

PLAT WITH THIS DOCUMENT

ORDINANCE NO. 88-1655

88288036

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AMENDMENT TO AN ANNEXATION AGREEMENT BETWEEN THE VILLAGE OF ROSELLE AND KANAKMAL JAIN, M.D.

WHEREAS, there has been presented to the corporate authorities of the Village of Roselle, DuPage and Cook Counties, Illinois, an amendment to the Annexation Agreement between the owner of record of the real estate hereinafter described, and the developer of such real estate and the corporate authorities of the Village of Roselle, pursuant to the provisions of Section 11, Division 15.1 of the Illinois Municipal Code; and

WHEREAS, a public hearing upon the Annexation Agreement Amendment has been held on February 8, 1988 by the corporate authorities after proper public notice pursuant to the provisions of the statute in such case made and provided, and

WHEREAS, the corporate authorities, after carefully considering the testimony and evidence presented at the said public hearing and after making further careful investigation of the matters set forth in the proposed Annexation Agreement Amendment, have determined that it is in the best interest of the Village of Roselle to amend said Annexation Agreement with the owner of record of the real estate hereinafter described.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Roselle, DuPage and Cook Counties, Illinois, as follows:

SECTION 1: THAT the President of the Village of Roselle is hereby authorized and directed to execute and the Village Clerk is hereby authorized and directed to attest a certain Annexation Agreement Amendment between the VILLAGE OF ROSELLE, a municipal corporation of DuPage and Cook Counties, Illinois, MID-NORTHERN EQUITIES MANAGEMENT, INC., an Illinois Corporation

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("the Developer") and KANAKMAL JAIN, M.D. ("the Owner") of the real estate legally described as:

The West 331.75 feet of the South half of the Southwest quarter of the Northeast quarter of Section 35, Township 41 North, Range 10 East of the Third Principal Meridian in Cook County, Illinois and commonly known as the Northeast corner of Plum Grove and Nerge Roads.

Upon presentation to the President and Clerk of the Village of Roselle a signed copy of the Annexation Agreement Amendment duly executed. Said amendment is attached hereto and made part hereof as Appendix A.

SECTION 2: THAT if any provision of this ordinance is held to be invalid, the application of such provision to the remainder or other portions of real estate herein described (other than those portions of said real estate as to which it should have been invalid) shall not be affected thereby.

SECTION 3: THAT all ordinances and parts of ordinances in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such conflict or inconsistency.

SECTION 4: THAT this ordinance shall be in full force and effect from and after its passage and approval.

AYES: Chapman, Clifford, Rak, Sass, Devlin

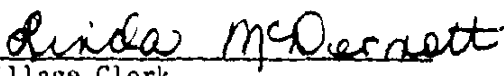
NAYS: None

ABSENT: Birdsall

PASSED and APPROVED this 8th day of February, 1988.

  
\_\_\_\_\_  
President, Village of Roselle

ATTEST:

  
\_\_\_\_\_  
Village Clerk  
0230a

Village of Roselle  
31 S. Prospect St.  
Roselle, IL. 60172

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APPENDIX A

## ANNEXATION AGREEMENT AMENDMENT

This Amendment to an annexation agreement is made this 8th day of February, 1988, by and between the VILLAGE OF ROSELLE, counties of DuPage and Cook, Illinois, a municipal corporation (the "Village"), MID-NORTHERN EQUITIES MANAGEMENT, INC., an Illinois corporation (the "Developer") and KANAKMAL JAIN, M.D. (the "Owner").

### W I T N E S S E T H

WHEREAS, the Village and the Owner entered into that certain Annexation Agreement, dated April 23, 1979 (the Annexation Agreement), a copy of which agreement is attached hereto and made part hereof as Exhibit 1; and

WHEREAS, Developer has entered into a contract for the purchase of the Tract from Owner; and

WHEREAS, the Developer intends to develop the Tract with a commercial strip shopping center; and

WHEREAS, the Developer has presented Plans and Specifications (the "Site and Landscape Plans") to the Village for Site Plan Approval, and hearing #PZ 88-494 was held before the Planning and Zoning Commission on January 7, 1988; and

WHEREAS, the President and Board of Trustees have been advised of the findings and recommendations of the Planning and Zoning Commission with respect to said Plans; and

WHEREAS, the Annexation Agreement must be amended in order for the proposed development to be in compliance with the Annexation Agreement; and

WHEREAS, a public hearing on the proposed Amendment to the Annexation Agreement was held before the President and Board of Trustees on the 8th day of February, 1988; and

Village of Roselle  
31 S. Prospect St.  
Roselle, IL. 60172

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WHEREAS, the procedures for amending said annexation agreement have been met and complied with;

NOW THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Village, Developer, and Owner, hereby agree to amend the Annexation Agreement as follows:

1. All references in the Annexation Agreement to Plans shall mean the Site and Landscape Plans referred to above and attached hereto and made part hereof as Exhibit 2.

2. All references to Exhibits in the Annexation Agreement shall be deleted. Developer shall make all submissions required by the Annexation Agreement, but not as Exhibits thereunder or hereunder with the exception of the Site and Landscape Plans.

3. Paragraph 3 of the Annexation Agreement is hereby amended to delete all references to an Ambulatory Surgical Treatment Center. Owner, Developer and Village agree that the special use permit for the Ambulatory Surgical Treatment Center granted by Ordinance No. 79-892 of the Village shall be rescinded.

4. Paragraph 4 of the Annexation Agreement shall be deleted in its entirety.

5. Paragraph 7 of the Annexation Agreement is hereby amended to require a water tap-on fee in accordance with Ordinance No. 85-1338 of the Village.

6. Paragraph 8 of the Annexation Agreement is hereby amended to require a sanitary sewer tap-on fee in accordance with Ordinance No. 85-1338 of the Village, and to provide that the amount payable by the Developer to the Village under the "recapture agreement" referred to in said Paragraph 8 shall not exceed Fifty Thousand Dollars (\$50,000).

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7. Paragraph 10 of the Annexation Agreement is hereby amended to state that temporary signage on the tract shall be in accordance with Section 17-21(b)1.b. of the Sign Code of the Village of Roselle.

8. Paragraph 11 of the Annexation Agreement is deleted in its entirety.

9. Paragraph 12 of the Annexation Agreement is hereby amended to allow for two (2) curb cuts on each of Plum Grove Road and Nerge Road substantially in conformance with Exhibit 2, provided the Developer secures approval from the Cook County Department of Highways or other governmental body, if required. Such approval shall be secured prior to receiving a building permit for construction of the proposed shopping center.

10. Developer agrees to assume all of the obligations of the Owner under the Annexation Agreement, provided that if the contract for the purchase of the Tract between Owner and Developer is not consummated, Developer shall have no further obligation to the Village, and this amendment shall be null and void upon Developer's written notice to the Village setting forth that the consummation of said purchase will not occur.

11. Except as set forth herein, the undersigned have executed this Amendment to Annexation Agreement as of the date first above written.

VILLAGE OF ROSELLE, an Illinois  
municipal corporation

By Sandra J. Burchall  
President

ATTEST:

Linda McDermott  
Village Clerk

IN WITNESS WHEREOF, the Developer has executed this declaration  
this 13<sup>th</sup> day of February, 1988.

Village of Roselle  
31 S. Prospect St.  
Roselle, IL. 60172

[Signature]  
Developer

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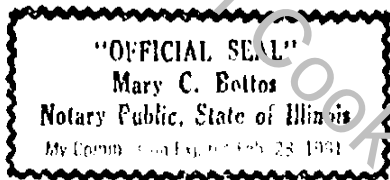
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ATTEST:

Randy S. Buss  
Asst Secretary

STATE OF ILLINOIS, COUNTY OF Cook ss. I the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that William Shiner and Randy S. Buss personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that such President and Secretary, they signed, sealed and delivered the said instrument as \_\_\_\_\_ President and Asst Secretary of said corporation, and caused the seal of said corporation to be affixed thereto, pursuant to authority, given by the Board of \_\_\_\_\_ of said corporation as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 23<sup>RD</sup> day of February, 1988.



Mary C. Bittos  
Notary Public

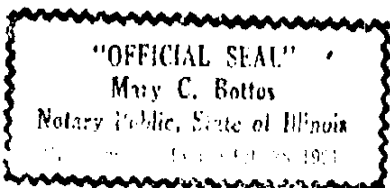
My commission expires 2-28-91

IN WITNESS WHEREOF, the Owner has executed this declaration this 23<sup>RD</sup> day of February, 1988.

Kanakmal Jain  
Kanakmal Jain, M.D.  
Owner

STATE OF ILLINOIS, COUNTY OF Cook ss. I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Kanakmal Jain, M.D. personally know to me to be the same person whose name 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 official seal, this 23<sup>RD</sup> day of February, 1988.



Mary C. Bittos  
Notary Public

My Commission Expires 2-28-91

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EXHIBIT I

## ANNEXATION AGREEMENT

THIS AGREEMENT made and entered into this 23 day of April, 1979, between the VILLAGE OF ROSELLE, a municipal corporation, of the Counties of DuPage and Cook; in the State of Illinois (hereinafter referred to as the "Village"), and KANAKMAL JAIN, M.D. (hereinafter referred to as the "Developer");

### W I T N E S S E T H:

WHEREAS, the Developer is the owner and proposed Developer of the following legally described unincorporated land (hereinafter referred to as the "Tract") comprising 5 acres of land, more or less:

The West 331.75 feet of the South half of the Southwest quarter of the Northeast quarter of Section 35, Township 41 North, Range 10 East of the Third Principal Meridian in Cook County, Illinois.

Which Tract is the subject of this Annexation Agreement and which is shown on the Plat of Survey attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, the Developer proposes to develop the Tract as a two building medical and commercial office complex in accordance with the terms and provisions of this Agreement and with the Preliminary Plans heretofore submitted to the Village and attached hereto as Exhibit "B" and incorporated herein by reference (hereinafter referred to as the "Plans") all being in harmony with the Roselle Zoning Ordinance, as amended; and

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Handwritten initials and marks at the bottom right of the page.



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WHEREAS, the Developer has heretofore caused to be filed a Petition to Annex the Tract to the Village, and the Developer has heretofore caused to be filed a Petition for Zoning and Approval of Annexation Agreement, and the Plans, both of which are contingent on the provisions of this Agreement; and

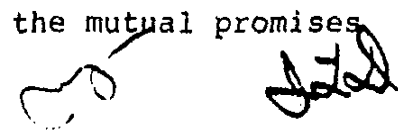
WHEREAS, the Plan Commission and the Zoning Board of Appeals of the Village have duly fixed the times for and held public hearings upon the classification of the Tract pursuant to the Roselle Zoning Ordinance, all upon such notices and related procedures as are required by ordinances of the Village and by the laws of the State of Illinois, and have filed with the Board of Trustees of the Village, their reports of recommendation concerning such classification; and

WHEREAS, the corporate authorities of said Village have duly fixed a time for and held a public hearing upon this Annexation Agreement, all upon such notices and related procedures as required by the ordinances of the Village and the laws of the State of Illinois; and

WHEREAS, the corporate authorities of the Village have considered the annexation and zoning classification of the Tract and have considered the Plans and pertinent related matters; and

WHEREAS, the development of the Tract within the Village as a commercial medical and office complex in accordance with the Plans and with the terms and provisions herein contained would promote the orderly and beneficial development of the Tract and surrounding environs, all being consistent with the intent and purpose of the Roselle Zoning Ordinance, as amended, and in conformity with the general character of the Village.

NOW, THEREFORE, for and in consideration of the mutual promises





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and agreements herein contained, the parties hereto agree as follows:

1. ANNEXATION: The Developer agrees that the Tract shall be annexed to the Village within forty-five (45) days from the date hereof, and that during said period of time it shall neither be annexed to any other City or Village nor shall it be developed in the unincorporated area of Cook County. The Village agrees to annex the Tract within forty-five (45) days after the date hereof. The Developer agrees to submit a written petition under oath requesting annexation of said territory in the form and manner provided by law, together with the following:

(a) Evidence of title showing that the persons who filed the Petition are the owners of said real estate.

(b) A plat of survey of the real estate.

(c) Any other instruments reasonably required to effect the annexation of the said property to the Village.

(d) The Developer shall also notify all necessary public bodies of the annexation in the manner provided by law.

2. EASEMENTS: The Village agrees to cooperate with the Developer's acquisition of such easements and rights-of-way as may be necessary to provide access for public utilities adequate to serve the Tract when fully developed in accordance with the Plans.

3. ZONING CLASSIFICATION: The Village shall cause enactment and approval of an ordinance amending the Village Zoning Ordinance granting a B-2 zoning classification for the Tract which will enable the construction of the development as contemplated by the Plans and by this Agreement, including zoning for a portion of the Tract for an Ambulatory Surgical Treatment Center. Subject to the

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foregoing, the Village agrees, except as otherwise provided in this Agreement, not to amend or change any ordinance or regulation during the term of this Agreement as applied to the Tract nor to interpret any such ordinance or regulation in such a way as to prevent development of the Tract in general accordance with the Plans herein approved nor the construction of the buildings and improvements thereon in general accordance with the approved Plans, except for an ordinance to be passed by the Village in substantially the form attached hereto as Exhibit "C" adopting licensing for Ambulatory Surgical Treatment Centers and Developer agrees to be bound thereby when the ordinance has become effective; provided, however, that if there are changes in any such ordinance, regulation or interpretation which are less restrictive in their application to other similarly-zoned lands, then the Developer shall be entitled to the benefit of like treatment with respect to the Tract. It is further recognized that the size, shape and location of the building on the Plans are approximate only. The Developer will submit: (i) a final site plan together with building elevations and floor plans to the Village Engineer and the Plan Commission for review and approval; and (ii) a final landscaping plan to the Village Forester for review and approval. It is understood and agreed that where the Tract is currently contiguous to residential areas, suitable berming and screening will be constructed and/or installed by the Developer.

4. PHASES: The Developer may, at its sole discretion, submit two or three site plans in order to develop the Tract in two or three phases, respectively.

5. TERM OF AGREEMENT: The conditions and covenants of this Agreement shall be binding upon the parties and their successors and assigns for a period of ten (10) years after the date hereof.

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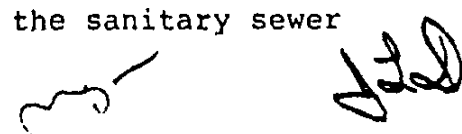
6. ANNEXATION FEE: The Developer will not be required to pay any annexation fees.

7. WATER SERVICE: The Developer shall be permitted to connect and tap on to the Village water system in accordance with the preliminary plans described in and attached to this Agreement as Exhibit "D", subject to the approval of the Village Engineer and submission and approval of final plans and engineering by the Village and its Engineer. The Village and the Developer agree that the water tap-on for the Tract shall be in accordance with Ordinance No. 76-641 of the Village. All fees will be paid at the time of issuance of building permits. All payments to the Village by the Developer, as outlined in this paragraph 7, shall be contingent upon obtaining a permit for the construction of the heretoforementioned water mains and lines from the Environmental Protection Agency of the State of Illinois, or other governmental body, if required.

8. SANITARY SEWER SERVICE: The Developer shall be permitted to connect and tap-on to the Village Sanitary Sewer System in accordance with the preliminary plans described in and attached to this Agreement as part of Exhibit "D", subject to the approval of the Village Engineer and submission and approval of final plans and engineering by the Village and its Engineer. Once the Village and the Developer agree that the sizes of all mains, lines and services as shown on said Exhibit "D" (the Preliminary Engineering Report) are adequate to meet the needs of the Tract, then if the Village requires any oversizing of said main, lines or services, such increases costs of said oversizing shall be paid to the Developer in accordance with a "recapture agreement" to be then entered into by the Developer and the Village.

The Village and the Developer agree that the sanitary sewer

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service tap-on fee for the Tract shall be in accordance with Ordinance No. 76-641 of the Village. All fees will be paid at the time of issuance of building permits. All payments to the Village by the Developer, as outlined in this paragraph 8, shall be contingent upon the obtaining of a permit for the construction of the heretoforementioned sanitary sewer lines from the Environmental Protection Agency of the State of Illinois, the Metropolitan Sanitary District of Greater Chicago and/or any other governmental body, if required. In the event any changes to the Village facilities which will provide sewer and/or water service to the Tract is required in order to provide such services, said changes shall be at the Developer's sole cost and expense and shall be subject to prior approval by the Village Engineer.

## 9. STORM SEWERS:

(a) The Developer shall provide for storm drainage of the Tract by the installation of detention areas, underground storm sewers, open swales and/or ditches in accordance with plans to be prepared by Developer and approved by the Village Engineer.

(b) The Village agrees to allow the Developer to tie into the existing Village storm water system subject to approval by the Village Engineer, and the Village further agrees that there will be no tap-on fee or other Village-imposed fee allocated to the Tract for such connections.

(c) The Developer will be required to obtain a permit for the construction of the heretoforementioned storm sewer lines from the Metropolitan Sanitary District of Greater Chicago, or any other governmental body if required. The Village will cooperate in all ways necessary, but the Developer will defray all costs incurred in connection therewith.

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10. SIGNS: The Developer shall have the right, subject to Village approval of drawings and specifications, to construct two (2) temporary double-faced identification signs, up to eight (8) feet by eight feet in size, said signs to be approved by the Directory of Village Services, each of which shall be at least sixty (60) feet from the edge of the pavement of any intersection. The Developer shall be permitted to erect such signs for a period of six (6) months from the commencement of construction of each phase to be constructed by Developer.

11. BUILDING CODE: The facilities to be constructed on the Tract shall be subject to all Village building, plumbing, electrical and other codes. The Village agrees, except as otherwise provided in this Agreement, not to amend, change or interpret any such code during the term of this Agreement, as the same may be applied to the Tract, in such a way as to prevent development of the Tract in general accordance with the Plans herein approved; provided, however, that if there are changes in any such codes which are less restrictive in their application to other similar properties in the Village, then the Developer shall be entitled to the benefit of like treatment with respect to the Tract.

12. CURB CUTS AND PUBLIC STREETS: The Village consents to the creation of one (1) curb cut on Plum Grove Road and one (1) curb cut on Nerge Road. The location of both curb cuts must be approved by the Village Engineer and any other governmental body which may have jurisdiction over the Tract at the time the final plats of survey for the Tract are filed. The Developer, at its sole cost and expense, will, prior to the completion of the construction of the first phase contemplated hereunder, construct accelera-

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and deceleration lanes on those portions of Nerge Road and Plum Grove Road contiguous to the Tract. There shall then exist a dedicated street width at said points of fifty (50) feet from the center of each of said streets, any such street widening to be done at the Developer's sole cost and expense.

13. CURBS, GUTTERS AND SIDEWALKS: Barrier curbs with rebar and gutters will be provided on Plum Grove Road and Nerge Road. Sidewalks will be provided by the Developer on the Developer's side of Plum Grove and Nerge Roads with widths being five (5) feet.

14. ROSALLE FIRE AND POLICE DEPARTMENTS: The Developer will not be required to make any contribution to the Village Police Department and/or Fire Department.

15. SIGNALIZATION CONTRIBUTION: Upon completion of the first phase of construction of the Tract, the Developer agrees to contribute up to eight (8%) percent of the total cost of signalization of the intersection of Plum Grove Road and Nerge Road. In no event, however, will the Developer's contribution of said eight (8%) percent exceed thirty (30%) percent of the Village's portion of the cost of such signalization.

16. OTHER DONATIONS: The Developer shall not be required by the Village to donate any land or money to the Village, Park District, Fire District, Library District or to any School District or any other governmental or quasi-governmental body other than as provided in this Agreement.

17. UTILITIES: All electricity, telephone and gas lines constructed to serve the Tract shall be installed underground; the locations of such underground utilities shall be at the Developer's option, with Village approval. Appropriate easements for the operation, maintenance, repair, replacement and customary servicing of

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all utility lines located in the Tract shall be provided by plat in favor of the Village and all of the involved public utility companies.

18. CONSTRUCTION SITE: The Developer shall cause all construction trailers on the Tract to be kept in a clean, neat and orderly manner. The Developer shall remove all temporary signs and construction trailers immediately upon the completion of construction of the Tract.

19. DEVELOPER RIGHTS: Nothing herein contained shall be construed to restrict or limit the right of Developer to sell or convey all or any portion of the Tract, either before or after the same shall be imposed; provided that each buyer or grantee and the Village shall be bound by the provisions of this Agreement and any ordinances hereinafter enacted implementing the same. The Village shall be given notice by the Developer within seventy-two (72) hours of any such sale.

20. PERMIT AND RELATED FEES: The Village may increase the amount of fees, not otherwise set by this Agreement, imposed by the Village which are applicable to or required to be paid by the Developer, Operators, Contractors, Subcontractors, Materialmen or others performing the work or supplying materials in connection with jobs in any part of the Tract described herein to an amount not to exceed the annual increase in the Chicago Consumer Price Index for all urban consumers and provided said fees are uniformly increased throughout the Village and provided further any such increase shall not take effect regarding this Tract until ninety (90) days after written notice of such increase to the Developer. Any ordinance, resolution or motion of the Village imposing any new permit fees, Plan review fees, inspection fees, license fees,

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P.P.



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or any other fees applicable to the Developer, Operators, Contractors, Subcontractors, Materialmen, or others performing work or supplying materials in connection with jobs in any part of the Tract described herein shall not take effect for the term of this Agreement. If, during the term of this Agreement, any such fees applicable to any area in the Village or to any particular type of work are reduced, the fees applicable to the Tract and to the type of work being done on the Tract shall be reduced correspondingly. It is further understood and agreed that the Village may increase the amount of any fees less than \$50.00 by as much as fifty (50%) percent during the term of this Agreement. In any event after three (3) years of the date hereof, all fees covered in this Paragraph 20 will then become the then current fees.

21. ISSUANCE OF PERMITS: The Village agrees to issue, within a reasonable time after initial submission and review of building construction plans and the payment of required building permit fees, all necessary building and other permits for the construction of any and all improvements on the Tract, or issue a letter of denial within said period of time informing the Developer as to wherein the application does not conform to the stated Section of the Code.

22. ENFORCEABILITY: This Agreement shall be enforceable in any court of competent jurisdiction by any of the parties by an appropriate action at law or in equity to secure the performance of the covenants herein contained.

23. TERM OF AGREEMENT: This Annexation Agreement shall be binding upon and inure to the benefit of the parties hereto, all successor owners of record of all or any part of the Tract, all

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*AK*

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all lessees thereof and any successor municipal authorities of said Village and successor municipalities for a period of ten (10) years from the date of execution hereof.

24. SEVERABILITY: If any provision of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court shall determine that the Village does not have the power to perform any such provision, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, and such judgment or decree shall relieve the Village from performance under such invalid provision of this Agreement. It is further agreed that the Developer shall indemnify and save harmless the Village for any monies collected and paid to the Developer pursuant to this Agreement which the Village may thereafter be required to repay to any person in accordance with any such judgment or decree.

24. AMENDMENT: This Agreement can be amended in writing, at any time, by the mutual consent of the Developer of the Tract and the Village, as provided by law.

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

DEPT-69 MISC \$1.60

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#9784 # A \* 38-288036

COOK COUNTY RECORDER

ATTEST:

Ruby Kenna Van Camp  
Village Clerk

VILLAGE OF ROSELLE

By: Joseph L. Devlin  
President

Kanakmal Jain  
Kanakmal Jain, M.D.

330  
Copies  
M.D.

\$1.60

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