdivision.

A draft ordinance, resolution, and addendum to the Agreement will be presented at the September 30, 2025, Committee meeting. The Village Attorney and Village staff will be present to answer questions.

**Attachments**

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- 1. Resolution No. 25-2879 – *Select attachments are omitted but available on the Village’s website.*
- 2. Letter – Request Letter from McNaughton Development, LLC dated September 12, 2025.

**Financial Impact**

None.

**Recommended Motion**

I move to recommend to the Village Board the approval of the addendum to the redevelopment and maintenance agreement and plat of resubdivision for Heritage Crossing.

**Strategic Plan Alignment**

Economic Development.

**File Attachments**

- 1. Resolution No. 25-2978
- 2. Letter

**RESOLUTION NO. 25-2879**

**VOTE:** Passed on a roll call vote.

**AYES:** Trustees Avakian, Chen, Fink, Lewis, Tyrrell

**NAYS:** Nawrocki

**ABSENT:** None.

**ABSTAIN:** None.

**DATE:** February 10, 2025.

**OTHER:** None.

**A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF REDEVELOPMENT AND MAINTENANCE AGREEMENT BY AND BETWEEN THE VILLAGE OF WESTERN SPRINGS, ILLINOIS AND MCNAUGHTON DEVELOPMENT, LLC FOR THE HERITAGE CROSSING RESIDENTIAL TOWNHOME DEVELOPMENT (5600 South Wolf Road, Western Springs, Illinois)**

**WHEREAS**, McNaughton Development, LLC, with its principal business office located at 11S220 Jackson Street, Burr Ridge, Illinois 60527 (“Applicant”), is the contract purchaser and prospective developer of the real property commonly known as 5600 South Wolf Road, Western Springs, Illinois (“Property”). Casey and Fran Gaik (collectively the “Property Owner”) are the fee simple title owners of the Property and have submitted a written authorization to the Village of Western Springs (“Village”) that allowed the Applicant to file with the Village a completed “General Information Application for Land Use and Development in the Village” form with supporting documents (the “Application”) for the redevelopment of the Property as a twenty-nine (29) unit residential townhome development (the “Development”). The Property Owner has further executed a “Written Consent and Waiver” to allow McNaughton Development, LLC to enter into this Agreement, a copy of which is on file with the Community Development Department and is incorporated herein by reference and made a part hereof. The Property is legally described in **Exhibit “A”** attached hereto and made a part hereof; and

**WHEREAS**, in 2024, the Applicant submitted the Application to the Village requesting approval of a conditional use permit for a planned development, a map amendment, an amendment to the Village’s Comprehensive Land Use Plan, a plat of consolidation, a plat of abrogation for storm sewer easement and public utility easement, a plat of right-of-way vacation relating to a sixty-six (66.00) foot by two hundred twenty-five (225.00) foot portion of Lawn Avenue (the “ROW Parcel”), which is utilized as a stormwater detention basin, certain development allowances, exceptions and variations, and other zoning relief as noted below in accordance with the applicable provisions of the Village’s Development Control Ordinance (“DCO”), in order to construct the Development, which is commonly referred to as the Heritage Crossing Subdivision or the Heritage Crossing Townhome Development. A copy of the Application is on file with the Village’s Community Development Department and is incorporated herein by reference; and

**WHEREAS**, the proposed Development consists of nine (9) townhome buildings with unit counts of either three-units or four-units. Each dwelling unit will have a balcony, a rear patio, and an attached, front-loaded garage with a driveway accessed by a private street through the Development. The Development will have off-street community parking spaces, possible on street-parking, sidewalks, stormwater detention basins, open space and streetlights. The Applicant proposes to extend private Heritage Court to the southeast through the Property to the Development’s access driveway proposed along Wolf Road. The existing portion of Heritage Court, a private road, currently services only the Heritage Springs Townhome Development, connects to 55th Street to the north of the Property and is maintained by the Heritage Springs Homeowners Association. The Applicant’s plans indicate that the new portion of Heritage Court will match the existing road’s width. An automatic gate will separate the Development from the existing Heritage Springs Subdivision to the north. Vehicle access between the adjacent subdivisions will be controlled by a swing gate and gate access will only be granted to residents of both subdivisions with clicker-access and Village emergency service vehicles. The swing gate will be

improved with an Opticom system that will give Village emergency service vehicles access similar to the systems on streetlights. The Developer agrees to accept title to a sixty-six (66.00) foot by two hundred twenty-five (225.00) foot portion of Lawn Avenue (the "ROW Parcel") that will be vacated by the passage of a vacation ordinance and a plat of right-of-way vacation and retention of stormwater facility easement by the Village for purposes of incorporation into the Property and the Development so that the Developer can construct an expanded stormwater detention basin system as part of the construction of the Development; and

**WHEREAS**, based on the Application submitted by the Applicant, the Village conducted a public hearing relative to certain zoning relief requested by the Applicant in order to construct the Development, pursuant to prior notice, postings and newspaper publication as required by the applicable provisions of State law, including the Illinois Open Meetings Act, 5 ILCS 120/ and Division 11-13 of the Illinois Municipal Code (65 ILCS 5/ 11-13), and the applicable provisions of the DCO (the "Public Hearing"). The Public Hearing was conducted by the Village Plan Commission and commenced on August 13, 2024 and concluded November 18, 2024. The Village Plan Commission issued Recommendation No. PC-2024-02 on November 18, 2024 that favorably recommended approval of the zoning relief contained in the Application, including a Comprehensive Plan Amendment to the Long-Range Land Use Map, a Map Amendment (Rezoning of the Property from the O – Limited Office Zoning District to the R4 - Multiple-Family Residence District), a Conditional Use for a Planned Development, and Exceptions / Variations to the Village Development Control Ordinance ("DCO"), and a Subdivision approval for the construction, operation, and maintenance of a Townhome Subdivision Development referred to as "Heritage Crossing", and a single stage Final Plan review and approval process (i.e., a combined Preliminary Plan / Final Plan approval) for the Development per Subsection 10-8-8(C) of the DCO, provided that the Applicant complies with the submittal and plan review requirements of Section 10-8-5(C) (Final Plan) of the DCO, subject to certain stated conditions of approval (the "Development Zoning Relief"). A copy of Plan Commission Recommendation No. 24-02 is incorporated herein by reference and is on file with the Community Development Department; and

**WHEREAS**, after completion of the required public hearing before the Village Plan Commission, on \_\_\_\_\_, 2025 with the passage of **Ordinance No. 25- 3240**, the President and Board of Trustees of the Village of Western Springs ("Corporate Authorities") granted approval the Development Zoning Relief; and

**WHEREAS**, as part of the conditions of approval of the Development contained in **Ordinance No. 25- 3240**, it is necessary for the Village and the Developer to approve and enter into the attached "REDEVELOPMENT AND MAINTENANCE AGREEMENT BY AND BETWEEN THE VILLAGE OF WESTERN SPRINGS, ILLINOIS AND MCNAUGHTON DEVELOPMENT, LLC FOR THE HERITAGE CROSSING RESIDENTIAL TOWNHOME DEVELOPMENT (5600 South Wolf Road, Western Springs, Illinois)"(the "Redevelopment Agreement") to provide for the redevelopment of the Property, including the construction of certain public improvements on behalf of the Village as described in the Redevelopment Agreement. A copy of the Redevelopment Agreement is attached hereto as **Exhibit "B"** and made a part hereof; and

**WHEREAS**, at open public meetings held on January 9, 2025 and January 16, 2025, the Village's Planning and Zoning Committee ("Committee") reviewed and discussed the proposed Heritage Crossing Townhome Development and the related Redevelopment Agreement, and received input from the Village staff on the matter, and provided an opportunity for public input on the matter. At its January 16, 2025 meeting, the Committee recommended that the Corporate Authorities of Village consider the Redevelopment Agreement; and

**WHEREAS**, at open public meetings held on **January 13, 2025, January 27, 2025 and February 10, 2025**, the Corporate Authorities of Village reviewed and discussed the Committee's recommendation regarding the proposed Heritage Crossing Townhome Development and the related Redevelopment Agreement, and received input from the Village staff on the matter and provided an opportunity for input from the public on the matter. At its 2/10, **2025 meeting**, the Corporate Authorities of the Village accepted the Committee's recommendation regarding approval of the Redevelopment Agreement; and

**WHEREAS**, the Corporate Authorities of the Village of Western Springs are authorized, under the applicable provisions of the Illinois Municipal Code (65 ILCS 5/), and the intergovernmental cooperation powers set forth at Article VII (Local Government), Section 7 (Counties And Municipalities Other Than Home Rule Units) and Section 10 (Intergovernmental Cooperation) of the Constitution of the State of Illinois of 1970, to approve and enter into the Redevelopment Agreement, and further find that it is protective of the health, welfare and safety of and in the best interests of the Village, its residents, property owners, local businesses and the public to approve and enter into the Redevelopment Agreement.

**BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WESTERN SPRINGS, COOK COUNTY, ILLINOIS, AS FOLLOWS:**

**SECTION 1: Incorporation.** Each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Resolution.

**SECTION 2: Approval and Execution of Redevelopment Agreement and Other Related Documents.** The Village President and Board of Trustees of the Village of Western Springs authorize the approval and execution of the attached Redevelopment Agreement, substantially in the form attached hereto as **Exhibit "B"**, which may contain certain non-substantive and non-financial modifications that are approved by the Village Attorney, and all other instruments and documents that are necessary to fulfill the Village's obligations under the Redevelopment Agreement.

**SECTION 3: Delivery of Redevelopment Agreement and Other Documents.** After approval and execution of this Resolution and the Redevelopment Agreement by the Village President and Village Clerk, or their designees, the Village Clerk's Office shall arrange for the delivery of certified copies of this Resolution and executed versions of the attached Redevelopment Agreement to the Applicant and the Developer for record retention purposes.

**SECTION 4. Termination of Resolution for Failure of Developer to Acquire Title to the Property.** This validity of this Resolution is subject to the Developer purchasing the Property from the Property Owner. In the event the Developer does not purchase the Property from the Property Owner, upon written notice delivered to the Village Manager of the termination of the real estate purchase contract entered into between the Property Owner and the Developer, this Resolution shall automatically terminate without further action by the Corporate Authorities of the Village and shall be void and unenforceable. If the Developer does not purchase the Property, the Developer agrees to waive all claims, causes of action and damages of any kind that the Developer could file against the Village arising out of or related to the termination of this Resolution based on the Developer not purchasing the Property. The Developer is required to provide written notice to the Village within five (5) calendar days of the termination of the real estate purchase contract.

**SECTION 5: Effective Date.** This Resolution shall be in full force and effect from and after its passage and approval as provided by State law.

**PASSED** by the Village President and Board of Trustees of the Village of Western Springs, Cook County, Illinois, on a roll call vote at a Regular Meeting thereof, held on the 10<sup>th</sup> day of February, 2025, and approved by me as Village President, and attested by the Village Clerk on the same day.

  
\_\_\_\_\_  
Heidi Rudolph, Village President

**ATTEST:**

  
\_\_\_\_\_  
Edward Tymick, Village Clerk

**Exhibit "A"**

**Legal Description for 5600 South Wolf Road, Western Springs, Illinois.**

PARCEL 1: THE WEST ½ OF LOT 4 (EXCEPT THE NORTH 75 FEET THEREOF), LOTS 5 AND 6 IN MAXTED SUBDIVISION BEING A SUBDIVISION OF THE EAST 473 FEET OF THE NORTH 775.5 FEET (EXCEPT THE EAST 145.2 FEET OF THE WEST 178.2 FEET OF THE NORTH 350 FEET THEREOF) OF THE NORTH EAST ¼ OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOT 1 IN VIAL'S FAIRWAY, A SUBDIVISION OF PART OF THE NORTH EAST ¼ OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED APRIL 17, 1957 AS DOCUMENT 16879637 IN COOK COUNTY, ILLINOIS.

**Legal Description for the Lawn Avenue ROW Parcel:**

THAT PART OF THE 66 FEET WIDE LAWN AVENUE, LYING SOUTH OF THE NORTH LINE OF WESTERN SPRINGS TOWNHOMES, RECORDED MARCH 29, 1999, AS DOCUMENT NO. 99297584, LYING NORTH OF THE SOUTH LINE OF RIDGEWOOD UNIT 12, RECORDED OCTOBER 6, 1965, AS DOCUMENT NO. 19610359, LYING WEST OF THE EAST LINE OF THE WEST ½ OF LOT 4 (EXCEPT THE NORTH 75 FEET THEREOF), LOTS 5 AND 6 IN MAXTED SUBDIVISION, RECORDED NOVEMBER 13, 1948, AS DOCUMENT NO. 14442019, AND LYING EAST OF THE WEST LINE OF RIDGEWOOD UNIT NO. 11, RECORDED APRIL 3, 1964, AS DOCUMENT NO. 19089916, IN THE EAST HALF OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

PINS: 18-18-200-017-0000  
18-18-200-038-0000  
18-18-200-001-0000 (Lawn Avenue ROW Parcel)

Exhibit "B"

**REDEVELOPMENT AND MAINTENANCE AGREEMENT BY AND BETWEEN  
THE VILLAGE OF WESTERN SPRINGS, ILLINOIS AND MCNAUGHTON DEVELOPMENT, LLC  
FOR THE HERITAGE CROSSING RESIDENTIAL TOWNHOME DEVELOPMENT  
(5600 South Wolf Road, Western Springs, Illinois)**

(attached)

After Recording Return To:  
Michael T. Jurusik  
Klein, Thorpe and Jenkins, Ltd.  
900 Oakmont Lane, Suite 301  
Westmont, Illinois 60559

**Common Address:**  
5600 South Wolf Road  
Western Springs, Illinois 60558

**Property Identification Numbers:**  
18-18-200-017-0000  
18-18-200-038-0000  
18-18-200-001-0000 (Lawn Avenue ROW Parcel)

This space for Recorder of Deeds Office use only

**REDEVELOPMENT AND MAINTENANCE AGREEMENT BY AND BETWEEN  
THE VILLAGE OF WESTERN SPRINGS, ILLINOIS AND MCNAUGHTON DEVELOPMENT, LLC  
FOR THE HERITAGE CROSSING RESIDENTIAL TOWNHOME DEVELOPMENT  
(5600 South Wolf Road, Western Springs, Illinois)**

**THIS REDEVELOPMENT AND MAINTENANCE AGREEMENT ("Agreement")** is dated the 12 day of April, 2025 ("**Effective Date**"), and is entered into by and between the **VILLAGE OF WESTERN SPRINGS**, an Illinois municipal corporation ("**Village**") and **MCNAUGHTON DEVELOPMENT, LLC**, an Illinois limited liability company, with its principal corporate office located at 11S220 Jackson Street, Suite #101, Burr Ridge, Illinois ("**Applicant**" or "**Developer**"), by and through their respective duly authorized agents and/or representatives. The Village and the Developer are at times referred to below individually as a "**Party**" and collectively as the "**Parties**".

**IN CONSIDERATION OF** the mutual covenants and promises as contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

**SECTION 1. RECITALS.**

The Village, a non-home rule municipality, is a duly constituted and existing municipality within the meaning of Section 1 (Municipalities And Units Of Local Government) and Section 7 (Counties and Municipalities Other Than Home Rule Units) of Article VII (Local Government) of the Constitution of the State of Illinois of 1970.

The Village is authorized, under the provisions of Section 10 (Intergovernmental Cooperation) of Article VII (Local Government) of the State of Illinois Constitution of 1970, to contract and otherwise associate with individuals, associations and corporations in any manner not prohibited by law. The Village has the statutory authority to promote the health, safety and welfare of the Village and its residents, to encourage private development in order to enhance the local tax base, and to enter into contractual agreements with developers and redevelopers to achieve these objectives.

As of May 23, 2024, the Developer is the contract purchaser and prospective developer of the real property commonly known as 5600 South Wolf Road, Western Springs, Illinois ("Property") and has filed a General Information Application for Land Use and Development in the Village with supporting documents (the "Application") for the rezoning and redevelopment of the 5600 South Wolf Road Property. Casey and Fran Gaik (the "Property Owner") are the fee simple title owners of the Property and have submitted a written authorization to the Village that allowed the Applicant to file the Application for the redevelopment of the Property as a twenty-nine (29) unit residential townhome development as described in more detail below (the "Development"). The Property Owner has further executed a "Written Consent and Waiver" to allow McNaughton Development, LLC to enter into this Agreement, a copy of which is attached hereto as Exhibit "I" and made a part hereof. The Property is approximately 2.755 acres, which consists of 2.414 acres of 5600 Wolff Road and the adjacent Lawn Avenue right-of-way. The Property Tax Index Numbers for the Property are identified as follows: (1) PIN: 18-18-200-017-0000, (2) PIN: 18-18-200-038-0000 , and (3) PIN: 18-18-200-001-0000 (collectively the "**Property PINs**").

D. The Developer proposes to redevelop the Property with twenty-nine (29) unit residential townhomes consisting of nine (9) townhome buildings with varying unit counts of either three-units or four-units. Each dwelling unit will have a balcony, a rear patio, and an attached, front-loaded garage with driveways accessed by a private street through the Development. The Development will have off-street community parking spaces, on street-parking along the west and south sides of the proposed Heritage Court, sidewalks, an expanded stormwater detention basin system and stormwater management facilities and other private and public infrastructure, open space areas, landscaped areas and private streetlights. The Applicant proposes to extend private Heritage Court to the southeast through the Property to the Development's access driveway proposed along Wolf Road. The existing portion of Heritage Court, a private road, currently services only the Heritage Springs Townhome Development, connects to 55th Street to the north of the Property and is maintained by the Heritage Springs Homeowners Association. An automatic gate will separate the Development from the existing Heritage Springs Subdivision to the north. Vehicle access between the adjacent subdivisions will be controlled by a swing gate, and gate access will only be granted to residents of both subdivisions with clicker-access and Village emergency service vehicles. The swing gate will be improved with an Opticom system that will give Village emergency service vehicles access similar to the systems on streetlights. The Developer agrees to accept title to a sixty-six (66.00) foot by two hundred twenty-five (225.00) foot portion of Lawn Avenue (the "Lawn Avenue ROW Parcel") that will be vacated by the passage of a vacation ordinance and a plat of right-of-way vacation and retention of stormwater facility easement by the Village for purposes of incorporation into the Property and the Development so that the Developer can construct an expanded stormwater detention basin system as part of the construction of the Development. A copy of the Site Plan for the Development revised as of January 27, 2025 is attached hereto as Exhibit "A" and made a part hereof.

E. The Developer agrees to apply for and use commercially reasonable efforts to secure all required zoning and development permit approvals from the Village and all other permits and approvals from other governmental oversight agencies in order to secure final approvals that allow for the construction and operation of the Development in conformance with the Village-approved Final Development Plans, as amended by any Village-approved zoning relief and development entitlements and any approval conditions and requirements imposed by other governmental oversight agencies. The Developer agrees to actively participate in good faith in all required zoning hearing proceedings and development permit processes and all other permits and approvals from other governmental oversight agencies in order to secure final approvals that allow for the construction and operation of the Development.

F. Based on the Application submitted by the Applicant, the Village conducted a public hearing relative to certain zoning relief requested by the Applicant in order to construct the Development. The public hearing was conducted by the Village Plan Commission and commenced on August 13, 2024 and concluded November 18, 2024. The Village Plan Commission issued Recommendation No. PC-2024-02 on November 18, 2024 that favorably recommended approval of the zoning relief contained in the Application, including a Comprehensive Plan Amendment to the Long-Range Land Use Map, a Map Amendment (Rezoning of the Property from the O – Limited Office Zoning District to the R4 - Multiple-Family Residence District), a Conditional Use for a Planned Development, and Exceptions / Variations to the Village Development Control Ordinance (“DCO”), and a Subdivision approval for the construction, operation and maintenance of a Townhome Subdivision Development referred to as “Heritage Crossing”, subject to certain stated conditions of approval (the “Development Zoning Relief”).

G. On February 10, 2025, the Corporate Authorities of the Village approved Ordinance No. 25-3240 that granted the Development Zoning Relief and a set of Final Development Plans, subject to final Village Engineer comments and Community Development Department comments and subject to final plan review comments at the time of application for a site development permit or a building permit, for purposes of encouraging the Developer to proceed with the necessary land acquisition, project financing, and other zoning, development or governmental permitting entitlement activities relative to securing final approvals to construct the Development (the “Approval Ordinance”). On February 10, 2025, the Corporate Authorities of the Village also approved Ordinance No. 25-3241, which vacated the Lawn Avenue ROW Parcel and approved a plat of right-of-way vacation and retention of stormwater facility easement for purposes of incorporating the Lawn Avenue ROW Parcel into the Property and the Development so that the Developer can construct an expanded stormwater detention basin system as part of the Development. The Corporate Authorities of the Village will not unreasonably deny any requested zoning relief or permits that are consistent with the terms of this Agreement after completion of the required public hearing process or the permitting process.

H. To receive a site development permit or a construction permit for the Development, the Developer is required to submit and obtain the approval of the Corporate Authorities of the Village of a set of Final Development Plans, which shall incorporate and account for the Village-approved zoning relief after the required public hearing(s) are completed, including consideration of any recommendation issued by the advisory Village Plan Commission and public input, the Village plan review comments, the Village Engineer review comments and the Community Development Department review comments, and all required amendments issued by any other governmental authority with jurisdiction over the Development and proof of approval of all necessary development or governmental permits issued by any other governmental authority with jurisdiction over the Development.

I. The Developer intends that all roads, driveways, parking spaces, landscaping, stormwater management facilities and other infrastructure and improvements located within the Property will be privately owned and privately maintained in perpetuity, except only Public Infrastructure as defined in Section 2 of this Agreement.

J. The Developer intends to construct the Development continuously to completion once work on the Development commences.

K. The foregoing Recitals of this Section 1 are material terms and provisions and are incorporated herein and made a part of this Agreement.

**SECTION 2. DEFINITIONS.**

Whenever used in this Agreement, the following terms have the following meanings unless a different meaning is required by the context:

“Approval Ordinance”: Western Springs Ordinance No. 25<sup>3240</sup> approving a Conditional Use Permit for Planned Development for the Construction and Operation of the Development with Conditions. See attached Exhibit “B”.

“Approved Plans”: See Subsection 4.A. of this Agreement.

“Board of Trustees” or “Corporate Authorities”: The President and Trustees of the Village of Western Springs.

“Certificate of Completion”: means a certificate, issued by the Village, that confirms (a) the Development has been completed in substantial conformance with the Approval Ordinance and the Village-approved Final Development Plans; or (b) substantial completion of any significant milestone component of the Development (e.g., completion of the Infrastructure or the Stormwater Conveyance System or of a townhome building), as applicable.

Change in Law”: Means the occurrence, after the Effective Date, of an event described below in this definition, provided such event materially changes the ability of the Party relying thereon to carry out its obligations under this Agreement and such event is not caused by the Party relying thereon. Change in Law means any of the following: (1) the enactment, adoption, promulgation or modification of any federal, State or local law, ordinance, code, rule or regulation (other than by the Village or with respect to those made by the Village, only if they violate the terms of this Agreement); (2) the order or judgment of any federal or State court, administrative agency or other governmental body (other than the Village); or (3) the adoption, promulgation, modification or interpretation in writing of a written guideline or policy statement by a governmental agency (other than the Village, or, with respect to those made by the Village, only if they violate the terms of this Agreement). Change in Law, for purposes of this Agreement, shall also include the imposition of any conditions on, or delays in, the issuance or renewal of any governmental license, approval or permit (or the suspension, termination, interruption, revocation, modification, denial or failure of issuance or renewal thereof) necessary for the undertaking of the actions to be performed under this Agreement (except any imposition of any conditions on, or delays in, any such issuance or renewal by the Village, except as provided herein).

“Development Director”: The Village’s Community Development Director.

“Developer”: Includes McNaughton Development, LLC and its transferees, successors-in-interest, all legal or beneficial owners of record, assigns, tenants, licensees and all subsequent owners of the Property or any part of the Property, or any other person and each and all homeowners associations or their equivalent within the Property.

“Effective Date”: The date that the last signatory signs this Agreement, which shall be written in the first paragraph of this Agreement.

“Force Majeure”: See definition of Uncontrollable Circumstance and Subsection 17.N. of this Agreement.

“IDOT”: The Illinois Department of Transportation.

“IEPA”: The Illinois Environmental Protection Agency.

“Infrastructure”: All utilities including without limitation drinking water, sanitary sewer, storm sewer and detention basins, electric, gas, and telecommunication; stormwater system elements including without limitation detention facilities, streets, drive aisles, driveways, drive aprons, curbs, gutters, street lights, and parking spaces; sidewalks, other pedestrian ways, pedestrian amenities, pedestrian lighting, way-finding signs, and trees and other landscaping; and all related improvements for the Development, whether private or public and whether within the Property or within adjacent rights-of-way and property.

“Infrastructure Cost Estimate”: See Subsection 4.B. of this Agreement.

“LOC”: An irrevocable letter of credit issued by a lending institution licensed to do business in the State of Illinois, on a form approved by the Village Attorney.

“MWRD”: The Metropolitan Water Reclamation District of Greater Chicago.

“Private Infrastructure”: All Infrastructure other than Public Infrastructure, including the Stormwater Conveyance System.

“Property”: The real property legally described and depicted in **Exhibit “C”** attached to this Agreement.

“Public Infrastructure”: Infrastructure that is being dedicated to the Village or to other governmental agencies, including without limitation drinking water mains (but not water service lines to buildings), water hydrants, sanitary sewers and other elements determined by the Village. In the event of any ambiguity, the Village will determine whether an Infrastructure element is public or private.

“Director of Engineering Department”: The Village’s Village Engineer.

“Reimbursable Costs”: See Subsection 8. of this Agreement.

“Requirements of Law”: All applicable federal and State of Illinois laws and statutes, the Zoning Code, the Village Code, and the Village’s building, stormwater management, and other codes and regulations. The Title 9 Building Regulations of the Village Code will apply to architectural and structural plans and specifications for all buildings within the Development unless preempted by State of Illinois or federal law or the Village designates, in writing, other applicable standards. Otherwise, Village-adopted model codes will apply and State of Illinois building codes will apply in the absence of an applicable Village-adopted model code. Accessibility standards of the Americans with Disabilities Act (42 U.S. Code § 12101) will apply to all common areas. The Title 9 Building Regulations of the Village Code reference to 2009 ICC Accessible and Usable Buildings and Facilities (ANSI) (2003 Safe Harbor of FHA) in conjunction with the standards of the Illinois Accessibility Code will be followed for all residential units.

“Site Work”: Grading land, excavating soil and debris, environmental remediation, installation of underground utilities, and similar activities.

“Stormwater Conveyance System”: All elements of Infrastructure that relate to the management, detention, storage, and conveyance of stormwater, which shall be privately owned and maintained by the Developer and then by the homeowners association.

“Uncontrollable Circumstance”: An event that is beyond the reasonable control of and occurs without the fault of the involved party, including without limitation to the following events: (i) an insurrection, riot, civil disturbance, sabotage act of a public enemy, explosion, nuclear incident, war, or naval blockade; (ii) an epidemic, pandemic, hurricane, tornado, landslide, earthquake, lightning, fire windstorm, or other casualty or act of God, or persistent bad weather that impedes progress; (iii) a government condemnation or taking; (iv) a strike, lockout, or other labor dispute other than those caused by the unlawful acts of the Developer; and (v) a Change in Law. Uncontrollable Circumstance does not include any of the following events or conditions: Economic hardship, impracticability of performance, commercial, economic or market conditions, or a failure of performance by a contractor (except as caused by an event that is an Uncontrollable Circumstance as to that contractor). See Subsection 17.N. regarding Force Majeure.

“Village Code”: The Western Springs Code of Ordinances.

“Village Manager”: The Western Springs Village Manager, or their designee.

“Zoning Code” or “DCO”: The Western Springs Development Control Ordinance.

### **SECTION 3. PROPERTY ACQUISITION; TERMINATION.**

**Property Acquisition.** The Developer has entered into a real estate purchase contract with the Property Owner, and, subject to the terms and conditions of this Agreement, intends to acquire fee simple title to the Property on or before <sup>ADG 14</sup> March 14, 2025 (the “**Acquisition Deadline Date**”). The closing date at which the Developer obtains fee simple title to the Property is referred to as the “**Acquisition Date**”. If the Developer does not acquire fee simple title to the Property by 5:00 p.m. CST on the Acquisition Deadline Date, the Developer shall send written notice to the Village within five (5) calendar days after of the expiration of the Acquisition Deadline Date advising that the acquisition of the Property did not occur and providing a status on the acquisition consisting of one of these responses: (i) the Property Owner or the Developer has terminated the real estate purchase contract; or (ii) the Property Owner and the Developer have mutually agreed to terminate the real estate purchase contract; or (iii) the Developer and the Property Owner have extended the Acquisition Date and are actively working on matters to complete the acquisition of the Property by the extended Acquisition Date. If the Property Owner or the Developer terminates the real estate purchase contract or the Property Owner and the Developer have mutually agreed to terminate the real estate purchase contract, this Agreement shall automatically terminate without any further action being taken by either Party, and without any liability to either Party. In the event the Developer does not purchase the Property from the Property Owner, this Agreement shall automatically terminate without further action by the Corporate Authorities of the Village and shall be void and unenforceable, and the Developer agrees to waive all claims, causes of action and damages of any kind that the Developer could file against the Village arising out of or related to the termination of this Agreement based on the Developer not purchasing the Property. If the Developer and the Property Owner extend the Acquisition Date and actively work on matters to complete the acquisition of the Property by the extended Acquisition Date, this Agreement shall remain in effect until either the Property Owner or the Developer terminates the real estate purchase contract or the Property Owner and the Developer mutually agree to terminate the real estate purchase contract, subject to the next sentence. This Agreement shall automatically terminate without any further action being taken by either Party, and without any liability to either Party, if the Developer does not acquire the Property within twelve (12) months of the approval date of the Approval Ordinance, based on the DCO’s automatic expiration provision that applies to Village-approved conditional use permits (See, Section 10-3-14K (Condition Uses; Revocation)) of the DCO. Notwithstanding any other provision or term in this Agreement, each Party

expressly agrees that the cure remedy under Section 16 (Default; Cure) of this Agreement shall not apply to the automatic expiration provision that applies to Village-approved conditional use permits. The Corporate Authorities of the Village, in their sole discretion, may pass an ordinance for this Development that extends the 12-month automatic expiration provision that applies to Village-approved conditional use permits so that the Developer has additional time to acquire the Property. The Developer agrees to waive any claims or causes of action for damages of any kind that it could file against the Village for not passing an ordinance that extends the 12-month automatic expiration provision that applies to Village-approved conditional use permits so that the Developer has additional time to acquire the Property. The Developer also agrees to indemnify, defend and hold harmless the Village and its appointed and elected officials, employees, engineers, attorneys, agents and representatives from any claims or causes of action or damages of any kind that could be filed against the Village by the Property Owner or any person for not passing an ordinance that extends the 12-month automatic expiration provision that applies to Village-approved conditional use permits so that the Developer has additional time to acquire the Property.

B. **Lawn Avenue Right-of-Way Vacation.** The Developer agrees to accept title to the Lawn Avenue ROW Parcel that will be vacated by the passage of a vacation ordinance and a plat of right-of-way vacation and retention of stormwater facility easement by the Village for purposes of incorporation into the Property and the Development so that the Developer can construct an expanded stormwater detention basin system as part of the construction of the Development. The Village shall provide the Developer a title commitment free and clear of any tax liens or other financial encumbrances, subject to all conditions imposed by the Village under this Agreement and the Lawn Avenue right-of-way vacation Ordinance 25-3241.

#### **SECTION 4. DEVELOPMENT PLANS.**

A. **Development Plans.** Prior to the issuance by the Village of any permit for construction within the Property, the Developer must provide to the Village the following detailed Final Development Plans for the Development, all of which must be substantially consistent with **Exhibit "D"** to the Approval Ordinance and shall be reviewed by the Community Development Director, the Director of Fire and Emergency Medical Services and the Director of Law Enforcement Services, the Village Engineer, the Village Attorney, and other Village consultants (collectively, the "Village Staff") as part of the Village development plan review process, and shall be returned to the Developer for updating and corrections to comply with the Village Staff's development plan review comments and requirements (the "Approved Plans"). The final version of the Approved Plans shall be stamped by a licensed engineer or signed by a licensed architect. The Developer may re-submit updated Final Development Plans to address the Village Staff's plan review comments and requirements. If the Developer objects to any of the Village Staff's development plan review comments and requirements, the Developer may file a written request with the Village Board seeking approval of a modification(s) to the Village Staff's development plan review comments and requirements, which may or may not be granted by the Village Board, in its sole discretion, at an open public meeting. The Approved Plans, at a minimum, shall consist of final versions of:

- (i) Detailed engineering plans, including without limitation civil, structural, architectural, lighting, construction staging, mechanicals screening, on-site and off-site storm water drainage plans, and Infrastructure plans.
- (ii) Detailed, dimensioned site plans.

- (iii) Detailed, dimensioned landscaping plans.
- (iv) Building Elevations and Village-approved Exterior Building Materials List (color, material type, etc.).
- (v) Signage plan for buildings, traffic, parking and other informational signs within the Development.
- (vi) Stack wall for the townhouses. Prior to issuance by the Village of any permit for construction other than Site Work, the Developer must assemble a representative "stack" wall on the Property with the Village-approved masonry, wood, and other construction materials to be used on the townhouse buildings. The stack wall must precisely show the materials and techniques to be used for the walls of the townhouses. The stack wall will be reviewed by the Community Development Director and will be approved by the Community Development Director only if it conforms to the Approved Plans.
- (vii) Such other plans and documents reasonably required by the Village Staff for the construction of the Development by the Developer.

B. **Infrastructure Cost Estimate.** The Developer must prepare an itemized estimate of the cost of construction of each component of the Infrastructure (the "Infrastructure Cost Estimate") and submit the estimate to the Village prior to the issuance by the Village of any permit for construction. The Village Engineer will review, revise as necessary, and approve the Infrastructure Cost Estimate.

**SECTION 5. DEVELOPMENT AND USE OF THE PROPERTY.**

Commencement and Completion of Construction.

(i) The Developer intends to commence site improvement or construction work on the Development not more than one hundred eighty (180) calendar days after the Village Board's approval of the Approval Ordinance (the "**Anticipated Commencement Date**"), subject only to Force Majeure.

(ii) The date the Developer receives a Village site development permit or a building permit authorizing work to proceed on the Development, or any part thereof, shall be the "**Commencement Date**".

(iii) Construction of the Development shall substantially comply with the provisions of the Approval Ordinance and each of the conditions of approval set forth in the Approval Ordinance.

(iv) Construction of the Development shall substantially comply with, and the Development shall be substantially completed in accordance with, the timeframes outlined on Developer's "Construction Schedule", attached hereto as **Exhibit "E"** and incorporated herein (the "Construction Schedule"), but not later than twenty-four (24) months after the Commencement Date, subject to Force Majeure, with the actual date of Substantial Completion being the "**Substantial Completion Date**". "Substantial Completion" or "Substantially Completed" shall mean that the residential component of the Development is eligible to receive a certificate of occupancy, and the public improvements are completed to the Village's dedication standard, to the extent applicable to such public improvements.

(v) Developer may start construction on its model home units numbers 1 to 4 and 27 to 29 prior to the completion of the extension of Heritage Court through the Property; however, the Developer shall install a gravel stone road within the proposed width of the Heritage Court extension from the west edge of Wolf Road to the frontage of the model units (approximately except for the 108 feet). The gravel stone road shall be continuously maintained free from of potholes and wheel ruts by the Developer, at its cost, to ensure that the gravel road can be used for emergency vehicle access. All underground utilities to the model units must be installed at the same time the binder course is installed.

B. **Substantial Compliance with Approved Plans.** Except for minor alterations due to field conditions approved by the Village Engineer or Development Director, the construction of the Development shall substantially conform with: (i) the Approval Ordinance, (ii) this Agreement, (iii) the Approved Plans, and (iv) the Requirements of Law; and shall not materially impact the exterior materials and/or exterior architectural designs included in the Approved Plans, were not rejected by the Village during the design phase of the Development, and are necessary for the Developer to complete the Development, or any portion thereof, within the applicable portion of the Development Construction Schedule. Any type of approved plan changes must comply with Section 10-8 of the Village Code.

C. **Plat of Subdivision; Easements for Cross Access.** Prior to the issuance of any permit for construction, the Developer must prepare and file the final Plat of Heritage Crossing Subdivision, in a form satisfactory to the Village, granting cross access easements by the general public and the property owners of the Heritage Springs Subdivision and the Heritage Crossing Subdivision onto and across the pedestrian ways, roads (Heritage Court), and other paths within the Property.

D. **Development – Prior to Property Acquisition or Issuance of Permits.** No construction, improvement or development of any kind by the Developer shall be permitted on any portion of the Property unless and until: (a) the Developer acquires title to the Property; and (b) the Developer has been issued either a Village site development permit, demolition permit, or a Village building permit. Further, no occupancy of the Development may occur prior to the issuance of a Village Certificate of Completion for the Infrastructure and a Village certificate of occupancy for the portion of the Development that occupancy is sought (i.e., individual certificates of occupancy shall be issued for individual townhome units only after the Village issues a Certificate of Completion for the individual townhome building) Model units will only be granted a certificate of completion for daytime (7:30 am to 8:00 pm ) use for marketing purposes.

E. **Development – Failure to Complete.** In the event that the Developer fails to complete the Development on or prior to the Substantial Completion Date, or fails to comply with the Construction Schedule (in either case, subject to Force Majeure), and such failure continues for more than thirty (30) calendar days after notice thereof by the Village to the Developer, then:

- (i) The Village, by delivery of written notice to the Developer, may require the Developer to submit, within fifteen (15) calendar days, a plan pursuant to which the Developer will: (i) avoid falling further behind the dates set forth in the Construction Schedule; and (ii) complete construction of the Development in accordance with the Construction Schedule, as modified to reflect the “catch-up” plan (a “**Catch-Up Plan**”), for approval by the Village Manager, which approval shall not be withheld unreasonably provided that the Catch-Up Plan has been approved by the Developer’s construction lender (the “**Lender**”). At such time as the Village has approved a Catch-Up Plan, the Developer shall

use commercially reasonable efforts to implement, and diligently pursue and complete, the activities of the Catch-Up Plan.

- (ii) If the Developer fails to timely: (i) submit a Catch-Up Plan to the Village that has been approved by the Lender, or (ii) implement or complete the Catch-Up Plan; which failure continues for more than thirty (30) calendar days, then the Developer shall be deemed to be in default under the Catch-Up Plan and the Village shall have the right, but not the obligation, to hire a replacement contractor to complete the unfinished Public Infrastructure and Stormwater Conveyance System (“Default Work”) and shall have the right to use the Developer Security (as defined below) to pay the contractor to complete such Default Work. Upon such a default by the Developer, subject to and in accordance with the terms and conditions of any construction financing agreement, the Lender will have the right, but not the obligation, to exercise and perform the Developer’s rights and obligations under this Agreement, including the hiring of a replacement contractor to complete the Default Work and/or to complete the Development. If the Village elects to complete the Default Work, then the Developer shall be obligated to pay, or to reimburse the Village for, all costs and expenses of completing such work that are in excess of the proceeds of the construction financing agreement and the Developer’s Security.
- (iii) The Developer shall be responsible for all costs and expenses to prepare and implement and complete the Catch-Up Plan.
- (iv) The rights and remedies set forth in this Subsection 5.E. shall be the sole remedies available to the Village for the failures specified in this Subsection; provided that the Village shall have: (i) the remedy of specific performance to enforce the obligations of Developer pursuant to the terms and conditions of this Subsection; and (ii) the right to recover from the Developer all costs and expenses, including reasonable attorney fees, incurred by the Village in connection with exercising its rights and remedies under this Subsection, together with interest at the rate of eight percent (8%) per annum on any Village funds expended prior to reimbursement from the Developer Security.

F. **Dedication and Maintenance of Land.** The Developer shall comply with the dedication of land and maintenance of landscaping obligations as set forth in the Conditions of the Approval Ordinance. The Developer shall use commercially reasonable efforts to convey, transfer or dedicate any portion of Property to Cook County or any other necessary governmental agency that is required to provide for the street access (ingress and egress) point onto Wolf Road for the Development.

G. **Development Covenants, Conditions, and Restrictions.** Prior to the issuance by the Village of any building permit other than a permit for Site Work, the Developer must present to the Village for review and comment and approval a set of Covenants, Conditions, and Restrictions (“CC&Rs”) for the Development. The CC&Rs may not be amended without the prior express written consent of the Village at any time or in any manner that alters or interferes with any easement, grant, right, or remedy granted or reserved to the Village, including without limitation the right of the Village: (i) to cure any violation of the CC&Rs, this Agreement, the Approval Ordinance, or any other Requirements of Law, (ii) to perform necessary maintenance and repairs, (iii) to be reimbursed for all of the Village’s costs and expenses related to maintenance and repairs, and (iv) to have a lien against the Property for unpaid costs and expenses. After Village approval, the CC&Rs shall be filed with the Cook County Clerk’s Office, Recording Division (“CCCORD”) by the Developer, at its cost.

H. **Maintenance of and Damage to Public Property and Off-Site Improvements.** During construction of the Development, the Developer must: (i) maintain all streets, sidewalks, and other public property adjacent to the Property in a good and clean condition and free of hazards at all times, (ii) promptly clean all mud, dirt, or debris deposited on any street, sidewalk, or other public property in or adjacent to the Property by the Developer or any agent of or contractor hired by, or on behalf of, the Developer, and (iii) repair or replace all damage to any private or public utilities or other private or public improvements of any kind that are located on-site or off-site relative to the Property that may be caused by the activities of, or on behalf of, the Developer or any employees, contractors, subcontractors or agents hired by, or on behalf of, the Developer. The Developer agrees to promptly repair or replace or restore such damaged improvements with like-kind and like-quality materials. If, within twenty-four (24) hours after the Village gives the Developer notice to clean mud, dirt, or debris or to repair damage in compliance with this Subsection, the Developer neglects or fails to clean or repair or to undertake with due diligence to clean or repair the affected public property, then the Village may clean or repair the affected property, either with its own forces or with contracted forces, and recover from the Developer the greater of \$750.00 or the sum equal to the total cost incurred by the Village including without limitation administrative costs. The

I. **Environmental Conditions.** The Developer must remain in compliance with all applicable federal and State of Illinois environmental laws and regulations while constructing the Development.

J. **Building Certification.** RESERVED.

K. **Estimated Site Development Costs and Construction Budget.** Based on the Approved Plans, the "Estimated Site Development Costs" to develop, construct and complete the Development's public and private infrastructure is \$1,285,620.35. The Developer shall deliver to the Village an itemized letter from a licensed engineer, certifying to the Village that, to such engineer's knowledge following reasonable investigation and inquiry, the Estimated Development Costs will not be less than \$1,285,620.35.

L. **Development Financing.** At the time the application for a site development permit is submitted, the Developer shall provide the Village Manager with a confidential letter issued by the Developer that lists the tiered funding sources to be used to complete the Development and includes marked-confidential copies of supporting financing documents consisting of secured, fully executed construction financing term sheets, loan obligations and written proof of Developer equity contributions and investor equity contributions acceptable to the Village and sufficient to demonstrate that adequate funds are available to Substantially Complete the Development, including a financing commitment letter or a construction loan commitment letter issued by a bank or other financial lender for the Development. The Developer's financing commitments shall be sufficient to cover the equity and debt financing, including the Developer Security, to Substantially Complete the Development. In the event the Developer is unable to provide the Village with written evidence of the Development financing sufficient to Substantially Complete the Development within the time frame set forth in this Agreement, the Village may, exercising its sole discretion, terminate this Agreement and all of the Parties' rights, duties and obligations under this Agreement shall terminate without any liability being imposed on the Village or the Developer. The confidential letter and supporting financial submittals shall be retained on file with the Village Clerk's Office and shall not be attached to this Agreement but is referenced as **Group Exhibit "F"** to this Agreement.

## **SECTION 6. CONSTRUCTION AND MAINTENANCE OF INFRASTRUCTURE.**

**A. Developer's Duty to Construct Infrastructure.** The Developer, at its cost, must construct and install all of the Infrastructure.

**B. Standards Applicable to Infrastructure.** The following standards apply to the construction of the Infrastructure.

- (i) **General Standards.** All Infrastructure must be constructed in compliance with the standards in this Agreement and all Requirements of Law. All work performed in the construction of the Infrastructure must be conducted in a good and workmanlike manner. All materials used for construction of the Infrastructure must be new and of first-rate quality.
- (ii) **Special Standards.** Construction of the Infrastructure must conform to the applicable standards of the La Grange Highlands Sanitary District, MWRD, IDOT, Cook County and the IEPA.
- (iii) **Prosecution of the Work.** Once Site Work has begun, the Developer and all of its contractors must use commercially reasonable efforts to prosecute work on the Infrastructure in a diligent manner until the work is properly completed.
- (iv) **Inspection, Engineering, Testing Services.** In general conformance with the Village Development Control Ordinance 10-10-17C, the Developer must provide, at its cost, all inspection, engineering, and testing for construction of the Infrastructure, including without limitation: (a) on-site construction supervision services, (b) periodic inspections of construction of the Public Infrastructure conducted by a professional engineer, and (c) third-party materials sampling and testing services. The Developer must promptly provide the Village with the names of the project manager and project engineer and telephone numbers at which the project manager and project engineer can be reached at all times.
- (v) **Village Inspections and Approvals.** Village representatives have the right and authority, and the permission of the Developer, to inspect all work on the Infrastructure at all times between 8:00 a.m. and 6:00 p.m. weekdays, and at any other time work is taking place within the Property, and in the case of an emergency at any time reasonably determined by the Village, to confirm compliance with all requirements of this Agreement and all Requirements of Law.
- (vi) **Other Approvals.** When the construction of Infrastructure requires the permission or approval of a regulatory agency, including without limitation the La Grange Highlands Sanitary District, MWRD, IDOT, Cook County or the IEPA, then the Developer must use all commercially reasonable efforts required to obtain the required permission or approval. The Developer may not commence work requiring the permission or approval of any such agency in advance of receiving that permission or approval.

**C. Approvals of Infrastructure.** At the time the site development permit is issued, a list of required inspections will be provided to the Developer. The Developer will be responsible for completing all required inspections. In the event that a required inspection is not completed, the Village reserves the right to request that the Developer re-expose the Infrastructure at the Developer's cost for inspection. When an Infrastructure improvement has been completed, the Developer must request final inspection and approval of that Infrastructure improvement by the Village. The Village will inspect that Infrastructure improvement and may prepare a punch list of items requiring repair or correction. The Developer must promptly make all necessary repairs and corrections as specified on the punch list. The Village will not approve an Infrastructure

improvement until it has been fully and properly completed in accordance with the Approved Plans, including without limitation all punch list work for that Infrastructure improvement.

**D. Acceptance, Dedication and Acceptance of Public Infrastructure.** The Developer will dedicate to the Village or to any other governmental agency with oversight jurisdiction each Public Infrastructure improvement after it is approved by the Village or the other governmental agency with oversight jurisdiction. The Village will accept a Public Infrastructure improvement when it has been fully and properly completed, but nothing will constitute an acceptance by the Village of a Public Infrastructure improvement except express written acceptance by the Village. Prior to the Village's acceptance, the Developer must execute, or cause to be executed, all documents reasonably requested by the Village to transfer ownership of the Public Infrastructure improvement to the Village, free and clear of all liens, claims, and encumbrances or restrictions that would prevent the Village from operating, maintaining, repairing, or replacing that Public Infrastructure improvement. The documents transferring ownership of a Public Infrastructure improvement to the Village (e.g., bill of sale and affidavit of title, etc.) must be reasonably acceptable in form and substance to the Village Attorney. Within thirty (30) calendar days of the acceptance, dedication or conveyance, the Developer shall provide the Village Manager with final, executed copies of the acceptance, dedication or conveyance documents that relate to each component of the Public Infrastructure improvements after it is approved by the other governmental agencies with oversight jurisdiction.

**E. Infrastructure Guarantees.** The Developer guarantees the prompt and satisfactory correction of every defect or deficiency in any Infrastructure that occurs or becomes evident within two (2) years after Village approval and acceptance of that Infrastructure, and in the case of stormwater management system elements three (3) years, pursuant to this Agreement. If any defect or deficiency occurs or becomes evident during the 2-year or 3-year period, then the Village will give notice to the Developer stating the defect or deficiency and the Developer must correct the defect or deficiency within ten (10) calendar days after receipt of the notice or, if the defect or deficiency cannot reasonably be corrected within that 10-day period, then within a longer period of time as is reasonably necessary to correct the defect or deficiency so long as the Developer has promptly commenced and uses commercially reasonable efforts to diligently pursue the correction. If the defect or deficiency is not corrected within the required time period, then the Village may undertake the correction and then the Village will have the right to draw from the performance securities deposited pursuant to Section 9 of this Agreement to reimburse itself for all costs and expenses incurred in making the correction. If any Public Infrastructure is repaired or replaced by the Developer pursuant to the demand of the Village, then the guaranty provided by this Subsection 6.E. will be extended, as to the repair or replacement, for two (2) full years after the date of completion of the repair or replacement.

**F. Perpetual Maintenance of Private Infrastructure.** The Developer, and then the homeowners association, must maintain, at its cost and expense, all Private Infrastructure at all times in good and serviceable condition consistent with Village codes and generally accepted engineering practices, including without limitation Village codes and ordinances and MWRD standards, as applicable. If at any time the Developer, or the homeowners association, is in breach of this standard, as determined by the Village, then the Village may issue a citation to, and impose a fine on, the Developer, or the homeowners association, as provided in the Village Code. In addition, the Village may issue notice stating that the Developer, or the homeowners association, must cure the breach within thirty (30) calendar days or, if the breach cannot reasonably be cured

within thirty (30) calendar days, then within a date certain set by the Village. The Developer, or the homeowners association, must promptly commence the cure and use commercially reasonable efforts to diligently and continuously pursue the cure to completion. If the cure is not completed within the required time, then the Village may, but is not in any way obligated to, undertake the cure using its own forces or outside forces. The Developer, or the homeowners association, will be liable for, and must reimburse to the Village, all costs and expenses incurred by the Village to cure the breach. If the Village's costs and expenses have not been reimbursed in full within thirty (30) calendar days after notice from the Village, then all unpaid costs and expenses will become a lien against the Property in its entirety and the Village will have the right to collect the unpaid costs and expenses and to enforce the lien in the same manner as mortgage foreclosure proceedings. Under no circumstances will the Village ever be required or obligated to maintain or repair any Private Infrastructure. The terms of this Subsection 6.F. shall be incorporated in the CC&Rs. Maintenance obligations for the Stormwater Conveyance System shall consist of:

- (i) **Operations and Maintenance Manual for Stormwater Conveyance System:** The Developer shall comply with the maintenance and operations obligations for the Stormwater Conveyance System set forth in and required by the Operations and Maintenance Manual, per the Approval Ordinance and Section 10-11-11 (Stormwater Management Requirements For All Developments) of the DCO. A copy of the Operations and Maintenance Manual is attached hereto as **Exhibit "G"** and made a part hereof.
- (ii) **Maintenance Obligations Imposed on the Developer and Then the Homeowners Association:** The maintenance of the Stormwater Conveyance System for the Development shall be the responsibility of the Developer and then the homeowners association. The Developer guarantees that it and all future owners of the Property shall maintain the Stormwater Conveyance System.
- (iii) **Inspection Access by Village Representatives:** The Developer specifically authorizes representatives of the Village to enter onto the Property for the purpose of conducting inspections and testing of the Stormwater Conveyance System.
- (iv) **Maintenance Schedule:** The Developer shall comply with the "Schedule for Regular Maintenance" of each aspect of the Stormwater Conveyance System and shall provide for access to the Stormwater Conveyance System for inspection and testing by authorized representatives of the Village. In the event that any authorized representatives of the Village notify the Developer, or the homeowners association, in writing of any maintenance problems which require correction, the Developer, or the homeowners association, shall make such corrections within thirty (30) calendar days of such notification. The Village shall be reimbursed by the Developer and then by the homeowners association for the actual costs and fees incurred relative to any inspection and/or testing conducted by its representatives. If the corrections are not made within this time period, the Village may have the necessary work completed and assess the cost to the Developer or the or the homeowners association.
- (v) **Annual Maintenance Inspections:** All components of the Stormwater Conveyance System shall be inspected by representatives of the Developer and then the homeowners association not less often than once per year. A written report shall be prepared of the results of any inspection and a copy of the report shall be sent to the Village Manager detailing any problems which need

correction within thirty (30) calendar days of the date of the report or by no later than September 30 each year.

**G. Abandonment of Construction.** If the Developer abandons the Development or any part of the Development, then the Developer, within ninety (90) calendar days after notice from the Village, must: (i) remove all partially constructed improvements from the Property, (ii) backfill all excavations, and (iii) spread topsoil and plant grass seed throughout the Property, all to the satisfaction of the Village (collectively the "Required Restoration"). For purposes of this Subsection 6.G, "abandons" means cessation of construction for a continuous period of ninety (90) calendar days for any reason other than Force Majeure. If the Developer fails or refuses to complete the Required Restoration within the 90-day period, or such longer period of time as is reasonably necessary to complete the Required Restoration so long as the Developer has promptly commenced and uses commercially reasonable efforts to diligently pursue the Required Restoration, then the Village will have, and is granted in addition to all other rights afforded to the Village in this Agreement and by law, the right, at the Village's option, to hire a contractor to complete part or all of the Required Restoration. Thereafter, the Village may charge the Developer an amount equal to the Village's actual costs of the Required Restoration including without limitation contractor costs, disposal costs, administrative personnel fees and costs, and legal fees (collectively the "Charged Amount"). If the Charged Amount is not paid by the Developer within thirty (30) calendar days after notice from the Village, then the Charged Amount, and all costs incurred by the Village related to collection of the Charged Amount (the "Collection Costs"), may be deducted from the Developer Security and will become a lien against the Property, and the Village will have the right to collect the Charged Amount and the Collection Costs and to enforce the lien in the same manner as mortgage foreclosure proceedings.

**H. Progress Meetings.** At all times, the Developer and the Village shall each have an individual designated as the Developer's and the Village's primary point of contact for Development-related matters. The Developer shall meet on a monthly basis with the Development Director and Village Engineer, or their designee, and other Village staff as appropriate, to provide a comprehensive progress report on the Development. Appropriate Development team personnel shall attend the meeting on behalf of the Developer and the Village, and shall provide and exchange information regarding the status of construction and occupancy, pending permit requests and other appropriate information.

**I. Village Construction Manager Consultant.** The Village reserves the right to hire a construction manager consultant to assist the Village and its staff with all aspects of the Development, including but not limited to compliance with the terms of this Agreement, the plan review process, inspections, reporting and oversight of the construction of the Development. The compensation and other employment benefits payable to the construction manager consultant for their work relative to the Development qualifies as a charge under the Reimbursable Costs.

**J. "As-Built" Development Plans.** The Developer, at its cost, shall prepare and provide to the Development Director one (1) electronic copy of the "As-Built" Final Development Plans, with all minor modifications and in-field adjustments shown, at the time of issuance of the last occupancy permit for the final townhome unit as part of the Village's issuance of the Certificate of Completion for the Development. The "As-Built" Plans are subject to the review and approval by the Village Engineer and the Community Development Director, or their designees.

**SECTION 7. CONSTRUCTION STAGING, TRAFFIC, PARKING; STREETS.**

A. **Construction Staging.** The staging of construction work and materials must be in conformance with the Village-approved construction staging plan. The Developer must submit a staging plan for Village review and approval prior to the issuance of the permit for construction of the Development. The Developer shall not allow for the staging any construction equipment, materials or vehicles within the right-of-way of Park Place. The Developer shall not allow the staging of any construction equipment, materials or vehicles on the Property in a manner that creates sight-line issues for vehicle traffic traveling on Wolf Road or Park Place or Heritage Court, as determined by the Village Manager. The Developer or its any contractor, subcontractor or material supplier who violates the Village-approved construction staging plan or this subsection shall each be subject to a \$750.00 per day fine for each separate violation that occurs.

B. **Designated Traffic Routes.** The Village, in consultation with the Developer, may designate routes of access to the Property for construction traffic to protect pedestrians and to minimize disruption of traffic and damage to particular streets.

C. **Parking.** All construction-related vehicles, including passenger vehicles and construction equipment, must be parked within the Property or in areas specifically designated in advance in writing by the Village. The Developer shall not allow construction-related vehicles, including passenger vehicles of employees of the Developer, contractors, subcontractors or material suppliers, to be parked on Park Place or Wolf Road during the construction of the Development. The Developer or its any contractors, subcontractors or material suppliers who violates this subsection shall each be subject to a \$750.00 per day fine for each separate violation that occurs.

D. **Streets, Sidewalks, and Other Rights-Of-Way.** Any work on streets, sidewalks, and other rights-of-way related to the Development, public or private, must meet the following standards:

- (i) **Compliance with Plans.** All work must comply with the Village-approved plans for that work.
- (ii) **Protection of Final Surface Course; Restoration.** Except with the prior express written consent of the Village, no construction traffic may use any improved public right-of-way after installation of the final surface course of that right-of-way. If the Developer uses an improved public right-of-way for construction traffic, then the Developer must keep that right-of-way free and clear of mud, dirt, debris, obstructions and hazards, and must, after the use is no longer necessary, restore and repair that right-of-way to Village standards.

E. **Construction Traffic Control Plan.** The Developer must submit a detailed construction traffic control plan / operations manual for the review and approval of the Director of Law Enforcement, the Director of Engineering Services, and the Director of Community Development's approval prior to the issuance of the site development permit. The plan / operation manual must demonstrate that the Developer is providing the appropriate onsite traffic control personnel to ensure that the traffic entering and leaving the site does not impact pedestrians, bicycles, or vehicles traveling around the site. Heightened management should occur during school pick-up and drop-off times. The Developer will be responsible to reimburse the Village or the school district for the cost of crossing guard(s) or other traffic control personnel who are retained to assist with pedestrians traveling to and from the Highlands School on school days during school pick-up and drop-off times while site development work is ongoing.

**SECTION 8. DEVELOPER PAYABLE COSTS, FEES, AND EXPENSES AND ESCROW.**

A. **Negotiation, Review, Inspection Fees.** In addition to all other costs, payments, fees, or other charges required by this Agreement or by the Requirements of Law or by the Village Code, the Developer must pay to the Village, promptly after receipt of a written demand or demands for payment:

- (i) All reimbursable costs, fees, payments, charges, and expenses (collectively "Reimbursable Costs") for outside engineering, outside legal, outside building, and other outside consulting or administrative services incurred or accrued in connection with the review and processing of plans for the development of the Property and in connection with the negotiation, preparation, consideration, and review of this Agreement, at the standard rates charged to the Village, as required by the Village Code. All Reimbursable Costs for which demand has been made, but payment has not been received, by the Village prior to execution of this Agreement must be made by a certified or cashier's check contemporaneous with the execution of this Agreement by the Village.
- (ii) All Reimbursable Costs for inspections of the Property and the Development conducted by outside inspectors.
- (iii) All Reimbursable Costs for inspections of an individual dwelling unit until issuance of a final certificate of occupancy for that unit.
- (iv) All Reimbursable Costs incurred in connection with a future application, document or proposal, whether formal or informal, of whatever kind submitted by the Developer (or its successor) to the Village in connection with the Development or the use or future development of the Property.
- (v) All Reimbursable Costs incurred by the Village for publications and recordings required in connection with the Development or the Property.

B. **Other Village Fees.** In addition to all other Reimbursable Costs required by this Agreement, the Developer must pay to the Village (as applicable): (i) all standard application, plan review, inspection, and permit fees, (ii) all standard water and sewer fees, tap-on fees, and charges, (iii) compensation for trees removed from public parkways or other public right-of-way, (iv) all costs for replacement trees, and (v) all other standard fees, charges, impact fees to the Village and to any other governmental agency with an impact fee ordinance and contributions pursuant to the Requirements of Law and the Village Code.

C. **Reimbursement for Village Work on Utilities.** If during construction of the Development the Developer discovers a water main, sewer main, or other utility that must be relocated to avoid conflict with the Development, then the Developer and the Village will determine how, where, and by whom the utility will be relocated and the Developer must pay all costs and expenses of that relocation.

D. **Developer Escrow.** The Developer shall maintain a "Developer Cash Escrow" with the Village for purposes of payment of the Reimbursable Costs and other costs payable to the Village by the Developer as required by this Agreement, and shall comply with the funding terms of the Developer Escrow as set forth in the Approval Ordinance and Section 9. below.

E. **Compensation for Development Impacts.** The Developer must submit a detailed construction traffic control plan / operations manual for the review and approval of the Director of Law Enforcement, the Director of Engineering Services, and the Director of Community Development's approval prior to the issuance of the site development permit. The plan / operation manual must

demonstrate that the Developer is providing the appropriate onsite traffic control personnel to ensure that the traffic entering and leaving the site does not impact pedestrians, bicycles, or vehicles traveling around the site. Heightened management should occur during school pick-up and drop-off times. The Developer will be responsible to reimburse the Village or the school district for the cost of crossing guard(s) or other traffic control personnel who are retained to assist with pedestrians traveling to and from the Highlands School on school days during school pick-up and drop-off times while site development work is ongoing.

**SECTION 9. PERFORMANCE SECURITY.**

A. **Developer Cash Escrow; Letter of Credit (“LOC”).** As security to the Village for the performance by the Developer of the Developer’s obligations to construct and complete the Infrastructure pursuant to and in accordance with this Agreement, the Developer shall deposit with the Village the following:

- (i) **Developer Cash Escrow.** The sum of \$58,000.00 cash (the “Developer Cash Escrow”) shall be paid by the Developer to be held by the Village and drawn on to reimburse the Village for Reimbursable Costs incurred by the Developer described in Section 8. above. Any interest earned on the Developer Cash Escrow will be added to the escrow, but the Village is not required to cause interest to be earned. If draws on the Developer Cash Escrow reduce the balance in the Escrow to \$10,000.00 or below at any time, then the Developer must restore the Developer Cash Escrow to a level determined by the Village (but not exceeding \$30,000.00) until the Certificate of Completion is issued by the Village for the Development. Any money remaining in the Developer Cash Escrow will be distributed to the Developer within sixty (60) calendar days after notice from the Developer to the Village requesting release of such funds, after issuance of the full, final certificate of occupancy for the final townhome building constructed within the Development.
- (ii) **Performance and Payment Letter of Credit.** A performance and payment letter of credit in an amount equal to one hundred ten percent (110%) of the Infrastructure Cost Estimate (the “Performance LOC”) in the form required in Subsection 9.E. below.
- (iii) **Condition Precedent.** The deposit of the Performance LOC and the Developer Cash Escrow is a condition precedent to issuance of any permit by the Village for work on the Development.

B. **Maintenance of Performance LOC.** The Performance LOC shall be maintained and renewed by the Developer, and will be held in escrow by the Village, until completion of the Infrastructure and the Public Infrastructure, as determined by the Village, and the approval by the Village Manager and dedication to the Village of the Public Infrastructure, if any, and until the posting of the Guaranty Bonds required by Subsection 9.C. below. After the acceptance and posting of the Guaranty Bonds, the Village will release the Performance LOC and return it to the Developer.

C. **Guaranty Bonds.** As a condition of the Village’s approval of the Public Infrastructure and the Village’s acceptance, where appropriate, of any or all of the Infrastructure pursuant to Subsections D. and E. of this Section, the Developer must post two (2) Guaranty Bonds, in the form required by Subsection 9.E. below (each a “Guaranty Bond”) as follows:

- (i) **General Guaranty Bond:** This Guaranty Bond shall be security for the performance of the Developer’s obligations under this Agreement related to Infrastructure. The General Guaranty Bond will be in the amount of ten percent (10%) of the Infrastructure Cost

Estimate and will be held by the Village in escrow until the end of the two-year guaranty period set forth in Subsection 6.E. of this Agreement . or until two (2) years after any necessary modification to or correction of any defect or deficiency in a Public Infrastructure improvement pursuant to Section 6.E. above and payment therefor, whichever occurs later. At the end of the two-year guaranty period, the Village will inspect the Infrastructure to verify whether any modification or corrective repair work needs to be performed, and, if such work is needed, the General Guaranty Bond, shall be retained for two-year period by the Village in accordance with this Subsection.

(ii)

Stormwater Detention Guaranty Bond: This Bond shall be security for the proper construction and operation of the Stormwater Conveyance System. The Stormwater Detention Guaranty Bond will be in the amount of ten percent (10%) of the elements of the Stormwater Conveyance System within the Infrastructure Cost Estimate and will be held by the Village in escrow for a three (3) year period after the certificate completion is issued by the Village for the Development, or for a two (2) year period after any necessary modification to or correction of any defect or deficiency in the Stormwater Conveyance System, whichever occurs later. At the end of the three-year guaranty period, the Village will inspect the Stormwater Conveyance System to verify whether any modification or corrective repair work needs to be performed, and, if such work is needed, the Stormwater Detention Guaranty Bond , shall be retained for two-year period by the Village in accordance with this Subsection.

If the Village is required to draw on a Guaranty Bond by reason of the Developer's failure to fulfill its obligations under this Agreement, then the Developer, within twenty (20) calendar days thereafter, must cause the Guaranty Bond to be increased to its full original amount. "Developer Security" shall consist of the Developer Cash Escrow, the Performance LOC the General Guaranty Bond and the Stormwater Detention Guaranty Bond.

D. Costs of Developer Security. The Developer is responsible for the full cost of securing and maintaining the Developer Cash Escrow, the Performance LOC and the Guaranty Bonds.

E. Forms of Letters of Credit. The Performance LOC and the Guaranty Bonds must be in substantially the forms attached to this Agreement as Exhibit "H", with minor revisions as may be requested by the issuer and approved by the Village Attorney. Each letter of credit also must be from a bank having capital resources of at least \$25,000,000, with an office in the Chicago Metropolitan Area or other location acceptable to the Village and insured by the Federal Deposit Insurance Corporation. Each letter of credit must, at a minimum, provide that: (i) it will expire no earlier than the later of two (2) years after the date of its issuance or thirty (30) calendar days after delivery to the Village, in the manner provided in Subsection 9.G. below, of written notice that the letter of credit will expire, (ii) it may be drawn on based on the Village Manager's certification that the Developer has failed to fulfill any of the obligations secured by the letter of credit, (iii) it does not require the consent of the Developer prior to any draw on it by the Village, (iv) it cannot be canceled without the prior written consent of the Village, and (v) if at any time it will expire within thirty (30) or any lesser number of calendar days, and if it has not been renewed, and if any obligation of the Developer secured by the letter of credit remains uncompleted or unsatisfactory, then the Village may call and draw down the letter of credit and thereafter either hold all proceeds as security for the satisfactory completion of all Developer obligations or employ the proceeds to complete all obligations and to reimburse the Village for any and all costs and expenses, including legal fees and administrative costs, incurred by the Village in connection therewith, as the Village may determine.

After completion of the Developer's obligations to construct and complete the Infrastructure in accordance with this Agreement, and after reimbursement of the Village for all costs and expenses incurred by the Village, including without limitation legal fees and administrative costs, then the Village will release to the Developer any proceeds remaining on deposit with the Village drawn from the Performance LOC and return the Performance LOC to the Developer. The Performance LOC will provide that the aggregate amount of the Performance LOC may be reduced once, upon joint written direction by the Developer and the Village, to the amount of twenty-five percent (25%) of the Infrastructure Cost Estimate when Infrastructure totaling seventy-five percent (75%) of Infrastructure Cost Estimate have been completed and accepted by the Village. The reduction to reimburse the Developer for payment of Infrastructure Improvement work satisfactorily completed will be allowed only after the Developer has provided certified contractors' sworn statements, certified schedule of values, partial or final waivers of lien, proof of payment of contractors and subcontractors, bank statements, etc., as may be appropriate, and all additional documentation as the Village may reasonably request to demonstrate satisfactory completion of the Infrastructure Improvement in question and full payment of all contractors, subcontractors, and material suppliers.

The Guaranty Bonds shall not be reduced to reimburse the Developer for any cost incurred in satisfaction its obligations under Section 8. or Section 9. of this Agreement.

F. **Replenishment of Developer Security.** If at any time the Village reasonably determines that the funds remaining in the Developer Cash Escrow or the Performance LOC or a Guaranty Bond are not sufficient to pay in full the remaining unpaid cost of all Infrastructure and all unpaid or reasonably anticipated Village costs, fees, and expenses, or that the funds remaining in a Guaranty Bond are not, or may not be, sufficient to pay all unpaid costs of correcting any and all defects and deficiencies in the Public Infrastructure and all unpaid or reasonably anticipated Village fees, costs, and expenses, then, within twenty (20) calendar days after a demand by the Village, the Developer must increase the amount of the Developer Cash Escrow or the Performance LOC or a Guaranty Bond to an amount, as determined by the Village Engineer, to be sufficient to pay unpaid costs, fees, and expenses. Failure by the Developer to increase the amount of the Developer Security will be grounds for the Village to retain any remaining balance of the Developer Cash Escrow and to receive the proceeds of, or to draw down, as the case may be, the entire remaining balance of the Performance LOC or a Guaranty Bond.

On completion of the Developer's obligations to construct and complete the Infrastructure pursuant to and in accordance with this Agreement, and after reimbursement of the Village for all fees and all costs and expenses, including legal fees and administrative costs, incurred by the Village, then the Village will release to the Developer any remaining funds in the Developer Cash Escrow and any proceeds remaining on deposit with the Village from the Performance LOC or a Guaranty Bond and will return the letters of credit to the Developer.

G. **Use of Funds in the Event of Breach of Agreement.** If the Developer, after all required notices and cure periods under this Agreement have been provided, fails or refuses to complete the Infrastructure in accordance with this Agreement, or fails or refuses to correct any defect or deficiency in the Public Infrastructure as required by Section 6 above or this Section 9, or fails or refuses to clean or repair property in accordance with a demand made pursuant to Subsection 5.E. or Subsection 7.D.(ii) of this Agreement, or fails or refuses to pay any amount pursuant to Section 8. above within five (5) business days after demand by the Village, or in any other manner fails or refuses to meet fully any of its obligations under this Agreement secured by a letter of credit, then the Village, in its discretion and after a delivery of a 5-day notice to the Developer and the Developer's failure to cure its failure or refusal within that 5-day period, may retain all or any part of the Developer Cash Escrow and/or draw on and retain all or any of the funds remaining in the appropriate letter of credit.

The Village thereafter will have the right to exercise its rights under Subsection 5.E. above and under this Subsection 9.G., to take any other action it deems reasonable and appropriate to mitigate the effects of any failure or refusal, and to reimburse itself from the proceeds of the Developer Cash Escrow and the appropriate letter of credit for all of its costs and expenses, including legal fees and administrative expenses, resulting from or incurred as a result of the Developer's failure or refusal to fully meet its obligations under this Agreement.

If the funds remaining in the Developer Cash Escrow or the appropriate letter of credit are insufficient to repay fully the Village for all costs and expenses, and to maintain a cash reserve equal to a required Guaranty LOC during the entire time the Guaranty LOC should have been maintained by the Developer, then the Developer, on demand of the Village therefor, must immediately deposit with the Village any additional funds as the Village reasonably determines are necessary to fully repay such costs and expenses and to establish such cash reserve.

After: (i) completion of the Developer's obligations to construct and complete the Infrastructure in accordance with this Agreement, (ii) correction of all defects and deficiencies in the Public Infrastructure as required by Subsection 6.E. above, (iii) repair of property in accordance with a demand made pursuant to Subsection 5.E. above, (iv) payment of all amounts demanded by the Village pursuant to this Section 9, (v) compliance with all other terms of this Agreement secured by a letter of credit, and (vi) reimbursement of the Village for all fees and all costs and expenses, including legal fees and administrative costs, incurred by the Village; then the Village will release to the Developer any remaining Developer Cash Escrow and any proceeds remaining on deposit with the Village from any letter of credit and return the letter of credit to the Developer.

H. **Village Lien Rights.** If any money, property, or other consideration due from the Developer to the Village pursuant to this Agreement is not either recovered from the performance security deposits required in this Section 9. or paid or conveyed to the Village by the Developer within thirty (30) calendar days after a demand for payment or conveyance, then the money, or an amount equal to the Village's reasonable estimate of the value of the property or other consideration, together with interest and costs of collection, including legal fees and administrative expenses, will become a lien upon the Property and the Village will have the right to collect the amount or value, with interest and costs, including legal fees and administrative expenses, and the right to enforce the lien in the same manner as in statutory mortgage foreclosure proceedings.

#### **SECTION 10. INFRASTRUCTURE SSA.**

The Village will establish a special service area (the "Private Infrastructure SSA"), the boundaries of which will include all of the Property. The purpose of the Private Infrastructure SSA is to generate funds (the "Private Infrastructure SSA Tax Fund") that the Village may use to provide the special services of maintaining the Private Infrastructure if the Developer fails at any time to properly maintain the Private Infrastructure. The Private Infrastructure SSA will authorize the levy of a special service area tax from time to time on the Property to establish, replenish, and maintain the Private Infrastructure SSA Tax Fund sufficiently to pay for the special services only if the Developer or the homeowners association fails to pay for such services. The Village may from time to time levy the special service tax to replenish the Private Infrastructure SSA Tax Fund in a dollar amount, as determined by the Corporate Authorities of the Village, in their sole discretion, as reasonably necessary to pay for any special services. The Village will not levy a special service tax for collection prior to the issuance of a Certificate of Completion for the Development.

The Developer approves, and agrees not to object to, the establishment of the Private Infrastructure SSA as provided in this Section 10 and the levying and expending the Private Infrastructure SSA Funds by the Village, at the Corporate Authorities of the Village's sole discretion, consistent with this Section 10. Nothing regarding the Private Infrastructure SSA will compel or require the Village to provide special services or to levy the SSA tax. The obligation to maintain the Private Infrastructure rests entirely and in perpetuity on the Developer as provided in Subsection 6.N . of this Agreement.

**SECTION 11. LIABILITY AND INDEMNITY OF VILLAGE.**

A. **No Village Liability.** The Developer acknowledges and agrees that the Village is not, and will not be, in any way liable for any damages or injuries of any kind that may be sustained as the result of: (i) the Village's review and approval of any plan or specification provided by the Developer or the Developer's representatives for the Development; or (ii) the issuance of any approvals, permits, certificates, or acceptances for the Development or use of the Property and that the Village's reviews, approvals, and issuances do not, and will not in any way, be deemed to insure the Developer or any of its transferees, successors-in-interest, all legal or beneficial owners of record, assigns, tenants, licensees and all subsequent owners of the Property or any part of the Property, and or any other person, and each and all homeowners associations or their equivalent within the Property, against damage or injury of any kind at any time.

B. **Village Procedures.** The Developer agrees not to challenge the Village's approval of this Agreement or of the Approval Ordinance or any other Village approved document that relates to the Development.

C. **Indemnification.** The Developer acknowledges that the accuracy and sufficiency of the Developer's Development Plans and related specifications for the Development are entirely the responsibility of the Developer and are not the responsibility of the Village, regardless of whether the Village reviews or approves the Developer's Development Plans and related specifications for apparent consistency with the Village's codes. The Developer agrees to indemnify the Village and all Village elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys (collectively the "Indemnitees") from any and all third party claims and causes of action of any kind that may be asserted at any time against the Village and any of the Indemnitees in connection with: (i) any design defect in the Developer's Development Plans and related specifications for the Development or any Infrastructure, regardless of the Village's review and approval of any Developer Development Plans or related specification for the Development or the Infrastructure or the Village's issuance of any approval, permit, certificate, or acceptance for the Development based on the apparent consistency of any Developer Development Plans or related specification for the Development or any Infrastructure Improvement; or (ii) the design, development, construction, maintenance, or use of any portion of the Property or the Infrastructure (each a "Claim" and collectively "Claims"). This indemnity does not apply or extend to any matter concerning maintenance by the Village of any Public Infrastructure after that Public Infrastructure has been accepted by the Village in accordance with this Agreement D.

D. **Defense Expenses.** The Developer agrees to pay all reasonable expenses, including without limitation attorney fees, litigation defense fees and costs, consultant fees and administrative expenses incurred by the Village in examining and tendering the defense of any Claim to the Developer in accordance with Subsection 11.C. above. The Village must promptly notify the Developer in writing of any Claim.

**SECTION 12. BINDING NATURE OF AGREEMENT.**

The obligations assumed by the Developer under this Agreement are binding on the Developer, on all of the Developer's transferees, successors-interest, all legal or beneficial owners of record, assigns, tenants, licensees and all subsequent owners of the Property or any part of the Property and each and all homeowners associations or their equivalent within the Property.

**SECTION 13. TERM.**

This Agreement will run with and bind the Property as long as the Development and its homeowners association continues to exist and operate, and will inure to the benefit of and be enforceable by the Developer, the homeowners association and the Village.

**SECTION 14. ENFORCEMENT.**

Either Party to this Agreement may enforce or compel the performance of this Agreement, in law or in equity, by suit, action, mandamus, or any other proceeding including without limitation specific performance, except that the Developer agrees that it will not seek, and does not have the right under any circumstances to seek, to recover a judgment against any Village elected or appointed official, officer, employee, agent, representative, engineer, or attorney on account of the negotiation, execution, or breach of this Agreement.

In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village will be entitled to withhold the issuance of a building permit or a certificate of occupancy for work or occupancy within the Property at any time when the Developer has failed or refused to comply with a material obligation under this Agreement and has not, after the required notices stated herein, cured that failure or refusal within the cure periods, if any, allowed for that failure or refusal.

A. **Compliance with Laws.** The Developer agrees to comply with all applicable laws, rules and regulations of any federal, State or local entity or agency relating to the Development. The Developer will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex or national origin. To the fullest extent permitted by law, the Developer will take affirmative action to ensure that applicants are employed and treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship.

B. **Conflict of Interest and Prohibited Interest Disclosures.** Upon the Village's request from time to time during the Term of this Agreement, the Developer will provide a list of all entities owning a greater than one percent (1%) interest in the Developer. Based in part on the information provided by the Developer and in part on information from the Village's independent investigation, the Village will affirm that its Corporate Authorities, and all appropriate Village elected and appointed officials, officers, employees, agents and representatives of the Village, have or will comply with the disclosure and conflict-of-interest provisions of the Public Officer Prohibited Activities Act (50 ILCS 105/3), the TIF Act (65 ILCS 5/11-74.4-4(n)) and the Illinois Governmental Ethics Act (5 ILCS 420). Upon the Village's request, the Developer shall provide the Village with all information required for compliance with the annual TIF report that the Village is required to file with the State of Illinois Comptroller or any such similar financial information, and required for the Village to comply with any disclosure and transparency ordinance or law enacted by the State of Illinois or DuPage County. In addition, the Developer shall provide, on an annual basis, the information required by the TIF Act.

C. **Successors and Assigns.** The Developer shall be liable for all of the Developer's obligations under this Agreement. All obligations assumed by the Developer under this Agreement shall be binding on the Developer, and on any and all of the Developer's successors and assigns, and on any and all of the respective successor owners of all or any portion of the Property. To assure that the Developer's successors, assigns and successor owners of all or any portion of the Property have notice of this Agreement and the obligations created by it, the Developer shall:

1. Deposit with the Village Clerk, within thirty (30) calendar days after the Acquisition Date, any consents or other documents necessary to authorize the Village to record a Memorandum of this Agreement, in form and substance reasonably acceptable to the Developer and the Village, in the Office of the Recorder of Deeds of Cook County, Illinois;
2. Notify the Village in writing at least thirty (30) calendar days prior to any date that the Developer intends to transfer fee title to any portion of the Property to any person not a party to this Agreement;
3. Include in the Restrictive Covenant a memorandum or other similar reference(s) to this Agreement sufficient to put third parties on notice of the existence of this Agreement; and
4. Require, prior to the transfer of all or any portion of the Property to any person or entity not a Party to this Agreement that occurs prior to the Substantial Completion Date, the transferee to execute an enforceable written assignment and assumption agreement, in form and substance reasonably approved by the Village Attorney (the "**Transferee Assignment and Assumption Agreement**"), agreeing to be bound by this Agreement and to provide the Village, after request, with reasonable assurance of the financial ability of the transferee to meet any remaining obligations under this Agreement. The Village and the Developer shall record against the Property a memorandum of this Agreement that obligates the owner of the Property from time to time to perform the obligations of the Developer under this Agreement and shall require notice to the Village of any transfer of the Property, which memorandum shall be in form and substance reasonably satisfactory to the Village and the Developer.

The Village agrees that, after a successor becoming bound to the obligations of the Developer created in the manner provided in this Agreement, and providing the financial assurances required in this Section, the liability of the Developer shall be deemed automatically released. The failure of the Developer to provide the Village with a fully executed copy of a Transferee Assignment and Assumption Agreement before completing the transfer shall result in the Developer remaining fully liable for all of the Developer's obligations under this Agreement, but shall not relieve the transferee of its liability for those obligations as a successor to the Developer.

D. **Representations and Warranties of the Developer.**

1. **No Gifts.** The Developer covenants that no officer, member, manager, stockholder, employee or agent of the Developer, or any other person connected with the Developer, have made, offered or given, either directly or indirectly, to any member of the Corporate Authorities, or any officer, employee or agent of the Village, or any other person connected with the Village, any money or anything of value as a gift or bribe or other means of influencing his or her action in his or her capacity with the Village.

2. Assignment. The Developer may not assign or transfer some or all of its rights or obligations under this Agreement without the prior written consent of the Village, the granting or denial of which consent shall be in the sole discretion of the Village; provided, however, that, without the Village's prior consent, the Developer may assign this Agreement to an entity controlling, controlled by, or under common control with the Developer and/or assign or collaterally assign any of the Developer's rights and/or obligations to the Lender.
3. Prevailing Wage. The Developer and its contractors and subcontractors are required to pay prevailing wages for all or portions of the Development work only if the Illinois Prevailing Wage Act (820 ILCS 130/) (the "IPWA") requires payment of prevailing wages.
4. Property Acquisition. The Developer shall provide the Village with sufficient documentation regarding Developer's ownership of the Property for the Development.
5. Corporate Authorization. This Agreement has been submitted for consideration and review by the board of directors, corporate officers, shareholders, members and/or managers of the Developer, and the Developer's board of directors, corporate officers, shareholders, members and/or managers have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the Developer according to the terms hereof, and any and all actions of the Developer's board of directors, corporate officers, shareholders, members and/or managers, as the case may be, precedent to the execution of this Agreement have been undertaken and performed in the manner required by law.

Agreement shall be deemed to be the agreement of any official, agent, employee, consultant or attorney of the Village, in their individual capacity, and no official, employee or attorney of the Village shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of this Agreement, or any failure in connection therewith.

## **SECTION 15. INSURANCE AND INDEMNIFICATION.**

**A. Liability Insurance Prior to Completion**. Prior to issuance of Permits, the Developer shall procure and deliver evidence of such policies to the Village, at the Developer's cost and expense, and shall maintain in full force and effect during any period of construction and through completion of construction of the Development, for both ongoing and completed operations, the following types of insurance, written on the comprehensive form and as an "occurrence" policy, in not less than the following amounts:

1. Commercial General Liability Insurance (including property damage insurance): \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate.
2. Contractor's Liability Insurance: \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate.
3. Automobile Insurance: \$1,000,000.00 per occurrence and \$1,000,000.00 in the aggregate.
4. Umbrella Coverage or Excess Liability Coverage: \$5,000,000.00 in the aggregate.
5. Workers Compensation Insurance: Statutory Amount.

Said insurance shall state that the insurance provided by the Developer shall be primary and that any provision of any contract of insurance or other risk protection benefit or self-insurance policy purchased or in effect or enacted by the Village and any other insurance or benefit of the Village shall be in excess of the Developer's insurance. All such policies shall be in such form and issued by such companies as shall be reasonably acceptable to the Village. Each such policy, including any related insurance certificates, endorsements and riders, shall expressly name "the Village of Western Springs and its appointed and elected officials, mayor and trustees, employees, engineers, attorneys, agents and representatives" as additional insureds.

To be eligible to receive any Village permit for the Development, the Developer and its insurer(s) shall agree to waive any right of recovery of any kind, including the waiver of subrogation rights, they may have against the Village or its Affiliates, including for damages or losses caused by fire, flood or other perils to the extent covered by professional liability, property, casualty or general liability insurance policies, because of any financial payments made to any person as a result of the indemnification / hold harmless / defense provision and the additional insured requirement under this Agreement. The insurance policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged. The Developer's engineer and other design professionals, contractors, subcontractors and agents and their insurer(s), shall waive all rights of recovery of any kind, including the waiver of subrogation, against the Village and its Affiliates, including for damages or losses caused by fire, flood or other perils to the extent covered by professional liability, property, casualty or general liability insurance policies.

Prior to commencement of construction of the Development, the Developer shall furnish to the Village the above-required certificates of insurance, policies, riders and policy endorsements, with premiums paid in full that contain the insurer(s) written confirmation that the nature, scope, duration and amount of insurance coverage meets the requirements of this Agreement and shall remain in effect for all aspects of the Development for both ongoing and completed operations. The Developer shall provide the Village with satisfactory proof of the above insurance requirements in the form of a certificate executed by an insurer with no less than an A rating by the most recent "AM Best Insurance Rating Guide."

The Village shall be given written notice at least thirty (30) calendar days prior to any cancellation or material amendment of the Developer's insurance policies required hereunder. Alternatively, the Developer may satisfy its insurance obligations in this **Subsection 15.A.** by way of a blanket policy or policies, which includes other liabilities, properties and locations meeting the minimum insurance coverage amounts. The Developer shall provide to the Village a replacement certificate prior to expiration, cancellation or material modification of any policy.

**B. Developer's Risk Prior to Completion.** Prior to completion of the construction of the Development, as certified by the Village, the Developer shall keep in force at all times builders risk insurance or similar insurance coverage, on a completed value basis, in non-reporting form, against all risks of physical loss, including collapse, covering the total value of work performed and equipment, supplies and materials furnished for the Development (including on-site stored materials), all as to work by the Developer. Such insurance policies shall be issued by companies satisfactory to the Village. The

Developer shall provide written notice to the Village at least twenty-one (21) calendar days before any such policy is cancelled or materially modified.

**C. Village Review.** The Developer acknowledges and agrees that, except for breaches of this Agreement by the Village, the Village is not, and shall not be, in any way liable for any damages or injuries of any kind that may be sustained as the result of the Village's review, approval or denial of any plans or failure to review any plans for the Property or the Development, or the issuance of any approvals, permits, certificates or acceptances for the development or use of the Property or the Development, and that the Village's review and approval of those plans and the Development and issuance of those approvals, permits, certificates or acceptances does not, and shall not, in any way be deemed to insure the Developer, or any of its heirs, successors, assigns, tenants, invitees and licensees, or any other person, against damage or injury of any kind at any time.

**D. Village Procedure.** The Developer has been advised by the Village that notices, meetings and hearings have been properly given and held by the Village with respect to the approval of this Agreement, and the Developer agrees not to challenge the Village's approval of this Agreement on the grounds of any procedural infirmity or of any denial of any procedural right.

**E. Indemnity and Defense Expense.** The Developer undertakes and assumes all potential liability for any injuries, deaths, losses, damages, claims or judgments of any nature whatsoever resulting from or in connection with its/their redevelopment activities at the Property, and the Developer shall hold harmless, indemnify and defend the Village against any such losses, except to the extent that the same is caused by the negligence or willful misconduct of the Village or its elected and appointed officials, officers, employees, agents, contractors and representatives, or by the breach of this Agreement by the Village.

1. **Developer Defense Expense.** The Developer shall, and does, agree to pay all reasonable expenses incurred by the Village, the Village's Corporate Authorities, and all Village elected and appointed officials, officers, employees, agents, contractors and representatives in defending against any and all claims, demands, causes of action, investigations, lawsuits, proceedings, liabilities, actions or penalties of any kind that may, at any time, be asserted against any of the Parties by any person(s) in connection with the Development, the approval of this Agreement, any terms or provisions of this Agreement, or the Developer's duties, obligations and performance under this Agreement, including, without limitation, any claims, demands, causes of action, investigations, lawsuits, proceedings, liabilities, actions or penalties related to or associated with environmental conditions, matters or contaminants concerning or relating to the Property, in each case, except to the extent caused by the negligence or willful misconduct of the Village or its elected and appointed officials, officers, employees, agents, contractors and representatives. These expenses shall include, without limitation, all reasonable out-of-pocket expenses, such as attorneys' and experts' fees and other litigation costs.
2. **Mutual Indemnification.** Each Party shall indemnify, hold harmless and defend the other Party and their respective officers, employees, agents, contractors and representatives against all injuries, deaths, losses, damages, claims, suits, liabilities, liens, including mechanic's liens, judgments, costs and expenses, including reasonable attorney fees, which may in any way arise from or accrue against the other Party as a consequence of this Agreement or which may in any way result therefrom, other than those indemnified matters which arise from or relate to the negligence or willful misconduct of the other Party or its officials, officers, employees, agents, contractors and representatives. The provisions of this Subsection and any other indemnification obligations on the part of

either Party shall survive the termination or expiration of this Agreement for a period of two (2) years. In any such action against either Party, the other Party shall, at its own expense, appear, defend and pay all charges of reasonable attorney fees and all reasonable costs and other reasonable expenses arising therefrom or incurred in connection therewith; and, if any judgment shall be rendered against the Party in any such action, the other Party shall, at its own expense, satisfy and discharge such judgment. The prevailing Party shall indemnify the other Party for any costs, including reasonable attorney fees, in enforcing the provisions of this Agreement.

#### **SECTION 16. DEFAULT; CURE.**

In addition to any other "Event of Default" identified in this Agreement, an "Event of Default" shall mean a failure on the part of either Party to comply with any material term, representation, warranty, covenant, agreement or condition of this Agreement, which failure is not cured within thirty (30) calendar days after written notice thereof; provided, however, if the failure is of a nature that it cannot be cured within thirty (30) days, then the defaulting Party shall have such additional time as is reasonably necessary to cure such failure so long as the defaulting Party commences activities designed or intended to cure such Event of Default within such thirty (30) calendar day period and thereafter diligently pursues activities designed or intended to cure such Event of Default to completion. Upon an Event of Default by the Village in the performance of any of its obligations under this Agreement, the Developer's remedies shall include specific performance (including statutory interest on any sums deemed to be improperly withheld), and any and all rights and remedies available to the Developer at law or in equity, including termination of this Agreement. The Village shall not be liable for punitive damages, consequential damages or lost profits. Upon an Event of Default by the Developer in the performance of any of its obligations under this Agreement, the Village shall be entitled to take such action as authorized by this Agreement and pursue any other remedies available at law or in equity; provided, however, that the Developer shall in no event be liable for punitive or consequential damages. Notwithstanding anything to the contrary in this Agreement, the Developer's defaults, and the Village's remedies upon such defaults, described in **Subsections 3.A.** and **5.E.** and shall be only as expressly set forth in **Subsection 3.A.** and **5.E.**, respectively.

#### **SECTION 17. 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 a reputable overnight courier; (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid; or (iv) by electronic internet mail ("Email"). Email notices shall be deemed valid only to the extent that they are: (a) opened by the recipient on a business day at the address set forth below; and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three (3) business days thereafter at the appropriate address set forth below. Unless otherwise provided in this Agreement, notices shall be deemed received after the first to occur of: (a) the date of actual receipt; or (b) the date that is one (1) business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) the date that is three (3) business days after deposit in the U.S. Mail, as evidenced by a return receipt. By notice complying with the requirements of this **Subsection 17.A.**, each Party to this Agreement shall have the right to change the address or the addressee, or both, for all future notices and communications to them, but no notice of a change of addressee or address shall be effective until actually received.

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

Ellen Baer Village Manager Village of Western Springs 740 Hillgrove Avenue Western Springs, Illinois 60558 Direct: 708.246.1800 Email: <a href="mailto:ebaer@wsprings.com">ebaer@wsprings.com</a>	With a copy to: Michael T. Jurusik, Esq. Klein, Thorpe and Jenkins, Ltd. 900 Oakmont Lane, Suite 301 Westmont, Illinois 60559 Cell Number: 708.638.0355 Email: <a href="mailto:mtjurusik@ktjlaw.com">mtjurusik@ktjlaw.com</a>
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Notices and communications to the Developer shall be addressed to, and delivered at, the following addresses:

Paul McNaughton McNaughton Development, LLC 11S220 Jackson Street Burr Ridge, Illinois 60527 Direct: 630.325.4048 Email: <a href="mailto:pmcnaughton83@yahoo.com">pmcnaughton83@yahoo.com</a>	With a copy to: James E. Olguin, Esq. 16101 South 108th Avenue, 1st Floor Orland Park, Illinois 60467 Direct: 630.403.8003 Email: <a href="mailto:jim@olguinlawllc.com">jim@olguinlawllc.com</a>
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B. **Time of the Essence.** Time is of the essence in the performance of this Agreement.

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 rights, remedies and benefits allowed by law.

D. **Non-Waiver.** The Village shall be under no obligation to exercise any of the rights granted to it in this Agreement. The failure of the Village to exercise at any time any right granted to the Village shall not be deemed or construed to be a waiver of that right, nor shall the failure void or affect the Village's right to enforce that right or any other right.

E. **Consents.** Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of consent of any Party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any Party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of consent will be in writing. The Property Owner has further executed a "Written Consent of the Property Owner" to allow the Developer to enter into this Agreement, a copy of which is attached hereto as **Exhibit "I"** and made a part hereof.

F. **Facilitation of Agreement.** The Village and the Developer will act in good faith and in a reasonable and cooperative manner with respect to consents, approvals, and other matters contemplated under this Agreement. No consent or approval may be unreasonably delayed, conditioned, or withheld. The Village and the Developer will execute, acknowledge, and deliver reasonable documents and other instruments necessary to fully carry out the terms of this Agreement.

G. **Governing Law.** This Agreement shall be governed by, and enforced in accordance with, the laws of the State of Illinois.

H. **Severability**. It is the intent of the Parties that, should any provision, covenant, agreement or portion of this Agreement or its application to any person or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability and application to any person or property shall not be impaired thereby, but the remaining provisions shall be interpreted, applied and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.

I. **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties and supersedes any and all prior agreements and negotiations between the Parties, whether written or oral, relating to the subject matter of this Agreement.

J. **Interpretation**. This Agreement shall be construed without regard to the identity of the Party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all Parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting Party shall not be applicable to this Agreement.

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

L. **Authority to Execute**. The Village warrants and represents to the Developer that the persons executing this Agreement on its behalf have been properly authorized to do so by the Corporate Authorities of the Village. The Developer warrants and represents to the Village that: (i) the Developer has the full and complete right, power and authority to enter into this Agreement and to agree to the terms, provisions and conditions set forth in this Agreement and to bind the Property as set forth in this Agreement; (ii) all legal actions needed to authorize the execution, delivery and performance of this Agreement by the Developer have been taken; and (iii) neither the execution of this Agreement nor the performance of the obligations assumed by the Developer will: (a) result in a breach or default under any agreement to which the Developer is a party or to which it or the Property is bound; or (b) violate any statute, law, restriction, court order or agreement to which the Developer or the Property are subject.

M. **No Third-Party Beneficiaries/No Joint Venture**. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other entity other than the Village and the Developer, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the Village or the Developer, nor shall any provision give any third parties any rights or subrogation or action over or against either the Village or the Developer. This Agreement is not intended to and does not create any third-party beneficiary rights whatsoever. Nothing in this Agreement, or any actions of the Parties to this Agreement, shall be construed by the Parties or any third-party person to create the relationship of a partnership, agency or joint venture between or among such Parties.

N. **Force Majeure**. Either Party will be temporarily excused from the performance of its obligations under this Agreement when and to the extent the non-performing Party's performance is delayed or prevented by any circumstances beyond the non-performing Party's control, including but not limited to fire, flood, explosion, epidemic, pandemic, strikes or other labor disputes, acts of God or public emergency, war, rioting, malicious damage, acts or omission of any governmental authority, delay or

failure or shortage of any type of transportation, equipment or service from a public utility needed for their performance or action or omission of the other Party (collectively, "Force Majeure"), provided that:

- a. The non-performing Party gives the other Party reasonably prompt written notice describing the particulars of Force Majeure including, but not limited to, the nature of the occurrence, and continues to furnish timely reports with respect thereto during the period of Force Majeure;
- b. The excuse of performance is of no greater scope and of no longer duration than is required by Force Majeure;
- c. No obligations of either Party that arose before Force Majeure causing the excuse of performance are excused as a result of Force Majeure; and
- d. The non-performing Party uses commercially reasonable and diligent efforts to remedy its inability to perform.

Economic hardship or other financial considerations, including but not limited to increases in the costs of construction materials, equipment or construction labor, of the Developer will not constitute an event of Force Majeure.

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

P. **Enforcement of Agreement.** The provisions of this Agreement shall be enforceable in any action in law or in chancery. The Parties hereto agree that any legal action to enforce any right or obligation contained in or arising out of this Agreement shall be brought in the Circuit Court of Cook County, Illinois.

Q. **Exhibits.** The following Exhibits are attached hereto and made a part hereof or incorporated herein by reference and made a part hereof:


- Exhibit "A":** Site Plan for the Development, Revised as of January 27, 2025 (attached)
- Exhibit "B":** "Approval Ordinance": Western Springs Ordinance No. 25-3240 approving a Conditional Use Permit for Planned Development for the Construction and Operation of the Development with Conditions (attached)
- Exhibit "C":** Legal Description of the Property (attached)
- Exhibit "D":** Final Development Plans (to be attached after Village Board approval)
- Exhibit "E":** Construction Schedule (attached)
- Group Exhibit "F":** **Confidential** Developer Letter of funding sources for completion of the Development and Supporting Submittals and Developer's Lender's Financing Commitment Letter issued by \_\_\_\_\_ Bank and dated \_\_\_\_\_, 2025 (not attached; on file with the Village Clerk's Office)
- Exhibit "G":** Operations and Maintenance Manual and Specifications and Maintenance Schedule for Stormwater Conveyance System
- Exhibit "H":** Forms of Letters of Credit (attached)
- Exhibit "I":** Written Consent of the Property Owner to Allow Developer to Enter into Redevelopment and Maintenance Agreement (attached)

In the event of a conflict between an Exhibit and the text of this Agreement, the text of this Agreement shall control.

R. **Estoppels.** Within ten (10) business days following request by either Party from time to time, the other Party shall execute and deliver to the requesting Party an estoppel certificate that certifies: (i) that this Agreement is unmodified and in full force and effect or, if there had been modifications, that this Agreement is in full force and effect as modified, (ii) that the Party is not in default of this Agreement or specifying any defaults, and (iii) such other information that may be reasonably requested by the Party.


**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the dates set forth below, and the date of the last signatory below shall be inserted on page 1 of this Agreement, as the Effective Date of this Agreement.

**McNaughton Development, LLC,**  
A limited liability company

By:   
Paul McNaughton  
Member

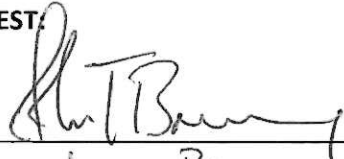
Date: 3.12.2025

**VILLAGE OF WESTERN SPRINGS,**  
an Illinois municipal corporation

By:   
Heidi Rudolph  
Village President


Date: 4-12-2025

**ATTEST:**

By:   
Name: JOHN Barry  
Title: Project Manager

Date: 3/12/2025

**ATTEST:**

By:   
Edward Tymick  
Village Clerk

Date: 04/12/25

**Exhibit "A"**

**Site Plan for the Development,  
Revised as of January 27, 2025**

(attached)

**Exhibit "B"**

**"Approval Ordinance": Western Springs Ordinance No. 25-3240**

ORDINANCE APPROVING A MAP AMENDMENT TO REZONE THE 5600 SOUTH WOLF ROAD PROPERTY, WESTERN SPRINGS, ILLINOIS, FROM THE O – LIMITED OFFICE ZONING DISTRICT TO THE R4 - MULTIPLE-FAMILY RESIDENCE DISTRICT; APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT FOR A PLANNED DEVELOPMENT FOR THE CONSTRUCTION AND OPERATION OF THE PROPOSED 29 UNIT HERITAGE CROSSING TOWNHOME DEVELOPMENT LOCATED AT THE 5600 SOUTH WOLF ROAD PROPERTY, INCLUDING THE APPROVAL OF THE COMBINED PRELIMINARY / FINAL DEVELOPMENT PLANS, SUBJECT TO VILLAGE PLAN REVIEW PROCESS, AND APPROVAL OF CERTAIN DEVELOPMENT ALLOWANCES, EXCEPTIONS AND VARIATIONS FROM THE VILLAGE ZONING REGULATIONS, INCLUDING A WAIVER OF THE FIVE (5) ACRE MINIMUM LOT AREA REQUIREMENT AND A REDUCTION OF CERTAIN PLANNED DEVELOPMENT SUBMISSION REQUIREMENTS

(attached)

**ORDINANCE NO. 25-3240**

**VOTE: Roll call vote.**

**AYES: Trustees Avakian, Chen, Fink, Lewis,  
Tyrrell**

**NAYS: Nawrocki**

**ABSENT: None.**

**ABSTAIN: None.**

**DATE: February 10, 2025.**

**OTHER: Published in Pamphlet Form.**

**AN ORDINANCE APPROVING A MAP  
AMENDMENT TO REZONE THE 5600 SOUTH  
WOLF ROAD PROPERTY, WESTERN  
SPRINGS, ILLINOIS, FROM THE O – LIMITED  
OFFICE ZONING DISTRICT TO THE R4 -  
MULTIPLE-FAMILY RESIDENCE DISTRICT;  
APPROVING AN APPLICATION FOR A  
CONDITIONAL USE PERMIT FOR A  
PLANNED DEVELOPMENT FOR THE  
CONSTRUCTION AND OPERATION OF THE  
PROPOSED 29 UNIT HERITAGE CROSSING  
TOWNHOME DEVELOPMENT LOCATED AT  
THE 5600 SOUTH WOLF ROAD PROPERTY,  
INCLUDING THE APPROVAL OF THE  
COMBINED PRELIMINARY / FINAL  
DEVELOPMENT PLANS, SUBJECT TO  
VILLAGE PLAN REVIEW PROCESS, AND  
APPROVAL OF CERTAIN DEVELOPMENT  
ALLOWANCES, EXCEPTIONS AND  
VARIATIONS FROM THE VILLAGE ZONING  
REGULATIONS, INCLUDING A WAIVER OF  
THE FIVE (5) ACRE MINIMUM LOT AREA  
REQUIREMENT AND A REDUCTION OF  
CERTAIN PLANNED DEVELOPMENT  
SUBMISSION REQUIREMENTS.**

**WHEREAS**, McNaughton Development, LLC, with its principal business office located at 115220 Jackson Street, Burr Ridge, Illinois 60527 (“Applicant”), is the contract purchaser and prospective developer of the real property commonly known as 5600 South Wolf Road, Western Springs, Illinois (“Property”). Casey and Fran Gaik (collectively the “Property Owner”) are the fee simple title owners of the Property and have submitted a written authorization to the Village of Western Springs (“Village”) that allowed the Applicant to file with the Village a completed “General Information Application for Land Use and Development in the Village” form with supporting documents (the “Application”) for the redevelopment of the Property as a twenty-nine (29) unit residential townhome development (the “Development”). The Property Owner has further executed a “Written Consent and Waiver” to allow McNaughton Development, LLC to enter into this Agreement, a copy of which is on file with the Community Development Department and is incorporated herein by reference and made a part hereof; and

**WHEREAS**, in 2024, the Applicant submitted the Application to the Village requesting approval of a conditional use permit for a planned development, a map amendment, an amendment to the Village’s Comprehensive Land Use Plan, a plat of consolidation, a plat of abrogation for storm sewer easement and public utility easement, a plat of vacation relating to a portion of Lawn Avenue, which is utilized as a stormwater detention basin, certain development allowances, exceptions and variations, and other zoning relief as noted below in accordance with the applicable provisions of the Village’s Development Control Ordinance (“DCO”), in order to construct the Development, which is commonly referred to as the Heritage Crossing Subdivision or the Heritage Crossing Townhome Development. A copy of the Application

is on file with the Village's Community Development Department and is incorporated herein by reference; and

**WHEREAS**, the proposed Development consists of nine (9) townhome buildings with unit counts of either three-units or four-units. Each dwelling unit will have a balcony, a rear patio, and an attached, front-loaded garage with a driveway accessed by a private street through the Development. The Development will have off-street community parking spaces, possible on street-parking, sidewalks, an expanded stormwater detention basin system and stormwater management facilities and other private and public infrastructure, open space, landscaped areas and streetlights. The Applicant proposes to extend private Heritage Court to the southeast through the Property to the Development's access driveway proposed along Wolf Road. The existing portion of Heritage Court, a private road, currently services only the Heritage Springs Townhome Development, connects to 55th Street to the north of the Property and is maintained by the Heritage Springs Homeowner's Association. The Applicant's plans indicate that the new portion of Heritage Court will match the existing road's width. An automatic gate will separate the Development from the existing Heritage Springs Subdivision to the north. Vehicle access between the adjacent subdivisions will be controlled by a swing gate and gate access will only be granted to residents of both subdivisions with clicker-access and Village emergency service vehicles. The swing gate will be improved with an Opticom system that will give Village emergency service vehicles access similar to the systems on streetlights. The Developer agrees to accept title to a sixty-six (66.00) foot by two hundred twenty-five (225.00) foot portion of Lawn Avenue (the "ROW Parcel") that will be vacated by the passage of a vacation ordinance and a plat of right-of-way vacation and retention of stormwater facility easement by the Village for purposes of incorporation into the Property and the Development so that the Developer can construct an expanded stormwater detention basin system as part of the construction of the Development; and

**WHEREAS**, as part of the Application and its Exhibits, the Applicant requested one-stage final approval of the submitted "Development Plans" for the Development, which have been revised by the Developer since their initial filing and which are listed at the end of this Ordinance as part of **Group Exhibit "1"** and made a part hereof. The Application and other documents that comprise **Group Exhibit "1"** are on file with the Village Clerk's Office and the Community Development Department and are incorporated by reference into this Ordinance and made a part hereof. The Applicant shall submit a set of "Final Development Plans" (i.e., architectural plans and engineering plans) for Village staff review and Village Engineer review prior to those Plans being considered for final approval by the President and Board of Trustees of the Village (the "Corporate Authorities") at a public meeting in order for the Developer to be eligible to receive a site development permit or building permit to commence site work on the Property or construction of the Development; and

**WHEREAS**, the Property is legally described as follows:

PARCEL 1: THE WEST ½ OF LOT 4 (EXCEPT THE NORTH 75 FEET THEREOF), LOTS 5 AND 6 IN MAXTED SUBDIVISION BEING A SUBDIVISION OF THE EAST 473 FEET OF THE NORTH 775.5 FEET (EXCEPT THE EAST 145.2 FEET OF THE WEST 178.2 FEET OF THE NORTH 350 FEET THEREOF) OF THE NORTH EAST ¼ OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOT 1 IN VIAL'S FAIRWAY, A SUBDIVISION OF PART OF THE NORTH EAST ¼ OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN,

ACCORDING TO THE PLAT RECORDED APRIL 17, 1957 AS DOCUMENT 16879637 IN COOK COUNTY, ILLINOIS.

Legal Description for the Lawn Avenue ROW Parcel is as follows:

THAT PART OF THE 66 FEET WIDE LAWN AVENUE, LYING SOUTH OF THE NORTH LINE OF WESTERN SPRINGS TOWNHOMES, RECORDED MARCH 29, 1999, AS DOCUMENT NO. 99297584, LYING NORTH OF THE SOUTH LINE OF RIDGEWOOD UNIT 12, RECORDED OCTOBER 6, 1965, AS DOCUMENT NO. 19610359, LYING WEST OF THE EAST LINE OF THE WEST ½ OF LOT 4 (EXCEPT THE NORTH 75 FEET THEREOF), LOTS 5 AND 6 IN MAXTED SUBDIVISION, RECORDED NOVEMBER 13, 1948, AS DOCUMENT NO. 14442019, AND LYING EAST OF THE WEST LINE OF RIDGEWOOD UNIT NO. 11, RECORDED APRIL 3, 1964, AS DOCUMENT NO. 19089916, IN THE EAST HALF OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

Common Address: 5600 South Wolf Road, Western Springs, Illinois

P.I.N.S: Parcel 1: 18-18-200-017-0000, Parcel 2: 18-18-200-038-0000 and Parcel 3: 18-18-200-001-0000 (Lawn Avenue ROW Parcel); and

**WHEREAS**, with the passage of **Resolution No. 25-\_\_\_\_\_ on \_\_\_\_\_, 2025**, the Corporate Authorities of the Village approved the following relief from certain DCO submittal requirements for planned developments for this Development:

- a. Waiver of the five (5) acre minimum land area requirement for planned developments.
- b. Waiver of the submittal requirement of a "Market Study" prepared by a qualified, independent market research firm per Subsection 10-8-8(B)(4)(d) of the DCO. This waiver is supported by the fact that the Applicant has submitted a report with supporting market and financial data relative to other recent, active townhouse developments in the Village to demonstrate the market demand for the housing type and base cost.
- c. Waiver of the submittal requirement of a "Site lighting plan" per Subsection 10-8-8(B)(3)(g) of the DCO, due to the relatively small size of the Development. There will be site lighting details and specifications provided by the Applicant; and

**WHEREAS**, the remaining zoning relief necessary for the Applicant to construct the Development is set forth in Section 3 below of this Ordinance; and

**WHEREAS**, a public hearing has been conducted by the Western Springs Plan Commission relative to the Application during public meetings held on August 13, 2024, September 24, 2024 and November 18, 2024, as required by the applicable provisions of State law, including the Illinois Open Meetings Act, 5 ILCS 120/ and Division 11-13 of the Illinois Municipal Code (65 ILCS 5/ 11-13), and the applicable provisions of the DCO (the "Public Hearing"). Prior to conducting the Public Hearing, a notice of Public Hearing was published in a newspaper, a "zoning application pending" sign was posted at the Property, a notice of Public Hearing was mailed to those persons who are required to be mailed the notice in compliance with applicable State law and the DCO, and separate agendas for each of the Plan Commission meetings where the Public Hearing sessions were held were posted as required by the Open Meetings Act; and

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**WHEREAS**, at the November 18, 2024, Public Hearing session, the Western Springs Plan Commission, after finding that sufficient evidence was presented at the Public Hearing to conclude that the applicable standards relating to the requested zoning relief were met, passed a motion approving Report and Recommendation No. 24-02, which recommended approval of the zoning relief needed for the Applicant to construct the Development, subject to certain conditions related to the Development (See, Section V (Conditions) of Report and Recommendation No. 24-02). A copy of Report and Recommendation No. 24-02 is on file with the Village Clerk's Office and is incorporated into this Ordinance by reference; and

**WHEREAS**, at open public meetings held on January 9, 2025 and January 16, 2025, the Village's Planning and Zoning Committee ("Committee") reviewed and discussed the proposed Heritage Crossing Townhome Development and Plan Commission Report and Recommendation No. 24-02 and this Ordinance, and received input from the Village staff on the matter, and provided an opportunity for public input on the matter. At its January 16, 2025 meeting, the Committee recommended that the Corporate Authorities of Village consider the Development and this Ordinance; and

**WHEREAS**, the Village Board, at open public meetings held on **January 13, 2025, January 27, 2025 and February 10, 2025**, reviewed and discussed the Applicant's Application and its request for zoning relief, the findings, recommendations and conditions of the Plan Commission as set forth in Report and Recommendation No. 24-02, received input from Village staff and provided an opportunity for public input. At the \_\_\_\_\_, 2025 public meeting, the Village Board considered the findings, recommendations and conditions of the Plan Commission as set forth in Report and Recommendation No. 24-02 and, with the passage of this Ordinance, the Village Board, after finding that sufficient evidence was presented at the Public Hearing to conclude that the applicable standards relating to the requested zoning relief were met, then accepted, adopted and approved the findings, recommendations and conditions set forth in Report and Recommendation No. 24-02, subject to the approvals and conditions of this Ordinance; and

**WHEREAS**, in accordance with the authority granted by Sections 11-13-1 and 11-13-1.1 of the Illinois Municipal Code (65 ILCS 5/11-13-1 and 11-13-1.1) and the applicable provisions of the DCO, the Village President and Board of Trustees of the Village of Western Springs approve the zoning relief, as requested by the Applicant, relative to the issuance of the Conditional Use Permit for a Planned Development for the construction, operation and maintenance of the Development, subject to the Village-approved zoning relief contained in Section 2 below and the conditions contained in Section 3 below in this Ordinance.

**BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WESTERN SPRINGS, COOK COUNTY, ILLINOIS, AS FOLLOWS:**

**SECTION 1. Incorporation.** The above recitals are incorporated by reference into Section 1 of this Ordinance as material terms and provisions.

**SECTION 2. Approval of Requested Zoning Relief.** Pursuant to the applicable provisions of Title 10 (Development Control Ordinance) of the Western Springs Municipal Code, the President and Board of Trustees approve the following zoning relief and development approvals relative to the Property in order to allow the construction and operation of the Development under a Conditional Use Permit for Planned Development, subject to the conditions set forth in Section 4 below:

- A. Approval of a conditional use permit for a planned development in accordance with Chapter 3 (Conditional Uses) and Chapter 8 (Planned Developments) of the DCO to construct the Development, subject to the requested exceptions, variations and zoning relief from the DCO regulations;
- B. A waiver of the five (5) acre minimum land area requirement under Section 10-8-3 (Guidelines) of the DCO, with the Village Board having found just cause to grant this waiver based the five (5) acre area requirement being outdated for the development of infill parcels within the Village and the consistent past precedent of other Village Boards waiving this requirement for other recent planned developments recognizing that Section 10-8-3 states “it is not intended that each and every one of these guidelines be rigidly conformed to, provided that just cause for any departure from these guidelines is demonstrated”;
- C. Reduction of certain planned development submission materials under Section 10-8-8 (Submittal Requirements) of the DCO as set forth below; approval of a single stage Final Plan review and approval process (i.e., a combined Preliminary Plan / Final Plan approval) for the Development per Subsection 10-8-8(C) of the DCO, provided that the Applicant complies with the submittal and plan review requirements of Section 10-8-5(C) (Final Plan) of the DCO, subject to the reduction in the submittal requirements and other exceptions authorized by this Ordinance;
- D. A Comprehensive Plan Amendment to the Long-Range Land Use Map that reclassifies the Property from the O – Limited Office Zoning District to the R4 - Multiple-Family Residence District;
- E. A map amendment to re-zone the Property and the Lawn Avenue ROW Parcel from the O – Limited Office Zoning District to the R4 - Multiple-Family Residence District;
- F. An Exception (Variations) from Subsection 10-8-4(B)(1)(d) (Exceptions From District Regulations; Site Design Regulations; Exceptions From District Regulations) of the DCO applicable only to the Development to provide: “Along the periphery of such planned developments, set back yards shall be provided as required by the regulations of the underlying zoning district, except that in the R4 - Multiple-Family Residence District variations of not more than 61% to the front yard regulation and the corner side yard regulation may be allowed as part of the approval of the planned development.”;
- G. An Exception (Variations) from Subsection 10-8-4(B)(1)(e) (Exceptions From District Regulations; Site Design Regulations; Exceptions From District Regulations) of the DCO to provide: “Building height shall comply with the Zoning District regulations approved by the Village for the planned development, except that a variation of not more than 9% above the maximum height of buildings and structures may be allowed as part of the approval of a planned development.”;
- H. Exceptions (Text Amendments / Variations) from requirements of Section 10-6-5 (R4 - Multiple-Family Residence District) regulations, including:
  - i. Subsection 10-6-5(D): Minimum Development Parcel Size: Required: five (5) acres (217,800 square feet); and Requested: 2.76 acres;
  - ii. Subsection 10-6-5(E)(1): Minimum Yards Requirements: Front Yard: Required: Twenty-five feet (25'); and Requested: Seven Feet (7');
  - iii. Subsection 10-6-5(E)(2): Minimum Yards Requirements: Corner Side Yard: Required: Twenty-five feet (25'); and Requested: fourteen feet and five inches (14.42');
  - iv. Subsection 10-6-5(E)(3): Minimum Yards Requirements: Interior Side Yard: Required: Thirty feet (30'); and Requested: six feet and eight inches (6.67');

- v. Subsection 10-6-5(E)(4): Minimum Yards Requirements: Rear Yard: Required: Thirty feet (30'); and Requested: Twelve feet and nine inches (12.75'); and
  - vi. Any additional exception(s) or variation(s) identified at the Public Hearing from the other use, bulk and site design requirements contained in the DCO that are necessary to permit the construction of the Development and allow the above Property to be used for its intended purposes in accordance with the filed Application shall also be considered for Village approval; and
- i. A variation from Subsection 10-11-11 (C)(2) (Stormwater Management Requirements For All Developments; Detention; Streets) of the DCO to allow the portion of the north end of Heritage Court (a private street) between the north lot line of the Property to a point approximately forty feet (40') south of the north lot line of the Property, which is not intended to be used for primary ingress and egress vehicle access to the Property, to be designed and constructed to temporarily hold stormwater during certain rain events to facilitate the movement of excess stormwater from the Property to the on-site stormwater detention basins and to draw stormwater off of the remainder of Heritage Court and away from the private driveways of northerly dwelling units so that there is no ponding of stormwater in front of the dwelling units. The standards for consideration and approval of the proposed map amendment and text amendments are set forth in Section 10-3-12 (Amendments) of the DCO; and

**SECTION 3. Conditions of Approval of Requested Zoning Relief.** The above zoning relief and development approvals granted for the Development as contained in Section 2 above are subject to the following conditions:

1. General
  - a. The Applicant shall comply with all of the applicable federal, state, county, local and special district laws, ordinances and regulations, including the provisions of the Village's Municipal Code, relative to the construction and maintenance of the Development, except as otherwise modified by Village approvals.
  - b. The uses generally approved for this Conditional Use Permit for Planned Development for the Development are limited to residential uses and uses ancillary to the foregoing uses. Such ancillary uses shall comply with the requirements for accessory uses established under the DCO. The approval of the Conditional Use Permit for Planned Development for the Development does not authorize the Applicant or any other tenant or occupant to use the Property without applying for and obtaining any required temporary use permit, conditional use permit, or any other Village or other governmental approval. Such specific use approval shall be obtained by the Applicant, tenant or occupant of the Property before commencing such use.
  - c. In regard to the construction, operation and maintenance of the Development, these conditions shall be the only conditional use and planned development conditions applicable to that use of the Property, unless amended by mutual agreement of the Applicant and the Village, or unless amended by ordinance approved by the Village Board after the required public hearing.

- d. The Applicant shall pay the required impact fees (i.e., school site / school improvement impact fee; and park and recreation site impact fee) to the Village in lieu of land dedication, as calculated by the Village, in accordance with the formula set forth in Section 10-10-14 of the DCO, at the time it applies for a building permit
- e. In the event that the Applicant does not obtain a site development permit or a building permit and commence and actively perform construction of the Development within twelve (12) months of the approval of the Conditional Use Permit for Planned Development for this Project, the Conditional Use Permit for Planned Development for this Project shall expire in accordance with Section 10-3-14(L) of the DCO, unless the 12-month period is extended by approval of an ordinance by the President and Board of Trustees of the Village. Any extension of the above 12-month period to avoid an expiration of the Conditional Use Permit for Planned Development for this Project shall be approved by an ordinance passed by the President and Board of Trustees of the Village, in their discretion. Approval of such an extension does not require a public hearing, but such ordinance must be approved by the President and Board of Trustees of the Village at a public meeting in accordance with the Open Meetings Act. The Applicant shall use all commercially reasonable efforts to secure all necessary governmental permits needed to complete the Development and to actively and diligently pursue completion of the Development. The Applicant shall use all commercially reasonable efforts to hire an adequate number of experienced contractors, subcontractors and other skilled labor, and provide for adequate equipment and building materials to ensure that construction of the Development is actively and diligently pursued.
- f. The Applicant shall revise the Declaration of Covenants, Conditions and Restrictions for the Homeowners Association (the "Declaration") in accordance with comments provided by the Village Attorney and shall file the Declaration with the Cook County Clerk's Office, Recording Division ("CCCORD") prior to the sale of any portion of the Property to any other person. The Declaration shall require that, at the closing of each dwelling unit, the Applicant shall allocate \$600.00 (or an amount equal to three (3) months' Community Assessment) and pay said amount into a "Capital Reserve" fund, as defined and required by the Declaration, for the maintenance reserve account for the benefit of and use of the Homeowners Association for maintenance purposes consistent with the Declaration. In addition, the Declaration shall provide for adequate building reserve funds to pay for operating expenses (insurance, building maintenance and cleaning vendors, utilities, security) and short-term and long-term maintenance, repair and replacement expenses for the exterior and interior of the building and its common areas, and also contain all necessary cross access easements for driveway use and garage access for the benefit of each of the dwelling units as well as common area easements for use, repair, replacement and maintenance of common areas and common elements (driveway, fencing, landscaping, roof and exterior building materials) of the building.
- g. The Village and the Applicant shall execute the Final Plat of Heritage Crossing and the Declaration, which shall be filed against title to the above-described property with the CCCORD. The Plat shall be filed by the Village, at the Developer's cost, along with a certified copy of the Ordinance approving the Development. The Declaration shall be filed by the Developer, at its cost, with the CCCORD after the townhome units are constructed but prior to the sale and conveyance of legal title to any townhome. The Declaration shall

contain provisions that are enforceable against the Applicant, and any successor owners, property managers, associations, lessees, licensees, transferees, receivers or successors in interest, which, in part, provides for the future installation, maintenance, repair and replacement of all stormwater management and other drainage structures, public utilities, water and sewer mains and related structures, including without limitation fire hydrants, driveway and parking lot improvements, parking lot and landscape lighting, and landscaping and retaining wall improvements. The Plat and the Declaration shall be in a form and content approved by the Village Engineer and the Village Attorney. The Plat and the Declaration shall impose on the Applicant, and any successor owners, lessees, licensees, transferees, receivers or successors in interest, at their cost, the obligation and responsibility of performing all future maintenance, repair and replacement work in regard to the above-described development improvements as reasonably deemed necessary by the Director of Code Enforcement and the Village Engineer in order to comply with the Village Code, as amended, and shall grant to the Village a non-exclusive easement for entry upon and access to all parts of the Property, for purposes of providing the Village with the right but not the obligation to perform such maintenance, repair and replacement work, in its sole, reasonable discretion, along with the right to recover the cost of such work directly from the owners, successor owners or successors in interest or to lien the property and take all other action provided for in 65 ILCS 5/11-31-2, as amended, or similar applicable law, including any law contained in the Illinois Municipal Code, as amended. The Applicant, and any successor owners, property managers, associations, lessees, licensees, transferees, receivers or successors in interest, at their cost, shall repair pavement, concrete, landscaped areas or other areas damaged by the Village if the Village performs such future installation, maintenance, repair and replacement work.

- h. Prior to the issuance of a building or development permit, the Applicant shall submit a construction schedule, routing, construction staging, restoration plan and phasing plan with map and plan exhibits, which are in conformance with the final set of Village approved engineering and construction plans for the Development. These plans shall identify construction access routes, temporary detours, regular street cleaning intervals and refuse removal, and other appropriate safety, restricted access and “good neighbor” practices. Standard Village construction hours shall apply, except as otherwise permitted by the Village Manager.
- i. Prior to the issuance of a building or development permit, the Applicant shall enter into a Maintenance and Development Agreement with the Village, as prepared by the Village Attorney and approved by the Village Board, which includes conditions for the construction and long-term maintenance of the Development, consisting generally of the following items:
  - i. The posting of an irrevocable letter of credit or other form of security with the Village to secure the completion of the required SSA Maintained Improvements and the landscape improvements for the Development (the “Developer Security”). The Developer Security shall be in a form acceptable to the Village Attorney and of a dollar amount to be determined by the Village Engineer and shall be managed by the Village in accordance with Subsection 10-10-19(2) (Land Dedications and Completion,

Maintenance and Acceptance of Improvements; Posting of a Bond, Cash, or Other Securities) of the Municipal Code;

- ii. The posting of a two-year maintenance bond (performance and payment bond) for the SSA Maintained Improvements and the landscape improvements;
- iii. The submittal of construction access plans for the Development requiring the Applicant and all of its employees, consultants and development and construction crews to use Wolf Road as the sole point of ingress and egress to the Development. It is the Applicant's responsibility to ensure that access to the site is maintained during all Development construction activities;
- iv. The Applicant shall either enter into a private tow company contract to enforce the community parking spaces with the Development or enter into a private parking / private street enforcement agreement with the Village that will allow for the posting of appropriate parking regulation signs and vehicle speed signs to enable Village police officers to issue parking tickets and traffic citations to enforce the parking and traffic regulations of Heritage Court within the Heritage Crossing Subdivision;
- v. At the request of the Applicant and the Homeowners Association for Heritage Springs Subdivision, the Village will consider approving an amendment to the planned development ordinance granted for the Heritage Springs Subdivision to allow for additional on-street parking spaces and the operation of the swing gate and such other requested amendments that are necessitated by the Development, and the Village will also consider entering into a private parking / private street enforcement agreement that will allow for the posting of appropriate parking regulation signs and vehicle speed signs to enable Village police officers to issue parking tickets and traffic citations to enforce the parking and traffic regulations of Heritage Court within the Heritage Springs Subdivision;
- vi. Prior to the issuance of a building or development permit, the submittal to the Village of a fully executed agreement with Cook County for perpetual maintenance of the Project-related roadway structures and all infrastructure improvements within the portion of the Wolf Road right-of-way, as required by Cook County;
- vii. Per Section 10-11-11 (Stormwater Management Requirements For All Developments) of the DCO, prior to obtaining any type of building or site development permit for the Project, the Applicant shall execute and enter into a stormwater management facilities maintenance agreement ("stormwater maintenance agreement") with the Village, as prepared by the Village Attorney and approved by the Village Board, relative to the stormwater drainage facilities located on the Property, which facilities shall be the responsibility of the Applicant and its successor owners (i.e., the Homeowners Association). Within the stormwater maintenance agreement, the Applicant shall guarantee that the Applicant and all of the successor owners of the Property will maintain the stormwater management facilities and the stormwater drainage system and provide to the Village periodic written reports on the stormwater management facilities' monitoring and maintenance. The stormwater maintenance agreement shall also specifically authorize representatives of the Village

to enter onto the Property for the purpose of inspections of the stormwater drainage system. Such agreement shall be recorded with the CCCORD. The stormwater maintenance agreement shall include a schedule for regular maintenance of each aspect of the Property's stormwater drainage system and shall provide for access to the system for inspection by authorized personnel of the Village. The stormwater maintenance agreement shall also stipulate that, if the appropriate authorized personnel of the Village notify the property owner in writing of maintenance problems which require correction, the property owner shall make such corrections within thirty (30) calendar days of such notification. If the corrections are not made within this time period, the Village may have the necessary work completed and assess the cost to the property owner.

- viii. Revise the Declaration to exclude/prohibit charcoal grills on the proposed balconies.
- j. Prior to the sale of any portion of the Property by the Developer or the issuance of any occupancy permits for the Development, the Developer shall participate in good faith in the formation process, and not object to the formation, of a dormant "Special Service Area" ("SSA") to be established by the Village, at the Developer's cost, pursuant to 35 ILCS 200/27-5, et seq. The SSA shall govern the Property for the purpose of ensuring, as and when appropriate, the maintenance, repair and replacement of the "SSA Maintained Improvements". The SSA Maintained Improvements shall include those public and privately-owned and developed improvements within the Development or within utility easements outside of the Property that are necessary to support and serve some or all of the Development including, but not limited to, new or the replacement, maintenance, extension or upsizing of existing public or private stormwater detention and drainage facilities, including the Lawn Avenue Detention Basin, the Outlot 31 Detention Basin and the Outlot 33 Detention Basin (each detention basin shall be privately-owned and maintained by the Homeowners Association), privately-owned Heritage Court, the Heritage Court Gate Access Improvements and its Opticom sensor system, other roads or pathways, drive aisles, curbs, light poles and light fixtures for roads, sidewalk and pedestrian pathways, and access drives, sanitary sewer mains and service lines and other sanitary sewer system facilities and equipment (i.e., lift stations), water mains and service lines and other water system facilities and equipment (i.e., pump and/or booster stations, vaults, generators, water storage tank or tower), and electric, telecommunications, cable and gas service lines and facilities.
- k. The individual dwelling units and platted lots within the Development shall not be permitted to request variations from the Village's Municipal Code that are unique and specific to the individual dwelling unit and lot owner. Amendments to the planned development ordinance that are not unique and specific to an individual dwelling unit and a specific lot owner may be applied for and presented to the Village in accordance with the applicable provisions of the Municipal Code.
- l. The residential buildings must comply with the architecture approved by the Village's Planned Development Ordinance.
- m. The exterior of the newly constructed buildings and other above grade structures of the Project shall be constructed primarily of high quality brick, brick veneer that is a minimum

of three-fourths inches and individually adhered, stone, masonry, architectural-faced concrete block, stamped concrete panels, cement fiber board (i.e., Hardies or LP cement board products), architectural metals, and synthetic architectural products to provide a high quality aesthetic appearance. Sidewalks and pedestrian pathways shall be constructed of concrete. Vinyl siding shall not be permitted. Exterior Insulation and Finish Systems (EIFS) materials (i.e., Dry-vit materials) shall not be permitted. The Applicant agrees to take all commercially reasonable steps to ensure that the building design, building materials and exterior color schemes of the proposed building and its related landscaping are designed to blend in and complement the adjacent residential uses.

- n. The Applicant shall prepare and submit to the Village final versions of the Plat of Heritage Crossing Subdivision, the Plat of Abrogation for Storm Sewer Easement and Public Utility Easement, and the Plat of Vacation of Public Right-of-Way that have been revised to address the review comments of the Village Engineer and the Village Attorney. The Plat of Heritage Crossing Subdivision shall be revised to specifically identify all terms and conditions associated with the road and driveway usage and maintenance, including cleanliness standards, snow removal and other required reasonable terms. These Plats, and any other plats that may be required for this Development, are subject to approval by the Village Board (or the Trustees), and, if approved, then said Plats will be filed with the CCCORD, by the Village Attorney, at the Applicant's cost prior to the sale of any dwelling unit.
- o. In accordance with Subsection 9-1A-1 (Plan Review Deposits and Fees) and Subsection 9-1B-5: (Additional Deposit Required) of the Municipal Code, within five (5) business days of Village Board approval of the Requested Zoning Relief, the Applicant shall provide to the Village a developer-reimbursable costs / plan review escrow deposit of \$58,000.00 to defray the Village's cost of plan reviews and payment of other developer-reimbursable costs incurred by the Village relative to the processing of the Application and the plan reviews by the Village staff and Village consultants of the development plans submitted for development permit approval. The developer-reimbursable costs / plan review escrow deposit shall always maintain a positive cash balance of not less than \$10,000.00 and the Applicant shall provide the Village with additional funds to replenish the escrow within five (5) business days upon written demand from the Village.
- p. Once the Property is rezoned from its current designation of O – Limited Office Zoning District to the R4 - Multiple-Family Residence District, with a conditional use permit for planned development overlay approval, to allow for the construction and operation of the Development, it will expand the types of other possible adaptive uses that could be developed on the Property under the R4 - Multiple-Family Residence District classification, if the Development is not constructed, subject to Village approval of another conditional use permit for a planned development after the conducting of the required public hearing.
- q. The conditional use permit for planned development ordinance and its conditions shall be covenants of record that run with the land and shall be placed in a recordable format, acceptable to the Village Attorney, and then recorded by the Village against title to the Property with the Cook County Clerk's Office – Recording Division, at the Applicant's cost.

- r. The approval of the Requested Zoning Relief is subject to the Developer purchasing the Property from the Property Owner.
  - s. Execution by the Applicant of the ACKNOWLEDGMENT Page that is part of the conditional use permit for planned development ordinance.
2. Engineering
- a. The Applicant, at its cost, shall install a new eight inch (8.00") ductile iron watermain and new fire hydrants to service the Development. The Developer shall obtain an IEPA permit for the new watermain. The Village, at the Applicant's cost, shall have a water system engineering inspection performed and an assessment report prepared by a licensed professional water system engineer to verify the condition and capacity of the existing adjacent water main located in the Heritage Springs Subdivision and to provide a recommendation for the sizing of the water main that will service the Development. The Applicant, at its cost, shall be responsible for any repairs and/or replacement related to its connection to and extension of the existing water main that are determined by the water system engineer to be necessary to provide adequate water main and service line connections to the Development.
  - b. The Applicant shall be responsible to pay for any damage to any public improvements caused by any activities related to the Development. The Village will be the sole arbiter of determining if the damage was caused by the Applicant's actions. Within seven (7) calendar days of inspecting any damage, the Village will notify the Applicant in writing and define the scope of the damage and expected repairs. The Village and the Applicant will discuss whether the damage is to be repaired by the Applicant or if the estimated costs of repairs are paid to the Village.
  - c. The existing drainage pattern for the Property will not be altered by the construction of the Development, the stormwater drainage system, the landscaping or any of the related improvements.
  - d. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an updated geometric plan that shows not only the location of a safety rail on top of the retaining walls, as shown on the current geometric plan, but also contains a detailed and structural design and calculations for the safety rail, which are needed to ensure the rail is adequate and meets applicable codes.
  - e. The Applicant's engineer shall submit to the Village, as part of the Village plan review and approval process, accurate calculations showing that the stormwater management system is able to manage bypass stormwater appropriately as determined by the Village Engineer.
  - f. The Applicant shall submit to the Village, as part of the Village plan review and approval process, accurate calculations that show that the rate of flow of the stormwater drainage bypass system is equal to or less than the current rate of all bypass flows (low flow and

overland). This submittal must demonstrate that the bypass stormwater does not reach the Lawn Avenue Detention Basin faster than it currently does under the existing conditions.

- g. The Village will not accept the twin 54" aluminum pipes that are proposed by the Applicant to be installed in the rear yard of Units 1 through 7. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an updated design plan that utilizes reinforced concrete pipes or precast reinforced concrete box culverts to convey the stormwater. The Applicant shall submit to the Village design calculations that demonstrate the proposed pipes meet all relevant design criteria for capacity and velocity of stormwater.
- h. The Applicant shall submit to the Village, as part of the Village plan review and approval process, a detailed operations and maintenance ("O&M") plan for the enclosed stormwater drainage bypass system. The O&M plan is required to be incorporated into the final plat of subdivision, the Declaration, and the Maintenance and Development Agreement.
- i. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an updated design plan that shows:
  - i. All components of the stormwater bypass system (open channel and piping) are secured and not accessible to the public.
  - ii. The Applicant shall install infrastructure to ensure that the stormwater bypass system is not a danger to the public.
- j. The Applicant shall submit to the Village, as part of the Village plan review and approval process, a wetland plantings plan for the stormwater basins to be used with the volume control retention system needed to be designed by a licensed / certified ecologist and reviewed by the Village prior to the issuance of any site development permit. This plan must also include a maintenance plan.
- k. The Applicant shall submit to the Village, as part of the Village plan review and approval process, a set of structural design plans sealed by an Illinois licensed structural engineer for the retaining walls.
- l. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an O&M plan for the stormwater detention basins. The Applicant shall create an O&M plan for the stormwater detention basins and create a mechanism to fund all required maintenance activities for the establishment period of three (3) to five (5) years. A licensed / certified ecologist with experience in wetland basins shall produce this type of O&M plan for Village review and approval prior to the issuance of any site development permit.
- m. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an exhibit showing that the street light photometrics conform with the Village Code for Village review prior to the issuance of any site development permit.

- n. The plans have been updated to show new retaining walls along the west edge of the Lawn Avenue Detention Basin which will require the removal of the existing walls. However, the structural design of this new retaining wall and the other proposed retaining walls are not complete and are not provided. The Applicant shall submit to the Village, as part of the Village plan review and approval process, complete retaining wall details, elevations, and signoff approval by an Illinois licensed structural engineer.
- o. Since the structural design is not complete, it is not known if tiebacks or over excavation needed to construct the walls will be contained within the Property. Work needed to construct the new retaining walls cannot take place on private property unless temporary or permanent easements are acquired. Construction limits behind the retaining walls shall be identified and contained within the Property or copies of executed easements are to be provided prior to the issuance of any site development permit.
- p. Neighboring properties cannot be flooded as a result of any interim construction conditions or activities by the Applicant that could occur if the old retaining wall is torn down and the new retaining wall is not yet complete. The development plans shall contain provisions that temporarily protect the west property line to a pre-project elevation. The development plans shall identify a stormwater management plan that the Applicant shall comply with to address stormwater management issues during the site development phase and construction phase of the Development.
- q. The retaining wall design of the detention area between Units 20 and 21 shall be constructed and maintained to accommodate for overland flows that may occur if the twin 54" sewers are overwhelmed or not functioning properly
- r. Replace the existing flat grate that is part of the existing Heritage Springs stormwater system, which is prone to clogging, with a vaulted frame and grate. A vaulted grate will be much less prone to clogging and will improve performance and reliability of both developments' stormwater management systems.
- s. The plans show inlets proposed to be located on the Heritage Springs property. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an updated plan that relocates the inlets to the south so they are located on the Heritage Crossing's property and adjusts the location of the inlets directly under the proposed swing gate to be fully located on Heritage Crossing property. The plans also need to be updated so that the Heritage Court roadway vertical curve is adjusted so the low point is moved south, which will result in the inlets being placed on the Heritage Crossing property and relocate the depressional area from Heritage Springs to Heritage Crossing.
- t. The Applicant shall submit to the Village, as part of the Village plan review and approval process, a set of street lighting plans for the Development, which include all lighting conduits, cables, controllers, and service location. Also, these plans shall include light pole foundation and controller foundation details, and the street lighting plans shall be signed and sealed by an Illinois licensed structural engineer.

- u. The Applicant's narrative report shall be updated and resubmitted to the Village with a section discussing the development of the HEC-HMS modeling and results.
- v. The Applicant shall submit to the Village, as part of the Village plan review and approval process, a report that discusses how the hydraulic modeling impacted the subdivision grading plan.
- w. The Applicant's narrative report shall be updated and resubmitted to the Village with a section discussing the worst-case flooding scenario. This updated report shall include exhibits sent to Engineering on October 31, 2024, which illustrate stormwater storage in this worst-case scenario. The updated report shall clearly state there is a net increase in stormwater storage despite the removal of the existing parking lot area and the back-filling of that parking lot area with soil as part of the site development work and lot grading work.
- x. The proposed design of the dual culverts suggests a full-flowing velocity of 14 ft/s, well above the acceptable maximum velocity. The Applicant's next plan submittal shall contain documentation that confirms 11 ft/s is the maximum flow velocity through these culvert stormwater pipes.
- y. The Applicant shall submit to the Village, as part of the Village plan review and approval process, a set of calculations for the riprap sizing at the outfall of the dual culverts. The current riprap gradation, shape and area do not appear to match the design provided by the Illinois Urban Manual. Furthermore, the detail provided (IL-610 on Sheet 6) is missing dimensions and shall be updated by the Applicant.
- z. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an updated grading plan for the Property line north of Unit 14 that demonstrates that the final re-grading of the area will prevent overland flow from continuing onto the Heritage Springs property.
- aa. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an updated Stormwater Management Report and HEC-HMS Model that includes:
  - i. An updated Stormwater Management Report's narrative revised to include a discussion of modeling results, reference and a discussion of the supporting modeling documentation, and also shall include a set of inundation maps.
  - ii. Clarification on how the discharge flows are defined between stormwater detention basins. The HEC-HMS files provided indicate that the discharge curves for all stormwater detention basins are turned off in both existing and proposed scenarios. Additionally, many of the nodes do not have discharge functions defined.
  - iii. Clarification on the distinction between the nodes "Storage East of Wolf Road" and "Box Inlet East Side Wolf Rd". Pages 71 and 72 of the report show stage-storage tables for these nodes, but the areas for elevations 664.0 and 665.0 match for these two, suggesting some volume may be double-counted. Furthermore, the "Box Inlet-

East Side Wolf Rd” node table differs significantly from that shown in the HEC-HMS model.

- iv. Provide a set of HEC-HMS results that match the conservative scenario displayed in the inundation maps because: (i) The inundation maps provided are for the scenario where the Ashbrook Subdivision ponds are not modeled, and the 2-hour duration storm is the critical duration., (ii) However, the HEC-HMS results provided are for the scenario where the ponds are modeled, and the 1-hour duration is critical.
  - v. Revise the inundation maps to reflect flood elevations upstream of Basin “C”. For example, the “Storage West Side Wolf Road” node has critical duration elevations in excess of 660, which need to be shown on the inundation maps. This would include surcharging inlets along the dual culverts under proposed conditions.
- bb. The Applicant shall submit to the Village, as part of the Village plan review and approval process, a written response to each of the initial plan review comments from the Village Engineer and Village’s consulting engineer contained in Attachment 4 of the Village Staff Memo dated November 18, 2024.
- cc. The Applicant shall submit to the Village, as part of the Village plan review and approval process, a set of final engineering plans that include the location of all utilities and light poles that demonstrate there are no conflicts between utilities, light poles, and the proposed landscape areas.

### 3. Landscaping

- a. The Applicant (and any successor owners, property managers, property associations), at its cost, shall be required to maintain each building façade and long-term lawn and landscape maintenance of the green spaces for the Development, which obligations shall be set forth in a combined Property Maintenance Plan / Landscaping Plan for the Village’s plan review approval and final Village Board approval. Maintenance standards, tree replacement standards and other appropriate landscaping standards shall be part of the Applicant’s Property Maintenance Plan / Landscape Plan for the Project, and the Applicant shall comply with the obligations and standards contained in the Property Maintenance Plan.

### 4. Right-Of-Way, Road, and Traffic

- a. The Applicant proposes to maintain the current Wolf Road access point as the primary point of ingress and egress for the Development, subject to Cook County Department of Transportation and Highways approval of certain Wolf Road right-of-way modifications (i.e., required Project-related reconfiguration work to Wolf Road that may include a deceleration / turning lane) and modifications to the existing drainage culvert improvements that will allow it to construct the Development consistent with the current Site Plan. The Village’s consideration of approval of the Development is conditioned on the Cook County Department of Transportation and Highways’ approval of the current Wolf Road access point as the primary point of ingress and egress for the Development based on the current Site Plan and the Applicant’s agreement to abide by the conditions

of approval required of the Applicant by the Cook County Department of Transportation and Highways relative to the Wolf Road right-of-way modifications and modifications to the existing drainage culvert improvements. The Applicant, at its cost, shall be responsible for entering into all easements, maintenance agreements and other binding documents with the Cook County Department of Transportation and Highways, and completing the Wolf Road right-of-way modifications and any modifications to the existing drainage culvert improvements. Other than the Village's plan review process, the Village shall not be obligated to participate in the Cook County Department of Transportation and Highways' required Wolf Road right-of-way modifications and modifications to the existing drainage culvert improvements that are necessary to construct the Development under the current Site Plan and that will allow the Applicant to construct the Development consistent with the current Site Plan. In the event the Cook County Department of Transportation and Highways does not approve of the current Wolf Road access point as the primary point of ingress and egress for the Development, the Applicant will have to petition for an amendment to the planned development ordinance and present a revised Site Plan with a modified point of ingress and egress for the Development for review and consideration by the Plan Commission at a public hearing and then review and consideration by the Village Board.

- b. The Applicant, at its cost, shall construct a fence and swing gate across Heritage Court at the north lot line where the new Heritage Court meets the existing Heritage Court that serves the Heritage Springs Subdivision. The swing gate shall be operated by an Opticom sensor that shall be taller than the proposed fence/gate. The design of the swing gate shall ensure that gate electrical and control equipment is elevated one foot (1.0') above flood elevation. The swing gate must work at all times and shall have a battery backup system capable of operating the gate for at least 24 hours after loss of power to ensure operation during power outages. The swing gate must have appropriate sensors on both sides to ensure the gate can operate in either direction for emergency vehicles. Design plans, operational details, and loss of power procedure for the swing gate and the Opticom system must be submitted by the Applicant for review and approval by the Village's Director of Fire and EMS before any permit is issued for site development. The Applicant shall enter into an operations and maintenance agreement with the Homeowners Association for the Heritage Springs Subdivision relative to the swing gate and the Opticom sensor(s).
- c. Vehicles parked in the driveway of Units 8, 15 and 21 may not overhang the curb or the sidewalk (if present).
- d. New sidewalks installed by the Applicant are required along the west side of Wolf Road and the north side of Park Place frontage per the Village Code. Replacement of existing sidewalks along the west side of Wolf Road as needed as a result of the new access to Wolf Road is required by the Applicant. Placement of sidewalks must be as far from the paved roadways as practical, but the Village will defer to the Cook County Department of Transportation and Highways, as they will review and approve sidewalk placement and issue the permit for the work. On Park Place, placement of the sidewalk shall be one foot (1.0') inside the public right-of-way along the southern edge of the Development, except where it conflicts with the existing Ridgewood sign and the sidewalk shall dead end at west termini point. All new sidewalks shall comply with IDOT and Illinois Accessibility Code

standards for slopes. The northwest corner of the Park Place and Wolf Road sidewalk ramp shall be removed and replaced by the Applicant.

- e. As part of the Maintenance and Development Agreement and the Declaration, the Applicant and the Heritage Crossing Homeowners Association shall be obligated to maintain the swing gate on a regular basis and to repair the swing gate, as needed, to ensure that the swing gate operates at all times.
- f. The Applicant shall submit to the Village, as part of the Village plan review and approval process, updated plans that Convert the turnaround area north of Unit 15 to grasscrete or similar material.
- g. The Applicant shall submit to the Village, as part of the Village plan review and approval process, an updated version of the color site plan prepared by BSB Design (revised November 5, 2024) with the crosswalk shown perpendicular (not angled) to Heritage Court, consistent with the Final Engineering Plans for Heritage Crossing, prepared by DesignTek Engineering, Inc. (revised November 4, 2024).

#### 5. Signage

- a. Provide information on any roadway vehicle traffic signage related to Heritage Court and other proposed subdivision signage type (private) for Village review for the Development for Village Board approval as part of its consideration of the planned development ordinance. All approved and required on-site parking restriction signage that pertains to the Development shall be installed and maintained by the Applicant, at its cost, or the Homeowners Association, at its cost.
- b. Provide for the Ridgewood monument sign, in its current location, or in an alternate location in close proximity to its current location, as agreed upon by the Ridgewood Subdivision Civic Association and Cook County. If the Ridgewood monument sign remains in its current location, the Developer, at its cost, shall provide to the Ridgewood Subdivision Civic Association an easement over the portion of the Property that the sign is partially located on. If the sign is relocated, the Developer, at its cost, will make the required legal arrangements (i.e., easement agreement or land dedication) with either the Ridgewood Subdivision Civic Association or Cook County, or both, to provide for the long-term placement and maintenance of the monument sign.
- c. The placement of the sidewalk on Park Place will require the movement of the Ridgewood subdivision sign. The relocation of the subdivision sign must be addressed by the Applicant as part of the Village plan review and approval process. The Applicant is required to provide the written approval from the Ridgewood Civic Association of the subdivision sign design and sign placement.
- d. The Developer must submit a detailed construction traffic control plan / operations manual for the review and approval of the Director of Law Enforcement, the Director of Engineering Services, and the Director of Community Development's approval prior to the issuance of the site development permit. The plan / operation manual must demonstrate that the Developer is providing the appropriate onsite traffic control

personnel to ensure that the traffic entering and leaving the site does not impact pedestrians, bicycles, or vehicles traveling around the site. Heightened management should occur during school pick-up and drop-off times. The Developer will be responsible to reimburse the Village or the school district for the cost of crossing guard(s) or other traffic control personnel who are retained to assist with pedestrians traveling to and from the Highlands School on school days during school pick-up and drop-off times while site development work is ongoing.

**SECTION 4.** **Acknowledgement and Agreement to Comply With the Obligations, Conditions, Terms and Provisions Set Forth in This Ordinance.** The Applicant agrees to comply with all of the obligations, conditions, terms and provisions of this Ordinance. The Applicant acknowledges and agrees that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's approval of this Ordinance or its review and approval of any plans for the Development or the issuance of any permits for the Development, and that the Village's review and approval of any such plans and issuance of any such permits do not and will not, in any way, be deemed to insure the Applicant against third party claims, causes of action and damages or injuries of any kind at any time. The Applicant consents to the approvals granted in the Approval Ordinance and all conditions of those approvals and also to the recordation of this Ordinance with the CCCORD against title to the Property for the purpose of providing notice that the Applicant, and its transferees, successors-in-interest, all legal or beneficial owners of record, assigns, tenants, licensees and all subsequent owners of the Property or any part of the Property, or any other person and each and all homeowners associations or their equivalent within the Property, are subject to the obligations, conditions, terms and provisions of this Ordinance.

**SECTION 5.** **Termination of Ordinance for Failure of Developer to Acquire Title to the Property.** This validity of this Ordinance is subject to the Developer purchasing the Property from the Property Owner. In the event the Developer does not purchase the Property from the Property Owner, upon written notice delivered to the Village Manager of the termination of the real estate purchase contract entered into between the Property Owner and the Developer, this Ordinance shall automatically terminate without further action by the Corporate Authorities of the Village and shall be void and unenforceable. If the Developer does not purchase the Property, the Developer agrees to waive all claims, causes of action and damages of any kind that the Developer could file against the Village arising out of or related to the termination of this Ordinance. The Developer is required to provide written notice to the Village within five (5) calendar days of the termination of the real estate purchase contract.

**SECTION 6.** **Severability.** The sections, terms, provisions and conditions of this Ordinance shall be severable, and if any section, term, provision or condition is found to be invalid or unenforceable for any reason by a court of competent, final jurisdiction, the remaining sections, terms, provisions and conditions shall remain in full force and effect.

**SECTION 7.** **Repealer; Covenants that Runs With the Land.** Any Ordinance, or portion thereof, in conflict with this Ordinance is repealed to the extent of such conflict. The terms, provisions and conditions set forth in this Ordinance, including those incorporated herein by reference, are covenants that run with the land and shall be released or amended only by mutual agreement of the Applicant and the Village, or unless amended by ordinance approved by the Village Board after the required public hearing.

**SECTION 8.** **Filing with Cook County Recorder of Deeds Office.** A certified copy of this Ordinance shall be recorded against title to the Property with the Cook County Clerk's Office, Recording Division  
2028786\_2

("CCCORD") by the Village, at the Applicant's cost. The Village shall provide the Applicant with a stamped copy of this Ordinance after it is filed with the CCCORD. The terms, provisions and conditions set forth in this Ordinance, including those incorporated herein by reference, are covenants that run with the land and shall be released or amended only upon the written consent of the Village Board.

**SECTION 9. Effective Date.** This Ordinance shall be in full force and effect from and after its adoption, approval and publication, as provided by law.

**PASSED** by the Board of Trustees of the Village of Western Springs, Cook County, Illinois, at a Regular Meeting thereof, held on the \_\_\_\_ day of \_\_\_\_\_, 2025, and approved by me as President on the same day.

  
Heidi Rudolph, Village President

**ATTEST:**

  
Edward Tymick, Village Clerk

This Ordinance was published by me in pamphlet form on the 10<sup>th</sup> day of February, 2025.

  
Edward Tymick, Village Clerk

**Group Exhibit "1"**

The Application consists of information supporting the requested zoning relief, a description of the proposed improvements to be constructed as part of the Development, and the proposed Preliminary Development Plans, as follows:

<b>Code Section</b>	<b>Requirement</b>	<b>Proposed</b>
10-4-4(F)3a: Fences, Height Restrictions	Front yard: 3.5 ft. Rear & side yards: 6 ft.	8 ft.
10-6-5(D): Minimum Development Parcel Size	5 ac.	2.76 ac.
10-6-5(E)(1): Minimum Front Yard	25 ft.	7 ft.
10-6-5(E)(2): Minimum Corner Side Yard	25 ft.	14.48 ft.
10-6-5(E)(3): Minimum Interior Side Yard	30 ft.	6.67 ft.
10-6-5(E)(4): Minimum Rear Yard	30 ft.	12.75 ft.
10-8-4(B)(1)(e): Maximum Building Height	35 ft.	36.33 ft.
10-10-7: Street Design Criteria	Pavement width of 27 ft.	23 ft.
10-10-7: Street Design Criteria	Minimum horizontal curve radius of 150 ft.	40 ft.
10-10-7: Street Design Criteria	Minimum vertical curves 100 ft. in length	50 ft.
10-11-11(C)2: Detention	Streets are not to be used for the storage of excess stormwater, ponding depths shall not encroach more than 3' on the adjacent traffic lane and shall not remain flooded for more than 8 hours for any event less than or equal to the 100-year event	Allow for storage of 1.5 ft on the entire street width from the northern property line to a point roughly 36.5 ft. south along the Heritage Court.

(incorporated herein by reference and with copies on file at the Village Clerk's Office and the Community Development Department)

**ACKNOWLEDGMENT AND AGREEMENT**  
**TO COMPLY WITH THE OBLIGATIONS, CONDITIONS, TERMS AND PROVISIONS**  
**SET FORTH IN WESTERN SPRINGS ORDINANCE NO. 25-3240**

I, Paul McNaughton, Managing Member of McNaughton Development, LLC, the contract purchaser of the above-described Property (5600 South Wolf Road) and the prospective acquirer of the Lawn Avenue ROW Parcel, have read and understand each of the above obligations, conditions, terms and provisions of this Ordinance that are required of the McNaughton Development, LLC, including the obligations, conditions, terms and provisions set forth at Section 3 above, and have signed this ACKNOWLEDGMENT AND AGREEMENT, as an authorized corporate officer of McNaughton Development, LLC, to confirm that McNaughton Development, LLC shall be bound by such obligations, conditions, terms and provisions.

**McNaughton Development, LLC**

By:   
Managing Member

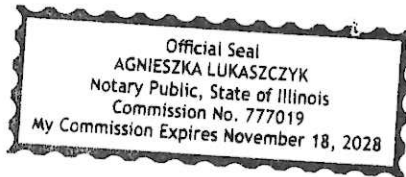
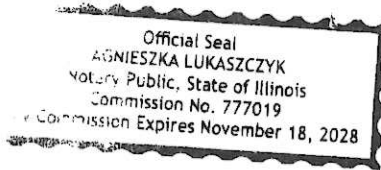
By:   
Notary Public

Name: Paul McNaughton

Date: MARCH 12, 2025.

Date: 3.12., 2025.

Commission Expires: 11.18.2028



STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

**CLERK'S CERTIFICATE**

I, Edward Tymick, Village Clerk of the Village of Western Springs, in the County of Cook and State of Illinois, certify that the attached document is a true and correct copy of that certain Ordinance now on file in my office, entitled:

**Ordinance No. 25-3240**

**AN ORDINANCE APPROVING A MAP AMENDMENT TO REZONE THE 5600 SOUTH WOLF ROAD PROPERTY, WESTERN SPRINGS, ILLINOIS, FROM THE O – LIMITED OFFICE ZONING DISTRICT TO THE R4 - MULTIPLE-FAMILY RESIDENCE DISTRICT; APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT FOR A PLANNED DEVELOPMENT FOR THE CONSTRUCTION AND OPERATION OF THE PROPOSED 29 UNIT HERITAGE CROSSING TOWNHOME DEVELOPMENT LOCATED AT THE 5600 SOUTH WOLF ROAD PROPERTY, INCLUDING THE APPROVAL OF THE COMBINED PRELIMINARY / FINAL DEVELOPMENT PLANS, SUBJECT TO VILLAGE PLAN REVIEW PROCESS, AND APPROVAL OF CERTAIN DEVELOPMENT ALLOWANCES, EXCEPTIONS AND VARIATIONS FROM THE VILLAGE ZONING REGULATIONS, INCLUDING A WAIVER OF THE FIVE (5) ACRE MINIMUM LOT AREA REQUIREMENT AND A REDUCTION OF CERTAIN PLANNED DEVELOPMENT SUBMISSION REQUIREMENTS**

which Ordinance was passed by a roll call vote of the Board of Trustees of the Village of Western Springs at a Regular Meeting on the 10<sup>th</sup> day of February 2025, at which meeting a quorum was present, and approved by the President of the Village of Western Springs on the 10<sup>th</sup> day of February 2025.

I further certify that the vote on the question of the passage of said Ordinance by the Board of Trustees of the Village of Western Springs was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Western Springs, and that the result of said vote was as follows, to-wit:

**AYES: Trustees Avakian, Chen, Fink, Lewis, Tyrrell**

**NAYS: Trustee Nawrocki**

**ABSENT: None.**

I do further certify that the original Ordinance, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the Village of Western Springs, this 10<sup>th</sup> day of February 2025.



  
Edward Tymick, Village Clerk

**Exhibit "C"**

**Legal Description for 5600 South Wolf Road, Western Springs, Illinois.**

PARCEL 1: THE WEST ½ OF LOT 4 (EXCEPT THE NORTH 75 FEET THEREOF), LOTS 5 AND 6 IN MAXTED SUBDIVISION BEING A SUBDIVISION OF THE EAST 473 FEET OF THE NORTH 775.5 FEET (EXCEPT THE EAST 145.2 FEET OF THE WEST 178.2 FEET OF THE NORTH 350 FEET THEREOF) OF THE NORTH EAST ¼ OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOT 1 IN VIAL'S FAIRWAY, A SUBDIVISION OF PART OF THE NORTH EAST ¼ OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED APRIL 17, 1957 AS DOCUMENT 16879637 IN COOK COUNTY, ILLINOIS.

**Legal Description for the Lawn Avenue ROW Parcel:**

THAT PART OF THE 66 FEET WIDE LAWN AVENUE, LYING SOUTH OF THE NORTH LINE OF WESTERN SPRINGS TOWNHOMES, RECORDED MARCH 29, 1999, AS DOCUMENT NO. 99297584, LYING NORTH OF THE SOUTH LINE OF RIDGEWOOD UNIT 12, RECORDED OCTOBER 6, 1965, AS DOCUMENT NO. 19610359, LYING WEST OF THE EAST LINE OF THE WEST ½ OF LOT 4 (EXCEPT THE NORTH 75 FEET THEREOF), LOTS 5 AND 6 IN MAXTED SUBDIVISION, RECORDED NOVEMBER 13, 1948, AS DOCUMENT NO. 14442019, AND LYING EAST OF THE WEST LINE OF RIDGEWOOD UNIT NO. 11, RECORDED APRIL 3, 1964, AS DOCUMENT NO. 19089916, IN THE EAST HALF OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

PINS: 18-18-200-017-0000  
18-18-200-038-0000  
18-18-200-001-0000 (Lawn Avenue ROW Parcel)

(attached)

**Exhibit "D"**

**Final Development Plans**

(To be attached and incorporated herein  
after Village Board approval)

**Exhibit "E"**

**Construction Schedule**

(attached)

**Group Exhibit "F"**

Confidential Developer Letter of funding sources for completion of the Development and Supporting Submittals and Developer's Lender's Financing Commitment Letter issued by \_\_\_\_\_ Bank and dated \_\_\_\_\_, 2025

(not attached; on file with the Village Clerk's Office)

**Exhibit "G"**

Operations and Maintenance Manual and Specifications and Maintenance Schedule  
for Stormwater Conveyance System

(attached)

**Exhibit "H"**

**Forms of Letters of Credit**

(attached)

**REQUIRED FORM OF PERFORMANCE LETTER OF CREDIT IRREVOCABLE LETTER OF CREDIT  
NO.**

**AMOUNT:** \$

**EXPIRATION DATE:** Two years after issuance

**DATE OF ISSUE:** \_\_\_\_\_ 202\_\_.

[Name of Bank]

[Address]

TO: Village of Western Springs (Beneficiary)  
740 Hillgrove Avenue  
Western Springs, Illinois 60558  
Attention: Village Manager

\_\_\_\_\_ BANK HEREBY AUTHORIZES YOU TO DRAW AT SIGHT on the UP TO AN AGGREGATE AMOUNT OF \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_) for account of [Developer], a \_\_\_\_\_ limited liability company ("Customer").

Drafts under this Letter of Credit shall bear upon their face the words:

Drawn under \_\_\_\_\_  
Credit No. Dated: \_\_\_\_\_ 202\_\_.

Drafts may be for all or any portion of the amount of this Letter of Credit, and shall be generally in the form of the sample draft attached hereto as Exhibit "1," and shall be accompanied by one of the following documents executed by the Western Springs Village Manager:

- (a) A written statement on the form attached hereto as Exhibit "2" stating that, conditioned upon proper notice to the Western Springs Village Manager, Letter of Credit No. \_\_\_ will expire within thirty (30) calendar days or less and that the Customer / [Developer] has failed to deliver to the Western Springs Village Manager evidence of a renewal of Letter of Credit No. \_\_\_; or
- (b) A written statement on the form attached hereto as Exhibit "3" stating that all or any part of the Infrastructure as defined in and required to be constructed by the Customer / [Developer] pursuant to "An Agreement \_\_\_\_\_ (the "Development Agreement") have not been constructed in accordance with the Development Agreement and any cure period has expired; or
- (c) A written statement on the form attached hereto as Exhibit "4" stating that all or any part of the costs, payments, permit fees, or other fees required to be paid to the Village of Western Springs by the Customer / [Developer] pursuant to the Development Agreement have not been paid in accordance with the Development Agreement and any cure period has expired; or
- (e) A written statement on the form attached hereto as Exhibit "5" stating that all or any portion of the maintenance, repair, or restoration required to be performed by the Customer / [Developer] pursuant to the Development Agreement has not been performed in accordance with the Development Agreement and any cure period has expired.

- (f) A written statement on the form attached hereto as Exhibit "6" stating that the aggregate amount of the Letter of Credit may be reduced under Subsection \_\_\_ of the Development Agreement in a certain amount.

\_\_\_\_\_ [BANK] HEREBY AGREES with the beneficiary Village of Western Springs that:

1. Drafts drawn under and in compliance with this Letter of Credit shall be duly honored immediately upon presentation to [BANK] if presented on or before the above-stated Expiration Date or presented at the [BANK] office located at [ADDRESS] together with the original of this Letter of Credit on or before that date. Further, one or more drafts may be presented at [BANK] office on or before the Expiration Date.

2. If, within three (3) banking days after any draft drawn under this Letter of Credit is presented to [BANK] in conformance with the terms of this Letter of Credit, [BANK] fails to honor same, [BANK] agrees to pay all attorneys' fees, litigation and court costs, and other expenses incurred by the Village of Western Springs in enforcing the terms of this Letter of Credit.

3. This Letter of Credit shall expire on \_\_\_\_\_, 20\_\_\_, (two (2) years from issuance) as stated hereinabove; provided, however, this Letter of Credit shall only expire after [BANK] sends a written notice to the Western Springs Village Manager by certified mail, return receipt requested, or hand-delivered courier at least thirty (30) calendar days prior to the Expiration Date or such extended Expiration Date, that informs the Village that this Letter of Credit is about to expire (the "30-Day Expiration Notice).

4. In no event will this Letter of Credit or the obligations contained herein expire except after the 30-Day Expiration Notice required herein is delivered to the Western Springs Village Manager, it being expressly agreed that the above Expiration Date shall be extended by the number of calendar days as is required to comply with the 30-Day Expiration Notice delivery requirement.

5. No consent, acknowledgment, or approval of any kind from the Customer / [Developer] shall be necessary or required prior to honoring any draft presented in conformance with the terms of this Letter of Credit.

6. The aggregate amount of this Letter of Credit may be reduced only upon receipt by [BANK] of a document executed by the Western Springs Village Manager as provided in Paragraph (f) above stating that the aggregate amount of this Letter of Credit may be reduced in a specified amount as provided in Subsection \_\_\_ of the Development Agreement.

6. This Letter of Credit is irrevocable.

This Letter of Credit shall be governed by and construed in accordance with the Uniform Customs and Practices for ISP 98 of the International Chamber of Commerce (the "Uniform Customs"). In the event of a conflict between this Letter of Credit and the Uniform Customs, this Letter of Credit shall control. This Letter of Credit shall be deemed to be a contract made under the laws of the State of Illinois, including without limitation Article 5 of the Uniform Commercial Code as in effect in the State of Illinois and shall, as to matters not governed by the Uniform Customs, be governed by and construed in accordance with the Laws of the State of Illinois, without regard to principles of conflicts of law.

As used herein, the term “banking day” means any day other than a Saturday, Sunday, or a day on which banks in the State of Illinois are authorized or required to be closed, and a day on which payments can be effected on the Fedwire Network.

[Signature of Bank Officer]      [Signature of Bank Officer]  
[Officer’s Title]   [Officer’s Title]

EXHIBIT "1" TO FORM OF IRREVOCABLE LETTER OF CREDIT

DRAFT (sample) , 20\_\_ \$

(place) (date) (amount in figures USD)

PAY TO THE ORDER OF: US DOLLARS (amount in words) for value received and charge to the account of:

(Letter of Credit applicant name and address)

TO:

(name of Drawee Bank)

(address)

By: \_\_\_\_\_

EXHIBIT "2" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To: [BANK]

Attn: Bank Officer

Re: Draw Under Letter of Credit No. -----  
Project: [Insert Project Description]  
Customer / [Developer]

To Whom It May Concern:

This is to advise you that Letter of Credit No. \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_ in the amount of \$\_\_\_\_\_ will expire within thirty (30) days or less and that the Customer / [Developer] has failed to deliver to the Western Springs Village Manager evidence of a renewal of Letter of Credit No.\_\_\_\_\_.

The Funds of this LOC that are be are being drawn upon by the Village of Western Springs as a consequence of the failure of the Customer / [Developer] to timely renew the LOC, arrange for the extension of the LOC or provide for an acceptable replacement LOC relative to above-referenced Project that are defined in more detail in the LOC.

As the Village Manager of the Village of Western Springs (the "Beneficiary" under the LOC), I certify and state under oath that:

1. The Customer / [Developer] has failed to timely renew the LOC, arrange for the extension of the LOC or provide for an acceptable replacement LOC, in an amount agreed upon by the Beneficiary and the Customer [Developer], at least thirty (30) days prior to the Expiration Date of the LOC.

2. [Bank] has not delivered to the Village by registered letter, return receipt requested, or other courier service addressed to the attention of the Village President, any notice of expiration of the LOC as required under the SPECIAL CONDITIONS at Page 2 of the LOC.

Amount of Draft: \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

Immediately Payable to: Village of Western Springs.

If you have any questions regarding this letter, please contact me.

Sincerely,

Western Springs Village Manager

cc. President and Board of Trustees  
Deputy Village Manager  
Finance Director  
Community Development Director  
Village Engineer  
Village Attorney

EXHIBIT "3" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To: [BANK]

Attn: Bank Officer

Re: Draw Under Letter of Credit No. \_\_\_\_  
Project: [Insert Project Description]  
Customer / [Developer]

To Whom It May Concern:

This is to advise you that the Funds of the LOC that are due and payable to the Village of Western Springs are being drawn upon as a consequence of the failure of the Customer / [Developer] to complete all or any part of the Infrastructure required to be constructed by the Customer / [Developer] pursuant to the Development Agreement dated \_\_\_\_\_, 20\_\_ by and between the Village of Western Springs and [Developer] has not been constructed in accordance with the Development Agreement and any cure period has expired.

As the Village Manager of the Village of Western Springs (the "Beneficiary" under the LOC), I certify and state under oath that:

1. The Customer / [Developer] has failed to complete all or any part of the Infrastructure required to be constructed by the Customer / [Developer] pursuant to the Development Agreement dated \_\_\_\_\_, 20\_\_ by and between the Village of Western Springs and [Developer] has not been constructed in accordance with the Development Agreement and any cure period has expired.

Amount of Draft: \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

Immediately Payable to: Village of Western Springs.

If you have any questions regarding this letter, please contact me.

Sincerely,

Western Springs Village Manager

cc. President and Board of Trustees  
Deputy Village Manager  
Finance Director  
Community Development Director  
Village Engineer  
Village Attorney

EXHIBIT "4" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To: [BANK]

Attn: Bank Officer

Re: Draw Under Letter of Credit No. \_\_\_\_\_  
Project: [Insert Project Description]  
Customer / [Developer]

To Whom It May Concern:

This is to advise you that the Funds of the LOC that are due and payable to the Village of Western Springs are being drawn upon as a consequence of the failure of the Customer / [Developer] to pay all or any part of the costs, payments, permit fees, or other fees required to be paid by the Customer / [Developer] pursuant to the Development Agreement dated \_\_\_\_\_, 20\_\_ by and between the Village of Western Springs and [Developer] in accordance with the Development Agreement and any cure period has expired.

As the Village Manager of the Village of Western Springs (the "Beneficiary" under the LOC), I certify and state under oath that:

1. The Customer / [Developer] has failed to pay all or any part of the costs, payments, permit fees, or other fees required to be paid by the Customer / [Developer] pursuant to the Development Agreement dated \_\_\_\_\_, 20\_\_ by and between the Village of Western Springs and [Developer] in accordance with the Development Agreement and any cure period has expired.

Amount of Draft: \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

Immediately Payable to: Village of Western Springs.

If you have any questions regarding this letter, please contact me.

Sincerely,

Western Springs Village Manager

cc. President and Board of Trustees  
Deputy Village Manager  
Finance Director  
Community Development Director  
Village Engineer  
Village Attorney

EXHIBIT "5" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To: [BANK]

Attn: Bank Officer

Re: Draw Under Letter of Credit No. \_\_\_\_\_  
Project: [Insert Project Description]  
Customer / [Developer]

To Whom It May Concern:

This is to advise you that the Funds of the LOC that are due and payable to the Village of Western Springs are being drawn upon as a consequence of the failure of the Customer / [Developer] to complete all or any part of the maintenance, repair, or restoration required to be performed by the Customer / [Developer] pursuant to the Development Agreement dated \_\_\_\_\_, 20\_\_ by and between the Village of Western Springs and such work has not been performed by the [Developer] in accordance with the Development Agreement and any cure period has expired.

As the Village Manager of the Village of Western Springs (the "Beneficiary" under the LOC), I certify and state under oath that:

1. The Customer / [Developer] has failed to complete all or any part of the maintenance, repair, or restoration required to be performed by the Customer / [Developer] pursuant to the Development Agreement dated , 20\_\_ by and between the Village of Western Springs and such work has not been performed by the [Developer] in accordance with the Development Agreement and any cure period has expired.

If you have any questions regarding this letter, please contact me.

Sincerely,

Western Springs Village Manager

cc. President and Board of Trustees  
Deputy Village Manager  
Finance Director  
Community Development Director  
Village Engineer  
Village Attorney

EXHIBIT "6" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To: [BANK]

Attn: Bank Officer

Re: Reduction of Dollar Amount of Letter of Credit No.  
Project: [Insert Project Description]  
Customer / [Developer]

To Whom It May Concern:

This is to advise you that the Customer / [Developer] has satisfactorily completed and the Village of Western Springs has accepted certain Infrastructure work and, under Subsection \_\_ of the Development Agreement, the aggregate amount of the Letter of Credit may be reduced in the following amount to reimburse the Developer for payment of that work: \$\_\_\_\_\_.

If you have any questions regarding this letter, please contact me.

Sincerely,

Western Springs Village Manager

cc. President and Board of Trustees  
Deputy Village Manager  
Finance Director  
Community Development Director  
Village Engineer  
Village Attorney

REQUIRED FORM OF GUARANTY LETTER OF CREDIT IRREVOCABLE LETTER OF CREDIT  
NO.

AMOUNT:

EXPIRATION DATE: Two years from issuance

DATE OF ISSUE:

[Name of Bank]

[Address]

TO: Village of Western Springs (Beneficiary)  
740 Hillgrove Avenue  
Western Springs, Illinois 60558  
Attention: Village Manager

[BANK] HEREBY AUTHORIZES YOU TO DRAW AT SIGHT on the \_\_\_\_\_ UP TO AN AGGREGATE AMOUNT OF \_\_\_\_\_ United States Dollars (\$ \_\_\_\_\_) for account of [Developer], a \_\_\_\_\_ limited liability company ("Customer").

Drafts under this Letter of Credit shall bear upon their face the words: Drawn under Credit No. \_\_\_\_\_ Dated: \_\_\_\_\_, 202\_\_.

Drafts may be for all or any portion of the amount of this Letter of Credit and shall be accompanied by one of the following documents executed by the Western Springs Village Manager on the form attached hereto as Exhibit "A" stating that all or any portion of the maintenance, repair, or restoration required to be performed related to Public Infrastructure pursuant to the Development Agreement in accordance with the Development Agreement has not been properly performed.

[BANK] HEREBY AGREES with the beneficiary Village of Western Springs that:

1. Drafts drawn under and in compliance with this Letter of Credit shall be duly honored immediately upon presentation to [BANK] if presented on or before the above-stated expiration date or presented at the [BANK] office located at [ADDRESS] together with the original of this Letter of Credit on or before that date. Further, one or more drafts may be presented at the [BANK] office on or before the Expiration Date.

2. If, within three (3) banking days after any draft drawn under this Letter of Credit is presented to [BANK] in conformance with the terms of this Letter of Credit, [BANK] fails to honor same, [BANK] agrees to pay all attorneys' fees, courts costs, and other expenses incurred by the Village of Western Springs in enforcing the terms hereof.

3. This Letter of Credit shall expire on \_\_\_\_\_, 20\_\_, (two (2) years from issuance) as stated hereinabove; provided, however, this Letter of Credit shall only expire after [BANK] sends a written notice to the Western Springs Village Manager by certified mail, return receipt requested, or hand-delivered courier at least thirty (30) calendar days prior to the Expiration Date or such extended Expiration Date, that informs the Village that this Letter of Credit is about to expire (the "30-Day Expiration Notice).

4. In no event will this Letter of Credit or the obligations contained herein expire except after the 30-Day Expiration Notice required herein is delivered to the Western Springs Village Manager, it being expressly agreed that the above Expiration Date shall be extended by the number of calendar days as is required to comply with the 30-Day Expiration Notice delivery requirement.

5. No consent, acknowledgment, or approval of any kind from the Customer / [Developer] shall be necessary or required prior to honoring any draft presented in conformance with the terms of this Letter of Credit.

6. The aggregate amount of this Letter of Credit may be reduced only upon receipt by [BANK] of a document executed by the Western Springs Village Manager stating that the aggregate amount may be reduced in a certain amount because the guarantee period for certain maintenance, repair, or restoration amount has expired.

7. This Letter of Credit is irrevocable.

This Letter of Credit shall be governed by and construed in accordance with the Uniform Customs and Practices for ISP 98 of the International Chamber of Commerce (the "Uniform Customs"). In the event of a conflict between this Letter of Credit and the Uniform Customs, this Letter of Credit shall control. This Letter of Credit shall be deemed to be a contract made under the laws of the State of Illinois, including without limitation Article 5 of the Uniform Commercial Code as in effect in the State of Illinois and shall, as to matters not governed by the Uniform Customs, be governed by and construed in accordance with the Laws of the State of Illinois, without regard to principles of conflicts of law.

As used herein, the term "banking day" means (a) any day other than a Saturday, Sunday, or a day on which banks in the State of Illinois are authorized or required to be closed and (b) any day on which payments can be effected on the Fedwire Network.

[Signature of Bank Officer]      [Signature of Bank Officer]  
[Officer's Title]    [Officer's Title]

**Exhibit "I"**

**Written Consent and Waiver Of Casey Gaik And Fran Gaik To Allow  
McNaughton Development, LLC To Enter Into A Redevelopment And Maintenance Agreement And  
Other Related Documents Regarding The Proposed Heritage Crossing Subdivision Located At 5600  
South Wolf Road In The Village Of Western Springs, Cook County, Illinois**

**(attached)**

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF C O O K    )

**CLERK'S CERTIFICATE**

I, Edward Tymick, Village Clerk of the Village of Western Springs, Cook County, Illinois, certify that the attached document is a true and correct copy of the Resolution now on file in my office, entitled:

**RESOLUTION NO. 25-2879**

**A RESOLUTION AUTHORIZING THE APPROVAL AND EXECUTION OF A REDEVELOPMENT AND MAINTENANCE AGREEMENT BY AND BETWEEN THE VILLAGE OF WESTERN SPRINGS, ILLINOIS AND MCNAUGHTON DEVELOPMENT, LLC FOR THE HERITAGE CROSSING RESIDENTIAL TOWNHOME DEVELOPMENT (5600 South Wolf Road, Western Springs, Illinois)**

which was passed by a roll call vote of the Village President and Board of Trustees of the Village of Western Springs at a Regular Meeting thereof, held on the 10<sup>th</sup> day of February 2025, at which meeting a quorum was present, and approved by the Village President of the Village of Western Springs on the 10th day of February 2025.

I further certify that the vote on the question of the passage of the Resolution by the Village President and Board of Trustees of the Village of Western Springs was taken by the Ayes and Nays and recorded in the Journal of Proceedings of the Village President and Board of Trustees of the Village of Western Springs, and that the result of said vote was as follows, to-wit:

AYES: Trustees Avakian, Chen, Fink, Lewis, Tyrrell

NAYS: Trustee Nawrocki

ABSENT: None.

I do further certify that the original Resolution, of which the attached is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Western Springs this 10th day of February 2025.



*Edward Tymick*

\_\_\_\_\_  
Edward Tymick, Village Clerk



September 12, 2025

Ms. Heather Valone, AICP  
Director of Community Development  
Village of Western Springs  
740 Hillgrove Ave.,  
Western Springs, IL 60558

Re: Heritage Crossing

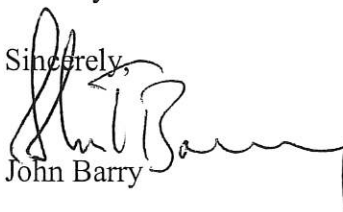
Dear Heather

Please except this letter as our formal request for an extension for the start of site development activity within the Heritage Crossing development. In preparation to commence development, our engineering consultant is completing what we expect to be the final engineering resubmittals to the village engineer, MWRD and Cook County Department of Highways.

If you have any questions, please feel free to call.

Thank you.

Sincerely,

  
John Barry

**Waterfall Glen Executive Office Center – 11S220 Jackson Street, Burr Ridge, IL 60527**  
Phone: 630-325-3400 • Fax: 630-325-3402 • Web: [McNaughtonDevelopment.com](http://McNaughtonDevelopment.com)

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## AGENDA ITEM SUMMARY PLANNING AND ZONING COMMITTEE

Planning and Zoning Committee: September 30, 2025

### AGENDA ITEM E.1.

**To:** Planning and Zoning Committee

**From:** Heather Valone, Director of Community Development , Kelsey Fawell, Senior Planner

**CC:** Ellen Baer, Village Manager, Casey Biernacki, Deputy Village Manager, Jill Izzo, Deputy Village Clerk, John Mastandona, Director of Finance

**RE:** 2026 Fiscal Year: Community Development Budget Proposal

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### Recommendation

None.

### Summary

The Community Development Department is tasked with protecting the health, safety, and welfare of the citizens of the Village by ensuring that all buildings, structures, and related equipment are constructed, installed, and maintained in compliance with the standards contained within the Village of Western Springs Building Code. Additionally, the Department provides guidance to residents, contractors, and developers throughout the zoning application and planning process, as well as assistance to the Village Board, Planning and Zoning Committee, General Government Committee, Plan Commission, Liquor Commission, Economic Development Commission, TIF Joint Review Board, and Board of Zoning Appeals in the performance of their duties. With respect to economic development efforts, staff members work to retain existing businesses, recruit new businesses to the downtown, and serve as liaison to the Western Springs Business Association (WSBA).

Generally, the Department's budget has been relatively static, adjusting only for changes in costs. The Department's largest areas of expenditure are professional services and plan review fees. Since 2022, professional services expenditures have increased due to special projects. There are two projects that staff is proposing for the 2026 fiscal year:

Comprehensive Plan Update. The Village's current Comprehensive Plan was adopted in 2003. The plan provides a guide to future land use and development for a 20-year period and is now more than 20 years old. As such, staff is seeking to begin the process of updating the plan. The update would lay the foundation for reviewing and updating the Village's Development Control Ordinance. A consultant would be used to complete the update. This was originally a 2025 budgeted item; however, the project was not able to be started this year.

Signage Pilot Project. The Community Development Department is proposing a pilot

project to begin replacing certain gateway signs and installing new wayfinding signage within, and directing customers to, the downtown area. Staff will provide additional details related to sign types and locations at the committee meeting.

Staff is also proposing to continue the Property Improvement Grant Program with a \$70,000 budget. This is the same amount that was approved for fiscal years 2024 and 2025.

Village staff will bring a full list of all line items related to the Community Development Department to the Planning and Zoning Committee meeting.

**Financial Impact**

This a preliminary review of the 2026 Budget.

**Recommended Motion**

None.

**Strategic Plan Alignment**

Financial Sustainability.

**File Attachments**

None



## **AGENDA ITEM SUMMARY**

### **PLANNING AND ZONING COMMITTEE**

Planning and Zoning Committee: September 30, 2025

#### **AGENDA ITEM E.2.**

**To:** Planning and Zoning Committee

**From:** Heather Valone, Director of Community Development , Kelsey Fawell, Senior Planner

**CC:** Ellen Baer, Village Manager, Casey Biernacki, Deputy Village Manager, Jill Izzo, Deputy Village Clerk

**RE:** Comprehensive Plan Update

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#### **Recommendation**

None.

#### **Summary**

The 2025 fiscal year budget included funds to update the Village Comprehensive Plan, which was adopted in 2003. Based on feedback and the Strategic Planning session in July, Village staff has finalized a draft request for proposals (RFP) for publication. Staff will provide detailed information on the draft RFP, proposed timeline, and other updates related to the project. Village staff is proposing to shift the project to the 2026 fiscal year for consultant selection and project commencement.

#### **Financial Impact**

The fiscal year 2025 budgeted for the proposed update. It is recommended that Village re-budget the project in fiscal year 2026. The 2025 year-end estimates will reflect the change.

#### **Recommended Motion**

None.

#### **Strategic Plan Alignment**

Economic Development

#### **File Attachments**

None