

This document prepared by:
E. Kenneth Friker
On Behalf of the Village of Orland Park
Klein, Thorpe and Jenkins, Ltd.
20 North Wacker Drive, Suite 1660
Chicago, Illinois 60606

For Recorder's Use Only

DEVELOPMENT AGREEMENT
(BLUFF POINTE SUBDIVISION)

INTRODUCTION

1. This Agreement entered into this _____ day of _____, 2017, by and between the VILLAGE OF ORLAND PARK, an Illinois municipal corporation (hereinafter referred to as the "Village"), and MCNAUGHTON DEVELOPMENT INC., an Illinois corporation ("Owner" or "Developer").

2. The Property subject to this Agreement, legal title to which is vested in the Owner (excepting such portion as is dedicated to the public), is legally described as follows:

PARCEL 1:

THE NORTH ½ OF THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THAT PART FALLING IN BROOK HILLS P.U.D. UNIT ONE, BEING A SUBDIVISION OF THE SOUTHEAST ¼ OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 12) ALL IN COOK COUNTY ILLINOIS.

PARCEL 2:

THE NORTH ½ OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS.

PARCEL 3:

THE SOUTH 685.92 OF THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS.

PINS: 27-30-400-020; 27-30-400-006; 27-30-201-021

The said property is hereinafter referred to as the "Subject Property."

3. The Subject Property is located at 16900-17000 Wolf Road and consists of approximately 26.26 acres.

4. The Subject Property is zoned LSPD Large Scale Planned Development under the Land Development Code of the Village of Orland Park, as amended (the “Code”), with the exception of a small 0.4 acre parcel along the southwestern border, which is zoned Open Lands District. The Subject Property is proposed to be developed by the Owner as a forty-nine (49) lot single family subdivision with public streets and two out-lots for detention and floodplain.

5. The Village of Orland Park is a Home Rule Unit pursuant to the provisions of the Illinois Constitution, Article VII, Section 6, and the terms, conditions and acts of the Village under this Agreement are entered into and performed pursuant to the Home Rule powers of the Village and the statutes in such cases made and provided.

RECITALS:

1. The parties hereto desire that the Subject Property be developed as described above, subject to Village codes and ordinances and the terms and conditions as hereinafter set forth in this Agreement.

2. The Owner has petitioned the Village for a special use permit with modifications as more fully hereinafter set forth, subdivision of the Subject Property, and plan approval.

3. The parties hereto have fully complied with all relevant statutes of the State of Illinois and ordinances of the Village including the filing of petitions by the Owner to request the granting of a special use for the Subject Property and to enable development as herein provided. The Village has caused the issuance of proper notice and the conduct of all hearings by all necessary governmental entities to effectuate such actions as herein provided, including all hearings as are necessary to effectuate the plan of development herein set forth.

4. All reports by all relevant governmental entities have been submitted enabling appropriate action by the Village Board of Trustees to achieve the following:

(a) Adoption and execution of this Agreement by ordinance;

(b) Adoption of such ordinances as are necessary to effectuate the terms and provisions of this Agreement including the granting of a special use permit with modifications, subdivision, and development of the Subject Property, pursuant to the terms and conditions of this Agreement;

(c) Adoption of such other ordinances, resolutions and actions as may be necessary to fulfill and implement this Agreement pursuant to the terms and conditions herein contained.

5. The parties hereto have determined that it is in the best interests of the Village and the Owner and in furtherance of the public health, safety, comfort, morals and welfare of the community to execute and implement this Agreement and that implementation of this Agreement

and development of the Subject Property pursuant to its terms and conditions will be in implementation of the comprehensive plan of the Village and will constitute a preservation of environmental values.

6. The Owner covenants and agrees that it will execute all reasonably necessary directions and issue all reasonably necessary instructions and take all other action necessary to perform its obligations hereunder.

SECTION ONE: Special Use with Modifications, Subdivision, Plan Approval, and Design Standards.

A. The Village, upon the necessary hearings before the relevant governmental bodies having taken place pursuant to statute and ordinances in such cases made and provided and pursuant to requisite notice having been given, will by proper ordinance cause the above-described Subject Property to be granted a special use permit to infringe on and modify a wetland and floodplain with modifications to reduce the existing fifty foot (50') wetland setback, to reduce the existing fifty foot (50') floodplain setback, to reduce the fifteen foot (15') wide detention pond access buffer, and to increase the pond side slopes from 4:1 to 3:1 slope.

B. The Subject Property shall be developed substantially in accordance with the Preliminary Site Plan titled "Preliminary Site Plan for Bluff Pointe Subdivision" appended hereto and incorporated herein as EXHIBIT A, prepared by Designtek Engineering, dated February 23, 2017, last revised April 10, 2017, subject to the following conditions:

1. Prior to issuance of building permits, pay the Village \$21,008 in recapture fees for the Wolf Road sanitary interceptor extension.

2. Work with Village Engineers to shift pond away from south property line.

3. Work with Village Engineers to assess Wolf Road culvert condition.

4. Complete a Traffic Study that meets Village Engineer's requirements.

5. Construct the Wolf Road curb cut prior to site development (subject to Illinois Department of Transportation approval) and then utilize it for all construction traffic access.

6. The development of the three already platted but undeveloped lots in adjacent The Grasslands is not part of this petition and requires separate consideration and approval.

7. Submit a Final Landscape Plan, meeting all Village Codes, for separate Village review and approval, within sixty (60) days of final engineering approval, reflecting the submitted Preliminary Landscape Plan and including the following items:

a. Address the required tree mitigation as a part of the final Landscape Plan.

b. Provide a hydro-period analysis and maintenance and monitoring plan for pond.

c. Per the Spring Creek (Gallagher & Henry) Annexation Agreement, dated September 15, 1994, provide a minimum fifteen foot (15') landscape buffer on the rear of lots 37-49, to be installed by the home builder and protected by landscape easement shown on the Final Plat. Plant material must be carefully coordinated with any rear lot drainage swales and other grading.

d. Plant trees around the detention pond and along the rear slope abutting lots 31-36.

8. Site Plan building envelopes, setbacks, and easements are subject to final engineering and building approvals.

9. Retaining walls are not to exceed three feet (3') in height unless they are designed and tiered per Code requirements.

10. Meet all final Village engineering and building division requirements and approvals.

C. The Owner shall subdivide the land and dedicate the subdivision's interior public streets, as shown on the Preliminary Site Plan titled "Preliminary Site Plan for Bluff Pointe Subdivision" appended hereto and incorporated herein as EXHIBIT A, prepared by Designtek Engineering, dated February 23, 2017, last revised April 10, 2017, subject to the condition that the Owner submit a final Record Plat of Subdivision to the Village for approval and recording, which Plat shall include the conditions set forth in Subsections A and B above.

SECTION TWO: Contributions.

The Owner shall, upon issuance of the initial occupancy permit, make the following contributions, as required by Village ordinances and codes, which are payable to the Village on behalf of the following:

Per residential unit	<u>Single Family</u>
Orland Park Board of Library Trustees	\$ 125.00
Fair Share Road Exaction Fee*	\$1,500.00
Corporate Services	\$ 400.00
Recapture Fee for Wolf Road Sanitary per Spring Creek Annexation Agreement, dated September 15, 1994	\$21,008.00

*This is subject to the Illinois Department of Transportation's requirement to install turning lanes as part of the development. Owner shall be reimbursed for its fair share road exaction fee out of fair share road exaction fees paid by the future, building permittees of the Subject Property, and the future building permittees of the adjoining developer(s) Calvert Property.

Said sum of money shall be a lien on the Subject Property until paid, and the Owner acquiesces and agrees to the payment of said sum being a lien on the Subject Property subordinate to any acquisition loan or construction development loan of this or any subsequent

developer of the Subject Property from the date hereof. In the event of a default in the payment of said sums, or any part thereof, the Village shall have the right to foreclose the lien aforesaid in the same manner as provided for with respect to a mortgage foreclosure. Other than such payments to the Village as provided in this Agreement as well as the customary permit and inspection fees, and any recapture fees due to the Village pursuant to the Spring Creek (Gallagher & Henry) Annexation Agreement, dated September 15, 1994, no additional contributions, impact or exaction fees shall be paid to the Village by the Owner.

The Village shall solely determine how said sum so paid shall be allocated and disbursed.

Sums of money required to be paid hereunder shall be obligations of the Owner and all successors in title, and no conveyance of the Subject Property shall relieve the Owner or any subsequent owner or developer, of said obligation. In the event of a default in payment, in addition to the remedy of foreclosure of the lien aforementioned, the Village shall have all other rights and remedies against the Owner or any subsequent owner for the collection of said monies.

SECTION THREE: Storm Water Retention/Detention and Storm Sewers.

Storm Water runoff emanating from the Subject Property shall be retained or detained in the proposed detention pond on Out Lot 51 in the southeast portion of the Subject Property. The design criteria, construction and maintenance of the storm sewers shall be in accordance with all standards of the Village in force on the date of final plan, and also all standards of the Metropolitan Water Reclamation District of Greater Chicago ("MWRD") in effect at the time of final plan approval, and shall be completed by the Owner at its expense. The Owner shall maintain all storm sewers until final acceptance by the Village.

The Subject Property's proposed detention basin includes the construction of embankment dams that Illinois Department of Natural Resources has classified as 'Small Size Class III Dams'. The dam must meet the following requirements:

1. The dam must meet all Illinois Department of Natural Resources Office of Water Resources and U.S. Army Corp (or other outside agency) regulations.
2. The dam must be constructed per the Village's final engineering approvals.
3. Bluff Pointe's Engineer must provide an Operations & Maintenance Manual for the dam (once final engineering is complete).

SECTION FOUR: Water Supply.

The Owner shall be required to construct and install at its expense all necessary on-site water mains to service the Subject Property. All such water mains shall be sized, constructed and installed in accordance with the Code and final engineering plans approved by the Village. The Village agrees to permit connection of the aforementioned water mains to the water facilities of the Village and to furnish water service on the same basis as said services are furnished to other parts of the Village. The connection, expansion and user fees relating to water installation and services shall be that charge generally applicable in the Village for similar installations and services at the time that the fee or charge is due. The Owner shall be responsible for all

maintenance of the installed water mains and appurtenances until formal acceptance thereof is provided from the Village.

SECTION FIVE: Sanitary Sewers.

The Owner shall be required to construct and install at its expense all necessary sanitary sewers to service the Subject Property in accordance with the Code and final engineering plans approved by the Village. Said sewers shall be sized as required by the Village. All required fees are due before a building permit will be issued. The design criteria and construction of the sanitary sewers shall be in accordance with all standards of the Village in force on the date of final plan, and also all standards of the MWRD in effect at the time of final plan approval, and shall be completed by the Owner at its expense. The Owner shall maintain the sanitary sewer mains and appurtenances until final acceptance by the Village.

SECTION SIX: Sidewalks, Street Lights, Streets and Landscaping.

Upon substantial completion of improvements on each lot, the sidewalk on each such lot shown on the final plan (EXHIBIT A) shall be constructed by the Owner to the applicable Village standards, shall be designed and constructed to meet the Illinois Accessibility Code for maximum slope grade and shall be maintained until final acceptance by the Village. The Owner shall construct all street lights and all necessary electrical wiring required by the Village in order to meet all applicable Village standards. The Owner shall maintain the street lighting until final acceptance by the Village.

The Owner shall construct and install all landscaping requirements per the final Landscape Plan, meeting all Village Codes, as required by Section One B.7 of this Development Agreement.

Also, the Owner shall be required to keep all public streets located on the Subject Property as well as adjoining streets free from mud and debris generated by construction activity on the Subject Property. Such streets must be cleaned at least once a week, and more often if required by the Village in its sole judgment. For each day that the streets are not cleaned as required hereunder during construction, the Owner shall be subject to a fine as provided in the Code. If any such fine is not promptly paid, the Village shall have the right to stop any and all further construction until paid.

SECTION SEVEN: Easements.

The Owner agrees at the time of approval of this Development Agreement to grant to the Village, and/or obtain grants to the Village, of all necessary easements for the provision of sewer, water, street, or other utilities, including cable television, or for other improvements which may serve not only the Subject Property, but other properties in the general area, such as cross-access easements. The Owner shall grant a blanket easement to the Village to have access to and the right to maintain any storm water management facilities located on the Subject Property for storm water management purposes. The Village shall have the right, but not the duty, in its discretion to go in and perform such maintenance work if necessary and to charge the

Owner for the costs of the same, including the right to record a lien against the Subject Property if such costs are not paid.

All such easements to be granted shall name the Village and/or other appropriate entities designated by the Village as grantee hereunder. It shall be the responsibility of the Owner to obtain all easements, both on-site and off-site, necessary to serve the Subject Property.

SECTION EIGHT: Developmental Codes and Ordinances and General Matters.

The development of the Subject Property shall be in accordance with the existing building, zoning, subdivision, storm water retention and other developmental codes and ordinances of the Village as they exist on the date hereof, or, with respect to codes and ordinances subsequently adopted by the Village for the protection of life, health and safety and applicable to similar commercial buildings Village-wide, as are in existence during development of the Subject Property. Planning and engineering designs and standards, and road construction and dedication of public improvements, shall be in accordance with the then existing ordinances of the Village, or in accordance with the statutes and regulations of other governmental agencies having jurisdiction thereof if such standards are more stringent than those of the Village of Orland Park at such time.

Planning and engineering designs and standards or as Spring Creek Agreement otherwise dictates, and road construction and dedication of public improvements, shall be in accordance with the then existing ordinances of the Village or in accordance with the statutes and regulations of other governmental agencies having jurisdiction thereof if such standards are more stringent than those of the Village at such time. Notwithstanding the foregoing, the dollar amounts for the contributions set forth in SECTION TWO above shall not be increased during the term of this Agreement; however, all other fees, etc. set forth under the various ordinances of the Village and the above referenced Spring Creek (Gallagher & Henry) Annexation Agreement, dated September 15, 1994, shall be paid by the Owner in the amounts set forth in the Village ordinances at the time each permit is issued.

The Owner shall submit to the Village the following list of Permanent Index Numbers (PINs)s received from the respective county following the recording of the plat of subdivision in accordance with the below schedule:

1. Submit a list of PINs to the Village once the Cook County issues them to the Owner of record;
2. Submit the list of PINs no later than two (2) years following this Agreement;
3. Submit the list of PINs before the issuance of the first Certificate of Occupancy.

Owner may have up to five (5) building permits issued prior to the installation of the road binder course. No occupancy permit shall be issued for any building prior to the completion and acceptance by the Village of any required public improvements. Any required public improvements shall be completed within one (1) year from the date hereof and the Owner shall deliver to the Village an irrevocable letter of credit (the form

of security the Owner has elected to provide) in a form satisfactory to and from a bank or financial institution and in an amount as provided for in the Code. Said Letter of Credit is to include all costs related to required lighting, landscaping, roadway, sidewalk, walking path, sewer and water lines and storm water management facilities. The Village may, in its discretion, permit the amount of said letter of credit (or such other form of security acceptable to the Village) to be reduced, from time to time, as major public improvements are completed. The Village may also require an increase, from time to time, if the estimated cost of completing the public improvements increases more than 3% per annum.

SECTION NINE: Utilities.

All electricity, telephone, cable television and gas lines shall be installed underground, the location of which underground utilities shall be at the Owner's option as long as the underground facilities do not conflict with Village-maintained infrastructure.

SECTION TEN: Impact Requirements.

The Owner agrees that any and all contributions, dedications, donations and easements provided for in this Agreement substantially advance legitimate governmental interests of the Village, including, but not limited to, providing its residents, with access to and use of public utilities, streets, libraries, schools, parks and recreation facilities, police protection, fire protection, and emergency services. The Owner further agrees that the contributions, dedications, donations and easements required by this Agreement are uniquely attributable to, reasonably related to, and made necessary by the development of the Subject Property.

SECTION ELEVEN: Binding Effect and Term and Covenants Running with the Land.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, successor owners of record of the Subject Property, assignees, lessees and upon any successor municipal authorities of said Village and successor municipalities, for a period of ten (10) years from the date of execution hereof and any extended time that may be agreed to by amendment.

The terms and conditions of this Agreement relative to the payment of monies to the various contributions to the Village, various Village recapture funds, construction and/or dedication of public improvements, granting of easements to the Village, dedication of rights-of-way to the Village and the developmental standards established herein shall constitute covenants which shall run with the land.

SECTION TWELVE: Notices.

Unless otherwise notified in writing, all notices, requests and demands shall be in writing and shall be personally delivered to or mailed by United States Certified mail, postage prepaid and return receipt requested, as follows:

For the Village:

1. Keith Pekau
Village President
14700 South Ravinia Avenue
Orland Park, Illinois 60462
2. John C. Mehalek
Village Clerk
14700 South Ravinia Avenue
Orland Park, Illinois 60462
3. E. Kenneth Friker
Village Attorney
Klein, Thorpe & Jenkins, Ltd.
15010 S. Ravinia Avenue
Orland Park, Illinois 60462

For the Owner:

McNaughton Development, Inc.
11 S 220 Jackson Street #101
Burr Ridge, Illinois 60527

or such other addresses as any party hereto may designate in writing to the other parties pursuant to the provisions of this Section.

SECTION THIRTEEN: Signs.

The location of any sign upon the Subject Property shall be in accordance with an approved Signage Plan and the Village's Sign Ordinance, as set forth in the Code, and shall have reasonable setbacks from streets and highways as the interest of safety may require.

SECTION FOURTEEN: Conveyance, Dedication and Donation of Real Estate and Certain Personal Property.

Any conveyance, dedication or donation of real estate required of the Owner (hereinafter referred to as Grantor for purposes of this SECTION FOURTEEN) to the Village or other governmental authority under this Agreement shall be made in conformance with the following requirements and any other applicable provisions of this Agreement:

A. Fee Simple Title. The conveyance, dedication or donation shall be of a fee simple title by trustee's deed or other appropriate instrument.

B. Merchantable Title. Title to the real estate shall be good and marketable.

C. Form and Contents of Deed. The conveyance, dedication or donation shall be by delivery of a good, sufficient and recordable deed, plat of dedication, or appropriate dedication on a recorded plat of subdivision. The deed, conveyance or dedication may be subject only to:

(1) covenants, restrictions and easements of record, provided the same do not render the real estate materially unsuitable for the purposes for which it is being conveyed, dedicated or donated;

(2) terms of this Agreement;

(3) general taxes for the year in which the deed, conveyance or dedication is delivered or made and for the prior year if the amount of prior year's taxes is not determinable at the time of delivery, conveyance or dedication; and

(4) such other exceptions acceptable to the grantee.

D. Title Insurance. Grantor, shall provide to the Village (hereinafter referred to as Grantee for purposes of this Section), not less than ten (10) days prior to the time for delivery of the deed, conveyance or dedication, a commitment for title insurance from Chicago Title Insurance Company or such other title insurance company acceptable to the Grantee. The commitment for title insurance shall be in usual and customary form subject only to:

(1) the usual and customary standard exceptions contained therein;

(2) taxes for the year in which the deed is delivered and for the prior year if the amount of such prior year's taxes is not determinable at the time of delivery of the deed, conveyance or dedication;

(3) subparagraphs 1 and 2 of paragraph C above; and

(4) such other exceptions as are acceptable to the grantee.

The commitment for title insurance shall be in the amount of the fair market value of the real estate and shall be dated not less than twenty (20) days prior to the time for delivery of the deed, conveyance or dedication. Grantor shall further cause to be issued within thirty (30) days after delivery of the deed, conveyance or dedication a title insurance policy in such amount from the company issuing the commitment for title insurance, subject only to the exceptions stated above.

All title insurance charges shall be borne by Grantor.

E. Taxes, Liens, Assessments, Etc.

General taxes and all other taxes, assessments, liens and charges of whatever nature affecting the real estate shall be paid and removed prior to delivery of the deed, conveyance or dedication. To the extent that any such item cannot be removed prior to delivery of the deed,

conveyance or dedication because the amount of the same cannot then be determined, Grantor hereby covenants that it will promptly pay the same upon determination of such amount and that it will indemnify, hold harmless and defend the Village against any loss or expense, including but not limited to attorneys' fees and expenses of litigation, arising as a result of a breach of the foregoing covenant.

F. Delivery of Deed, Conveyance or Dedication.

To the extent not provided in this Agreement, delivery of the deed, conveyance or dedication shall occur at a date, time and place mutually agreeable to Grantor and the Village, otherwise at a date, time and place set by the Village not less than thirty (30) days after notice thereof is given by the Village to Grantor.

G. Environmental Assessment.

Not less than five days prior to any conveyance, dedication or donation of real estate required under this Agreement, any Village ordinance or other requirement, the Grantor, at its sole cost and expense, shall have caused to be prepared and submitted to the Village, a written report of a site assessment and environmental audit (in a form not to exceed standards set forth in a Phase I Environmental Study), in scope, form and substance, and prepared by an independent, competent and qualified environmental engineer ("Engineer") satisfactory to the Village (the "Environmental Audit"), and dated not more than sixty (60) days prior to the transfer date, showing the Engineer made all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial and customary practice in an effort to minimize liability, which takes into account and satisfies the "innocent landowner" provision set forth at 42 U.S.C. 96901(35), such that consistent with generally accepted engineering practice and procedure, no evidence or indication came to light which would suggest there was a release of substances on the property which could necessitate an environmental response action, and which demonstrates that the property and the facility complies with, and does not deviate from, all applicable federal, state, county, regional and local environmental statutes, laws, ordinances, rules and regulations, including any licenses, permits or certificates required thereunder.

The Environmental Audit shall also demonstrate that the property and the improvements located thereon, if any, do not contain:

- (1) asbestos in any form;
- (2) urea formaldehyde;
- (3) transformers or other equipment that contain fluid containing polychlorinated biphenyls;
- (4) underground storage tanks, or
- (5) any other chemical, material or substance, the exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority (the "Authorities")

or which poses a hazard to the health and safety of the occupants of the property or the facility, or the occupants of adjacent property.

The Environmental Audit shall also demonstrate that the property and facility are not, and have not been, the subject of any past, existing or threatened investigation, inquiry or proceeding concerning environmental matters by the Authorities, and that no notice or submission concerning environmental matters has been given or should be given with regard to the property and the facility to the Authorities. The Environmental Audit shall demonstrate that the property and facility are not subject to, or covered by, the requirements of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. 11001, et seq., and that the property is not now being used and has never been used for any activities involving directly or indirectly the use, treatment, storage or disposal of any hazardous or toxic chemical, material, substance or waste.

The Grantor of the property and facility acknowledges and agrees that the Village shall not be obligated to take title to any land if, in its sole and exclusive judgment (including without limitations, information revealed by the Environmental Audit), that the use or condition of the property, or any part thereof, poses a material health, safety or environmental hazard.

SECTION FIFTEEN: Reimbursement of Village for Legal and Other Fees and Expenses.

A. To Effective Date of Agreement.

The Owner, concurrently with the issuance of the building permit, shall reimburse the Village as required under the Spring Creek Agreement for the following expenses incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Subject Property:

- (1) the costs incurred by the Village for engineering services;
- (2) all reasonable attorneys' fees incurred by the Village; and
- (3) miscellaneous Village expenses, such as legal publication costs, recording fees and copying expense.

B. From and After Effective Date of Agreement.

Except as hereinafter provided, upon demand by the Village made by and through its President, the Owner from time to time shall promptly reimburse the Village for all enumerated reasonable expenses and costs incurred by the Village in the administration of the Agreement, including and limited to engineering fees, attorneys' fees and out of pocket expenses involving various and sundry matters such as, but not limited to, preparation and publication, if any, of all notices, resolutions, ordinances and other documents required hereunder.

Such costs and expenses incurred by the Village in the administration of the Agreement shall be evidenced to the Owner upon its request, by a sworn statement of the Village; and such

costs and expenses may be further confirmed by the Owner at its option from additional documents relevant to determining such costs and expenses as designated from time to time by the Owner.

Notwithstanding the immediately preceding paragraph, the Owner shall in no event be required to reimburse the Village or pay for any expenses or costs of the Village as aforesaid more than once, whether such are reimbursed or paid through special assessment proceedings, through fees established by the Village ordinances or otherwise.

In the event that any third party other than the Troost Family or its Successors, or parties institute any legal proceedings against any party hereto, which relate to the terms of this Agreement, then, in that event, the Owner on notice from the Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however:

- (1) The Owner shall not make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment, without the approval of the Village.
- (2) If the Village, in its sole discretion, determines there is, or may probably be, a conflict of interest between the Village and the Owner on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then the Owner shall reimburse the Village from time to time on written demand from the President of the Village and notice of the amount due for any expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other reasonable expenses of litigation, incurred by the Village in connection therewith.

In the event a party hereto institutes legal proceedings against any other party for violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against the unsuccessful party all expenses of such legal proceedings incurred by the successful party, including but not limited to the court costs and reasonable attorneys' fees, witnesses' fees, etc., incurred in connection therewith. Either party may, in its sole discretion, appeal any such judgment rendered in favor of the other party.

SECTION SIXTEEN: Warranties and Representations.

The Owner represents and warrants to the Village as follows:

1. The Owner is the legal title holder and the owner of record of the Subject Property as indicated on the first page of this Agreement.
2. The Owner proposes to develop the Subject Property in the manner contemplated in this Agreement.

3. Other than the Owner, no other entity or person has any interest as of the date hereof in the Subject Property or its development as herein proposed.

4. The Owner has provided the legal description of the Subject Property set forth in this Agreement and the attached Exhibits and said legal description is accurate and correct.

5. With respect to any real estate herein which will become property of the Village, the Owner warrants and represents, to the best of its knowledge (and that of its officers and shareholders), that during the period of its ownership or control over said Subject Property it has no knowledge of (and that of its officers and shareholders), nor reason to suspect, that there has been any underground storage (or other) tank or any presence, disposal, release or threatened release of hazardous substances or hazardous wastes on, from or under the property, by or through the Owner or any other party whatsoever. The Owner similarly represents and warrants that to the best of its knowledge (and that of its officers and shareholders), there was no underground storage (or other) tank and not any presence, disposal, release or threatened release of hazardous substances or hazardous waste on, from or under the property prior to the Owner's ownership or control of the Subject Property.

The Owner similarly further represents and warrants that to the best of its knowledge (and that of its officers and shareholders), the Subject Property (including underlying soil and ground water conditions) is not in violation of any state, local, federal, municipal or other law, statute, regulation, code, ordinance, decree or other relating to hygienic or environmental conditions, and during ownership or control of the property by the Owner, no party has stored or disposed of any flammable explosives, radioactive materials, hazardous waste, toxic substances or other related materials on, under or about the property. The Owner shall and does hereby agree to indemnify, protect, defend, and hold the Village harmless from and against any claims, losses, demands, costs, proceedings, suits, liabilities, damages and causes of action, including consequential damages and attorneys' fees of counsel selected by the Village and other costs of defense incurred, arising against or suffered by the Village of its assigns as a consequence, directly or indirectly, of any misrepresentation by the Owner of the foregoing representations and warranties, whether discovered before or after the conveyance of any of the Subject Property to the Village.

SECTION SEVENTEEN: Continuity of Obligations.

Notwithstanding any provision of this Agreement to the contrary, including but not limited to the sale or conveyance of all or any part of the Subject Property by the Owner, the Owner shall at all times during the term of this Agreement remain liable to the Village for the faithful performance of all obligations imposed upon it by this Agreement until such obligations have been fully performed or until the Village, at its sole option, has otherwise released them from any or all of such obligations.

SECTION EIGHTEEN: No Waiver or Relinquishment of Right to Enforce Agreement.

Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or either of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

SECTION NINETEEN: Village Approval or Direction.

Where the Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

SECTION TWENTY: Singular and Plural.

Wherever appropriate in this Agreement, the singular shall include the plural, and the plural shall include the singular.

SECTION TWENTY-ONE: Section Headings and Subheadings.

All section headings or other headings in this Agreement are for general aid of the reader and shall not limit the plain meaning or application of any of the provisions hereunder whether covered or relevant to such heading or not.

SECTION TWENTY-TWO: Recording.

A copy of this Agreement and any amendment thereto shall be recorded by the Village at the expense of the Owner.

SECTION TWENTY-THREE: Authorization to Execute.

The officers of the Owner executing this Agreement warrant that they have been lawfully authorized to execute this Agreement on their behalf. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of the Village to execute this Agreement. The Owner and the Village shall, upon request, deliver to each other, at the respective time such entities cause their authorized agents to affix their signatures hereto, copies of all bylaws, resolutions, ordinances, partnership agreements, letters of direction or other documents required to legally evidence the authority to so execute this Agreement on behalf of the respective entities.

SECTION TWENTY-FOUR: Amendment.

This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between the parties hereto relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. Except as herein otherwise provided, no subse-

quent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

SECTION TWENTY-FIVE: Counterparts.

This Agreement may be executed in two or more counterparts, each of which taken together, shall constitute one and the same instrument.

SECTION TWENTY-SIX: Curing Default.

The parties to this Agreement reserve a right to cure any default hereunder within thirty (30) days from written notice of such default, or such additional time as is reasonably required to cure the default so long as the cure of default is commenced within said thirty (30) days, and efforts to effect such cure of default are diligently prosecuted to completion.

SECTION TWENTY-SEVEN: Conflict Between the Text and Exhibits.

In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.

SECTION TWENTY-EIGHT: 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.

SECTION TWENTY-NINE: Definition of Village.

When the term the Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.

SECTION THIRTY: Mutual Assistance.

The Parties hereto shall do all things necessary and appropriate to carry out the terms, obligations, and provisions of this Agreement and the agreements provided for herein to aid and assist each other in carrying out the terms, obligations, and objectives of the Parties, including, without limitation, the holding of public hearings, the approval of site plans, plats, building permits, the enactment of further Village resolutions and ordinances, the recordation of said documents and all other acts that may be appropriate and necessary, to achieve the objectives of the Parties except as otherwise prohibited in this Agreement.

The Parties shall promptly and fully cooperate with each other in seeking from any and all appropriate governmental bodies, approvals and permits for, including but not limited to, the construction of sanitary and storm water sewer lines, water lines, private or public ingress and

egress drives, bridges, retaining walls, turn lanes, acceleration and deceleration lanes, traffic signals, and all other necessary or required easements and permits, including, without limitation, promptly executing permit applications for the Illinois Environmental Protection Agency, Illinois Department of Transportation, the Army Corps of Engineers, Cook County, State of Illinois and any agency or department of the United States of America federal government.

SECTION THIRTY-ONE: Miscellaneous.

The Parties hereto agree that this Agreement and/or any Exhibits attached hereto may be amended only by mutual consent of the Parties, by adoption of an ordinance or resolution of the Village approving said amendment, as provided by law, and the execution of said amendment by all of the Parties or their successors in interest.

Except as otherwise expressly provided herein, this Agreement and the attached Exhibits A and B supersede all prior agreements except for the Spring Creek Agreement, negotiations and exhibits and is a full integration of the entire agreement between the Parties.

The Parties acknowledge and agree that the individuals who are members of the group constituting the corporate authorities of the Village are entering into this Agreement in their corporate capacities as members of such group and shall have no personal liability in their individual capacities.

This Agreement shall be enforceable by any of the Parties hereto by any appropriate action at law or in equity.

Time is of the essence in the performance of the obligations of the Parties to this Agreement.

Except for any applicable provision of the above referenced Spring Creek (Gallagher & Henry) Annexation Agreement, dated September 15, 1994, the provisions of this Agreement shall supersede all present and future Village ordinances, codes and regulations and any other alleged agreements and contracts that are in conflict herewith as they may apply to the Subject Property or the Owner.

SECTION THIRTY-TWO: Execution of Agreement.

This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which he signs this Agreement on page 1 hereof which date shall be the effective date of this Agreement.

VILLAGE OF ORLAND PARK, an
Illinois Municipal Corporation

By: _____
Village President

ATTEST:

By: _____
Village Clerk

OWNER

McNaughton Development, Inc.
an Illinois Corporation

By: _____

Its _____

ACKNOWLEDGMENTS

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

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that KEITH PEKAU, personally known to me to be the President of the Village of Orland Park, and JOHN C. MEHALEK, personally known to me to be the Village Clerk of said municipal corporation, and 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 severally acknowledged that as such President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this ____ day of _____, 2017.

My commission expires _____

Notary Public

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

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named _____ and _____, personally known to me to be _____ and _____ of MCNAUGHTON DEVELOPMENT INC., and the same persons whose names are subscribed to the foregoing instrument as said _____ and _____ of MCNAUGHTON DEVELOPMENT INC., appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notary Seal this _____ day of _____, 2017.

Notary Public

Commission expires: _____