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KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 07/16/2018 12:13 PM PG: 1 OF 23

PUBLIC IMPROVEMENTS AGREEMENT

7

THIS PUBLIC IMPROVEMENTS AGREEMENT ("*Agreement*") is made this 11 day of JULY, 2018, by and between the PARK DISTRICT OF LA GRANGE, a body politic and corporate organized and existing under the laws of the State of Illinois ("*Park District*"), and PATHWAY LA GRANGE PROPERTY OWNER, LLC, a Delaware limited liability company ("*Pathway*").

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

Section 1. Recitals.

A. The Park District and Pathway, as successor-in-interest to Pathway Acquisitions, LLC, an Illinois limited liability company, are parties to that certain Purchase and Sale Agreement dated as of August 24, 2015, as amended and otherwise modified from time to time ("*PSA*").

B. Pursuant to the terms of the PSA, Pathway agreed to purchase from the Park District, and the Park District agreed to sell to Pathway, certain real property commonly known as "Lot 2" ("*Lot 2*") and "Lot 3" ("*Lot 3*") located at LaGrange Road and Ogden Avenue, LaGrange, Illinois, consisting of approximately 2.82 acres of land, and legally described in *Exhibit A* attached hereto (Lot 2 and Lot 3 are collectively referred to herein as "*Lots 2 & 3*"). Pathway intends to construct a one-story memory care facility attached to a five-story assisted living facility along with landscaping, parking spaces, drive aisles, lighting, and related improvements on Lots 2 & 3 ("*Project*").

C. The Park District owns certain real property commonly known as "Lot 1" located adjacent to Lots 2 & 3, and legally described in *Exhibit B* attached hereto ("*Lot 1*"). The PSA is

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not a conveyance of Lot 1, and the Park District retains its ownership rights in Lot 1. (PSA § 3.3.1).

D. The Village of La Grange, an Illinois municipal corporation ("**Village**") holds a permanent easement on Lot 1 for public access and utilities by way of that certain Easement Agreement between the Village and the Park District dated April 9, 2018 and recorded with the Cook County Recorder of Deeds of June 6, 2018 as Document No. 1815716093 (the "**Village Easement**").

E. As part of the consideration for Pathway's purchase of Lots 2 & 3, and as contemplated by the Village Easement, Pathway agreed to construct and maintain a boulevard on Lot 1 to be known as the Shawmut Avenue Extension, which boulevard is shown on the Site Plan attached hereto as **Exhibit C** (the "**Shawmut Avenue Extension**"). (PSA § 3.3.1). Accordingly, Pathway shall construct and maintain the Shawmut Avenue Extension:

1. at Pathway's sole cost and expense;
2. in accordance with the standards prescribed by the Village, including any landscaping, buffering, or other requirements for the Shawmut Avenue Extension required by the Village; and
3. in accordance with the Construction Schedule as set forth herein and in a manner reasonably acceptable to the Park District's Executive Director.

F. Additionally, as part of the consideration for Pathway's purchase of Lots 2 & 3, Pathway agreed to construct and maintain a storm water detention vault on Lot 2 ("**Storm Water Detention Facility**").

G. Furthermore, as part of the consideration for Pathway's purchase of Lots 2 & 3, Pathway agreed to demolish the one-story brick and metal clad structure located on Lot 1 and Lot 2 (the "**Maintenance Shed**"). (PSA § 3.3.2). Accordingly, Pathway shall:

1. demolish the Maintenance Shed, remove all debris, and perform all necessary re-grading, at Pathway's sole cost and expense, and to the reasonable satisfaction of the Park District's Executive Director; and
2. complete the demolition of the Maintenance Shed and all debris removal and re-grading, including all asbestos removal, in accordance with the Construction Schedule as set forth herein and in a manner reasonably acceptable to the Park District.

H. Lastly, in exchange for the Park District granting to Pathway the temporary use of a portion of the Property directly adjacent to Lot 3 as a "borrow pit" (the "**Borrow Pit**") during the normal course of Pathway's construction of the Project and from which Pathway will remove certain soil and replace such removed soil with soil from Lot 2 and/or Lot 3, Pathway shall demolish the former tennis courts currently located on top of the Borrow Pit (the "**Tennis Courts**"), such Tennis Courts being located and on both Lot 3 and a portion of the Property. Accordingly, Pathway shall:

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1. demolish the Tennis Courts, remove all debris, and perform all necessary re-grading, at Pathway's sole cost and expense, to the reasonable satisfaction of the Park District's Executive Director; and
2. complete the demolition of the Tennis Courts and all debris removal and re-grading in accordance with the Construction Schedule as set forth herein and in a manner reasonably acceptable to the Park District.

I. The Park District and Pathway desire to enter into this Agreement to memorialize Pathway's agreed-upon obligations regarding the Shawmut Avenue Extension, Storm Water Detention Facility, the Maintenance Shed, and the Tennis Courts (each an "**Improvement**" and collectively, the "**Improvements**") and the time and manner of Pathway's performance of those obligations, in order to improve access to Gordon Park from the West and provide other important public benefits.

Section 2. Definitions.

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

"**Agreement**": See Page 1 of this Agreement.

"**Approved Plans**": See Subsection 3A of this Agreement.

"**Approved Cost Estimate**": \$127,736.50.

"**Borrow Pit**": See Subsection 1H of this Agreement.

"**Charged Amount**": An amount equal to the Park District's actual and reasonable cost of the Required Restoration including without limitation contractor costs, disposal costs, and legal fees.

"**Claims**": Any and all third party claims that may be asserted at any time against any of the Indemnitees in connection with: (i) the design, including any design defect in Pathway's plans or specifications, for the Shawmut Avenue Extension and the Storm Water Detention Facility, regardless of the Park District's review and approval of any of Pathway's plans or specification; (ii) the construction and maintenance of the Shawmut Avenue Extension and the Storm Water Detention Facility; (iii) the demolition and removal of the Maintenance Shed and the Tennis Courts and the regrading of those portions of the Property located thereunder; and (iv) Pathway's use of the Property in connection with the Borrow Pit and the Construction Staging Area.

"**Collection Costs**": the Charged Amount, and all actual and reasonable costs incurred by the Park District related to collection of the Charged Amount.

"**Construction Schedule**": See Subsection 3A(v) of this Agreement.

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“Construction Staging Area”: See Subsection 5A of this Agreement.

“Costs”: See Subsection 6A of this Agreement.

“Effective Date”: The date written in the first paragraph of this Agreement.

“Executive Director”: The executive director of the Park District or his or her designee.

“Force Majeure”: Strikes, lockouts, acts of God, or other factors beyond a party’s reasonable control and reasonable ability to remedy.

“IDOT”: The Illinois Department of Transportation.

“IEPA”: The Illinois Environmental Protection Agency.

“Improvement”: See Subsection 1I of this Agreement.

“Improvements”: See Subsection 1I of this Agreement.

“Indemnitees”: The Park District and all of its elected or appointed officials, officers, employees, and agents.

“Lot 1”: See Subsection 1C of this Agreement.

“Lot 2”: See Subsection 1B of this Agreement.

“Lot 3”: See Subsection 1B of this Agreement.

“Lots 2 & 3”: See Subsection 1B of this Agreement.

“Maintenance Shed”: See Subsection 1G of this Agreement.

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

“Park District”: See the first paragraph of this Agreement.

“Pathway”: See the first paragraph of this Agreement.

“Pathway’s Lender”: Wells Fargo Bank, National Association, and its successors and assigns.

“Pathway’s Loan”: That certain Construction Loan Agreement to be entered into by and between Pathway, as borrower, and Pathway’s Lender, as lender, as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time, pursuant to which Pathway’s Lender intends to make a loan to Pathway in the principal amount

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of up to \$26,823,971 to facilitate Pathway's construction of the Project, which loan is evidenced by that certain Promissory Note in favor of Pathway's Lender in the original principal amount of the loan, as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time, which note is secured by that certain Construction Mortgage, Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing from Pathway, as mortgagor, in favor of Pathway's Lender, as mortgagee, as the same may be amended, restated, amended and restated, replaced, supplemented or otherwise modified from time to time, which mortgage will be recorded in the real property records of Cook County, Illinois.

"Performance Bond": A performance bond in an amount equal to \$134,124.00.

"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.

"Project": See Subsection 1B of this Agreement.

"Property": Lot 1 and other property that is owned and designated by the Park District for use by Pathway or for Improvements under this Agreement.

"PSA": See Subsection 1A of this Agreement.

"Requirements of Law": All applicable federal and State of Illinois laws and statutes, the Zoning Code, the Village's Code of Ordinances and the Village's building, storm water management, and other codes and regulations.

"Required Restoration": See Subsection 4K of this Agreement.

"Site Plan": The "Site Plan, Aspired Living of La Grange" prepared by Mackie Consultants, LLC, consisting of one sheet, with a latest revision date of March 15, 2018, attached as *Exhibit C*.

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

"Shawmut Avenue Extension": See Subsection 1E of this Agreement.

"Storm Water Detention Facility": See Subsection 1F of this Agreement.

"Tennis Courts": See Subsection 1H of this Agreement.

"Village": See Subsection 1D of this Agreement.

"Village Development Agreement": That certain Development Agreement by and between Pathway and the Village, as the same may be amended, restated, amended and restated,

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replaced, supplemented or otherwise modified from time to time, which agreement is to be recorded in the real property records of Cook County, Illinois.

“*Village Easement*”: See Subsection 1D of this Agreement.

Section 3. Plans; Cost Estimate.

A. Plans. Pathway shall provide to the Park District the following detailed final plans for the Improvements, all of which shall be consistent with the Site Plan and approved by the Executive Director (the “*Approved Plans*”):

- (i) Detailed engineering plans, including without limitation plans for civil, lighting, and construction staging, depicting specific locations for soil stockpiling, silt fencing, construction fencing and other fencing.
- (ii) Detailed, dimensioned site plans specifically depicting, among other things, easements and grade changes leading to adjacent Park District property.
- (iii) Detailed, dimensioned landscaping plans.
- (iv) Exterior appearance plans for the Improvements.
- (v) A construction schedule for the Improvements (the “*Construction Schedule*”).

Section 4. Construction and Maintenance of the Improvements.

A. Pathway’s Duty to Construct and Maintain Improvements. Pathway, at its sole cost and expense, shall perform the work relating to the Improvements including, without limitation, constructing and maintaining the Shawmut Avenue Extension and the Storm Water Detention Facility.

B. General Compliance with Plans. Except for minor alterations due to field conditions, the work relating to the construction of the Shawmut Avenue Extension and the Storm Water Detention Facility and the work relating to the demolition of the Maintenance Shed and the Tennis Courts shall conform with (i) this Agreement, (ii) the Approved Plans, and (iii) the Requirements of Law. The Executive Director’s prior approval is only required for any material alterations due to field conditions.

C. Standards Applicable to Improvements. The following standards apply to the work relating to the construction of the Shawmut Avenue Extension and the Storm Water Detention Facility and the work relating to the demolition of the Maintenance Shed and the Tennis Courts:

- (i) General Standards. All work shall be performed pursuant to the standards in this Agreement, the Approved Plans and all Requirements of Law. All work shall be

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conducted in a good and workmanlike manner. All materials used for the work relating shall be new and of first-rate quality.

- (ii) Special Standards. All work shall conform to the applicable standards of the Park District, the Village, MWRD, IDOT, and the IEPA.
- (iii) Inspection, Engineering, Testing Services. Pathway shall provide, at its sole cost and expense, all inspection, engineering, and testing reasonably required for the work related to the Improvements, including without limitation (a) on-site construction supervision services, (b) periodic inspections by a professional engineer, and (c) third-party materials sampling and testing services. Pathway shall promptly provide the Park District with the names of the project manager and project engineer and telephone numbers at which the project manager and project engineer can be reached at all times.
- (v) Park District Inspections and Approvals. Park District representatives have the right and authority, and the permission of Pathway, to inspect all work at all times between 8:00 a.m. and 6:00 p.m. weekdays, and in the case of an emergency, as reasonably determined by the Park District, to confirm compliance with all requirements of this Agreement, the Approved Plans and all Requirements of Law.
- (vi) Other Approvals. When the work requires the permission or approval of a regulatory agency, including without limitation the Village, MWRD, IDOT, or the IEPA, then Pathway shall take all steps required to obtain the required permission or approval. Pathway may not commence work requiring the prior permission or approval of any such agency in advance of receiving such prior permission or approval.

D. Environmental Conditions. In performing the work related to the Improvements including, without limitation, the construction and maintenance of the Shawmut Avenue Extension and the Storm Water Detention Facility, Pathway shall remain in compliance with all applicable federal and State of Illinois environmental laws and regulations.

E. Maintenance of and Damage to Public Property. During the performance of any work related to the Improvements on the Property, Pathway shall maintain the Property in a good and clean condition and free of hazards at all times. During the performance of any work related to the Improvements, Pathway shall (i) promptly clean all mud, dirt, or debris deposited on any street, sidewalk, or other public property in or adjacent to the Property by Pathway or any agent of or contractor hired by, or on behalf of, Pathway, and (ii) repair all damage to the Property caused by the activities of, or on behalf of, Pathway or any agent of or contractor hired by, or on behalf of, Pathway. If, within 48 hours after the Park District gives Pathway notice to clean mud, dirt, or debris or to repair damage in compliance with this subsection, Pathway neglects or fails to clean or repair or to undertake with due diligence to clean or repair the affected public property, then the Park District may clean or repair the affected property, either with its own

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forces or with contract forces, and recover from Pathway the sum equal to the total of the actual and reasonable costs incurred by the Park District.

F. Schedule for Construction of Improvements. The work relating to the construction of the Shawmut Avenue Extension and the Storm Water Detention Facility and the work relating to the demolition of the Maintenance Shed and the Tennis Courts shall be completed and made ready for inspection, approval, and any required acceptance by the Park District, pursuant to the Construction Schedule; provided, however, Pathway shall be allowed extensions of time beyond the completion dates set forth in the Construction Schedule only for (i) delays approved in writing by the Executive Director, (ii) delays deemed reasonably necessary by the general contractor for the Project, or (iii) delays caused by Force Majeure. Pathway shall, promptly after any delay caused by Force Majeure ends, give notice to the Executive Director setting forth the cause for such delay, the period of such delay, and the steps taken by Pathway to reasonably mitigate the effects of such delay.

G. Approval of Improvements. When the work relating to the construction of the Shawmut Avenue Extension and the Storm Water Detention Facility and the work relating to the demolition of the Maintenance Shed and the Tennis Courts has been completed, Pathway shall request final inspection and approval of each Improvement by the Park District. The Park District will inspect the work related to such Improvement and may prepare a punch list of items requiring repair or correction. Pathway shall promptly make all necessary repairs and corrections as specified on the punch list. The Park District will not approve the work related to such Improvement until it has been fully and properly completed in accordance with the Approved Plans, including without limitation all punch list work for such Improvement. Notwithstanding anything in this Subsection 4G to the contrary, in no event shall the Park District's punch list items or approvals be contrary to any requirement of the Village.

H. Intentionally Deleted.

I. Maintenance of Improvements. Pathway shall, at its sole cost and expense, maintain, in a good condition, at all times, the Shawmut Avenue Extension and the Storm Water Detention Facility in accordance with the express terms of this Agreement and the Approved Plans (subject to: (i) the Requirements of Law; and (ii) the Village standards, IDOT standards and best storm water engineering practices, as expressly set-forth below) and the Requirements of Law. Such maintenance includes, but is not limited to, patching, resurfacing, and reconstruction of the Shawmut Avenue Extension in accordance with the Village and IDOT standards, and maintaining the Storm Water Detention Facility in accordance with the Village standards and best storm water engineering practices. In the event Pathway fails to maintain the Shawmut Avenue Extension pursuant to the terms of this Subsection 4I, then the Park District may, after 30 business days' prior notice to Pathway, perform such maintenance work; provided, however, the Park District shall have no self-help rights if Pathway commences performing such maintenance work during such 30 business day period and is diligently prosecuting the same. In the event that the Park District shall perform any maintenance work in accordance with this Section 4I, then Park District shall have the right to demand payment (which written demand shall include reasonable supporting documents) that Pathway pay for the actual and reasonable

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cost to perform such maintenance work directly from Pathway including, without limitation, any directly related legal fees.

J. Intentionally Deleted.

K. Abandonment of Construction. Subject to Pathway's Lender's rights under Pathway's Loan, if Pathway abandons construction of the Project, then Pathway, within 90 days after notice from the Park District, shall (i) remove all partially constructed improvements from the Property, including without limitation the Shawmut Avenue Extension, (ii) backfill all excavations on the Property, and (iii) spread topsoil and plant grass seed throughout the Property, all to the reasonable satisfaction of the Park District ("**Required Restoration**"). For purposes of this Subsection K, "abandons" means cessation of all construction activities on the Project for a period in excess of 90 consecutive days for any reason other than Force Majeure. If Pathway fails or refuses to complete the Required Restoration within the 90-day period, or such longer period of time as is reasonably necessary to complete the Required Restoration so long as Pathway has promptly commenced and is diligently pursuing the Required Restoration, then the Park District will have, and is hereby granted in addition to all other rights afforded to the Park District in this Agreement and by law, the right at the Park District's option to complete part or all of the Required Restoration. Thereafter, the Park District may charge Pathway the Charged Amount. If the Charged Amount is not paid by Pathway within 30 days after notice from the Park District, then the Charged Amount and all Collection Costs will become a high priority lien against Lots 2 & 3, superior to all liens and encumbrances (except any and all taxes, Pathway's Loan and the Village Development Agreement), and the Park District will have the right to collect the Charged Amount and the Collection Costs and to enforce the lien in the same manner as mortgage foreclosure proceedings.

L. As Built Plans. Promptly after the completion of the Project, Pathway shall provide the Park District with a set of final "as built" plans for the Shawmut Avenue Extension.

Section 5. **Construction Staging, Traffic, Parking.**

A. Construction Staging. Pathway shall have the right to stage construction work for the Project on a portion(s) of the Property to be designed by the Park District in consultation with Pathway (the "**Construction Staging Area**"). The staging of construction work on the Property shall be in conformance with Park District-approved construction staging, soil stockpiling, silt fencing, and other fencing plans in consultation with Pathway, subject to the Village's requirements.

B. Designated Traffic Routes. The Park District, in consultation with Pathway, but subject to the Village's requirements, may designate reasonable routes of access to the Property for construction traffic to protect pedestrians and to minimize disruption of traffic and damage to particular streets.

C. Parking. All construction-related vehicles, including passenger vehicles and construction equipment, parked on the Property shall be parked in areas specifically designated in advance in writing by the Park District, subject to the Village's requirements.

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D. Intentionally Deleted.

Section 6. Other Local Government Fees; Work on Utilities.

A. Other Local Government Fees. In addition to all other costs, fees, expenses, or other charges required by this Agreement, Pathway shall pay to the Village all standard application, inspection, and permit fees, all standard water and sewer fees, tap-on fees, and charges, and all other standard fees, charges, and contributions pursuant to the Village Development Agreement or Requirements of Law.

B. Work on Utilities. If during the performance of the work in connection with the Improvements, Pathway discovers a water main, sewer main, or other utility that must be relocated to avoid conflict with the Improvements, then Pathway and the utility-owner will determine how, where, and by whom the utility will be relocated and Pathway shall pay all costs and expenses of that relocation.

Section 7. Security.

A. Performance Bond. As security to the Park District for the performance by Pathway of Pathway's obligations to perform the work relating to the construction of the Shawmut Avenue Extension and the Storm Water Detention Facility and the work relating to the demolition of the Maintenance Shed and the Tennis Courts pursuant to and in accordance with this Agreement, Pathway, at Pathway's sole cost and expense, shall cause to be deposited with the Park District the Performance Bond.

B. Condition Precedent. The deposit of the Performance Bond is a condition precedent to Pathway's ability to perform any work relating to the construction of the Shawmut Avenue Extension and the Storm Water Detention Facility and any work relating to the demolition of the Maintenance Shed and the Tennis Courts on the Property or to use the Borrow Pit or the Construction Staging Area.

C. Maintenance of Performance Bond. The Performance Bond shall be deposited by or on behalf of Pathway and held in escrow by the Park District, until the later of (i) completion and approval by the Park District of the construction of the Shawmut Avenue Extension and the Storm Water Detention Facility, (ii) completion and approval by the Park District of the demolition of the Maintenance Shed, including the removal of all debris and re-grading of the Property in connection therewith, and (iii) completion and approval by the Park District of the demolition of the Tennis Courts, including the removal of all debris and re-grading of the Property in connection therewith. After the later of (i), (ii) and (iii), the Park District shall return the Performance Bond to Pathway.

D. Park District Lien Rights. If any sums due from Pathway to the Park District pursuant to this Agreement are not paid to the Park District by Pathway within 30 days after a written demand for payment (together with all reasonable supporting documents in connection therewith), then the sums due, together with interest (calculated at the "Prime Rate" which

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appears in each publication of The Wall Street Journal under the designation entitled “Money Rates”) and costs of collection, including actual and reasonable legal fees, will become a high priority lien against Lots 2 & 3, superior to all liens and encumbrances (but expressly subordinate to any and all taxes, Pathway’s Loan and the Village Development Agreement), and the Park District will have the right to collect the sums due, with interest and costs of collection pursuant to this Section 7, and the right to enforce the lien in the same manner as in statutory mortgage foreclosure proceedings.

E. Maintenance/Repair Performance Bond. Once construction of the Shawmut Avenue Extension is complete, if the estimate cost to perform any work to maintain the Shawmut Avenue Extension in accordance with Subsection 4I of this Agreement exceeds \$50,000.00, then Pathway, at Pathway’s sole cost and expense, shall cause to be deposited with the Park District a performance bond equal to 105% of such estimated costs, the deposit of which is a condition precedent to Pathway’s ability to perform such work. Such performance bond shall be held in escrow by the Park District until the completion and approval by the Park District of the completion of such work in accordance with Subsection 4I.

Section 8. Easements.

The Park District hereby grants to Pathway the following: (i) a temporary construction easement on the Property to (a) construct the Shawmut Avenue Extension and the Storm Water Detention Facility, (b) perform the work in connection with demolition of the Maintenance Shed and the Tennis Courts, and (c) use the Borrow Pit and the Construction Staging Area; and (ii) a permanent access easement on Lot 1 to maintain the Shawmut Avenue Extension, all pursuant to the terms of this Agreement. Pathway shall not have any right to occupy or use the Property or other property owned by the Park District as a tenant or lessee, in equity, or otherwise, or in a manner which is inconsistent with the terms and conditions of this Agreement.

Section 9. Use of the Property.

The Park District retains and has all rights to the use and occupation of the Property and Pathway’s use of the Property pursuant to this Agreement shall not unreasonably interfere with the Park District’s use of the Property, including the Shawmut Avenue Extension; provided, however, the Park District acknowledges and agrees that it may never prevent unrestricted public access over the Shawmut Avenue Extension or public utilities within the Shawmut Avenue Extension.

Section 10. Liability and Indemnity of the Park District.

A. Pathway acknowledges and agrees that the Park District is not, and will not be, in any way liable for any damages or injuries (other than any damages or injuries due to the negligence or intentional misconduct of the Indemnitees) that may be sustained and are directly related to (i) the construction and maintenance of the Shawmut Avenue Extension and the Storm Water Detention Facility, (ii) the demolition and removal of the Maintenance Shed and the Tennis Courts and the regrading of those portions of the Property located thereunder, or (iii)

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Pathway's use of the Property in connection with the Borrow Pit and the Construction Staging Area.

B. Indemnification. Pathway acknowledges and agrees that the accuracy and sufficiency of its plans and specifications for the Improvements are entirely the responsibility of Pathway and are not the responsibility of the Park District, regardless of whether the Park District reviews or approves Pathway's plans and specifications for apparent consistency with the applicable codes or standards. Pathway agrees to, and does hereby, indemnify the Indemnitees from any and all Claims.

C. Defense Expense. Pathway shall, and does hereby agree to, pay all out-of-pocket costs and expenses, including without limitation, legal fees, incurred by the Park District in defending itself with regard to any and all of the Claims referenced in Section 10B of this Agreement.

Section 11. Insurance.

Pathway, at its sole cost and expense, shall at all times maintain a policy of Commercial General Liability insurance on an occurrence basis, having at least a minimum limit of liability for personal injury and property damage of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS per occurrence. The Park District shall be designated therein as an additional insured. Promptly upon written demand, Pathway shall provide the Executive Director with current certificates of insurance or other satisfactory evidence that premiums have been paid for said policy or policies issued by a solvent and reputable company acceptable to Pathway's Lender or, once Pathway's Loan is repaid, a solvent and reputable company reasonably acceptable to the Executive Director. Pathway shall request and use good faith efforts to require that such coverage by a policy endorsement shall provide that written notice of non-renewal or cancellation shall be provided to the Executive Director at least thirty (30) days before such termination.

Section 12. 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, except that (i) Pathway agrees that it will not seek, and does not have the right under any circumstances to seek, to recover a judgment against any Indemnitees on account of the negotiation, execution, or breach of this Agreement, and (ii) the Park District agrees that it will not seek, and does not have the right under any circumstance to seek, to recover against any member, manager, employee, officer, agent, or affiliate of Pathway on account of the negotiation, execution or breach of this Agreement.

Section 13. Covenants Running with the Land; Transfer Obligations.

The rights and obligations set forth in this Agreement and the easements, authorizations, restrictions, and covenants contained in this Agreement are rights, obligations, easements, authorizations, restrictions, and covenants running with the land. This Agreement will be recorded against Lot 1 and Lots 2 & 3, and will bind and inure to the benefit of the Park District

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and Pathway and their respective successors and assigns. In connection with any transfer of title to all or any portion of Lots 2 & 3, Pathway and its successors and assigns shall notify the Park District in writing promptly after the date on which Pathway or its successors and assigns transfers title to all or any portion of Lots 2 & 3 to any Person. Effective as of the date of such transfer, the personal liability of Pathway (or any other successive transferor) shall be released to the extent of such transferee's assumption of liability.

Section 14. Intentionally Deleted.

Section 15. Intentionally Deleted.

Section 16. Validity.

If any of the rights, authorizations, restrictions, or covenants created by this Agreement would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then those rights, restrictions, agreements, or covenants will continue only until 21 years after the death of the last survivor of the now living lawful descendants of the current President of the United States.

Section 17. Subordination.

This Agreement is and shall remain unconditionally subject and subordinate to Pathway's Loan and to the Village Development Agreement, including all amendments, restatements, amendments and restatements, replacements, supplements or other modifications to each. This subordination is intended by the parties to have the same force and effect as if Pathway's Loan and the Village Development Agreement and all such amendments, restatements, amendments and restatements, replacements, supplements or other modifications of each had been executed, acknowledged, delivered and recorded prior to this Agreement and any amendments or modifications thereof.

Section 18. General Provisions.

A. Notices. Any notice, consent, waiver, request, or other communication required or provided to be given under this Agreement or required to be served under applicable law shall be in writing and shall be sufficiently given if sent by email, during the initial construction of the Project only, or by nationally recognized overnight delivery service, in any event, addressed to the party's address as follows:

If to Pathway:	Pathway La Grange Property Owner, LLC 333 West Wacker Drive, Suite 010 Chicago, Illinois 60606 Attn: Matt Krummick Director of Development Telephone: (312) 837-0714 Email: mkrummick@pathwaytoliving.com
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with a copy to: Levenfeld Pearlstein, LLC
 2 North LaSalle Street, Suite 1300
 Chicago, Illinois 60602
 Attention: Jason Neumark
 Email: jneumark@lplegal.com

If to the Park District: Dean Biassis, Executive Director
 Park District of La Grange
 536 East Avenue
 La Grange, IL 60525
 Email: deanbissias@pdlg.org

with a copy to: James D. Rock, Ancel Glink
 140 S. Dearborn St., 6th Floor
 Chicago, IL 60603
 Email: jrock@ancelglink.com

or to such party at such other address as such party, by ten (10) days prior notice given as herein provided, shall designate, provided that no party may require notice to be sent to more than two (2) addresses. Any notice given in any other manner shall be effective (i) by email on the date of transmission so long as such email is sent prior to 5:00 PM (CT) or (ii) by overnight delivery service on the next business day.

B. Amendments. This Agreement may be amended only in writing and approved and executed by the Park District and Pathway in accordance with all applicable statutory procedures. Any amendment to this Agreement shall be recorded against Lot 1 and Lots 2 & 3.

C. Non-Waiver. Neither Pathway nor the Park District is under any obligation to exercise any of the rights granted to such party in this Agreement. The failure of such party to exercise at any time any right granted to it will not be deemed or construed to be a waiver of that right, nor will the failure void or affect such party's right to enforce that right or any other right in this Agreement.

D. Attorneys' Fees and Costs. In the event that either Pathway or the Park District shall take action to enforce the terms of this Agreement, the successful party shall be entitled to recover its out of pocket costs and expenses of enforcement, including actual and reasonable attorneys' fees, court costs, and any other collection costs and expenses, from the other party.

E. Severability. If any provision of this Agreement is construed or held to be void, invalid, illegal, or unenforceable in any respect, then the remaining part of that provision and the remaining provisions of this Agreement will not be affected, impaired, or invalidated thereby, but instead will remain in full force and effect. The unenforceability of any provision of this Agreement will not affect the enforceability of that provision in any other situation.

F. Governing Law. The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance. Venue for any action arising out of the terms or conditions of this Agreement shall be in the Circuit Court of Cook County, Illinois.

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G. Entire Agreement. This Agreement and its attachments 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 matters addressed in this Agreement.

H. Interpretation. This Agreement should be construed without regard to who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement should be construed as though Pathway and the Park District participated equally in the drafting of this Agreement. Any rule or construction that a document is to be construed against the drafting party thus is not applicable to this Agreement.

I. No Third-Party Beneficiaries. No claim as a third-party beneficiary under this Agreement by any person may be made, or be valid, against Pathway or the Park District.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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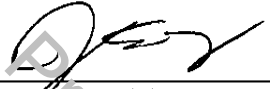
IN WITNESS WHEREOF, Pathway and the Park District have executed this Public Improvements Agreement effective as of the day and year first above written.

PATHWAY:

PARK DISTRICT:

PATHWAY LA GRANGE PROPERTY OWNER, LLC, a Delaware limited liability company

PARK DISTRICT OF LA GRANGE, a body politic and corporate organized and existing under the laws of the State of Illinois

By: 
Name: Jerone E. Finis
Its: Authorized Signatory

By: _____
Name: _____
Its: _____

**COOK COUNTY
RECORDER OF DEEDS**

Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN WITNESS WHEREOF, Pathway and the Park District have executed this Public Improvements Agreement effective as of the day and year first above written.

PATHWAY:

PARK DISTRICT:

PATHWAY LA GRANGE PROPERTY OWNER, LLC, a Delaware limited liability company

PARK DISTRICT OF LA GRANGE, a body politic and corporate organized and existing under the laws of the State of Illinois

By: _____
Name: _____
Its: _____

By: Mary Ellen Benecook
Name: Mary Ellen Benecook
Its: President

Property of Cook County Clerk's Office

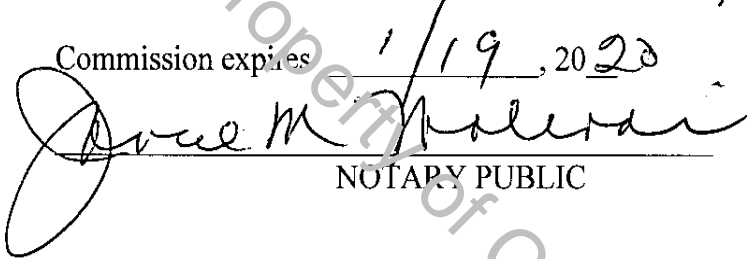
**COOK COUNTY
RECORDER OF DEEDS**

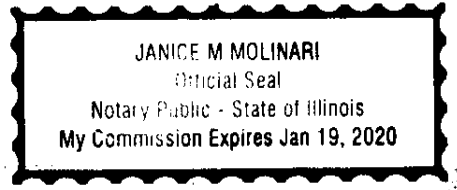
UNOFFICIAL COPY

STATE OF ILLINOIS)
)
COUNTY OF COOK) ss.

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that **Mary Ellen Penicook, President of the Park District of La Grange f/k/a La Grange Park District**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this 10th day of July, 2018.
Commission expires 1/19, 2020


NOTARY PUBLIC



STATE OF ILLINOIS)
)
COUNTY OF COOK) ss.

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that _____, _____ of **PATHWAY LA GRANGE PROPERTY OWNER, LLC, a Delaware limited liability company**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this _____ day of _____, 2018.

Commission expires _____, 20__

NOTARY PUBLIC

UNOFFICIAL COPY

STATE OF ILLINOIS)
)
COUNTY OF COOK) ss.

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that **Mary Ellen Penicook, President of the Park District of La Grange f/k/a La Grange Park District**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this _____ day of _____, 2018.

Commission expires _____, 20__

NOTARY PUBLIC

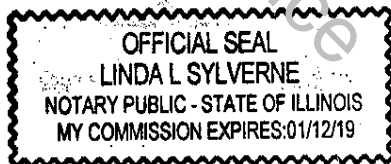
STATE OF ILLINOIS)
)
COUNTY OF COOK) ss.

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that Jerome E. Finis, authorized signer of **PATHWAY LA GRANGE PROPERTY OWNER, LLC, a Delaware limited liability company**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this 10th day of JULY, 2018.

Commission expires 1/12, 2019

[Signature]
NOTARY PUBLIC



UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION OF LOTS 2 & 3

LOT 2 AND LOT 3 IN SHAWMUT AVENUE ADDITION NO. 2, A SUBDIVISION OF A PART OF VACATED SHAWMUT AVENUE (VACATED BY DOCUMENT 17706352) AND PARTS OF BLOCKS 2 AND 3 IN SHAWMUT AVENUE ADDITION TO LA GRANGE, A SUBDIVISION IN THE NORTH HALF OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 14, 2013 AS DOCUMENT 1307339074, IN COOK COUNTY, ILLINOIS.

PINs: 18-04-200-049 and 18-04-200-051

31 EAST OGDEN AVE AKA 35 SHAWMUT AVE
LA GRANGE, IL 60525

COOK COUNTY
RECORDER OF DEEDS

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EXHIBIT B

LEGAL DESCRIPTION OF LOT 1

THE REAL PROPERTY KNOWN AS LOT 1 IN SHAWMUT AVENUE ADDITION NO. 2, BEING A PART OF VACATED SHAWMUT AVENUE (VACATED BY DOCUMENT NO. 17706352) AND PARTS OF BLOCKS 2 AND 3 IN SHAWMUT AVENUE ADDITION TO LA GRANGE, A SUBDIVISION IN THE NORTH HALF OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 18-04-200-050

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EXHIBIT C

SITE PLAN

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