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STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

OFFICE OF RECORDER OF DEEDS
COOK COUNTY, ILLINOIS



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Doc# 1736315099 Fee \$66.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 12/29/2017 01:51 PM PG: 1 OF 15

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CITY OF DES PLAINES

ORDINANCE Z - 26 - 17

AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR AN INDOOR RECREATION ESTABLISHMENT IN THE M-2 ZONING DISTRICT AT 200 E. HOWARD AVENUE, SUITE 218, DES PLAINES, ILLINOIS. (CASE #17-084-CU).

PIN: 09-30-101-032-0000

RECORDING FEE 66⁻
DATE 12/29/17 COPIES 6x
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CITY OF DES PLAINES

ORDINANCE Z - 26 - 17

AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR AN INDOOR RECREATION ESTABLISHMENT IN THE M-2 ZONING DISTRICT AT 200 E. HOWARD AVENUE, SUITE 218, DES PLAINES, ILLINOIS. (CASE #17-084-CU).

WHEREAS, Jason Brandstetter ("**Petitioner**"), is the lessee of the property commonly known as 200 E. Howard Avenue, Suite 218, Des Plaines, Illinois ("**Subject Property**"); and

WHEREAS, the Subject Property is located in the M-2 General Manufacturing Zoning District of the City ("**M-2 District**"); and

WHEREAS, the Subject Property is improved with a commercial building ("**Building**"); and

WHEREAS, the Petitioner desires to operate a Commercial Indoor Recreation Establishment within the Building on the Subject Property; and

WHEREAS, the operation of a Commercial Indoor Recreation Establishment is permitted in the M-2 District only with a conditional use permit; and

WHEREAS, the Petitioner submitted an application to the City of Des Plaines Department of Community and Economic Development ("**Department**") for a conditional use permit to allow the operation of a Commercial Indoor Recreation Establishment ("**Conditional Use Permit**") on the Subject Property in accordance with Sections 12-7-4.G of the City of Des Plaines Zoning Ordinance of 1998, as amended ("**Zoning Ordinance**"); and

WHEREAS, the Subject Property is owned by Howard O'Hare Business Center, Inc. ("**Owner**"), which has consented to the Petitioner's application; and

WHEREAS, the Petitioner's application was referred by the Department to the Planning and Zoning Board of the City of Des Plaines ("**PZB**") within 15 days after receipt thereof; and

WHEREAS, within 90 days after the date of the Petitioner's application a public hearing was held by the PZB on October 10, 2017 pursuant to notice published in the *Des Plaines Journal* on September 22, 2017; and

WHEREAS, notice of the public hearing was mailed to all owners of property located within 300 feet of the Subject Property; and

WHEREAS, during the public hearing, the PZB heard competent testimony and received evidence with respect to how the Petitioner intended to satisfy and comply with the applicable

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provisions of the Zoning Ordinance. The PZB filed a written report with the City Council on October 11, 2017, summarizing the testimony and evidence received by the PZB and stating the PZB's recommendation, by a vote of 5-0, to approve the Petitioner's application; and

WHEREAS, the Petitioner made certain representations to the PZB with respect to the proposed conditional use, which representations are hereby found by the City Council to be material and upon which the City Council relies in granting this request for the Conditional Use Permit, subject to certain terms and conditions; and

WHEREAS, the City Council has considered the written report of the PZB, together with the applicable standards for conditional use permits set forth in the Zoning Ordinance, and the Community and Economic Development Staff Memorandum dated October 6, 2017, including the attachments and exhibits thereto, and has determined that it is in the best interest of the City and the public to grant the Petitioner's application in accordance with the provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Des Plaines, Cook County, Illinois, in the exercise of its home rule powers, as follows:

SECTION 1. RECITALS. The recitals set forth above are incorporated herein by reference and made a part hereof, the same constituting the factual basis for this Ordinance.

SECTION 2. LEGAL DESCRIPTION OF SUBJECT PROPERTY. The Subject Property is legally described as follows:

LOTS 1 AND 2 IN THE HOWARD STREET SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 3, 1981 AS DOCUMENT 25792995, BEING A RESUBDIVISION OF PART OF LOTS 3, 4, 5 AND 6 OF GEORGE H. GEILS' SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 10, 1928 AS DOCUMENT 10142179, BEING A SUBDIVISION OF PART OF THE NORTHWEST ¼ OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 09-30-101-032-0000

Commonly known as 200 E. Howard Avenue, Suite 218, Des Plaines, Illinois.

SECTION 3. CONDITIONAL USE PERMIT. Subject to and contingent upon the conditions, restrictions, limitations and provisions set forth in Section 4 of this Ordinance, the City Council grants the Petitioner the Conditional Use Permit to allow the operation of a Commercial

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Indoor Recreation Establishment on the Subject Property. The Conditional Use Permit granted by this Ordinance is consistent with and equivalent to a "special use" as referenced in Section 11-13-25 of the Illinois Municipal Code, 65 ILCS 5/11-13-25.

SECTION 4. CONDITIONS. The Conditional Use Permit granted in Section 3 of this Ordinance shall be, and is hereby, expressly subject to and contingent upon the following conditions, restrictions, limitations, and provisions:

A. **Compliance with Law and Regulations.** The development, use, operation, and maintenance of the Subject Property, by the Petitioner must comply with all applicable City codes and ordinances, as the same have been or may be amended from time to time, except to the extent specifically provided otherwise in this Ordinance.

B. **Compliance with Plans.** Except for minor changes and site work approved by the City Director of Community and Economic Development or Director of Public Works and Engineering (for matters within their respective permitting authorities) in accordance with all applicable City standards, the development, use, operation, and maintenance of the Subject Property by the Petitioner must comply with the following plans provided by Petitioner:

1. Site Plan of Howard O'Hare Business Center, consisting of one sheet, submitted to the City on September 11, 2017, a copy of which is attached to, and by this reference, made a part of, this Ordinance as **Exhibit A**; and
2. Plan of Operations, prepared by John R. Carrozza, P.C. consisting of one sheet, submitted to the City on September 11, 2017, a copy of which is attached to, and by this reference, made a part of, this Ordinance as **Exhibit B**.

SECTION 5. RECORDATION; BINDING EFFECT. A copy of this Ordinance must be recorded in the Office of the Cook County Recorder of Deeds. This Ordinance and the privileges, obligations, and provisions contained herein run with the Subject Property and inure to the benefit of, and are binding upon, the Petitioner and its respective personal representatives,

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successors, and assigns, including, without limitation, subsequent purchasers of the Subject Property.

SECTION 6. FAILURE TO COMPLY WITH CONDITIONS.

A. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of, any of the provisions of this Ordinance shall be fined not less than seventy five dollars (\$75.00) or more than seven hundred and fifty dollars (\$750.00) for each offense. Each and every day that a violation of this Ordinance is allowed to remain in effect shall constitute a complete and separate offense. In addition, the appropriate authorities of the City may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. Any person, firm or corporation violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees.

B. In the event that the Petitioner fails to develop or maintain the Subject Property in accordance with the plans submitted, the requirements of the Zoning Ordinance, or the conditions set forth in Section 4 of this Ordinance, the Conditional Use Permit granted in Section 3 of this Ordinance may be revoked after notice and hearing before the Zoning Administrator of the City, all in accordance with the procedures set forth in Section 12-4-7 of the Zoning Ordinance. In the event of revocation, the development and use of the Subject Property will be governed solely by the regulations of the M-2 District. Further, in the event of such revocation of the Conditional Use Permit, the City Manager and City's General Counsel are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances. The Petitioner 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

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not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice and hearing required by Section 12-4-7 of the Zoning Ordinance is provided to the Petitioner.

SECTION 7. EFFECTIVE DATE.

A. This Ordinance shall be in full force and effect only after the occurrence of the following events:

1. its passage and approval by the City Council in the manner provided by law;
2. its publication in pamphlet form in the manner provided by law;
3. the filing with the City Clerk by the Petitioner 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, and demonstrating the Petitioner's consent to its recordation. Said unconditional agreement and consent shall be in substantially the form attached to, and by this reference made a part of, this Ordinance as **Exhibit C**; and
4. at the Petitioner's sole cost and expense, the recordation of this Ordinance together with such exhibits as the City Clerk deems appropriate, with the Office of the Cook County Recorder.

B. In the event that the Petitioner does not file with the City Clerk a fully executed copy of the unconditional agreement and consent referenced in Section 7.A.3 of this Ordinance, within 60 days after the date of passage of this Ordinance by the City Council, the City Council shall have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

SECTION 8. SEVERABILITY. If any paragraph, section, clause or provision of this Ordinance is held invalid, the remainder shall continue in full force and effect without affecting the validity of the remaining portions of the Ordinance.

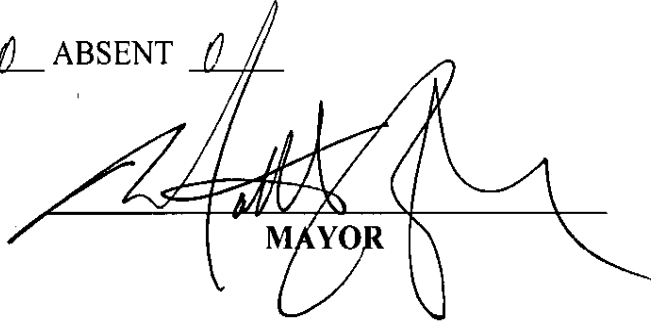
[SIGNATURE PAGE FOLLOWS]

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PASSED this 6th day of November, 2017.

APPROVED this 6th day of November, 2017.

VOTE: AYES 8 NAYS 0 ABSENT 0

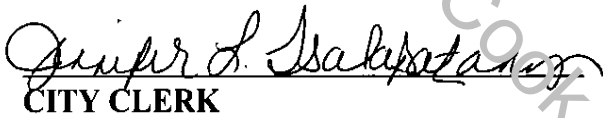

MAYOR

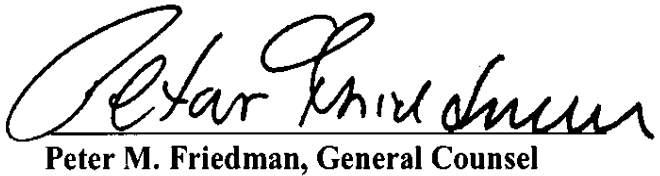
ATTEST:


CITY CLERK

Published in pamphlet form this
7th day of November, 2017.

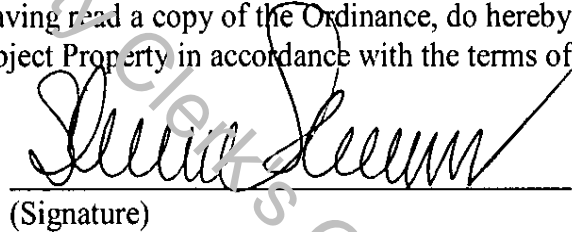
Approved as to form:


CITY CLERK


Peter M. Friedman, General Counsel

I, Sharon Klarov, being the owner or other party in interest of the property legally described within this Ordinance, having read a copy of the Ordinance, do hereby accept, concur and agree to develop and use the Subject Property in accordance with the terms of this Ordinance.

Dated: 11/8/17


(Signature)

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CITY OF DES PLAINES

ORDINANCE NO. Z-26-17

AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR AN INDOOR RECREATION ESTABLISHMENT IN THE M-2 ZONING DISTRICT AT 200 E HOWARD AVENUE, SUITE 218, DES PLAINES IL (CASE #17-084-CU)

ADOPTED ON NOVEMBER 6, 2017
BY THE CITY COUNCIL
OF THE
CITY OF DES PLAINES

Published in pamphlet form by authority of the City Council of the City of Des Plaines, Cook County, Illinois, on this 7th day of November, 2017.

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STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

CERTIFICATE

I, Jennifer L. Tsalapatanis, certify that I am the duly elected and acting Municipal Clerk of the City of Des Plaines, Cook County, Illinois.

I further certify that on November 6, 2017 the Corporate Authorities of such municipality passed and approved Ordinance No. Z-26-17, AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR AN INDOOR RECREATION ESTABLISHMENT IN THE M-2 ZONING DISTRICT AT 200 E HOWARD AVENUE, SUITE 218, DES PLAINES IL (CASE #17-084-CU) provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. Z-26-17, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on November 7, 2017 and continuing for at least 10 days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Des Plaines, Illinois, this 7th day of November, 2017.

(SEAL)

Jennifer L. Tsalapatanis

 Jennifer L. Tsalapatanis, City Clerk

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EXHIBIT A

SITE PLAN OF THE HOWARD O'HARE BUSINESS CENTER

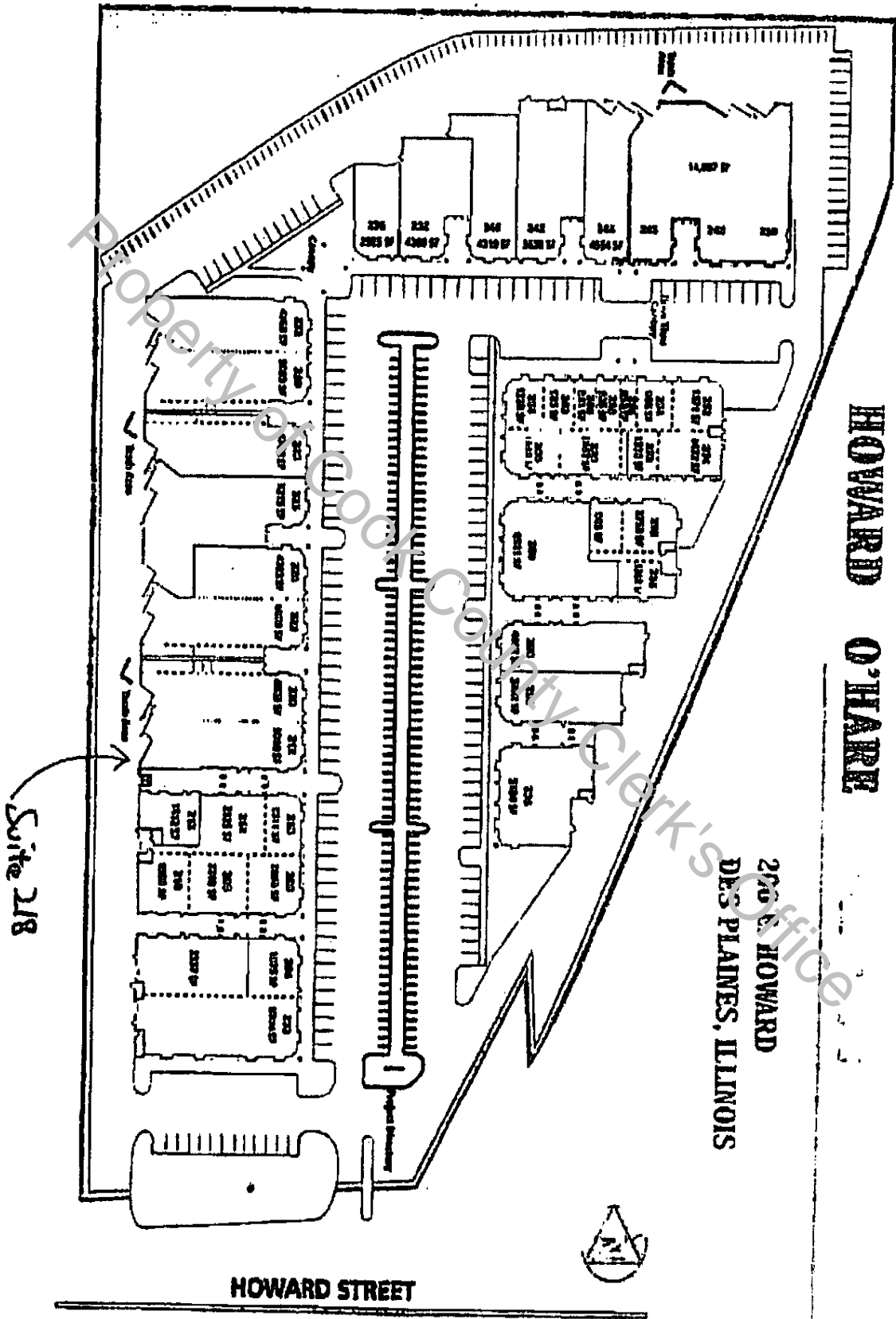
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Site Plan



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EXHIBIT B

PLAN OF OPERATION

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THE LAW OFFICE OF JOHN R. CARROZZA, P.C.

John R. Carrozza
 Andrew H. Duncan
 Jorge J. Monroy

2715 N. Thatcher Ave.
 River Grove, IL 60171
 Phone: 708-453-0056
 Fax: 708-453-0059

City of Des Plaines
 Community and Economic Development
 1420 Miner Street
 Des Plaines, IL 60016

Re: Gregory Boxing, Inc., Conditional Use Application: Plan of Operation
 Address: 200 E. Howard Avenue, Suite #218 Des Plaines, IL

Dear Sir or Madam

The following is an Operations Plan for the proposed location at 200 E. Howard Ave, Suite 218, Des Plaines, IL. The proposed business will be a Boxing Gym. The gym will incorporate physical exercise, philosophy, and diet which incorporates various elements of high intensity interval training, weightlifting, and sparring in a one hour class.

- Days of Operation & Business Hours

Monday: 8:00am- 2:00pm for individual classes & 3:00pm-9:00pm group classes
 Tuesday: 8:00am- 2:00pm for individual classes & 3:00pm-9:00pm group classes
 Wednesday: 8:00am- 2:00pm for individual classes & 3:00pm-9:00pm group classes
 Thursday: 8:00am- 2:00pm for individual classes & 3:00pm-9:00pm group classes
 Friday: 8:00am- 2:00pm for individual classes & 3:00pm-9:00pm group classes
 Saturday: 8:00am- 2pm for group classes
 Sunday: Closed

- Class Size

Average class size will be 10-12 people, including coaches.

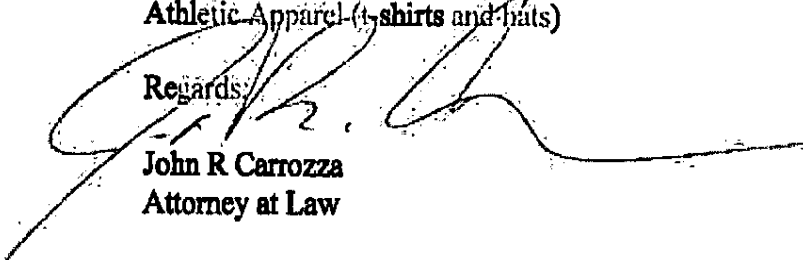
- Personnel

One coach per shift on premises.

- Items Sold or Manufactured

Athletic Apparel (t-shirts and hats)

Regards,


 John R Carrozza
 Attorney at Law

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EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The City of Des Plaines, Illinois ("**City**");

WHEREAS, Jason Brandstetter ("**Petitioner**"), applied to the City of Des Plaines for a conditional use permit to allow for the operation of a Commercial Indoor Recreation Establishment ("**Conditional Use Permit**") on that certain property commonly known as 200 E. Howard Ave, Suite 218, Des Plaines, Illinois ("**Subject Property**"), pursuant to Sections 12-7-4.G of the City of Des Plaines Zoning Ordinance of 1998, as amended; and

WHEREAS, the Subject Property is owned by Howard O'Hare Business Center, Inc. ("**Owner**"), which has consented to the Petitioner's application; and

WHEREAS, Ordinance No. Z-26-17 adopted by the City Council of the City of Des Plaines on 11/6, 2017 ("**Ordinance**"), grants approval of the Conditional Use Permit, subject to certain conditions; and

WHEREAS, Petitioner and Owner desire to evidence to the City their unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in said Ordinance, and their consent to recording the Ordinance and this Unconditional Agreement and Consent against the Subject Property;

NOW, THEREFORE, Petitioner and Owner do hereby agree and covenant as follows:

1. Petitioner and Owner hereby unconditionally agree to accept, consent to and abide by all of the terms, conditions, restrictions, and provisions of that certain Ordinance No. Z-26-17, adopted by the City Council on 11/6, 2017.
2. Petitioner and Owner acknowledge and agree that the City is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the City's review and approval of any plans for the Subject Property, or the issuance of any permits for the use and development of the Subject Property, and that the City's review and approval of any such plans and issuance of any such permits does not, and shall not, in any way, be deemed to insure Petitioner and Owner against damage or injury of any kind and at any time.
3. Petitioner and Owner acknowledge that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the procedures required by Section 12-4-7 of the City's Zoning Ordinance are followed.

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4. Petitioner agrees to and does hereby hold harmless and indemnify the City, the City's corporate authorities, and all City elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with (a) the City's review and approval of any plans and issuance of any permits, (b) the procedures followed in connection with the adoption of the Ordinance, (c) the development, construction, maintenance, and use of the Subject Property, and (d) the performance by Petitioner of its obligations under this Unconditional Agreement and Consent.

5. Petitioner hereby agrees to pay all expenses incurred by the City in defending itself with regard to any and all of the claims mentioned in this Unconditional Agreement and Consent. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the City.

ATTEST:

JASON BRANDSTETTER

By: *Aimee Byrnes*

Jason Brandstetter

SUBSCRIBED and SWORN to
before me this 16th day of
November, 2017.



Laura K. Fast
Notary Public

ATTEST:

HOWARD O'HARE BUSINESS CENTER, INC.

By: *Aimee Byrnes*

Illu [Signature]

SUBSCRIBED and SWORN to
before me this 8th day of
November, 2017.



Laura K. Fast
Notary Public