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**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE VILLAGE OF NORTHBROOK
AND
RICHLAND CREEK CAPITAL, LLC
FOR
THE NORTH SHORE SPORTS CENTER
(1850, 1864, 1868 & 1870 OLD WILLOW ROAD)**

DATED AS OF January 7, 2012

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TABLE OF CONTENTS

	<u>Page</u>
SECTION 1. RECITALS.....	2
SECTION 2. DEFINITIONS; RULES OF CONSTRUCTION.....	3
SECTION 3. APPROVAL OF ZONING RELIEF AND DEVELOPMENT.....	8
SECTION 4. DEVELOPMENT OF THE PROPERTY.....	9
SECTION 5. IMPROVEMENTS.....	11
SECTION 6. CONSTRUCTION.....	14
SECTION 7. COMMENCEMENT AND COMPLETION OF CONSTRUCTION.....	16
SECTION 8. RECAPTURE.....	18
SECTION 9. PAYMENT OF VILLAGE FEES AND COSTS.....	20
SECTION 10. PERFORMANCE SECURITY.....	20
SECTION 11. LIABILITY AND INDEMNITY OF VILLAGE.....	21
SECTION 12. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS.....	22
SECTION 13. TERM.....	23
SECTION 14. DEVELOPER REPRESENTATIONS, COVENANTS, AND WARRANTIES.....	23
SECTION 15. VILLAGE REPRESENTATIONS, COVENANTS, AND WARRANTIES.....	24
SECTION 16. ENFORCEMENT.....	24
SECTION 17. DEFAULT.....	25
SECTION 18. GENERAL PROVISIONS.....	27

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DEVELOPMENT AGREEMENT

FOR THE NORTH SHORE SPORTS CENTER

(1850, 1864, 1868 & 1870 OLD WILLOW ROAD)

THIS AGREEMENT is made as of the 17 day of January, 2012, and is by and between the VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation ("**Village**") and RICHLAND CREEK CAPITAL, LLC, an Illinois limited liability company ("**Developer**").

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, and pursuant to the Village's home rule powers, the parties hereto agree as follows:

SECTION 1. RECITALS.

- A. The Village is a home rule unit by virtue of the provisions of the 1970 Constitution of the State of Illinois.
- B. The Developer is, as of the Effective Date of this Agreement, the contract purchaser of those certain parcels of real estate commonly known as 1850, 1864, 1868 and 1870 Old Willow Road all of which are located in the Village of Northbrook and collectively comprise the Property. The Developer is also, as of the Effective Date of this Agreement, the contract purchaser of the 1885 Holste Property, which it intends to develop pursuant to a separate petition to the Village.
- C. The Property is located entirely within the corporate limits of the Village and is in the R-1 Single Family Residential District and the Redevelopment Overlay District.
- D. The Developer desires and seeks relief to (i) rezone the Property to the OS Open Space District, (ii) consolidate the Property into a single zoning lot, (iii) and develop the Property with a single one-story building to be used as a membership sports and recreation club in accordance with the plans and specifications described in this Agreement (the "**Development**").
- E. Old Willow Road is a substandard road constructed on a prescriptive easement. The road does not conform to the requirements of the Public Improvements Standards Manual. The northern half of Old Willow Road is located in the Village of Northbrook and the southern half is located in the Village of Glenview. The Developer has agreed to improve and widen that portion of Old Willow Road extending from the eastern property line of the Property to the Shermer Road intersection in conjunction with the Development. The Village of Glenview has consented to the improvement and widening of Old Willow Road.
- F. In order to develop the Property as proposed, the Developer has requested relief from, and approvals under, the Zoning Code and the Subdivision Code.
- G. Pursuant to public notice published in the *Northbrook Star* on September 15, 2011, a public hearing was held by the Plan Commission on October 4, 2011, and continued to November 1, 2011, to consider the Developer's request for: (i) rezoning of the Property from the R-1 Single Family Residential District to the OS Open Space District; (ii) consolidation of four

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lots into one lot of record; (iii) a text amendment to the Zoning Code to allow an increase in the maximum permitted FAR in the OS District for a lot also located within the Redevelopment Overlay District; (iv) special permits for a Membership Sports and Recreation Club (SIC No. 7997.00) and a floor area ratio in excess of 0.35, but no greater than 0.50, when located in the Redevelopment Overlay District (SIC 9970.05); and (v) a series of setback and yard variations as well as variations from certain requirements of Section 9-107F of the Zoning Code regarding setbacks and buffers; (vi) a variation to reduce the required number of loading spaces from 1 to 0; (vii) Site Plan Approval; and (viii) such other zoning and subdivision relief as may be necessary to accommodate the development of the Property as proposed by the Developer. The Plan Commission made its recommendation to approve the requested relief on November 1, 2011 (Resolution No. 11-PC-03).

H. The Developer, after due and careful consideration, has agreed to subject the Property to the terms, provisions, and conditions of this Agreement.

I. The Corporate Authorities, after due and careful consideration, have concluded that the requested relief for the Development on the Property pursuant to and in accordance with this Agreement would further enable the Village to control the development of the area and would serve the best interests of the Village.

J. The Village and the Developer desire that the Property be developed, used, operated and maintained only in compliance with this Agreement.

SECTION 2. DEFINITIONS; RULES OF CONSTRUCTION.

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

"1885 Holste Property": That certain parcel of property located directly to the northwest of the Property and corresponding to PIN Number 04-22-300-032, currently occupied by Perfekt Punch Manufacturing Company and legally described in **Exhibit A** attached to this Agreement.

"Comprehensive Plan": Village of Northbrook Comprehensive Plan (2010), as it may be amended from time to time.

"Conditional Improvements": Those Improvements listed in Section 5.B of this Agreement.

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

"Crosswalk": A crosswalk extending from the Sidewalk Extension across Shermer Road on the north side of Old Willow Road.

"Dedication Parcel": That portion of the Property located in the Old Willow Road right of way and contemplated to be dedicated to the Village by the Developer.

"Development": Defined in Section 1.D of this Agreement.

"District Zoning Map": The District Zoning Map of the Zoning Code.

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"District Zoning Map Amendment Ordinance": That certain ordinance to be adopted by the Corporate Authorities pursuant to Section 3.A of this Agreement amending the District Zoning Map, in substantially the form as **Exhibit B** attached to this Agreement.

"Effective Date": The date of execution of this Agreement by all parties hereto, which date shall be deemed to be the date set forth in the first paragraph of Page 1 of this Agreement.

"Events of Default": Defined in Section 17.A of this Agreement with respect to the Developer and in Section 17.B of this Agreement with respect to the Village

"Final Engineering Plan": Those engineering plans that receive the approval of the Village Engineer pursuant to Section 3.E of this Agreement and in accordance with the Requirements of Law. After that approval, the Final Engineering Plan shall, automatically and without further action by the Corporate Authorities, be deemed to be incorporated in, and made a part of, this Agreement and shall, for all purposes in this Agreement, replace and supersede the Preliminary Engineering Plan.

"Final Landscape Plan": Those landscape plans that receive the approval of the Village Engineer pursuant to Section 3.E of this Agreement and in accordance with the Requirements of Law. After that approval, the Final Landscape Plan shall, automatically and without further action by the Corporate Authorities, be deemed to be incorporated in, and made a part of, this Agreement and shall for all purposes in this Agreement, replace and supersede the Preliminary Landscape Plan.

"Final Old Willow Road Improvements Plan": Those road improvements plans that receive the approval of the Village Engineer pursuant to Section 3.E of this Agreement and in accordance with the Requirements of Law. After that approval, the Final Old Willow Road Improvements Plan shall, automatically and without further action by the Corporate Authorities, be deemed to be incorporated in, and made a part of, this Agreement and shall, for all purposes in this Agreement, replace and supersede the Preliminary Old Willow Road Improvements Plan.

"Fire Access Plan": That certain Fire Access Plan prepared by Cook Engineering Group, consisting of one sheet, with a latest revision date of December 27, 2011, attached to this Agreement as **Exhibit J**.

"IDOT": The Illinois Department of Transportation.

"Improvements": Except as specifically excepted in this definition, all of the public and private improvements and facilities necessary to serve the Property, including, without limitation, the improvements specifically listed in Section 5 of this Agreement, all other storm water detention and retention facilities, water mains, storm sewers, sanitary sewers, parking lots, road improvements, lighting, sidewalks, crosswalks, parkways, rough and final grading, trees, sod, seeding, and other landscaping, and all other improvements required pursuant to this Agreement and the Preliminary or Final Engineering Plan, the Preliminary or Final Landscape Plan, the Preliminary or Final Old Willow Road Improvements Plan, and the Requirements of Law. The definition of "Improvements" does not include the Sports Complex Building to be constructed on the Property.

"Left Turn Lane": A designated left turn lane from southbound Shermer Road onto eastbound Old Willow Road as may be required by the Village Manager to be constructed pursuant to Section 5.B.1 of this Agreement.

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"L.U.S.T. Contamination Area": Those portions of the Property and the 1885 Holste Property which are subject to a No Further Remediation Letter issued by the Illinois Environmental Protection Agency on June 30, 2006 and depicted on the Plat of Consolidation.

"Municipal Code": The Northbrook Municipal Code (1988), as the same has been and may, from time to time hereafter, be amended.

"Off-Premises Sanitary Sewer Main Extension": That portion of the eight inch PVC sanitary sewer main extension to be constructed on the 1885 Holste Property.

"Off-Premises Water Main Extension": That portion of the looped eight inch ductile iron water main extension to be constructed on the 1885 Holste Property.

"Old Willow Road Improvements": Those improvements to Old Willow Road described in Section 5.A.10 of this Agreement.

"Paddle Tennis Courts": Four paddle tennis courts to be constructed next to the southeast corner of the Sports Complex Building.

"Person": Any corporation, partnership, individual, joint venture, trust, estate, association, business, enterprise, proprietorship, or other legal entity of any kind, either public or private, and any legal successor, agent, representative, or authorized assign of the above.

"Plan Commission": The Plan Commission of the Village, established by Section 2-451 of the Municipal Code.

"Plat of Consolidation": That certain plat of consolidation, prepared by Area Survey Company P.C., consisting of two sheets, with a latest revision date of January 4, 2012.

"Plat Approval Resolution": That certain resolution to be adopted by the Corporate Authorities pursuant to Section 3.B of this Agreement approving the Plat of Consolidation in substantially the form as **Exhibit C** attached to this Agreement.

"Preliminary Engineering Plan": Those certain preliminary engineering plans prepared by Cook Engineering Group, consisting of three sheets, with a latest revision date of December 27, 2011, attached to this Agreement as **Exhibit G**.

"Preliminary Landscape Plan": Those certain preliminary landscape plans prepared by Walsh Landscape Construction and Maintenance, consisting of two sheets, with a latest revision date of December 27, 2011, attached to this Agreement as **Exhibit H**.

"Preliminary Old Willow Road Improvements Plan": Those certain preliminary road improvement plans prepared by Cook Engineering Group, consisting of two sheets, with a latest revision date of December 27, 2011, attached to this Agreement as **Exhibit I**.

"Proof of Title Date": The date on which the Developer provides evidence to the Village, in the form of properly recorded deeds, that it has acquired fee simple title to the four parcels that comprise the Property and the 1885 Holste Property.

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"Property": That certain tract of land consisting of approximately 6.02 acres, consisting of the parcels located at 1850, 1864, 1868 and 1870 Old Willow Road in the Village of Northbrook, and legally described in **Exhibit A** attached to this Agreement.

"Public Improvements Standards Manual": The Village of Northbrook Standards and Specifications for Public and Private Improvements, dated October, 1990, as the same has been and may, from time to time hereafter, be amended.

"Required Improvements": Those Improvements listed in Section 5.A of this Agreement.

"Requirements of Law": All applicable federal, state, and Village laws, statutes, codes, ordinances, resolutions, rules and regulations.

"Sanitary Sewer Main Extension": That portion of the eight inch PVC sanitary sewer main extension to be constructed on the Property.

"Sidewalk Extension": A sidewalk extending west from the west property line of the Property to the intersection of Old Willow Road and Shermer Road.

"Site Plan": That certain preliminary site plan, prepared by Cook Engineering Group, consisting of one sheet, with a latest revision date of December 27, 2011, and attached to this Agreement as **Exhibit F**.

"Special Permit, Variation, and Site Plan Approval Ordinance": That certain ordinance to be adopted by the Corporate Authorities pursuant to Section 3.D of this Agreement authorizing the specified special use permits, variations and Site Plan Approval in substantially the form as **Exhibit E** attached to this Agreement.

"Sports Complex Building": The 97,418 square foot building proposed to be constructed on the Property which will contain an indoor sports field, a full size gymnasium, paddle tennis facilities, a warm up area, a conference room, a general seating area and a concession facility.

"Storm Water Facilities": The following specific Improvements, as depicted on the Preliminary Engineering Plan: the storm water detention pond, the private storm sewers, and the private connection to the 60 inch storm sewer owned and maintained by the Village of Glenview located on the south side of Old Willow Road, as well as all related equipment, appurtenances, and structures installed and maintained on the Property to ensure adequate storm water drainage and management.

"Subdivision Code": The Village of Northbrook Subdivision and Development Code (1991), as the same has been and may, from time to time hereafter, be amended.

"Uncontrollable Circumstance": Any of the following events and circumstances that materially change the costs or ability of the Developer to carry out its obligations under this Agreement:

- a. a change in the Requirements of Law;

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- b. insurrection, riot, civil disturbance, sabotage, act of public enemy, explosion, nuclear incident, war, or naval blockade;
- c. epidemic, hurricane, tornado, landslide, earthquake, lightning, fire, windstorm, other extraordinary weather condition, or other similar act of God;
- d. governmental condemnation or taking other than by the Village; or
- e. strikes or labor disputes, other than those caused by the unlawful acts of the Developer, its partners, or affiliated entities.

Uncontrollable Circumstance shall not include economic hardship, impracticability of performance, commercial, economic, or market conditions, or a failure of performance by a contractor (except as caused by events which are Uncontrollable Circumstances as to the contractor).

"Water Main Extension": That portion of the looped eight inch ductile iron water main extension to be constructed on the Property.

"Zoning Code": The Northbrook Zoning Code (1988), as the same has been and may, from time to time hereafter, be amended.

"Zoning Code Text Amendment Ordinance": That certain ordinance to be adopted by the Corporate Authorities pursuant to Section 3.C of this Agreement amending the Zoning Code to allow by special permit in the OS Open Space District for a maximum FAR in excess of 0.35, but no greater than 0.50 when located in the Redevelopment Overlay District, in substantially the form as **Exhibit D** attached to this Agreement.

B. Rules of Construction.

1. **Grammatical Usage and Construction.** In construing this Agreement, pronouns include all genders, and the plural includes the singular and vice versa.
2. **Headings.** The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.
3. **Calendar Days.** Unless otherwise provided in this Agreement, any reference in this Agreement to "day" or "days" shall mean calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.
4. **Other Defined Terms.** Capitalized terms not defined in this Agreement shall have the meanings set forth in the Zoning Code.

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SECTION 3. APPROVAL OF ZONING RELIEF AND DEVELOPMENT.

A. Adoption of the District Zoning Map Amendment Ordinance. The Corporate Authorities shall adopt the District Zoning Map Amendment Ordinance, amending the District Map of Zoning Code to rezone the Property into the OS Open Space District, but retaining the Redevelopment Overlay District zoning designation. The District Zoning Map Amendment Ordinance shall be effective as of, but not before the Proof of Title Date. In the event that the Proof of Title Date does not occur prior to July 1, 2012, the District Zoning Map Amendment Ordinance shall automatically, and without any further action by the Corporate Authorities, be null and void and of no force or effect.

B. Adoption of a Plat Approval Resolution. Following the adoption of the District Zoning Map Amendment Ordinance, the Corporate Authorities shall adopt the Plat Approval Resolution granting approval of the Plat of Consolidation. The Plat Approval Resolution shall be effective as of, but not before the Proof of Title Date. The Plat of Consolidation shall be recorded in the Office of the Cook County Recorder of Deeds. In the event that the Proof of Title Date does not occur prior to July 1, 2012, the Plat Approval Resolution shall automatically, and without any further action by the Corporate Authorities, be null and void and of no force or effect.

C. Adoption of the Zoning Code Text Amendment Ordinance. Following the adoption of the Plat Approval Resolution, the Corporate Authorities shall adopt the Zoning Code Text Amendment Ordinance amending the Zoning Code to allow by special permit in the OS Open Space District for a maximum FAR in excess of 0.35, but no greater than 0.50 when located in the Redevelopment Overlay District. The Zoning Code Text Amendment Ordinance shall be effective as of, but not before, the Proof of Title Date. In the event that the Proof of Title Date does not occur prior to July 1, 2012, the Zoning Code Text Amendment Ordinance shall automatically, and without any further action by the Corporate Authorities, be null and void and of no force or effect.

D. Adoption of the Special Permit, Variation, and Site Plan Approval Ordinance. Following the adoption of the Zoning Code Text Amendment Ordinance, the Corporate Authorities shall adopt the Special Permit, Variation, and Site Plan Approval Ordinance granting to the Developer (i) special permits for a Membership Sports & Recreation Facility (SIC 7997.00) and a floor area ratio in excess of 0.35, but no greater than 0.50, when located in the Redevelopment District Overlay District (SIC 9970.05); (ii) a series of setback and yard variations from the OS Open Space District requirements as well as certain requirements of Section 9-107F of the Zoning Code regarding setbacks and buffers; (iii) a variation to reduce the number of required loading spaces on the Property from one to zero; and (iv) approval of the Site Plan. The Special Permit, Variation, and Site Plan Approval Ordinance shall be effective as of, but not before, the Proof of Title Date. In the event that the Proof of Title Date does not occur prior to July 1, 2012, the Special Permit, Variation, and Site Plan Approval Ordinance shall automatically, and without any further action by the Corporate Authorities, be null and void and of no force or effect.

E. Final Engineering, Landscape and Old Willow Road Improvements Plan Approval. The Developer shall, within 90 days after the approval and execution of this Agreement, submit to the Village Engineer for his review, acceptance, and approval, in the Village Engineer's sole and absolute discretion, final engineering, landscape and Old Willow Road Improvements that shall be generally in compliance with the Preliminary Engineering Plan, the Preliminary Landscape Plan, the Preliminary Old Willow Road Improvements Plan and

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all applicable Village codes, ordinances, rules, and regulations, including without limitation the Public Improvements Standards Manual and the Requirements of Law. Upon approval, those plans shall be the Final Engineering Plan, the Final Landscape Plan and the Final Old Willow Road Improvements Plan, respectively. The Village Engineer's approval of the final engineering, landscape and Old Willow Road Improvements plans shall not be unreasonably withheld if such plans are in substantial compliance with the preliminary plans submitted by the Developer.

SECTION 4. DEVELOPMENT OF THE PROPERTY.

Notwithstanding any use or development right that may be applicable or available to the Property pursuant to the Zoning Code, the Property shall be developed, used, operated, and maintained only as follows:

A. Sports Complex Building. The Sports Complex Building shall be constructed and operated in accordance with the terms and conditions of this Agreement and the Special Permit, Variation, and Site Plan Approval Ordinance and the Unconditional Agreement and Consent attached thereto

B. Dedications, Easements and Covenants.

1. **Dedication of Right of Way.** In consideration of the approval of the Development on the Property, the Developer shall dedicate the Dedication Parcel to the Village pursuant to, and upon the recordation of, the Plat of Consolidation, free and clear of all liens, claims, encumbrances, and restrictions which will adversely impact the Village's use of the Dedication Parcel for public road purposes including any existing real estate tax liens, and for no additional cost or consideration. The Developer shall be responsible for any and all real estate taxes due on the Dedicated Property for the period of time from the date the Developer acquires title to the Dedicated Property through and including the date that Developer dedicates the Dedicated Property to the Village. If the Village receives a real estate tax bill for the Dedicated Property for any portion of time that the Developer owned the Dedicated Property, the Village shall send notice to the Developer of the same and the Developer shall be responsible for paying the real estate taxes owed during such time period.

2. **Utility and Enforcement Easements.** The Developer shall grant utility and enforcement easements as depicted on the Plat of Consolidation to the Village and other governmental bodies and utility services over, on, and across the Property for the purposes of enforcing applicable laws, making repairs, installing and servicing utilities, and providing public and emergency services.

3. **Easement for Emergency Access and Public Utilities Across 1885 Holste Property.** Upon acquiring title to the 1885 Holste Property, the Developer shall promptly execute and present to the Village an easement agreement, in a form acceptable to the Village Attorney and the Village, dedicating to the Village a 40 foot wide easement running the length of the eastern property line of the 1885 Holste Property as depicted on the Fire Access Plan for the following purposes:

- a. allowing access to the Property by emergency response vehicles; and

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- b. the surveying, constructing, reconstructing, using, operating, maintaining, testing, inspecting, repairing, replacing, altering, removing or abandoning in place of (i) the Off-Premises Water Main Extension and (ii) the Off-Premises Sanitary Sewer Main Extension with related attachments, equipment and appurtenances thereto.

This easement shall allow the Developer, and any subsequent owner of the 1885 Holste Property, to use the easement area and the adjacent property in any manner that will not prevent or interfere with the exercise by the Village of its easement rights; provided, however, that the Developer or any subsequent owner shall not in any manner disturb, damage, destroy, injure, obstruct or permit to be obstructed the easement at any time whatsoever without the express prior written consent of the Village. After the installation of the Off-Premises Water Main Extension and the Off-Premises Sanitary Sewer Main Extension, the grade of the 1885 Holste Property shall not be altered in a manner so as to interfere with the proper operation and maintenance thereof.

4. Sidewalk Extension Easements. The Developer shall be required to employ its best efforts, including, but not limited to, written communications sent by certified mail to the owners of those parcels located to the west of the Property along the north side of Old Willow Road, to secure easements to the Village to allow for the construction and maintenance of the Sidewalk Extension. The Developer shall provide proof of such efforts to the Village Manager prior to applying for any construction permits for the Property. In no event, however, shall the Developer be required to expend money or grant or dedicate any property rights in exchange for such easements.

C. General Use and Development Restrictions. Development of the Property, except for minor alterations due to final engineering and site work approved by the Village Engineer or the Director of Development and Planning Services, as appropriate, shall be pursuant to and in accordance with the following (upon their respective approval, adoption, and effective date):

1. This Agreement;
2. The Special Permit, Variation, and Site Plan Approval Ordinance, and all documents and plans attached to the Special Permit, Variation, and Site Plan Approval Ordinance;
3. The Final Engineering Plan;
4. The Final Landscape Plan;
5. The Final Old Willow Road Improvements Plan;
6. The Fire Access Plan;
7. The Plat of Consolidation;
8. The Public Improvements Standards Manual;
9. The Zoning Code;

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10. The Subdivision Code; and
11. The Requirements of Law.

Unless otherwise provided in this Agreement, in the event of a conflict between or among any of the above plans or documents, the plan or document that provides the greatest control and protection for the Village, as determined by the Village Manager, shall control. All of the above plans and documents shall be interpreted so that the duties and requirements imposed by any one of them are cumulative among all of them, unless otherwise provided in this Agreement.

D. Consent to Rezoning. The Developer acknowledges that the Village has initiated a petition to create a new Industrial and Commercial Services Zoning District ("**ICS District**") and that the Property is being considered for inclusion in the ICS District. The Developer agrees not to object to any Village initiated petition to rezone the Property into the ICS District on the condition that all buildings, structures, uses or conditions constructed or established on the Property pursuant to this Agreement or the Special Permit, Variation, and Site Plan Approval Ordinance shall be deemed by the Village to be legally conforming and be allowed to continue and remain in place without interference or penalty, notwithstanding any contradictory regulation of the ICS District.

SECTION 5. IMPROVEMENTS.

A. Required Improvements. The Developer shall, at its sole cost and expense, construct, install, or perform all of the Improvements on the Property including, without limitation, the following:

1. Storm Water Facilities;
2. Soil erosion and tree protection measures;
3. Water Main Extension;
4. Sanitary Sewer Main Extension;
5. Off-Premises Water Main Extension;
6. Off-Premises Sanitary Sewer Main Extension;
7. Landscaping of the Property in accordance with the Final Landscape Plan;
8. Parking lot improvements;
9. Paddle Tennis Courts;
10. Lighting for the parking lot and Paddle Tennis Courts;
11. Sidewalk on Property; and
12. Old Willow Road Improvements. The Developer shall, concurrently with the development of the Property, perform all construction work necessary to improve and widen that portion of Old Willow Road extending west

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from the eastern property line of the Property to the intersection of Old Willow Road and Shermer Road to 27 feet from back of curb to back of curb and install curbs and gutters in accordance with the Final Old Willow Road Improvements Plan and the Public Improvements Standards Manual.

B. Conditional Improvements. Notwithstanding the requirements of Section 5.A of this Agreement, the Developer shall, at its sole cost and expense, construct, install, or perform the following Improvements, subject to the conditions set forth in this Section 5.B:

1. Left Turn Lane. If the Village Manager determines that the public safety and welfare shall benefit from the installation of a left turn lane from southbound Shermer Road onto westbound Old Willow Road, he may, in his sole and absolute discretion, require the Developer to apply to IDOT for a permit, and upon receiving such permit, construct the Left Turn Lane in accordance with IDOT's procedures, requirements and specifications. If the Village Manager makes no such determination within 24 months after a final certificate of occupancy has been issued by the Village for the Sport Complex Building, the Developer's obligation to construct the Left Turn Lane shall terminate and be of no further force or effect.

2. Sidewalk Extension and Crosswalk. If the Developer is able to obtain the easements described in Section 4 B of this Agreement, the Developer shall construct the Sidewalk Extension and the Crosswalk simultaneously with the Improvements on the Property and in accordance with the Public Improvements Standards Manual. If, despite its best efforts, the Developer is not able to obtain necessary easements from the adjoining property owners prior to constructing the Required Improvements, the Developer's obligation to construct the Sidewalk Extension and the Crosswalk shall terminate and be of no further force or effect.

3. Fencing. If the Village Manager determines at any time that the existing fence located adjacent to the eastern property line of the Property has come into disrepair or provides inadequate screening of the Property, he may, in his sole and absolute discretion, require the Developer to construct a six foot board on board fence in accordance with the specifications depicted on the Final Landscape Plan.

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C. Dedication and Maintenance of the Improvements.

1. Final Inspection and Approval of the Improvements. The Developer shall notify the Village when it believes that any or all of the Improvements have been fully and properly completed and shall request final inspection, approval, and, where appropriate, acceptance of the Improvement or Improvements by the Village. Such notice and request shall comply with, and include, all requirements of Section 3-506 of the Subdivision Code and shall be given far enough in advance to allow the Village time to inspect the Improvements and to prepare a punch list of items requiring repair or correction and to allow the Developer time to make all required repairs and corrections prior to the scheduled completion date. The Developer shall promptly make all necessary repairs and corrections as specified on the punch list. The Village shall not be required to approve or accept any portion of the Improvements until all of the Required Improvements, including all punch list items, have been fully and properly completed.

2. Dedication and Acceptance of Specified Improvements. The execution of this Agreement shall not constitute an acceptance by the Village of any public facilities that are depicted as "dedicated" on the Final Engineering Plan, if any, or of any Improvements. The acceptance of all Improvements shall be made only in compliance with the requirements of the Subdivision Code, including, without limitation, Sections 3-506 and 3-507 of that Code.

3. Dedication and Ongoing Maintenance of the Water and Sanitary Sewer Main Extensions. The Village and the Developer acknowledge and agree that the Off-Premises Water Main Extension, the Water Main Extension, the Off-Premises Sanitary Sewer Main Extension and the Sanitary Sewer Main Extension (collectively, the "**Water and Sanitary Sewer Main Extensions**") will be public improvements and shall be dedicated to the Village. However, due to the proximity of the Water and Sanitary Sewer Main Extensions to a number of proposed private improvements and construction features on the Property and the 1885 Holste Property, the Developer shall retain the responsibility for maintaining, repairing, and replacing the Water Main and Sanitary Sewer Main Extensions at the Developer's sole cost and expense, all in accordance with (a) the utility easement provisions set forth on the Plat of Consolidation and the Easement for Emergency Access and Public Utilities on the 1885 Holste Property, and (b) all environmental protection measures that may be required to be implemented in the L.U.S.T. Contamination Area by the Final Engineering Plans. Provided however, in the event the Village determines, in its sole and absolute discretion, that the Developer has failed to conduct necessary maintenance, repair or replacement of the Water and Sanitary Sewer Main Extensions at any time, the Village, after ten (10) days prior written notice to the Developer, may, but shall not be obligated to, enter upon any or all of the Property or the 1885 Holste Property for the purpose of performing necessary maintenance, repair or replacement of the Water Main Extension and the Sanitary Sewer Main Extension. In the event that the Village shall cause to be performed any work on the Water Main Extension and the Sanitary Sewer Main Extension, the Village shall have the right to charge the Developer an amount sufficient to defray the entire cost of such work or action, including administrative costs, either before or after such cost is incurred. If the amount so charged is not paid by the owner within thirty (30) days following a demand in writing by the Village for such payment, such charge, together with interest and costs of collection, shall become a lien upon the property and the Village shall have the right to collect such charge, with interest and costs, and to enforce such lien as in foreclosure proceedings as permitted by law.

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D. Transfer of Ownership of the Improvements and Easements to the Village.

Upon the approval of, and prior to acceptance of, the Improvements to be accepted by the Village pursuant to Subsection 5.C of this Agreement, the Developer shall execute, or cause to be executed, such documents as the Village shall request to transfer ownership of such Improvements to, and to evidence ownership of such Improvements by, the Village, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Village in writing. The Developer shall, at the same time, grant, or cause to be granted, to the Village all such easements or other property rights as the Village may require to install, operate, maintain, service, repair, and replace the Improvements that have not previously been granted to the Village, free and clear of all liens, claims, encumbrances, and restrictions unless otherwise approved by the Village in writing.

E. Two-Year Guaranty of Certain Improvements.

The Developer hereby guarantees the prompt and satisfactory correction of all defects and deficiencies in the Improvements that occur or become evident within two years after approval and, where appropriate, acceptance of the Improvements by the Village pursuant to this Agreement. If any such defect or deficiency occurs or becomes evident during such period, then the Developer shall, after 10 days' prior written notice from the Village (subject to Uncontrollable Circumstances), correct it or cause it to be corrected. In the event any Improvement is repaired or replaced pursuant to such demand, the guaranty provided by this Subsection 5.E shall be extended, as to such repair or replacement, for two full years from the date of such repair or replacement.

F. Maintenance Agreement for Old Willow Road.

The Village shall, subsequent to the execution of this Agreement, enter into an agreement with the Village of Glenview memorializing Northbrook's responsibility for maintaining and keeping in good repair the entirety of Old Willow Road.

SECTION 6. CONSTRUCTION.

A. Design and Construction.

1. **General Standards.** The Sports Complex Building and the Improvements shall be designed and constructed pursuant to and in accordance with the Final Engineering Plan, the Final Landscape Plan, the Final Old Willow Road Improvements Plan, the Site Plan, the Special Permit, Variation, and Site Plan Approval Ordinance and the Public Improvements Standards Manual. All work performed on the Sports Complex Building and the Improvements shall be conducted in a good and workmanlike manner and with due dispatch in accordance with the schedule established in Subsection 7.B.2 of this Agreement. All materials used for construction of the Sports Complex Building and the Improvements shall be new and of first quality.

2. **Improvements.** The design and construction of the Improvements shall be subject to the reasonable written satisfaction of the Village Engineer in accordance with the Municipal Code and the Subdivision Code.

3. **Contract Terms: Prosecution of the Work.** The Developer shall include in every contract for work on the Sports Complex Building and the Improvements terms requiring the contractor to prosecute the work diligently, continuously, in full compliance with, and as required by or pursuant to, this Agreement, the Final Engineering Plan, the Final Landscape Plan, the Final Old Willow Road Improvements Plan, the Site Plan, the

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Special Permit, Variation, and Site Plan Approval Ordinance, and the Requirements of Law, until the work is properly completed, and terms providing that the Developer may take over and prosecute the work if the contractor fails to do so in a timely and proper manner.

4. Engineering Services. The Developer shall provide, at its sole cost and expense, all engineering services for the design and construction of the Improvements by a professional engineer responsible for overseeing the construction of the Improvements. The Developer shall promptly provide the Village with the name of the resident engineer and a telephone number or numbers at which the resident engineer can be reached at all times.

5. Village Inspections and Approvals. All work on the Sports Complex Building and the Improvements shall be subject to inspection and approval by Village representatives at all times.

6. Other Approvals. Where the construction and installation of the Sports Complex Building or any Improvement requires the consent, permission, or approval of any public agency other than the Village or private party, the Developer shall promptly file all applications, enter into all agreements, post all security, pay all fees and costs, and otherwise take all steps that may be reasonably required to obtain the required consent, permission, or approval.

B. L.U.S.T. Contamination Area. All demolition, site preparation, grading, construction and landscaping work performed in the L.U.S.T. Contamination Area, including without limitation, the installation of the Water and Sanitary Sewer Main Extensions, shall be conducted in accordance with all applicable environmental regulations and the terms and conditions of the No Further Remediation Letter issued by the Illinois Environmental Protection Agency on June 30, 2006.

C. Construction Traffic and Parking.

1. Designated Traffic Routes. The Village may designate routes of access to the Property for construction traffic to protect pedestrians and to minimize disruption of traffic and damage to paved street surfaces; provided, however, that the designated routes shall not unduly hinder or obstruct direct and efficient access to the Property for construction traffic. The Developer shall keep all routes used for construction traffic free and clear of mud, dirt, debris, obstructions, and hazards and shall repair all damage caused by the construction traffic. The Village also may designate from time to time temporary construction haul roads on and to the Property that shall be located and constructed in a manner acceptable to the Village Engineer.

2. Parking. All construction vehicles, including passenger vehicles, and construction equipment shall be parked within the Property or in areas designated by the Village.

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D. Issuance of Permits and Certificates.

1. **Right to Withhold Permits and Certificates.** The Village shall have the absolute right to withhold any building permit or certificate of occupancy at any time that the Developer is in violation of, or is not in full compliance with, the terms of this Agreement.

2. **Completion of Improvements.** The Village shall issue no certificates of occupancy for any building or structure located on the Property, including specifically, the Sports Complex Building, until the Required Improvements are completed by the Developer in accordance with the schedule established pursuant to Subsection 7.B.2 of this Agreement or until other arrangements satisfactory to the Village Engineer, in his sole and absolute discretion, shall have been made. The issuance of any building permit or certificate of occupancy by the Village at any time prior to completion of all the Required Improvements and approval and, where appropriate, acceptance thereof by the Village shall not confer on the Developer any right or entitlement to any other building permit or certificate of occupancy.

3. **Access to Property from 1885 Holste Property.** The Village shall issue no certificates of occupancy for any building or structure located on the Property, including specifically, the Sports Complex Building, unless and until (a) the existing loading dock on the 1885 Holste Property has been demolished in accordance with, and as depicted on, the Fire Access Plan and (b) the easement for emergency access and public utilities across 1885 Holste property described in Section 4.B.3 of this Agreement has been executed and recorded in the Office of the Cook County Recorder.

E. Damage to Public Property. The Developer shall maintain the Property and all streets, sidewalks and other public property in and adjacent to the Property in a good and clean condition at all times during development of the Property and construction of the Sports Complex Building and the Improvements. Further, the Developer shall (1) 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 (2) repair any damage that may be caused by the activities of the Developer or any agent of or contractor hired by, or on behalf of, the Developer.

SECTION 7. COMMENCEMENT AND COMPLETION OF CONSTRUCTION.

A. Prohibition of Demolition or Construction of Any Kind Prior to All Approvals. The Developer acknowledges and agrees that, unless specifically authorized in writing by the Village Manager, in his sole and absolute discretion, no demolition, grading, site work, tree or landscape removal, construction, improvement, or development of any kind shall be permitted on any portion of the Property unless and until (i) the Final Engineering Plan, the Final Landscape Plan and the Final Old Willow Road Improvements Plan have all been approved by the Village Engineer; (ii) the Proof of Title Date has occurred; (iii) the Village has received a copy of the Plat of Consolidation fully executed by the Developer; (iv) the Developer has paid to the Village the recapture amounts due to the Village set forth in Section 8.A of this Agreement; and (v) the Developer has deposited with the Village the Performance Security required by Section 10 of this Agreement.

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B. Diligent Pursuit of Construction.

1. Once commencement of construction is authorized pursuant to this Agreement, the Developer shall pursue the construction of the Sports Complex Building and the Improvements in a diligent and expeditious manner.

2. The Developer shall complete and make ready the Improvements for inspection, approval and, where appropriate, acceptance by the Village pursuant to the construction schedule approved by the Village Engineer as part of the Final Engineering Plan. The Developer shall be allowed extensions of time beyond the completion dates set forth in such construction schedule only for unavoidable delay caused by Uncontrollable Circumstances or as may be approved by the Village Manager.

C. Failure to Complete Construction.

1. **Removal of Partially Constructed Structures and Improvements.** Subject to Uncontrollable Circumstances, if the Developer fails to diligently pursue all construction as required in, or permitted by, Sections 4 and 5 of this Agreement to completion within the time period prescribed in the building permit or permits issued by the Village for the construction or in accordance with the scheduled approved by the Village Engineer pursuant to Subsection 7.B.2, and if a perfected application to renew the building permit or permits is not filed within 30 days after the expiration of the permit or permits, the Developer shall, within 60 days after notice from the Village: (a) remove or commence to remove any partially constructed or partially completed buildings, structures, or Improvements from the Property; and (b) perform site restoration and modification activities to establish a park like setting on that portion of the Property in which the Developer has failed to complete all such construction, in accordance with plans approved by the Village, suitable for a passive park-like setting ("**Site Restoration**").

2. **Removal and Restoration by Village.** In the event the Developer fails or refuses to remove the buildings, structures, and Improvements, or to perform the Site Restoration, as required pursuant to Section 7.C.1 of this Agreement, the Village shall have, and is hereby granted, the right, at its option, to: (a) demolish and/or remove any of the buildings, structures and Improvements from any and all portions of the Property, and to perform the Site Restoration; or (b) cause the buildings, structures, or Improvements to be completed in accordance with the plans submitted. The Developer shall fully reimburse the Village for all costs and expenses, including legal and administrative costs, for such work. If the Developer does not fully reimburse the Village for all such costs and expenses, and the Guarantee described in Section 10 of this Agreement has no funds remaining in it or is otherwise unavailable to finance such work, then the Village shall have the right to place a lien on Property for all such costs and expenses in the manner provided by law. The rights and remedies provided in this Section shall be in addition to, and not in limitation of, any other rights and remedies otherwise available to the Village at law and/or in equity.

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SECTION 8. RECAPTURE.

A. **Paid by Developer.** The Developer does hereby unconditionally agree to pay a fair and equitable share of all prior water main improvements that have been developed in the area surrounding the Property and that benefit the parcels comprising the Property, as set forth in this Section 8.A. Computations of such recapture benefits have been determined by the Village, based on applicable ordinances, and acknowledged by the Developer, to be as follows as of the execution date of this Agreement:

1. 1850 Old Willow Road (PINs 04-22-300-010)
 - a. Ordinance No. 76-49 (12" Water Main Extension on Shermer Road south of Willow Road): \$560.00; and
 - b. Ordinance No. 93-37 (Shermer/Old Willow Water Main Extension): \$4,923.62 plus 6% interest per annum (since 1994).
2. 1864 Old Willow Road (PIN 04-22-300-019)
 - a. Ordinance No. 76-49 (12" Water Main Extension on Shermer Road south of Willow Road): \$240.00; and
 - b. Ordinance No. 93-37 (Shermer/Old Willow Water Main Extension): \$2,119.62 plus 6% interest per annum (since 1994)
3. 1868 Old Willow Road (PINs 04-22-300-018)
 - a. Ordinance No. 76-49 (12" Water Main Extension on Shermer Road south of Willow Road): \$280.00; and
 - b. Ordinance No. 93-37 (Shermer/Old Willow Water Main Extension): \$2,804.00 plus 6% interest per annum (since 1994).

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4. 1870 Old Willow Road (PIN 04-22-300-008)
 - a. Ordinance No. 76-49 (12" Water Main Extension on Shermer Road south of Willow Road): \$448.00; and
 - b. Ordinance No. 93-37 (Shermer/Old Willow Water Main Extension): \$4,923.62 plus 6% interest per annum (since 1994).

B. Paid to Developer.

1. Old Willow Road Improvements Recapture Agreement. After (a) the Village has approved and accepted the Old Willow Road Improvements and (b) the Developer has submitted documentation of all its costs associated with the construction of the Old Willow Road Improvements, including contracts, invoices, certified payrolls and final waivers of liens, the Village Manager shall be authorized, without further action by the Corporate Authorities, to enter into a recapture agreement with the Developer in substantially the form attached as **Exhibit K** to this Agreement, which will provide for payment by the owners of those parcels to the west of the Property on the north side of Old Willow Road and listed in Exhibit 2 to the recapture agreement of a beneficial share of the Developer's construction costs for those portions of the Old Willow Road Improvements located in the Village of Northbrook in the event that those parcels are substantially redeveloped and request permission from the Village to connect to Old Willow Road via a driveway.

2. Sidewalk Extension Recapture Agreement. In the event the Developer is able to obtain the necessary easements to construct the Sidewalk Extension, and after (a) the Village has approved and accepted the Sidewalk Extension and (b) the Developer has submitted documentation of all its costs associated with the construction of the Sidewalk Extension, including contracts, invoices, certified payrolls and final waivers of liens, the Village Manager shall be authorized, without further action by the Corporate Authorities, to enter into a recapture agreement with the Developer in substantially the form attached as **Exhibit L** to this Agreement, which will provide for payment by the owners of those parcels to the west of the Property on the north side of Old Willow Road and listed in Exhibit 2 to the recapture agreement of a beneficial share of the Developer's construction costs in the event that those parcels are substantially redeveloped.

3. Water Main Extension Recapture Agreement. After (a) the Village has approved and accepted the Water Main Extension and the Off-Premises Water Main Extension and (b) the Developer has submitted documentation of all its costs associated with the construction of the Water Main Extension and the Off-Premises Water Main Extension, including contracts, invoices, certified payrolls and final waivers of liens, the Village Manager shall be authorized, without further action by the Corporate Authorities, to enter into a recapture agreement with the Developer in substantially the form attached as **Exhibit M** to this Agreement, which will provide for payment by the owners of those parcels listed in Exhibit 2 to the recapture agreement of a beneficial share of the Developer's construction costs in the event that those parcels connect to the Water Main Extension.

4. Sanitary Sewer Main Extension Recapture Agreement. After (a) the Village has approved and accepted the Sanitary Main Extension and the Off-Premises

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Sanitary Sewer Main Extension and (b) the Developer has submitted documentation of all its costs associated with the construction of the Sanitary Main Extension and the Off-Premises Sanitary Sewer Main Extension, including contracts, invoices, certified payrolls and final waivers of liens, the Village Manager shall be authorized, without further action by the Corporate Authorities, to enter into a recapture agreement with the Developer in substantially the form attached as **Exhibit N** to this Agreement, which will provide for payment by the owners of those parcels listed in Exhibit 2 to the recapture agreement of a beneficial share of the Developer's construction costs in the event that those parcels connect to the Sanitary Sewer Main Extension.

SECTION 9. PAYMENT OF VILLAGE FEES AND COSTS.

A. General Requirements. In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Developer shall pay to the Village, as and when due, all application, inspection, and permit fees, all water and sewer general and special connection fees, tap-on fees, charges and contributions, and all other fees, charges, and contributions required by applicable Village codes, ordinances, resolutions, rules, or regulations.

B. Special Requirements. In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement or by applicable Village codes, ordinances, resolutions, rules or regulations, the Developer shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering, and other consulting or administrative fees, costs, and expenses incurred 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. Payment of all such fees, costs, and expenses for which demand has been made, but payment has not been received, by the Village prior to execution of this Agreement shall be made by a certified or cashier's check immediately upon execution of this Agreement by the Village President. Further, the Developer agrees that it will continue to be liable for and to pay, immediately upon presentation of a written demand or demands therefor, such fees, costs, and expenses incurred in connection with any applications, documents, or proposals, whether formal or informal, of whatever kind submitted by the Developer during the term of this Agreement in connection with the development and use of the Property. Further, the Developer agrees that it shall be liable for and shall pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

SECTION 10. PERFORMANCE SECURITY.

A. Performance and Payment Letter of Credit. As security to the Village for the performance by the Developer of the Developer's obligations to construct and complete the Improvements pursuant to and in accordance with this Agreement, the Developer hereby irrevocably elects, on behalf of itself and its successors, to provide performance and payment security for the Improvements ("**Guarantee**") in the form of a cash deposit and one or more letters of credit ("**Letter of Credit**") in the amount set forth in Section 3-501.B of the Subdivision Code, and in accordance with the terms set forth in Section 3-501.C and Section 3-502 of the Subdivision Code. The Letter of Credit shall be in form and substance substantially conforming with **Exhibit O** and satisfactory to the Village Attorney. The Guarantee shall be administered pursuant to Sections 3-504, 3-505, 3-506 and 3-507 of the Subdivision Code, except as provided in Section 10.C of this Agreement.

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B. Use of Funds in the Event of Breach of Agreement. If the Developer fails or refuses to complete the Improvements in accordance with this Agreement, or fails or refuses to correct any defect or deficiency in the Improvements, or remove partially completed buildings or structures as required by this Agreement, or fails or refuses to perform Site Restoration in accordance with a demand made pursuant to his Agreement, or fails or refuses to pay any amount demanded by the Village as and when required pursuant to this Agreement, or in any other manner fails or refuses to meet fully any of its obligations under this Agreement, then the Village in its reasonable discretion may draw on and retain all or any of the funds remaining in the Guarantee. The Village thereafter shall have the right, subject to 30 days notice and opportunity for cure, to exercise its rights under this Agreement, 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 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 letter of credit are insufficient to repay fully the Village for all costs and expenses, then the Developer shall upon demand of the Village therefor deposit with the Village any additional funds as the Village determines are necessary, within 30 days of a request therefor, to fully repay such costs and expenses.

C. Performance Security for Conditional Improvements.

1. Left Turn Lane. If the Developer is required to construct the Left Turn Lane, the Village Engineer will agree to a reduction of the Letter of Credit only upon receiving proof that the Developer has applied for the necessary permits and approvals from IDOT to construct the Left Turn Lane and has obtained a highway bond in the form required by IDOT as security for the construction of the Left Turn Lane. In the event that the Developer is not required by the Village Manager to construct the Left Turn Lane within 24 months after the issuance of a final certificate of occupancy for the Sports Complex pursuant to Section 5.B.1 of this Agreement, the Village Engineer shall agree to a reduction in the Guarantee in an amount equal to the projected costs of construction of the Left Turn Lane.

2. Sidewalk Extension and Crosswalk. If, despite its best efforts, the Developer is unable to obtain the easements necessary to construct the Sidewalk Extension and the Crosswalk concurrently with the Improvements on the Property, the Village Engineer shall agree to a reduction in the Guarantee in an amount equal to the projected costs of construction of the Sidewalk Extension and the Crosswalk.

SECTION 11. LIABILITY AND INDEMNITY OF VILLAGE.

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

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B. Village Procedure. The Developer acknowledges and agrees that all notices, meetings, and hearings have been properly given and held by the Village with respect to the approval of this Agreement, the District Zoning Map Amendment, the Plat Approval Resolution, the Zoning Code Text Amendment Ordinance and the Special Permit, Variation and Site Plan Approval Ordinance and agrees not to challenge such approval on the grounds of any procedural infirmity or of any denial of any procedural right.

C. Indemnity. The Developer agrees to, and does hereby, hold harmless and indemnify the Village, the Corporate Authorities, the Plan Commission, and all Village elected or appointed officials, officers, employees, agents, representatives, engineers, and attorneys, from any and all claims that may be asserted at any time against any of such parties in connection with (i) the Village's review and approval of any plans for the Property or the Improvements; (ii) the issuance of any approval, permit, certificate or acceptance for the Property or the Improvements; (iii) the development, construction, maintenance or use of any portion of the Property or the Improvements; and (iv) the collection and distribution of amounts paid by the Developer pursuant to Section 10 of this Agreement.

D. Defense Expense. The Developer shall, and does hereby agree to, pay all expenses, including legal fees and administrative expenses, incurred by the Village in defending itself with regard to any and all of the claims referenced in Subsection 11.C of this Agreement.

SECTION 12. NATURE, SURVIVAL AND TRANSFER OF OBLIGATIONS.

A. Binding on Successors All obligations assumed by the Developer under this Agreement shall be binding upon the Developer, upon any and all of the Developer's heirs, successors and assigns (excluding any lessees or tenants of the Developer), and upon any and all of the respective successor legal or beneficial owners of all or any portion of the Property. To assure that all such heirs, successors, assigns and successor owners have notice of this Agreement and the obligations created by it, the Developer shall:

1. Deposit with the Village Clerk, concurrent with the Village's approval of this Agreement, any consents or other documents necessary to authorize the Village to record this Agreement with the Office of the Cook County Recorder of Deeds; and
2. Notify the Village in writing at least 30 days prior to any date upon which such party transfers a legal or beneficial interest in any portion of the Property to any party not a party to this Agreement; and
3. Incorporate, by reference, this Agreement into any and all real estate sales contracts entered into for the sale of all or any portion of the Property to any party not a party to this Agreement; and
4. Require, prior to the transfer of all or any portion of the Property (excluding any lessees or tenants of the Developer), or any legal or equitable interest therein, to any party not a party to this Agreement, the transferee of said portion of or interest in the Property to execute an enforceable written agreement, in substantially the form attached to this Agreement as **Exhibit P**, agreeing to be bound by the provisions of this Agreement ("**Transferee Assumption Agreement**") and to provide the Village, upon request, with such reasonable assurance of the financial ability of such transferee to meet those obligations as the Village may require.

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B. Limited Release of the Developer. Subject to the terms and conditions of this Agreement, the Village agrees that this Agreement is transferable and assignable and that upon a successor becoming bound to the personal obligation created in the manner provided in this Agreement and providing the financial assurances required herein, the personal liability of the Developer shall be released to the extent of the transferee's assumption of such liability. The failure of the Developer to provide the Village with a fully executed copy of a Transferee Assumption Agreement required above by the transferee to be bound by the provisions of this Agreement and, if requested by the Village, with the transferee's proposed assurances of financial capability before completing any such 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 all such obligations as a successor to the Developer.

SECTION 13. TERM.

The provisions of this Agreement shall run with and bind the Property, and shall inure to the benefit of, and be enforceable by, the Developer, the Village, and any of their respective legal representatives, heirs, grantees, successors, and assigns, from the date this Agreement is recorded and until the later of the two following events: (a) the Required Improvements are approved by the Village and the Required Improvements, as required by this Agreement and the Subdivision Code, are accepted by the Village; or (b) a date 24 months after the issuance of a final certificate of occupancy for the Sports Complex Building. Following such approval and acceptance, the Village agrees, upon written request of the Developer, to execute appropriate and recordable evidence of the termination of this Agreement. Notwithstanding anything to the contrary in this Section 13, the Developer's indemnity and defense obligations as set forth in Section 11 of this Agreement shall survive the termination of this Agreement.

SECTION 14. DEVELOPER REPRESENTATIONS, COVENANTS, AND WARRANTIES.

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

1. the Developer is an Illinois limited liability company duly organized, validly existing, qualified to do business in Illinois;
2. the Developer has the right, power, and authority to enter into, execute, deliver and perform this Agreement, and the Developer is in compliance with all Requirements of Law, the failure to comply with which could affect the ability of the Developer to perform its obligations under this Agreement;
3. the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its organizational documents, as amended and supplemented, any of the applicable Requirements of Law, or constitute a breach of or default under, or require any consent under, any agreement, instrument, or document to which the Developer is now a party or by which the Developer is now or may become bound;
4. there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending,

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threatened, or affecting the Developer which would impair its ability to perform under this Agreement;

5. the Developer shall apply for and upon receipt, thereafter, maintain all government permits, certificates, and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct and complete the Development as required by this Agreement; and
6. the Developer has sufficient financial and economic resources to implement and complete its obligations under this Agreement. The Developer has no knowledge of any liabilities, contingent or otherwise, of Developer which might have a material adverse effect upon its ability to perform its obligations under this Agreement.

SECTION 15. VILLAGE REPRESENTATIONS, COVENANTS, AND WARRANTIES.

The Village represents, warrants and agrees as the basis for the undertakings on its part contained in this Agreement that:

1. The Village is a municipal corporation duly organized and validly existing under the law of the State of Illinois and has all requisite corporate power and authority to enter into this Agreement.
2. The execution, delivery and the performance of this Agreement and the consummation by the village of the transactions provided for herein and the compliance with the provisions of this Agreement: (i) have been duly authorized by all necessary corporate action on the part of the Village, (ii) require no other consents, approvals or authorizations on the part of the Village in connection with the Village's execution and delivery of this Agreement, and (iii) shall not, by lapse of time, giving of notice or otherwise result in any breach of any term, condition or provision of any indenture, agreement or other instrument to which the Village is subject.
3. To the best of the Village's knowledge, there are no proceedings pending or threatened against or affecting the Village or the Property in any court or before any governmental authority that involves the possibility of materially or adversely affecting the ability of the Village to perform its obligations under this Agreement.

SECTION 16. ENFORCEMENT.

The parties to this Agreement may, in law or in equity, by suit, action, mandamus or any other proceeding, including without limitation, specific performance, enforce or compel the performance of this Agreement: provided, however, that the Developer agrees that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages against the Village or any elected or appointed officials, officers, employees, agents, representatives, engineers, or attorneys thereof, on account of the negotiation, execution, or breach of any of the terms and conditions of this Agreement. In addition to every other remedy permitted by law for the enforcement of the terms of this Agreement, the Village shall be entitled to withhold the issuance of building permits or certificates of occupancy for any and all buildings and structures

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within the Property at any time when the Developer has failed or refused to meet fully any of its obligations under this Agreement after notice and an opportunity to cure as provided in Section 17. In the event of a judicial proceeding brought by one party to this Agreement against the other party to this Agreement, the prevailing party in such judicial proceeding shall be entitled to reimbursement from the unsuccessful party of all costs and expenses, including reasonable attorneys' fees, incurred in connection with such judicial proceeding.

SECTION 17. DEFAULT.

A. Events of Default by the Developer. The following shall be Events of Default with respect to this Agreement:

1. If any representation made by the Developer in this Agreement, or in any certificate, notice, demand or request made by a Party hereto, in writing and delivered to the Village pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made; provided, however, that such default shall constitute an Event of Default only if the Developer does not remedy the default, within 15 days after written notice from the Village.
2. Default by the Developer for a period of 15 days after written notice thereof in the performance or breach of any covenant contained in this Agreement concerning the existence, structure or financial condition of the Developer; provided, however, that such default or breach shall not constitute an Event of Default if such default cannot be cured within said 15 days and the Developer, within said 15 days, initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.
3. Default by the Developer for a period of 15 days after written notice thereof in the performance or breach of any covenant, warranty or obligation contained in this Agreement; provided, however, that such default shall not constitute an Event of Default if such default cannot be cured within said 15 days and the Developer, within said 15 days initiates and diligently pursues appropriate measures to remedy the default and in any event cures such default within 60 days after such notice.
4. The entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the Developer in an involuntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Developer for any substantial part of its property, or ordering the winding-up or liquidation of its affairs and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days.
5. The commencement by the Developer of a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or the consent by the Developer to the appointment of or taking possession

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by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Developer or of any substantial part of the Property, or the making by any such entity of any assignment for the benefit of creditors or the failure of the Developer generally to pay such entity's debts as such debts become due or the taking of action by the Developer in furtherance of any of the foregoing, or a petition is filed in bankruptcy by others.

6. Failure to have funds to meet the Developer's obligations.
7. Sale, assignment, or transfer of the Property except in accordance with the Transferee Assumption provisions in Section 12 of this Agreement.
8. Change in the organizational status of the Developer except in accordance with the Transferee Assumption provisions in Section 12 of this Agreement.
9. The Developer abandons the development and construction on the Property. Abandonment shall be deemed to have occurred when work stops on the Property for more than 60 days for any reason other than Uncontrollable Circumstances. The failure of the Developer to secure any approvals required for the Development or construction shall not be a valid defense to abandonment.
10. The Developer fails to comply with the Requirements of Law in relation to the construction and maintenance of the buildings contemplated by this Agreement.

B. Events of Default by the Village. The following shall be Events of Default with respect to this Agreement:

1. If any material representation made by the Village in this Agreement, or in any certificate, notice, demand or request made by a party hereto, in writing and delivered to the Developer pursuant to or in connection with any of said documents, shall prove to be untrue or incorrect in any material respect as of the date made; provided, however, that such default shall constitute an Event of Default only if the Village does not remedy the default, within 15 days after written notice from the Developer.
2. Default by the Village in the performance or breach of any material covenant contained in this Agreement concerning the existence, structure or financial condition of the Village; provided, however, that such default or breach shall constitute an Event of Default if the Village does not, within 15 days after written notice from the Developer, initiate and diligently pursue appropriate measures to remedy the default.
3. Default by the Village in the performance or breach of any material covenant, warranty or obligation contained in this Agreement; provided, however, that such default shall not constitute an Event of Default if the Village, commences cure within 15 days after written notice from the

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Developer and in any event cures such default within 60 days after such notice, subject to Uncontrollable Circumstances.

C. Remedies for Default. In the case of an Event of Default under this Agreement:

1. The defaulting party shall, upon written notice from the non-defaulting party, take immediate action to cure or remedy such Event of Default. If, in such case, any monetary Event of Default is not cured, or if in the case of a non-monetary Event of Default, action is not taken or not diligently pursued, or if action is taken and diligently pursued but such Event of Default or breach shall not be cured or remedied within a reasonable time, but in no event more than 15 additional days unless extended by mutual agreement, the non-defaulting party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance of the defaulting party's obligations under this Agreement.
2. In the case of an Event of Default by the Developer occurring and continuing after the expiration of any applicable notice and cure period set forth in this Agreement, the Village may, and without prejudice to any other rights and remedies available to the Village, exercise any or all of the following options:
 - a) if no building permits have been issued for the Development, the Village may require Site Restoration in accordance with the terms and provisions of Section 7.C of this Agreement;
 - b) if one or more building permits have been issued for the Development, the Village may require demolition, removal, and restoration work in accordance with the terms and provisions of Section 7.C of this Agreement; or
 - c) The Corporate Authorities may initiate the process for revocation of the Special Permit, Variation, and Site Plan Approval Ordinance, in accordance with the provisions of that Ordinance. In such case, revocation shall be without protest or objection by the Developer.
3. In case the Village shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason, then, and in every such case, the Developer and the Village shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Developer and the Village shall continue as though no such proceedings had been taken.

SECTION 18. 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

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courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section 18.A, each party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

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

Village of Northbrook
1225 Cedar Lane
Northbrook, IL 60062
Attention: Village Manager

With a copy to:

Steven M. Elrod
Holland & Knight LLP
131 South Dearborn Street, 30th Floor
Chicago, IL 60603

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

Richland Creek Capital, LLC
Attn: Kent Knebelkamp
1048 Cedar Lane
Northbrook, Illinois 60062

With a copy to:

Lawrence M. Freedman
Ash, Anos, Freedman and Logan
77 W. Washington, Suite 1211
Chicago, Illinois 60602

B. Time of the Essence. Time is of the essence in the performance of all terms and provisions of this Agreement.

C. 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.

D. Exhibits. Exhibits A through P attached to this Agreement are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, Section 4.C of this Agreement shall control.

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

F. Governing Law. This Agreement shall be governed by, and enforced in accordance with, the internal laws, but not the conflicts of laws rules, of the State of Illinois.

G. Changes in Laws. Unless otherwise explicitly provided in this Agreement, any reference to any Requirements of Law shall be deemed to include any modifications of, or amendments to such Requirements of Law as may, from time to time, hereinafter occur.

H. 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.

I. Severability. It is hereby expressed to be the intent of the Parties that should any provision, covenant, agreement, or portion of this Agreement or its application to any person, entity, 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, entity, 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.

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

[END OF TEXT - SIGNATURE PAGES FOLLOW]

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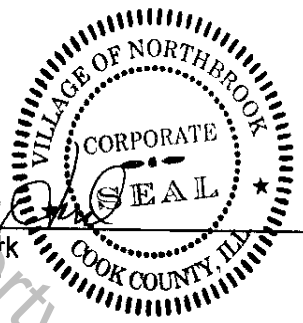
IN WITNESS WHEREOF, the parties hereto have affixed their signatures the date and year first above written.

VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation

By: *Sandra E. Pium*
Its: Village President

ATTEST:

By: *[Signature]*
Its: Village Clerk



RICHLAND CREEK CAPITAL, LLC, an Illinois limited liability company

By: *[Signature]*
Its: Manager

By: *[Signature]*
Its: *[Signature]*

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EXHIBITS

Exhibit A	Legal Descriptions
Exhibit B	Form of District Zoning Map Amendment Ordinance
Exhibit C	Form of Plat Approval Resolution
Exhibit D	Form of Zoning Code Text Amendment Ordinance
Exhibit E	Form of Special Permit, Variation, and Site Plan Approval Ordinance
Exhibit F	Site Plan
Exhibit G	Preliminary Engineering Plan
Exhibit H	Preliminary Landscape Plan
Exhibit I	Preliminary Old Willow Road Improvements Plan
Exhibit J	Fire Access Plan
Exhibit K	Form of Old Willow Road Recapture Agreement
Exhibit L	Form of Sidewalk Extension Recapture Agreement
Exhibit M	Form of Water Main Extension Recapture Agreement
Exhibit N	Form of Sanitary Sewer Main Extension Recapture Agreement
Exhibit O	Form of Letter of Credit
Exhibit P	Form of Transferee Assumption Agreement

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EXHIBIT A

Legal Descriptions

PROPERTY

PRIOR TO CONSOLIDATION:

THE WEST 1/5 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

Commonly known as 1870 Old Willow Road, Northbrook, Illinois 60062
PIN: 04-22-300-008-0000

THE WEST 1/3 OF THE EAST 3/5 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, IL

Commonly known as 1850 Old Willow Road, Northbrook, Illinois 60062
PIN: 04-22-300-010-0000

THE WEST 1/4 OF THE EAST 4/5 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH 333 FEET OF THE WEST 112.54 FEET THEROF) IN COOK COUNTY, IL

Commonly known as 1868 Old Willow Road, Northbrook, Illinois 60062
PIN: 04-22-300-018-0000

THE SOUTH 333 FEET OF THE WEST 112.54 FEET OF THE WEST QUARTER OF THE EAST 4/5 OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

Commonly known as 1864 Old Willow Road, Northbrook, Illinois 60062
PIN: 04-22-300-019-0000

AFTER CONSOLIDATION:

LOT 1 IN THE NORTH SHORE SPORTS CENTER CONSOLIDATION BEING A CONSOLIDATION IN THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Commonly known as 1900 Old Willow Road, Northbrook, Illinois 60062

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1885 HOLSTE PROPERTY

LOT 13 IN GLENDALE INDUSTRIAL DISTRICT, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as 1885 Holste, Northbrook, Illinois 60062
PIN: 04-22-300-032-0000

Property of Cook County Clerk's Office

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EXHIBIT B

Form of District Zoning Map Amendment Ordinance

ORDINANCE NO. 12-

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

AN ORDINANCE REZONING PROPERTY AND AMENDING THE DISTRICT ZONING MAP

(NORTH SHORE SPORTS CENTER - 1850, 1864, 1868 & 1870 OLD WILLOW ROAD)
(PLAN COMMISSION DOCKET NO. 11-03)

shall be and is hereby adopted as follows:

Section 1. BACKGROUND.

Richland Creek Capital, LLC ("*Developer*") is the contract purchaser of those certain parcels of real estate commonly known as 1850, 1864, 1868 and 1870 Old Willow Road, all located in the Village of Northbrook (collectively, the "*Property*").

The Developer proposes to consolidate the Property and develop it with a single story, approximately 97,418 square foot building to be used as a sports and recreation facility containing an indoor sports field, a full size gymnasium, four paddle tennis courts, and special event areas.

On [*January 10,*] 2012, the Board of Trustees adopted Resolution No. 12-R-__ approving a development agreement between the Developer and the Village ("*Development Agreement*") obligating the Board of Trustees to adopt this Ordinance.

The Developer has requested an amendment to the District Zoning Map ("*Amendment*") to rezone the Property from the R-1 Single Family Residential District to the OS Open Space District. The Property is also located in the Village's Redevelopment Overlay District and will remain in that district after the Property is rezoned.

The President and Board of Trustees hereby find that it is in the best interest of the Village and the public to adopt the Amendment in accordance with the Northbrook Zoning Code (1988), as amended ("*Zoning Code*"), and pursuant to the Village's home rule powers.

Section 2. PUBLIC HEARING.

Pursuant to public notice published in the *Northbrook Star* on September 15, 2011, a public hearing was held by the Plan Commission on October 4, 2011, and continued to November 1, 2011, to consider the Developer's request for the Amendment and other related relief. The Plan Commission made its recommendations to approve the Amendment on November 1, 2011 (Resolution No. 11-PC-09).

Section 3. AMENDMENT TO THE DISTRICT ZONING MAP.

The District Zoning Map shall be, and is hereby, amended to rezone the Property, as

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legally described in *Exhibit A* and depicted in *Exhibit B*, attached to and by this reference made a part of this Ordinance, from the R-1 Single Family Residential District to the OS Open Space District, in accordance with Section 11-601 of the Northbrook Zoning Code (1988), as amended, and pursuant to the home rule powers of the Village. The Property will continue to be located in the Redevelopment Overlay District.

Section 4. EFFECTIVE DATE.

This Ordinance shall be effective only upon the occurrence of all of the following events:

- A. passage by the Board of Trustees by a majority vote in the manner required by law;
- B. the "Proof of Title Date" as defined in the Development Agreement;
- C. publication in pamphlet form in the manner required by law; and

In the event that the Proof of Title Date does not occur prior to July 1, 2012, this Ordinance shall automatically, and without any further action by the Board of Trustees, be null and void and of no force or effect.

PASSED: This __ day of _____, 2012.

AYES: ()

NAYS: ()

ABSENT: ()

ABSTAIN: ()

Village President

ATTEST:

Village Clerk

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EXHIBIT C

Form of Plat Approval Resolution

RESOLUTION NO. 12-R-__

BE IT RESOLVED by the President and the Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois, THAT:

A RESOLUTION APPROVING A PLAT OF CONSOLIDATION FOR
THE NORTH SHORE SPORTS CENTER
(1850, 1864, 1868 & 1870 OLD WILLOW ROAD)
(Plan Commission Docket No. 11-03)

is hereby adopted as follows:

Section 1. Recitals.

Richland Creek Capital, LLC ("**Developer**") is the contract purchaser of those certain parcels of real estate commonly known as 1850, 1864, 1868 and 1870 Old Willow Road, all located in the Village of Northbrook (collectively, the "**Property**") and are legally described in **Exhibit A**, attached to, and by this reference, made a part of this Resolution.

The Owner proposes to consolidate the Property into one zoning lot that will be developed with a single story, approximately 97,418 square foot building to be used as a sports and recreation facility containing an indoor sports field, a full size gymnasium, four paddle tennis courts, and special event areas.

On [January 10,] 2012, the Board of Trustees adopted (i) Resolution No. 12-R-__ approving a development agreement between the Developer and the Village ("**Development Agreement**") obligating the Board of Trustees to adopt this resolution; and (ii) Ordinance No. 12-__ amending the District Zoning Map of the Northbrook Zoning Code (1988), as amended ("**Zoning Code**") to rezone the parcels that comprise the Property from the R-1 Single Family Residential District to the OS Open Space District, but retaining the Property's Redevelopment Overlay District zoning designation.

Pursuant to public notice published in the *Northbrook Star* on September 15, 2011, a public hearing was held by the Plan Commission on October 4, 2011, and continued to November 1, 2011, to consider the Developer's application. The Plan Commission made its recommendations to approve the Developer's application on November 1, 2011 (Resolution No. 11-PC-09).

The President and the Board of Trustees have determined that it is in the best interests of the Village and the public to grant approval of the plat of consolidation for the Property.

Section 2. Approval, Execution and Recordation of the Plat of Consolidation.

A. Approval of Plat of Consolidation. The North Shore Sports Center Plat of Consolidation, prepared by Cook Engineering Group, consisting of two sheets, with a latest revision date of January 4, 2012, attached to, and by this reference, made a part of this Resolution as **Exhibit B**, ("**Plat of Consolidation**") shall be, and is hereby, approved.

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B. Authorization. The Village President and Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, the Plat of Consolidation, subject to certification by the Office of the Cook County Clerk that there are no property tax delinquencies, as well as all other certifications as necessary.

C. Recordation. The Village Manager is hereby directed to record said Plat of Consolidation in the Office of the Cook County Recorder upon the occurrence of all of the events listed in Section 2 of this Resolution.

Section 2. EFFECTIVE DATE.

This Resolution shall be effective only upon the occurrence of all of the following events:

- A. passage by the Board of Trustees by a majority vote in the manner required by law; and
- B. the "Proof of Title Date" as defined in the Development Agreement.

In the event that the Proof of Title Date does not occur prior to July 1, 2012, this Resolution shall automatically, and without any further action by the Board of Trustees, be null and void and of no force or effect.

PASSED: This __ day of January __, 2012

AYES: 0

NAYS: 0

ABSENT: 0

ABSTAIN: 0

Village President

ATTEST:

Village Clerk

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EXHIBIT D

Form of Zoning Code Text Amendment Ordinance

ORDINANCE NO. 12-__

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

AN ORDINANCE AMENDING THE NORTHBROOK ZONING CODE
TO ALLOW INCREASED FLOOR AREA RATIO IN THE
OS OPEN SPACE DISTRICT BY SPECIAL PERMIT

(PLAN COMMISSION DOCKET NO. 11-03)

shall be, and is hereby, adopted as follows:

Section 1. BACKGROUND.

Richland Creek Capital LLC, ("**Developer**") is the contract purchaser of those certain parcels of real estate commonly known as 1350, 1864, 1868 and 1870 Old Willow Road, all located in the Village of Northbrook (collectively, the "**Property**"). The Developer has requested a text amendment to allow properties that are located within the Redevelopment Overlay District and zoned OS Open Space District to have a floor area ratio in excess of 0.35, but no greater than 0.50 by special permit ("**Amendment**").

On [**January 10,**] 2012, the Board of Trustees adopted (i) Resolution No. 12-R-__ approving a development agreement between the Developer and the Village ("**Development Agreement**") obligating the Board of Trustees to adopt this ordinance; (ii) Ordinance No. 12-__ amending the District Zoning Map of the Northbrook Zoning Code (1988), as amended ("**Zoning Code**") to rezone the parcels that comprise the Property from the R-1 Single Family Residential District to the OS Open Space District, but retaining the Property's Redevelopment Overlay District zoning designation, and (iii) Resolution No. 12-R-__ approving a plat of consolidation for the Property.

The President and Board of Trustees have determined that it is in the best interests of the Village and the public health, safety, and welfare, to amend the Northbrook Zoning Code (1988), as amended, ("**Zoning Code**") in the manner recommended by the Plan Commission and as specifically provided in this Ordinance. The amendments are adopted in accordance with the Zoning Code and pursuant to the Village's home rule powers.

Section 2. PUBLIC HEARING.

Pursuant to public notice published in the *Northbrook Star* on September 15, 2011, a public hearing was held by the Plan Commission on October 4, 2011, and continued to November 1, 2011, to consider the Developer's application for the Amendment. The Plan Commission made its recommendations to approve the Amendment on November 1, 2011 (Resolution No. 11-PC-09).

Section 3. AMENDMENT TO SUBSECTION 8-302 E OF THE ZONING CODE.

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Subsection 8-302 E of the Zoning Code shall be, and is hereby, amended to add in numerical order Village S.I.C. No. "9970.05: Floor Area Ratio in Excess of 0.35, but not Greater Than 0.50 When Located in the Redevelopment Overlay District" as a special permit use in the OS Open Space District.

Section 4. AMENDMENT TO APPENDIX B OF THE ZONING CODE

The Master Use Table contained in Appendix B of the Zoning Code shall be, and is hereby, amended to add the following use as a special permit use in the OS Open Space District:

CODE	DESCRIPTION/TEXT	R1	R2	R3	R4	R5	R6	R7	R8	RS	C1	C2	C3	C4	C5	O1	O2	O3	O4	O5	I1	I2	OS	IB	MFRC	RLC
9970.00	Floor Area Ratio in Excess of 1.0																									
9970.01	Floor Area Ratio in Excess of 0.50, but no greater than 0.55																	S								
9970.02	Floor Area Ratio in Excess of 0.40, but no greater than 0.60								S																	
9970.02	Floor Area Ratio in Excess of 0.40, but no greater than 0.60								S																	
9970.04	Floor Area Ratio in Excess of 0.35, but no greater than 0.50 When Located in the Skokie Boulevard Business Redevelopment District									S																
9970.05	<u>Floor Area Ratio in Excess of 0.35, but no greater than 0.50 When Located in the Redevelopment Overlay District</u>																						S			

Section 5. EFFECTIVE DATE.

This Ordinance shall be in full force and effect following:

- A. passage by the Board of Trustees by a majority vote in the manner required by law;
- B. the "Proof of Title Date" as defined in the Development Agreement; and
- C. publication in pamphlet form in the manner required by law.

In the event that the Proof of Title Date does not occur prior to July 1, 2012, this Ordinance shall automatically, and without any further action by the Board of Trustees, be null and void and of no force or effect.

PASSED: This day ___ of January, 2012.
AYES: 0
NAYS: 0
ABSENT: 0
ABSTAIN: 0

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DO NOT SIGN HERE

ATTEST:

Village President

Village Clerk

Property of Cook County Clerk's Office

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EXHIBIT E

Form of Special Permit, Variation, and Site Plan Approval Ordinance

ORDINANCE NO. 12-

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

AN ORDINANCE GRANTING SPECIAL PERMITS FOR
A MEMBERSHIP SPORTS AND RECREATION FACILITY AND
AN INCREASE IN PERMITTED FLOOR AREA RATIO, AS WELL AS YARD,
SETBACK, AND LOADING SPACE VARIATIONS, AND SITE PLAN APPROVAL

(NORTH SHORE SPORTS CENTER - 1850, 1864, 1868 & 1870 OLD WILLOW ROAD)
(PLAN COMMISSION DOCKET NO. 11-03)

shall be, and is hereby, adopted as follows:

Section 1. BACKGROUND.

Richland Creek Capital, LLC ("*Developer*") is the contract purchaser of those certain parcels of real estate commonly known as 1850, 1864, 1868 and 1870 Old Willow Road, all located in the Village of Northbrook (collectively, the "*Property*").

On [January 10,] 2012, the Board of Trustees adopted (i) Resolution No. 12-R-__ approving a development agreement between the Developer and the Village ("*Development Agreement*") obligating the Board of Trustees to adopt this ordinance; (ii) Ordinance No. 12-__ amending the District Zoning Map of the Northbrook Zoning Code (1988), as amended ("*Zoning Code*") to rezone the parcels that comprise the Property from the R-1 Single Family Residential District to the OS Open Space District, but retaining the Property's Redevelopment Overlay District zoning designation; (iii) Resolution No. 12-R-__ approving a plat of consolidation for the Property; and (iv) Ordinance No. 12-__, amending the Zoning Code to allow by special permit in the OS Open Space District for a maximum Floor Area Ratio in excess of 0.35, but no greater than 0.50 when also located in the Redevelopment Overlay District.

The Developer proposes to consolidate and develop the Property with a single story, approximately 97,418 square foot building to be used as a sports and recreation facility containing an indoor sports field, a full size gymnasium, four paddle tennis courts, and special event areas ("*Facility*"). Membership sports and recreation clubs are allowed only by special permit in the OS Open Space District.

The Developer has applied for the following special permits and approvals for the Property, (i) special permits to allow the construction, maintenance and operation of a membership sports and recreation facility and a floor area ratio in excess of OS Open Space District limits, (ii) variations from the setback and yard requirements of the OS Open Space District and certain requirements of Subsection 9-107 F of the Zoning Code regarding setbacks and buffers, (iii) a variation from the loading space requirements from one to zero spaces, and (iv) site plan approval (collectively, "*Requested Relief*").

The Developer has applied to the Village for a Class A alcoholic beverage license for the Facility and has agreed to conduct all service of alcohol in accordance with certain conditions.

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The President and the Board of Trustees hereby finds that granting the Requested Relief by the Developer would be in the best interest of the Village and the public.

Section 2. DESCRIPTION OF THE PROPERTY.

The Property consists of approximately 6.02 acres legally described in *Exhibit A* attached to and, by this reference, made a part of this Ordinance.

Section 3. PUBLIC MEETINGS AND HEARINGS.

Pursuant to public notice published in the *Northbrook Star* on September 15, 2011, a public hearing was held by the Plan Commission on October 4, 2011, and continued to November 1, 2011, to consider the Developer's Requested Relief. The Plan Commission made its recommendations to approve the Requested Relief on November 1, 2011 (Resolution No. 11-PC-09).

Section 4. SPECIAL PERMITS.

Subject to and contingent upon the conditions, restrictions, and provisions set forth in Section 7 of this Ordinance, the following special permits shall be, and are hereby, granted to the Developer for the Property, all in accordance with and pursuant to Section 11-602 of the Code and the home rule powers of the Village of Northbrook:

A. Membership Sports and Recreation Facility. A special permit for the construction, maintenance, and operation of a Membership Sports and Recreation Facility (Northbrook SIC No. 7997.00).

B. Floor Area Ratio in Excess of OS Open Space District Regulations. A special permit for a floor area ratio of 0.40 in the OS Open Space District (Northbrook SIC No. 9970.05).

Section 5. VARIATIONS.

A. Yard and Setback. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 8 of this Ordinance, the Property shall be, and is hereby granted the following variations:

1. a yard variation to reduce the required front yard along Old Willow Road from 35 feet to 12.42 feet;
2. a yard variation to reduce the required east interior yard from 40 feet to 17.3 feet;
3. a setback variation to reduce the required east interior setback from 40 feet to approximately 15.07 feet;
4. a yard variation to reduce the required west interior yard from 20 feet to 6.5 feet; and
5. a setback variation to reduce the required west interior setback from 25 feet to approximately 22.49 feet.

B. Loading Space. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 7 of this Ordinance, the Property shall be, and is hereby granted a variation

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to reduce the required number of loading spaces by one space to zero spaces.

Section 6. SITE PLAN APPROVAL.

Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 7 of this Ordinance, the Site Plan for the Property, consisting of Exhibit B of this Ordinance, incorporated by reference in Section 7 of this Ordinance, shall be, and is hereby, approved in accordance with and pursuant to Section 11-604 of the Zoning Code and the home rule powers of the Village.

Section 7. SPECIAL PERMITS, VARIATION AND SITE PLAN CONDITIONS

The special permits granted in Section 4, the variations granted in Section 5, and the site plan approval granted in Section 6 of this Ordinance are contingent upon the development, use, and maintenance of the Property being in substantial compliance with the following terms, conditions, and provisions:

A. Compliance with Development Agreement. The Developer shall comply with all of the terms and provisions of the Development Agreement.

B. Compliance with Plans. The development, use, and maintenance of the Property shall be in strict compliance with the following documents and plans, except for minor changes and site work approved by the Director of Building and Development and the Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village codes, ordinances, and standards:

1. North Shore Sports Center Site Plan, prepared by Cook Engineering Group, consisting of one sheet, with a latest revision date of December 27, 2011, attached as *Exhibit B* and, by this reference, made a part of this Ordinance;
2. North Shore Sports Center Exterior Elevations, prepared by Timothy Morgan Associates LLC, consisting of two sheets, with a latest revision date of December 19, 2011, attached as *Exhibit C* and, by this reference, made a part of this Ordinance;
3. North Shore Sports Center Tree Location and Removal Plan, prepared by Cook Engineering Group, consisting of one sheet, with a latest revision date of December 27, 2011, attached as *Exhibit D* and, by this reference, made a part of this Ordinance;
4. North Shore Sports Center Fire Access Plan, prepared by Cook Engineering Group, consisting of one sheet, with a latest revision date of December 27, 2011, attached as *Exhibit E* and, by this reference, made a part of this Ordinance;
5. The Final Engineering Plan, as defined in the Development Agreement; and

EXHIBIT E

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6. The Final Landscape Plan, as defined in the Development Agreement.
- C. Hours of Operation. The operation of the Facility shall be limited to 5:30 a.m. to 12 a.m. Monday through Sunday.
- D. Noise. The operation of the Facility, including, without limitation, the paddle tennis courts, shall at all times comply with the noise regulations set forth in the Municipal Code of the Village of Northbrook (1988), as amended ("*Village Code*").
- E. Lighting. All exterior lighting on the Property, including, without limitation, all parking lot and paddle tennis court lighting, shall at all times comply with Article 9-101 D(16) of the Zoning Code and the Village's Public Improvements Standards Manual.
- F. On-site Circulation and Traffic Control. The Developer shall construct and maintain on the Property all of the on-site circulation and traffic control signage and measures depicted on the Site Plan. The Developer shall stagger the starting and ending times of sporting events held at the Facility to minimize the amount of automobile traffic entering and leaving the Property at any one time.
- G. Eastern Perimeter Fencing. If the Village Manager of the Village determines that the existing fence located adjacent to the eastern property line of the Property has come into disrepair or provides inadequate screening of the Property, he may, in his sole and absolute discretion, require the Developer to construct a six foot, board on board fence in accordance with the specifications depicted in the Final Landscape Plan extending from the northeast corner of the Property to Old Willow Road.

Section 8. ALCOHOLIC BEVERAGE LICENSE.

Nothing in this ordinance shall be deemed or construed as granting the Developer any right, privilege or license to serve alcoholic beverages on the Property. The Developer has submitted an application to the Village for a Class A alcoholic beverage license ("*License*"). In the event (i) the Board of Trustees adopts an ordinance increasing the number of available Class A licenses, and (ii) the Village's liquor commissioner approves and issues the License to the Developer for the Facility, the Developer shall conduct all service of alcoholic beverages in accordance with the conditions, restrictions, and regulations set forth in this Section 8. The adoption by the Board of Trustees of this Ordinance shall be deemed to establish conditions on the License in accordance with, and pursuant to, Section 4-4(b)(10) of the Village Code.

A. Service Areas. All service and sale of alcoholic beverages shall be confined to the areas depicted on the North Shore Sports Center Liquor Service Exhibit, prepared by Timothy Morgan Associates LLC, consisting of one sheet, with a latest revision date of December 27, 2011, attached as *Exhibit F* and, by this reference, made a part of this Ordinance, and subject to the following conditions:

1. **Zone A (Gymnasium/Patio Area):** Service of liquor, including beer and wine, shall be permitted in Zone A only during special events. During these special events, Zone A shall be accessible only through a designated entrance separate from the general entrance to the Facility that shall be monitored by Facility employees.
2. **Zone B (General Concession Area):** Service of beer and wine only shall be permitted in Zone B. Consumption of alcohol shall be limited to the lobby and reception areas of the Facility and shall be prohibited in any other area of the Facility, including the spectator areas of the gymnasium and the indoor field.

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3. Zone C (Paddle Tennis Hut): Service of liquor, including beer and wine shall be permitted in Zone C. Zone C shall be accessible only through a gated and secured entrance separate from the general entrance to the Facility. Access to Zone C shall be limited at all times to members of the Facility's paddle tennis league who are over the age of 21 or the members' guests. Any guest who is under the age of 21 must be accompanied in Zone C by a member of the paddle tennis league.

B. Hours of Service. Service of alcohol shall be permitted in the Facility from noon to one half hour before closing.

C. Food Service. Service of alcohol in the Facility must always be in conjunction with the service of food, which may be catered or prepared on the Property and ordered from a printed menu.

D. Personnel Allowed to Serve. All service of alcoholic beverages in the Facility shall be conducted by a BASSET trained employee of the Developer.

E. Prohibited Events. The Developer shall not host or allow spectator events on the Property that involve boxing, wrestling, mixed martial arts, "cage" fighting or any other form of full contact physical combat without receiving the prior written approval of the Chief of the Northbrook Police Department. In no event shall the Facility be used as a nightclub or dance club for which an admission price or cover charge is imposed.

E. Notification and Cooperation with Northbrook Police Department. In accordance with Section 4-64 of the Village Code, if the Developer becomes aware of any illegal activity occurring on the Property, the Developer shall:

1. promptly report such illegal activity to the Northbrook Police Department;
2. answer fully and truthfully all questions asked by a village police officer who investigates any allegation of such illegal activity, and
3. cooperate with the police department in the investigation of such illegal activity, including giving of oral and written statements to the police at reasonable times and locations in the course of the investigation as well as providing evidence in the licensee's possession that may assist the police department in its investigation.

F. Periodic Review and Amendment of License Conditions. The Board of Trustees, shall have the right, but not the obligation, to require the Village Manager to review the operations of the Facility (1) six months and (2) twelve months after commencement of alcoholic beverage sales at the Facility. After either of these periodic reviews, the Board of Trustees, may, in its sole and absolute discretion, add, delete or modify, by ordinance duly adopted, any of the conditions set forth in this Section 8 after providing the Developer with one month advance written notice, to the addresses set forth in the Development Agreement and in accordance with the terms set forth therein, of the reasons for addition, deletion or modification and an opportunity to be heard at a regular meeting of the Board of Trustees. Any addition, deletion or modification made to the conditions set forth in this Section 8 may be made without further notice or hearing before the Plan Commission or the Village's liquor commissioner.

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G. Violation of License Conditions. Any violation of the conditions set forth in this Section 8 shall be deemed to be a violation of both the License and this Ordinance and shall constitute cause for the revocation (1) of the License in accordance with the procedures of Chapter 4 of the Village Code and the Liquor Control Act of 1934 (235 ILCS 5/1-2); and (2) any of the approvals granted by this Ordinance in accordance with the procedures set forth in Section 9 below.

Section 9. FAILURE TO COMPLY WITH CONDITIONS.

Upon failure or refusal of the Developer to comply with any or all of the conditions, restrictions or provisions of this Ordinance, the special permits granted in Section 4, the variations granted in Section 5, the site plan approval granted in Section 6 of this Ordinance shall, at the sole discretion of the Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Board of Trustees may not so revoke the special permits, the variations, and the site plan approval unless it shall first provide the Developer with two months advance written notice, to the addresses set forth in the Development Agreement and in accordance with the terms set forth therein, of the reasons for revocation and an opportunity to be heard at a regular meeting of the Board of Trustees. In the event of revocation, the development and use of the Property shall be governed solely by the regulations of the OS Open Space District and the Redevelopment Overlay District, as the same may, from time to time, be amended. Further, in the event of such revocation of the special permits, the variations, and the site plan approval, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances. The Developer acknowledges that public notices and hearings have been held with respect to the adoption of this Ordinance, has considered the possibility of the revocation provided for in this Section, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Developer required by this Section has been given.

Section 10. AMENDMENT.

Except as expressly provided in Sections 8(F) of this Ordinance, any amendment to any provision of this Ordinance that may be requested by the Developer after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Code for amendment of special permit uses.

Section 11. EFFECTIVE DATE.

A. This Ordinance shall be effective only upon the occurrence of all of the following events:

1. passage by the Board of Trustees by a majority vote in the manner required by law;
2. the "Proof of Title Date" as defined in the Development Agreement;
3. the filing with the Village Clerk by the Developer of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance. Said unconditional agreement and consent shall be in the form of *Exhibit G*, attached to and, by this reference, made a part of this Ordinance;
4. publication in pamphlet form in the manner required by law; and

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5. the recordation of this Ordinance together with such exhibits as the Village Clerk deems appropriate for recordation in the Office of the Cook County Recorder of Deeds.

B. In the event that the Developer does not file with the Village Clerk a fully executed copy of the unconditional agreement and consent referenced in Section 11.A.3 of this Ordinance, within 60 days after the date of passage of this Ordinance by the corporate authorities or the Proof of Title Date, whichever is later, the corporate authorities shall have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

C. In the event that the Proof of Title Date does not occur prior to July 1, 2012, this Ordinance shall automatically, and without any further action by the Board of Trustees, be null and void and of no force or effect.

PASSED: This _____ day of January, 2012.

AYES: ()

NAYS: ()

ABSENT: ()

ABSTAIN: ()

Village President

ATTEST:

Village Clerk

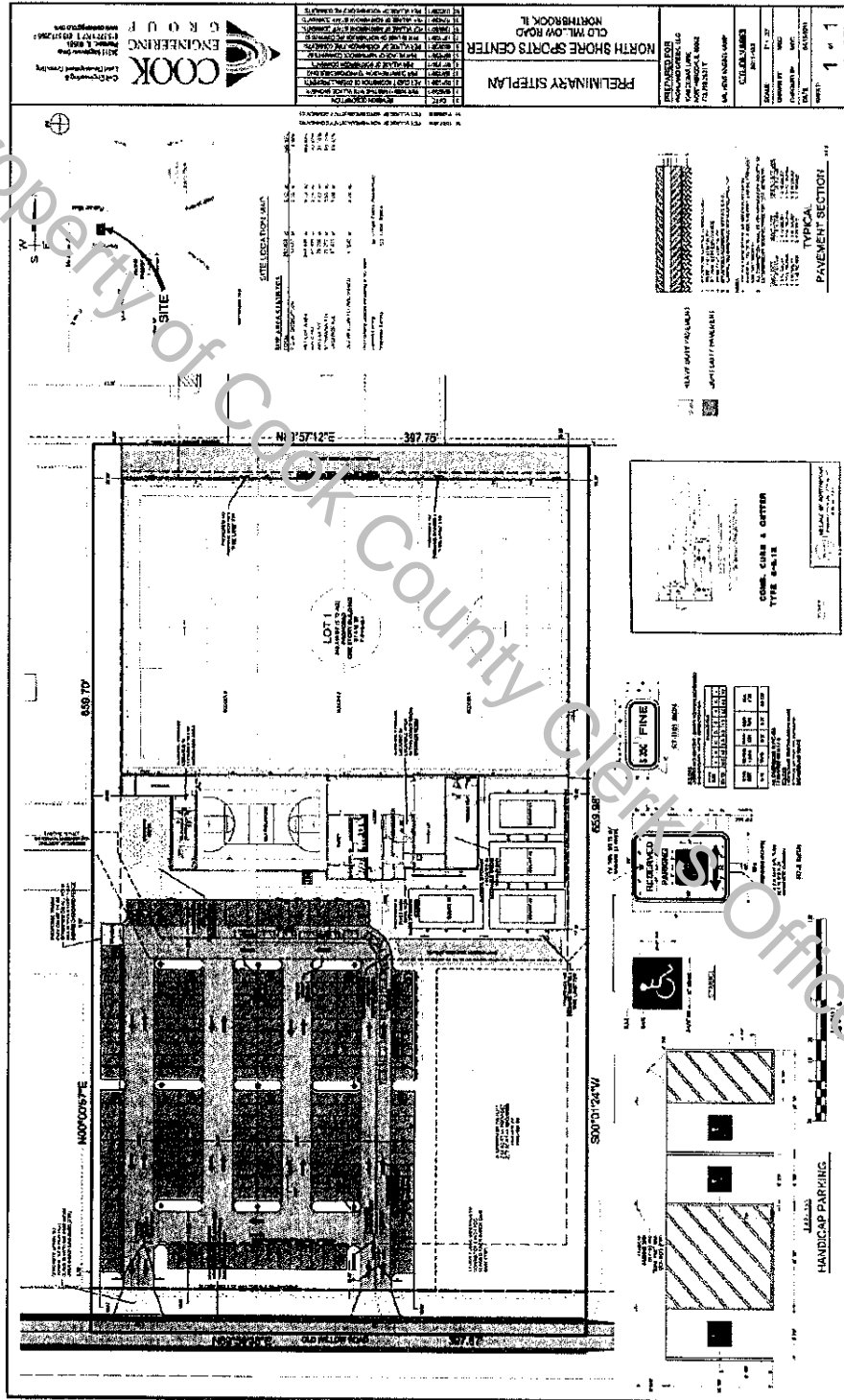
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EXHIBIT E

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EXHIBIT G

Preliminary Engineering Plan



UNOFFICIAL COPY

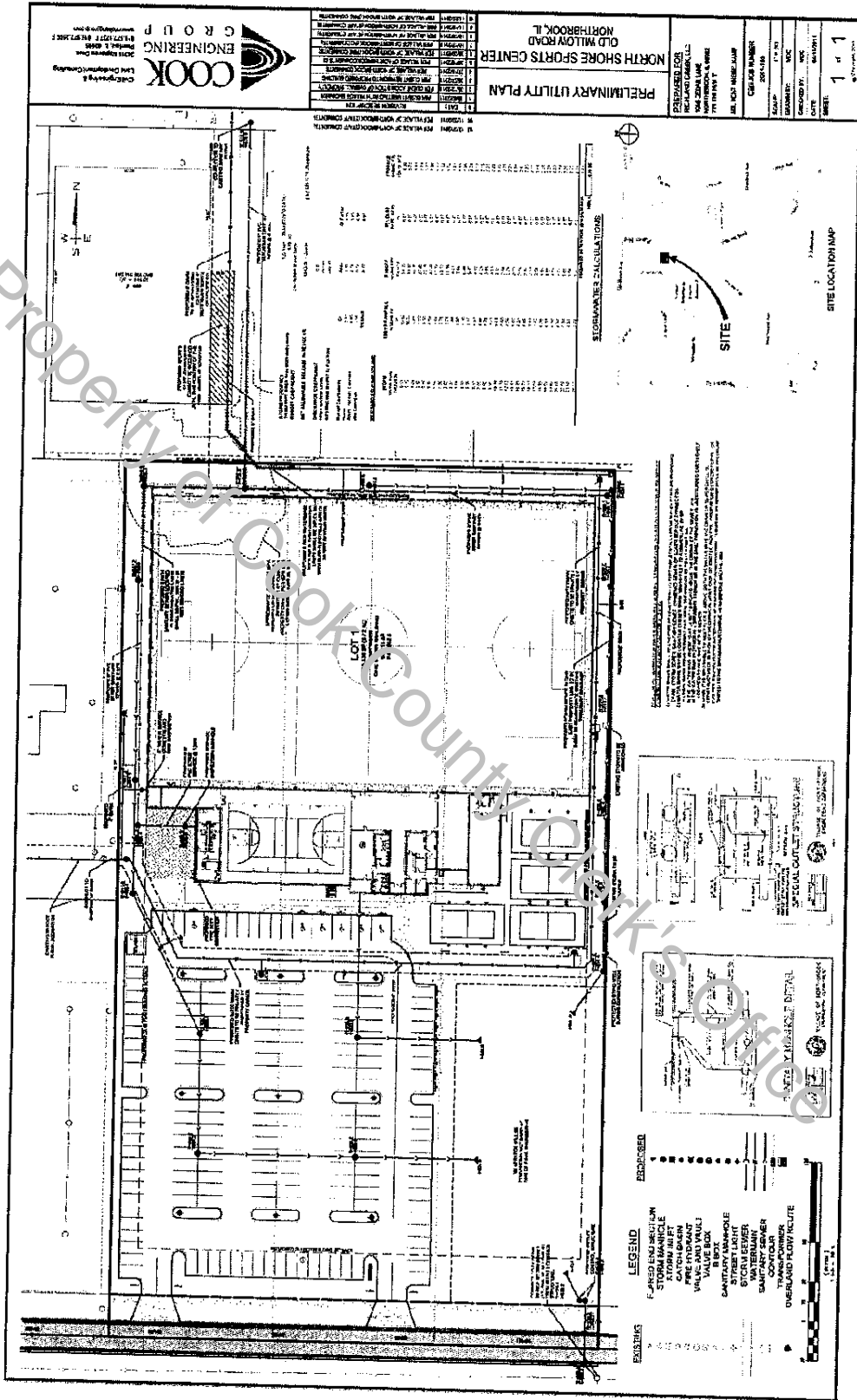
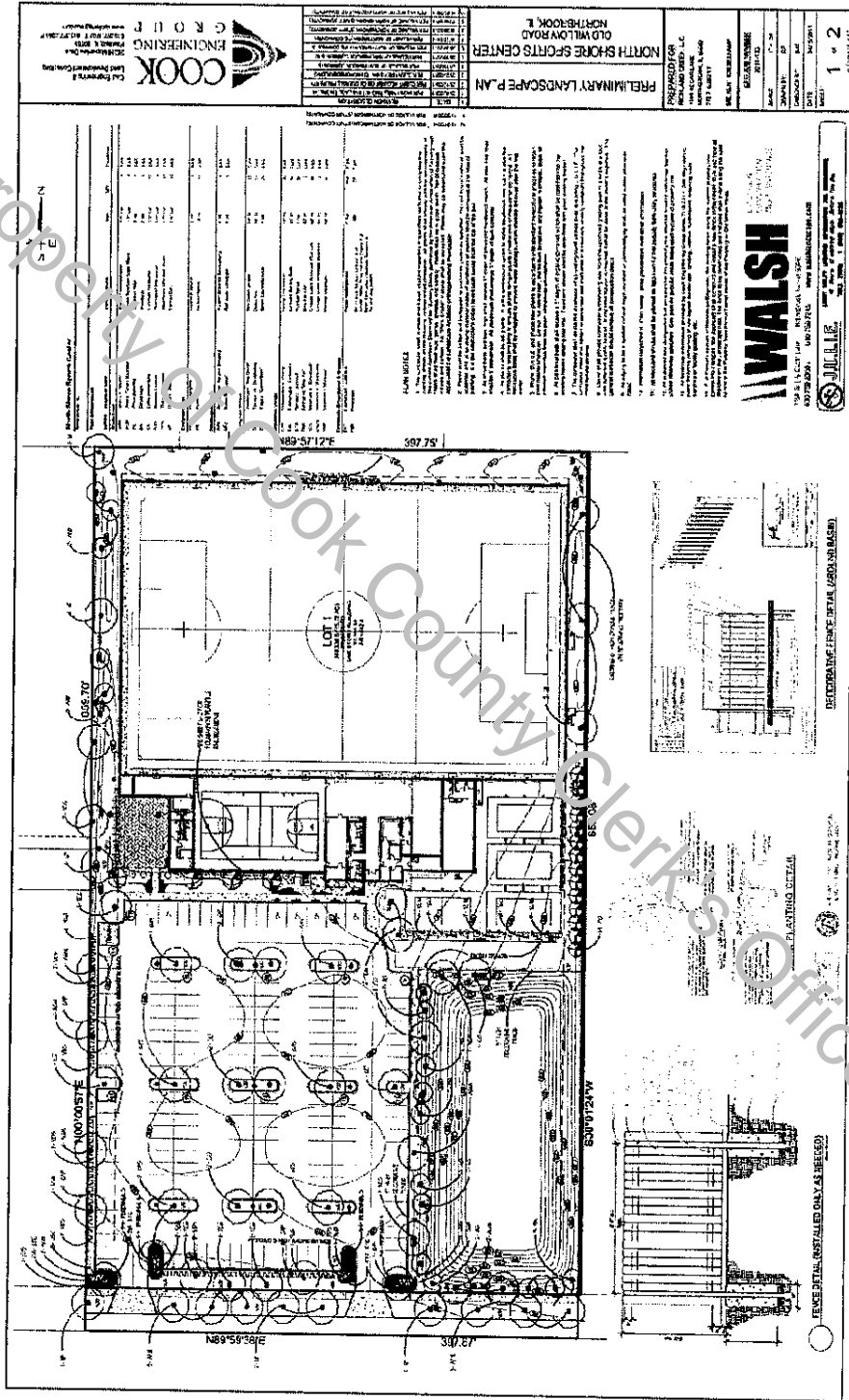


Exhibit G
Page 2

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EXHIBIT H

Preliminary Landscape Plan



UNOFFICIAL COPY

EXHIBIT K

Form of Old Willow Road Recapture Agreement

This instrument prepared by

Steven M. Elrod
Holland & Knight LLP
131 S. Dearborn Street
30th Floor
Chicago, Illinois 60603

AFTER RECORDING RETURN TO:

Recorder's Box 337

**RECAPTURE AGREEMENT
BETWEEN THE VILLAGE OF NORTHBROOK
AND RICHLAND CREEK CAPITAL, LLC
FOR REIMBURSEMENT OF CERTAIN COSTS
RELATED TO CONSTRUCTION OF IMPROVEMENTS
TO OLD WILLOW ROAD**

The Village of Northbrook, an Illinois home rule municipal corporation, ("**Village**") and Richland Creek Capital, LLC, an Illinois limited liability company, ("**Owner**") hereby agree as follows:

Section 1. Recitals.

A. The Owner is the owner of the property commonly known as [1900] Old Willow Road, Northbrook, Illinois and legally described as follows (the "**Subject Property**"):

LOT 1 IN THE NORTH SHORE SPORTS CENTER CONSOLIDATION BEING A CONSOLIDATION IN THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

B. As part of the development of the Subject Property, the Owner was required to construct certain improvements to that portion of Old Willow Road extending from the eastern property line of the Subject Property to the intersection of Old Willow Road and Shermer Road, including widening the road to 27 feet and installing curbs and gutters ("**Road Improvements**"). The Owner built the Road Improvements and paid all costs related to that work in a total amount of \$[**INSERT TOTAL COST OF IMPROVEMENT**]. Only a portion of the Road Improvements are located in the Village of Northbrook ("**Northbrook Road Improvements**") and the costs related to that work were in a total amount of \$[**INSERT TOTAL COST OF NORTHBROOK ROAD IMPROVEMENTS**]

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C. The Village has approved the Road Improvements and accepted ownership of the Northbrook Road Improvements, which are depicted in **Exhibit A** attached to and by this reference incorporated into this Agreement. The Northbrook Road Improvements are now a public improvement and title to the Northbrook Road Improvements is vested in the Village free and clear of all liens, claims, encumbrances, and restrictions.

D. The Road Improvements will be used to furnish vehicular access to the Subject Property and to other parcels located along Old Willow Road.

E. The Road Improvements thus will provide substantial benefits to certain real estate that lies outside the Subject Property ("**Benefited Properties**"), which Benefited Properties are identified in **Exhibit B** attached hereto and by this reference incorporated into this Agreement.

F. It is appropriate for the Owner to recover a portion of the cost of the Northbrook Road Improvements in the amount of \$[**INSERT TOTAL AMOUNT OF RECAPTURE**] from the Benefited Properties ("**Recapture Fee**"), which Recapture Fee will be apportioned among the Benefited Properties and collected in the manner and amounts described in **Exhibit B**.

Section 2. Payment of Recapture Fee Required. No corporation, firm, or person as owner of, or a party interested in, a Benefited Property or any portion of a Benefited Property (collectively, a "**Benefited Property Owner**"), nor any contractor, agent, or other representative of a Benefited Property Owner, may substantially redevelop a Benefited Property and then construct a driveway connection onto the portion of Old Willow Road affected by the Road Improvements without having first obtained a permit to do so from the Village. The Village will not issue such a permit unless and until the Benefited Property Owner pays to the Village the entire amount of the Recapture Fee set forth with respect to the Benefited Property as shown in **Exhibit B**, plus simple interest at the rate of [**six**] percent per annum with such interest to apply and accrue only for a period of 20 years after the date of recording of this Agreement with the Office of the Cook County Recorder. The amount paid of the Recapture Fee is in addition to, and is not a credit toward, all other construction or building permit fees that may be imposed by the Village.

Section 3. Remittance of Recapture Fee to Owner. All portions of the Recapture Fee paid to the Village will be remitted promptly to the Owner. The Village is not responsible or liable for any payment to the Owner whatsoever except only remittance of all portions of the Recapture Fee paid to the Village.

Section 4. Compliance. Any Benefited Property Owner or any contractor, agent, or representative of a Benefited Property Owner who constructs a driveway connecting a substantially redeveloped Benefiting Property to Old Willow Road without first making application and paying the amount required by this Agreement will be in violation of this Agreement and will be subject to a citation and to fines of not less than \$50.00 nor more than \$750.00. Each day on which a violation occurs or continues will be treated as a separate offense. The Village will have the right to file a lien against the applicable Benefited Property in the amount due to the Village, including costs, fees, and penalties.

Section 5. Enforcement. The Village is responsible only for enforcing the terms of this Agreement. The Village will make reasonable efforts to collect the Recapture Fee as provided in this Agreement, but the Village will not be liable to the Owner for any failure to

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enforce the provisions of this Agreement unless that failure is found by a court of competent jurisdiction to be willful and intentional.

Section 6. Term of Agreement. This Agreement will expire, and be of no force or effect, on **[INSERT TERMINATION DATE 20 YEARS AFTER EXECUTION DATE]**, and no Recapture Fee or portion thereof will apply to any Benefited Property after that date.

Section 7. Recording. The Village Clerk is authorized and directed to record a certified copy of this Agreement, at the Owner's expense, with the Office of the Cook County Recorder.

Section 8. Effective Date. This Agreement will be in full force and effect from and after its execution by both the Village and the Owner.

VILLAGE OF NORTHBROOK, an Illinois
home rule municipal corporation

By: _____
Its: Village President

ATTEST:

By: _____
Its: Village Clerk

RICHLAND CREEK CAPITAL, LLC, an Illinois
limited liability company

By: _____
Its: Manager

ATTEST:

By: _____
Its: _____

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EXHIBIT L

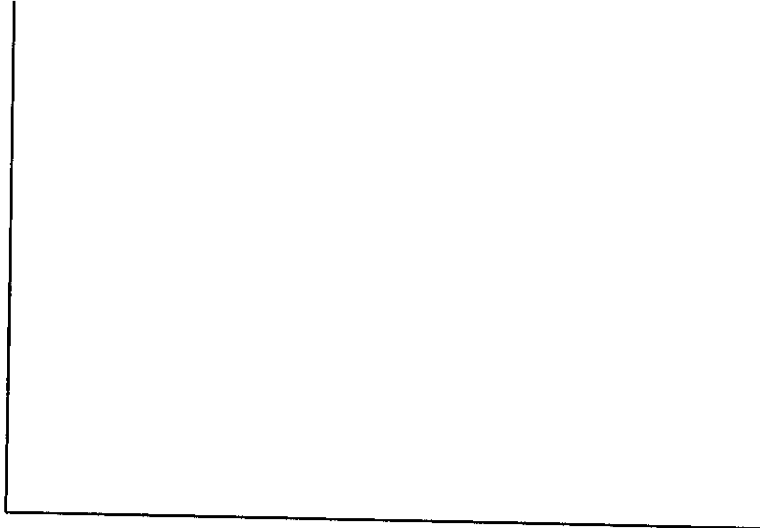
Form of Sidewalk Extension Recapture Agreement

This instrument prepared by

Steven M. Elrod
Holland & Knight LLP
131 S. Dearborn Street
30th Floor
Chicago, Illinois 60603

AFTER RECORDING RETURN TO:

Recorder's Box 337



RECAPTURE AGREEMENT BETWEEN THE VILLAGE OF NORTHBROOK AND RICHLAND CREEK CAPITAL, LLC FOR REIMBURSEMENT OF CERTAIN COSTS RELATED TO CONSTRUCTION OF SIDEWALK ALONG NORTH SIDE OF OLD WILLOW ROAD

The Village of Northbrook, an Illinois home rule municipal corporation, ("**Village**") and Richland Creek Capital, LLC, an Illinois limited liability company, ("**Owner**") hereby agree as follows:

Section 1. Recitals.

A. The Owner is the owner of the property commonly known as [1900] Old Willow Road, Northbrook, Illinois and legally described as follows (the "**Subject Property**"):

LOT 1 IN THE NORTH SHORE SPORTS CENTER CONSOLIDATION BEING A CONSOLIDATION IN THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

B. As part of the development of the Subject Property, the Owner was required to construct a pedestrian sidewalk along that portion of Old Willow Road extending from the eastern property line of the Subject Property to the intersection of Old Willow Road and Shermer Road ("**Sidewalk**"). The Owner built the Sidewalk and paid all costs related to that work in a total amount of \$[**INSERT TOTAL COST OF IMPROVEMENT**].

C. The Village has approved and accepted ownership of the Sidewalk, which is depicted in **Exhibit A** attached to and by this reference incorporated into this Agreement. The

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Sidewalk is now a public improvement and title to the Sidewalk is vested in the Village free and clear of all liens, claims, encumbrances, and restrictions.

D. The Sidewalk will be used to furnish pedestrian access to the Subject Property and to other parcels located along Old Willow Road.

E. The Sidewalk thus will provide substantial benefits to certain real estate that lies outside the Subject Property ("**Benefited Properties**"), which Benefited Properties are identified in **Exhibit B** attached hereto and by this reference incorporated into this Agreement.

F. It is appropriate for the Owner to recover a portion of the cost of the Sidewalk in the amount of \$[**INSERT TOTAL AMOUNT OF RECAPTURE**] from the Benefited Properties ("**Recapture Fee**"), which Recapture Fee will be apportioned among the Benefited Properties and collected in the manner and amounts described in **Exhibit B**.

Section 2. Payment of Recapture Fee Required. No corporation, firm, or person as owner of, or a party interested in, a Benefited Property or any portion of a Benefited Property (collectively, a "**Benefited Property Owner**"), nor any contractor, agent, or other representative of a Benefited Property Owner, may substantially redevelop a Benefited Property without having first paid to the Village the entire amount of the Recapture Fee set forth with respect to the Benefited Property as shown in **Exhibit B**, plus simple interest at the rate of [**six**] percent per annum with such interest to apply and accrue only for a period of 20 years after the date of recording of this Agreement with the Office of the Cook County Recorder. The amount paid of the Recapture Fee is in addition to, and is not a credit toward, all other construction or building permit fees that may be imposed by the Village.

Section 3. Remittance of Recapture Fee to Owner. All portions of the Recapture Fee paid to the Village will be remitted promptly to the Owner. The Village is not responsible or liable for any payment to the Owner whatsoever except only remittance of all portions of the Recapture Fee paid to the Village.

Section 4. Compliance. Any Benefited Property Owner or any contractor, agent, or representative of a Benefited Property Owner who substantially redevelops a Benefiting Property without first making application and paying the amount required by this Agreement will be in violation of this Agreement and will be subject to a citation and to fines of not less than \$50.00 nor more than \$750.00. Each day on which a violation occurs or continues will be treated as a separate offense. The Village will have the right to file a lien against the applicable Benefited Property in the amount due to the Village, including costs, fees, and penalties.

Section 5. Enforcement. The Village is responsible only for enforcing the terms of this Agreement. The Village will make reasonable efforts to collect the Recapture Fee as provided in this Agreement, but the Village will not be liable to the Owner for any failure to enforce the provisions of this Agreement unless that failure is found by a court of competent jurisdiction to be willful and intentional.

Section 6. Term of Agreement. This Agreement will expire, and be of no force or effect, on [**INSERT TERMINATION DATE 20 YEARS AFTER EXECUTION DATE**], and no Recapture Fee or portion thereof will apply to any Benefited Property after that date.

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Section 7. Recording. The Village Clerk is authorized and directed to record a certified copy of this Agreement, at the Owner's expense, with the Office of the Cook County Recorder.

Section 8. Effective Date. This Agreement will be in full force and effect from and after its execution by both the Village and the Owner.

VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation

By: _____
Its: Village President

ATTEST:

By: _____
Its: Village Clerk

RICHLAND CREEK CAPITAL, LLC, an Illinois limited liability company

By: _____
Its: Manager

ATTEST:

By: _____
Its: _____

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT M

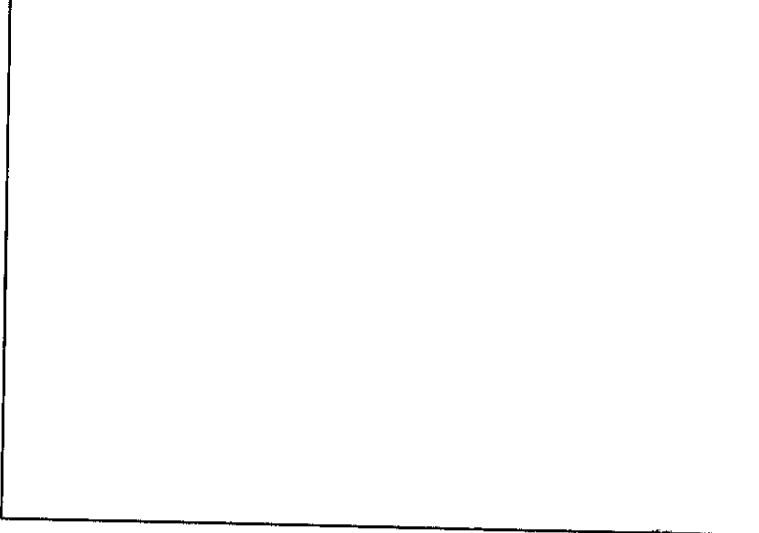
Form of Water Main Recapture Agreement

This instrument prepared by

Steven M. Elrod
Holland & Knight LLP
131 S. Dearborn Street
30th Floor
Chicago, Illinois 60603

AFTER RECORDING RETURN TO:

Recorder's Box 337



RECAPTURE AGREEMENT BETWEEN THE VILLAGE OF NORTHBROOK AND RICHLAND CREEK CAPITAL, LLC FOR REIMBURSEMENT OF CERTAIN COSTS RELATED TO CONSTRUCTION OF A WATER MAIN

The Village of Northbrook, an Illinois home rule municipal corporation, ("**Village**") and Richland Creek Capital, LLC, an Illinois limited liability company, ("**Owner**") hereby agree as follows:

Section 1. Recitals.

A. The Owner is the owner of the property commonly known as [1900] Old Willow Road, Northbrook, Illinois and legally described as follows (the "**Subject Property**"):

LOT 1 IN THE NORTH SHORE SPORTS CENTER CONSOLIDATION BEING A CONSOLIDATION IN THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

B. As part of the development of the Subject Property, the Owner was required to build a water main ("**Water Main**") to connect the Subject Property to the Village's water system. The Owner built the Water Main and paid all costs related to that work in a total amount of \$[**INSERT TOTAL COST OF IMPROVEMENT**].

C. The Village has approved and accepted ownership of the Water Main, which is depicted in **Exhibit A** attached to and by this reference incorporated into this Agreement. The Water Main is now a public improvement and title to the Water Main is vested in the Village free and clear of all liens, claims, encumbrances, and restrictions.

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D. The Water Main will be used to furnish potable water to the Subject Property and to other property that connects to the Water Main or to other points on the Village's water system that are tributary to the Water Main.

E. The Water Main thus will provide substantial benefits to certain real estate that lies outside the Subject Property ("**Benefited Properties**"), which Benefited Properties are identified in **Exhibit B** attached hereto and by this reference incorporated into this Agreement.

F. It is appropriate for the Owner to recover a portion of the cost of the Water Main in the amount of \$[**INSERT TOTAL AMOUNT OF RECAPTURE**] from the Benefited Properties ("**Recapture Fee**"), which Recapture Fee will be apportioned among the Benefited Properties and collected in the manner and amounts described in **Exhibit B**.

Section 2. Payment of Recapture Fee Required. No corporation, firm, or person as owner of, or a party interested in, a Benefited Property or any portion of a Benefited Property (collectively, a "**Benefited Property Owner**"), nor any contractor, agent, or other representative of a Benefited Property Owner, may make any connection to the Village's water system without having first obtained a permit to do so from the Village. The Village will not issue such a permit unless and until the Benefited Property Owner pays to the Village the entire amount of the Recapture Fee set forth with respect to the Benefited Property as shown in **Exhibit B**, plus simple interest at the rate of [six] percent per annum with such interest to apply and accrue only for a period of 20 years after the date of recording of this Agreement with the Office of the Cook County Recorder. The amount paid of the Recapture Fee is in addition to, and is not a credit toward, all other connection or tap-on fees that may be imposed by the Village.

Section 3. Remittance of Recapture Fee to Owner. All portions of the Recapture Fee paid to the Village will be remitted promptly to the Owner. The Village is not responsible or liable for any payment to the Owner whatsoever except only remittance of all portions of the Recapture Fee paid to the Village.

Section 4. Compliance. Any Benefited Property Owner, or any contractor, agent, or representative of a Benefited Property Owner obtaining water service from the Village without first making application and paying the amount required by this Agreement will be in violation of this Agreement and will be subject to a citation and to fines of not less than \$50.00 nor more than \$750.00. Each day on which a violation occurs or continues will be treated as a separate offense. The Village will have the right to file a lien against the applicable Benefited Property in the amount due to the Village, including costs, fees, and penalties.

Section 5. Enforcement. The Village is responsible only for enforcing the terms of this Agreement. The Village will make reasonable efforts to collect the Recapture Fee as provided in this Agreement, but the Village will not be liable to the Owner for any failure to enforce the provisions of this Agreement unless that failure is found by a court of competent jurisdiction to be willful and intentional.

Section 6. Term of Agreement. This Agreement will expire, and be of no force or effect, on [**INSERT TERMINATION DATE 20 YEARS AFTER EXECUTION DATE**], and no Recapture Fee or portion thereof will apply to any Benefited Property after that date.

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Section 7. Recording. The Village Clerk is authorized and directed to record a certified copy of this Agreement, at the Owner's expense, with the Office of the Cook County Recorder.

Section 8. Effective Date. This Agreement will be in full force and effect from and after its execution by both the Village and the Owner.

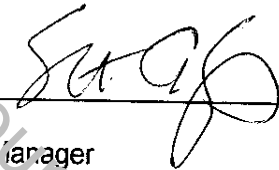
VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation

By: _____
Its: Village President

ATTEST:

By: _____
Its: Village Clerk

RICHLAND CREEK CAPITAL, LLC, an Illinois limited liability company

By:  _____
Its: Manager

ATTEST:

By: _____

Its: _____

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT N

Form of Sanitary Sewer Recapture Agreement

This instrument prepared by

Steven M. Elrod
Holland & Knight LLP
131 S. Dearborn Street
30th Floor
Chicago, Illinois 60603

AFTER RECORDING RETURN TO:

Recorder's Box 337

**RECAPTURE AGREEMENT
BETWEEN THE VILLAGE OF NORTHBROOK
AND RICHLAND CREEK CAPITAL, LLC
FOR REIMBURSEMENT OF CERTAIN COSTS
RELATED TO CONSTRUCTION OF A SANITARY SEWER MAIN**

The Village of Northbrook, an Illinois home rule municipal corporation, ("**Village**") and Richland Creek Capital, LLC, an Illinois limited liability company, ("**Owner**") hereby agree as follows:

Section 1. Recitals.

A. The Owner is the owner of the property commonly known as [1900] Old Willow Road, Northbrook, Illinois and legally described as follows (the "**Subject Property**"):

LOT 1 IN THE NORTH SHORE SPORTS CENTER CONSOLIDATION BEING A CONSOLIDATION IN THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

B. As part of the development of the Subject Property, the Owner was required to build a water main to connect the Subject Property to the Village's water system. The Owner built the Water Main and paid all costs related to that work in a total amount of \$[**INSERT TOTAL COST OF IMPROVEMENT**].

C. The Village has approved and accepted ownership of the Water Main, which is depicted in **Exhibit A** attached to and by this reference incorporated into this Agreement. The Water Main is now a public improvement and title to the Water Main is vested in the Village free and clear of all liens, claims, encumbrances, and restrictions.

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D. The Water Main will be used to furnish potable water to the Subject Property and to other property that connects to the Water Main or to other points on the Village's water system that are tributary to the Water Main.

E. The Water Main thus will provide substantial benefits to certain real estate that lies outside the Subject Property ("**Benefited Properties**"), which Benefited Properties are identified in **Exhibit B** attached hereto and by this reference incorporated into this Agreement.

F. It is appropriate for the Owner to recover a portion of the cost of the Water Main in the amount of \$[**INSERT TOTAL AMOUNT OF RECAPTURE**] from the Benefited Properties ("**Recapture Fee**"), which Recapture Fee will be apportioned among the Benefited Properties and collected in the manner and amounts described in **Exhibit B**.

Section 2. Payment of Recapture Fee Required. No corporation, firm, or person as owner of, or a party interested in, a Benefited Property or any portion of a Benefited Property (collectively, a "**Benefited Property Owner**"), nor any contractor, agent, or other representative of a Benefited Property Owner, may make any connection to the Village's water system without having first obtained a permit to do so from the Village. The Village will not issue such a permit unless and until the Benefited Property Owner pays to the Village the entire amount of the Recapture Fee set forth with respect to the Benefited Property as shown in **Exhibit B**, plus simple interest at the rate of [**six**] percent per annum with such interest to apply and accrue only for a period of 20 years after the date of recording of this Agreement with the Office of the Cook County Recorder. The amount paid of the Recapture Fee is in addition to, and is not a credit toward, all other connection or tap-on fees that may be imposed by the Village.

Section 3. Remittance of Recapture Fee to Owner. All portions of the Recapture Fee paid to the Village will be remitted promptly to the Owner. The Village is not responsible or liable for any payment to the Owner whatsoever except only remittance of all portions of the Recapture Fee paid to the Village.

Section 4. Compliance. Any Benefited Property Owner or any contractor, agent, or representative of a Benefited Property Owner obtaining water service from the Village without first making application and paying the amount required by this Agreement will be in violation of this Agreement and will be subject to a citation and to fines of not less than \$50.00 nor more than \$750.00. Each day on which a violation occurs or continues will be treated as a separate offense. The Village will have the right to file a lien against the applicable Benefited Property in the amount due to the Village, including costs, fees, and penalties.

Section 5. Enforcement. The Village is responsible only for enforcing the terms of this Agreement. The Village will make reasonable efforts to collect the Recapture Fee as provided in this Agreement, but the Village will not be liable to the Owner for any failure to enforce the provisions of this Agreement unless that failure is found by a court of competent jurisdiction to be willful and intentional.

Section 6. Term of Agreement. This Agreement will expire, and be of no force or effect, on [**INSERT TERMINATION DATE 20 YEARS AFTER EXECUTION DATE**], and no Recapture Fee or portion thereof will apply to any Benefited Property after that date.

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Section 7. Recording. The Village Clerk is authorized and directed to record a certified copy of this Agreement, at the Owner's expense, with the Office of the Cook County Recorder.

Section 8. Effective Date. This Agreement will be in full force and effect from and after its execution by both the Village and the Owner.

VILLAGE OF NORTHBROOK, an Illinois
home rule municipal corporation

By: _____
Its: Village President

ATTEST:

By: _____
Its: Village Clerk

RICHLAND CREEK CAPITAL, LLC, an Illinois
limited liability company

By: _____
Its: Manager

ATTEST:

By: _____

Its: _____

Property of Cook County Clerk's Office

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EXHIBIT O

Form Letter of Credit

FORM OF IRREVOCABLE LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT NO. _____ AMOUNT: _____

EXPIRATION DATE: _____ DATE OF ISSUE: _____

[Name of Bank]

[Address]

TO: Village of Northbrook
1225 Cedar Lane
Northbrook, IL 60062
Attention: Village Manager

WE HEREBY AUTHORIZE YOU TO DRAW AT SIGHT on the _____
UP TO AN AGGREGATE AMOUNT OF
United States Dollars (\$ _____) for account of Essex Corporation ("Customer").

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

Drawn under _____
Credit No. _____ Dated: _____

and shall be in the form attached hereto as Exhibit "A" and shall be accompanied by one of the following documents executed by the Village Manager, an individual designated as acting Village Manager, or the Assistant Village Manager:

(a) A written statement on the form attached hereto as Exhibit "B" stating that, conditioned upon proper notice to the Northbrook Village Manager, Letter of Credit No. _____ will expire within 35 days or less and that the Customer has failed to deliver to the Northbrook Village Manager evidence of a renewal of Letter of Credit No. _____; or

(b) A written statement on the form attached hereto as Exhibit "C" stating that all or any part of the Improvements required to be constructed pursuant to Section 5 of the Development Agreement dated _____, 2012 by and between the Village of Northbrook and Richland Creek Capital, LLC ("Agreement"), have not been constructed in accordance with the Agreement; or

(c) A written statement on the form attached hereto as Exhibit "D" stating that all or any part of the costs, payments, permit fees or other fees required to be paid by the Customer

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to the Village pursuant to the Agreement have not been paid in accordance with the Agreement; or

(d) A written statement on the form attached hereto as Exhibit "E" stating that all or any portion of the maintenance, repair, or restoration required to be performed pursuant to Section 8 of the Agreement have not been performed in accordance with the Agreement; or

(e) A written statement on the form attached hereto as Exhibit "F" stating that all or any portion of the Customer's undertakings pursuant to the Agreement have not been performed in accordance with the Agreement.

EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS LETTER OF CREDIT, THIS LETTER OF CREDIT IS SUBJECT TO THE "UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS 1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE BROCHURE NO. 500" ("UNIFORM RULES"). IN THE EVENT OF A CONFLICT BETWEEN THIS LETTER OF CREDIT AND THE UNIFORM RULES, THIS LETTER OF CREDIT SHALL CONTROL.

WE HEREBY AGREE with the drawers of drafts drawn under and in compliance with the terms of this Letter of Credit, that:

1. Drafts drawn under and in compliance with this Letter of Credit shall be duly honored immediately upon presentation to the drawees if presented on or before the above-stated Expiration Date or presented at our office together with the original of this Letter of Credit on or before that date.

2. The amount of any draft drawn under this Letter of Credit must be endorsed on the reverse hereof by our bank.

3. If, within three days after any draft drawn under this Letter of Credit is presented to us in conformance with the terms of this Letter of Credit, we fail to honor same, we agree to pay all attorneys' fees, court costs, and other expenses incurred by the Village of Northbrook in enforcing the terms hereof.

4. This Letter of Credit shall expire on _____, 20____, as stated hereinabove; provided, however, that we shall notify the Northbrook Village Manager by certified mail, return receipt requested, at least 35 days, but not more than 90 days, prior to said expiration date, that this Letter of Credit is about to expire.

5. In no event shall this Letter of Credit or the obligations contained herein expire except upon the prior written notice required herein, it being expressly agreed that the above expiration date shall be extended as shall be required to comply with the prior written notice required herein.

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

7. The aggregate amount of this Letter of Credit may be reduced only upon receipt by us of a document executed by the Northbrook Village Manager stating that such aggregate amount shall be reduced in an amount permitted by the Village's subdivision regulations

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because of the satisfactory completion of all or part of the Improvements required to be constructed pursuant to Section 6 of the Agreement.

8. This Letter of Credit is irrevocable.

[Signature of Bank Officer]

[Signature of Bank Officer]

[Officer's Title]

[Officer's Title]

Property of Cook County Clerk's Office

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AT CUSTOMERS'S RISK

EXHIBIT "A" TO FORM OF IRREVOCABLE LETTER OF CREDIT

FORM OF DRAFT

[To Be Supplied By Issuing Bank]

Property of Cook County Clerk's Office

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EXHIBIT "B" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that Letter of Credit No. _____ dated _____ in the amount of \$ _____ will expire within 35 days or less and that _____ has failed to deliver to the Northbrook Village Manager evidence of a renewal of Letter of Credit No. _____.

Very truly yours,

Northbrook Village Manager

Property of Cook County Clerk's Office

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EXHIBIT "C" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re: Letter of Credit No. _____

Ladies and Gentlemen:

This is to advise you that all or any part of the Improvements required to be constructed pursuant to Section 6 of the Development Agreement dated _____ 2012, by and between the Village of Northbrook and Richland Creek Capital, LLC have not been constructed in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

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EXHIBIT "D" TO FORM OF IRREVOCABLE LETTER OF CREDIT

To:
Attn:

Re: Letter of Credit No.

Ladies and Gentlemen:

This is to advise you that all or any part of the costs, payments, permit fees or other fees required to be paid pursuant the Development Agreement dated _____ 2012, by and between the Village of Northbrook and Richland Creek Capital, LLC have not been paid in accordance with said agreement.

Very truly yours,

Northbrook Village Manager

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EXHIBIT "E" TO IRREVOCABLE LETTER OF CREDIT

To: _____
Attn: _____
Re: _____

Ladies and Gentlemen:

This is to advise you that all or any portion of the maintenance, repair or restoration required to be performed pursuant to Section 8 of the Development Agreement dated _____ 2012, by and between the Village of Northbrook and Richland Creek Capital, LLC has not been performed in accordance with the said agreement.

Very truly yours,

Northbrook Village Manager

Property of Cook County Clerk's Office

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EXHIBIT "F" TO IRREVOCABLE LETTER OF CREDIT

To: _____
 Attn: _____
 Re: _____

Ladies and Gentlemen:

This is to advise you that all or any portion of the Customer's undertakings the Development Agreement dated _____ 2012, by and between the Village of Northbrook and Richard Creek Capital, LLC have not been performed in accordance with the said agreement.

Very truly yours,

 Northbrook Village Manager

Property of Cook County Clerk's Office

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EXHIBIT P

Form Transferee Assumption Agreement

THIS AGREEMENT is made as of this _____ day of _____, 20____, between the VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation ("**Village**"), RICHLAND CREEK CAPITAL, LLC, an Illinois limited liability company ("**Developer**") and [INSERT TRANSFEREE] ("**Transferee**").

WITNESSETH:

WHEREAS, pursuant to that certain real estate sale contract dated _____, 20____, the Transferee agreed to purchase from the Developer a leasehold interest in certain real property situated in Cook County, Illinois and legally described in Exhibit A attached to and, by this reference, made a part of this Agreement ("**Property**"); and

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

WHEREAS, as a condition to the conveyance of the Property by the Developer, the Developer and the Village require that the Transferee agree to comply with all the terms, requirements, and obligations set forth in that certain Development Agreement, dated as of _____, 2012, and recorded in the office of the Cook County Recorder on _____, 20____, as Document No. _____, by and between the Village and Developer ("**Development Agreement**");

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

1. **Recitals.** The foregoing recitals are by this reference incorporated herein and made a part hereof as substantive provisions of this Agreement.
2. **Assumption of Obligations.** The Transferee, on its behalf and on behalf of its successors, assigns, heirs, executors, and administrators, hereby agrees, at its sole cost and expense, to comply with all of the terms, requirements, and obligations of the Development Agreement, including all exhibits and attachments thereto, regardless of whether such terms, requirements, and obligations are to be performed and provided by, or are imposed upon, the Developer of the Property.
3. **Payment of Village Fees and Costs.** In addition to any other costs, payments, fees, charges, contributions, or dedications required by this Agreement, the Development Agreement or by applicable Village codes, ordinances, resolutions, rules, or regulations, the Transferee shall pay to the Village, immediately upon presentation of a written demand or demands therefor, all legal, engineering, and other consulting or administrative fees, costs, and expenses incurred in connection with the negotiation, preparation, consideration, and review of this Agreement.

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4. **Acknowledgment and Release of Transferor.** The Village hereby acknowledges its agreement to the Transferee's assumption of the obligation to comply with the terms, requirements, and obligations of the Development Agreement, including all exhibits and attachments thereto, and the Village hereby releases the Developer from any personal liability for failure to comply with the terms, requirements, and obligations of the Development Agreement.

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

ATTEST:

VILLAGE OF NORTHBROOK, an Illinois home rule municipal corporation

Village Clerk

Village Manager

ATTEST:

RICHLAND CREEK CAPITAL, LLC, an Illinois limited liability company

By: _____

By: _____

Its: _____

Its: _____

ATTEST:

[TRANSFEREE]

By: _____

Its: _____

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ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

This instrument was acknowledged before me on _____, 20__, by Sandra E. Frum, the Village President of the **VILLAGE OF NORTHBROOK**, an Illinois municipal corporation, and by Debra J. Ford, the Village Clerk of said municipal corporation.

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

Notary Public

My Commission expires: _____

SEAL

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 20__, by _____ the _____ the _____ **RICHLAND CREEK CAPITAL, LLC**, an Illinois limited liability company.

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

Notary Public

My Commission expires: _____

SEAL

UNOFFICIAL COPY

Resolution 2012-8

BE IT RESOLVED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois, THAT:

A Resolution Approving a Development Agreement for the North Shore Sports Center (1850, 1864, 1868 & 1870 Old Willow Road) (Plan Commission Docket No. 11-03)

is hereby adopted, as follows:

Section 1. Recitals.

Richland Creek Capital, LLC ("*Developer*") is the contract purchaser of those certain parcels of real estate commonly known as 1850, 1864, 1868 and 1870 Old Willow Road, all of which are located in the Village of Northbrook (collectively, the "*Property*").

The Property is located entirely within the corporate limits of the Village and is in the R-1 Single Family Residential District and the Redevelopment Overlay District.

The Developer proposes to consolidate and develop the Property with a single story, approximately 97,418 square foot building to be used as a sports and recreation facility containing an indoor sports field, a full size gymnasium, four paddle tennis courts, and special event areas ("*Development*").

In order to develop the Property as proposed, the Developer has requested relief from, and approvals under, the Zoning Code and the Subdivision Code.

Pursuant to public notice published in the *Northbrook Star* on September 15, 2011, a public hearing was held by the Plan Commission on October 4, 2011, and continued to November 1, 2011, to consider the Developer's request for: (i) rezoning of the Property from the R-1 Single Family Residential District to the OS Open Space District; (ii) consolidation of four lots into one lot of record; (iii) a text amendment to the Zoning Code to allow an increase in the maximum permitted FAR in the OS District for a lot located within the Redevelopment Overlay District; (iv) special permits for a Membership Sports and Recreation Club (SIC No. 7997.00) and a floor area ratio in excess of 0.35, but no greater than 0.50, when located in the Redevelopment Overlay District (SIC 9970.05); and (v) a series of setback and yard variations as well as variations from certain requirements of Section 9-107F of the Zoning Code regarding setbacks and buffers; (vi) a variation to reduce the required number of loading spaces from 1 to 0; (vii) Site Plan Approval; and (viii) such other zoning and subdivision relief as may be necessary to accommodate the development of the Property as proposed by the Developer. The Plan Commission made its recommendation to approve the requested relief on November 1, 2011 (Resolution No. 11-PC-03).

The Village has negotiated with the Developer a development agreement ("*Development Agreement*") pursuant to which the Property is to be developed. The President and Board of Trustees have considered the Development Agreement and find and determine that it is in the best interest of the Village and the public to approve the Development Agreement. These matters pertain to the Village's government and affairs and are approved pursuant to the Village's home rule powers under the Illinois

Constitution of 1970.

UNOFFICIAL COPYSection 2. Approval of Development Agreement.

The Development Agreement by and between the Village and Richland Creek Capital, LLC shall be, and is hereby, approved in substantially the form attached hereto as **Exhibit A**.

Section 3. Execution of Development Agreement.

The Village President and Village Clerk are hereby authorized and directed to execute and seal, on behalf of the Village, the Development Agreement upon receipt of at least three copies fully executed by the Developer and any other person or entities whose consent is required; provided, however, that if such executed copies of the Agreement are not received by the Village Clerk within 7 days after the date of adoption of this Resolution, then this authority to execute and seal shall, at the option of the President and Board of Trustees, be null and void.

Section 4. Recordation of Development Agreement.

The Village Manager is hereby directed to record the Development Agreement with the Office of the Cook County Recorder upon satisfactory completion of all administrative details relating thereto.

Section 5. EFFECTIVE DATE.

The approval of this Resolution shall be effective following passage by the Board of Trustees by a majority in the manner required by law.

Adopted: 1/10/2012

RESULT:	ADOPTED [5 TO 1]
MOVER:	Todd Heller, Trustee
SECONDER:	Kathryn Ciesla, Trustee
AYES:	Scolaro, Heller, Ciesla, Israel, Frum
NAYS:	A.C. Buehler
ABSENT:	James Karagianis

ATTEST:

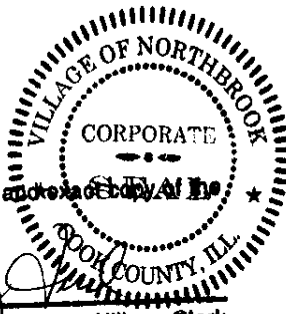
/s/ Debra J. Ford
Village Clerk

/s/ Sandra E. Frum
Village President

I hereby certify this to be a true and correct copy of the original

1-17-12
Date

Sandra E. Frum
Village Clerk



UNOFFICIAL COPY

ONE AT CUSTOMER'S REQUEST

EXHIBIT A
Development Agreement

Property of Cook County Clerk's Office