

PROPERTY ADDRESS:
2132 CITYGATE LANE
NAPERVILLE, IL 60563

P.I.N.S
07-03-103-017
07-03-103-018

RETURN TO:
CITY OF NAPERVILLE
CITY CLERK'S OFFICE
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60540

**AMENDED
OWNER'S ACKNOWLEDGEMENT AND ACCEPTANCE AGREEMENT
FOR LINCOLN AT CITYGATE CENTRE**

This Owner's Acknowledgement and Acceptance Agreement for Lincoln at CityGate Centre ("Agreement") located at 2132 CityGate Lane, Naperville, IL 60563, is entered into by and between the City of Naperville, a home rule unit of local government under the Constitution and laws of the State of Illinois ("City" or "City of Naperville"), with an address of 400 South Eagle Street, Naperville, Illinois 60540, and CityGate Centre Ventures LLC, a Delaware limited liability company ("OWNER AND DEVELOPER"), c/o Joe Segobiano, with offices at 1110 Jorie Boulevard, Oak Brook, IL 60523. The City and the OWNER AND DEVELOPER are together hereinafter referred to as the "Parties" and sometimes individually as "Party". In addition, Calamos Property Holdings, LLC ("CALAMOS") is a Party to this Agreement and shall be bound hereby for the purposes identified in paragraph 12 hereof.

RECITALS

A. This Agreement pertains to certain real property located within the corporate limits of the City of Naperville with a common address of 2132 CityGate Lane, Naperville, IL 60563, having parcel identification numbers of 07-03-103-017 and 07-03-103-018 (hereinafter referred as the "**SUBJECT PROPERTY**"). OWNER AND DEVELOPER is the contract purchaser of the SUBJECT PROPERTY.

B. The SUBJECT PROPERTY is subject to the terms and conditions set forth in the following ordinances ("**Lincoln at CityGate Centre Ordinances**"), approved for the SUBJECT PROPERTY by the Naperville City Council on September 4, 2019:

- | | |
|------------------|--|
| Ordinance 19-123 | An ordinance approving a major change to the CityGate Centre PUD in order to permit a conditional use for multi-family dwelling units in OCI and approving a preliminary PUD plat with certain deviations (" Preliminary PUD Plat "); |
| Ordinance 19-124 | An ordinance approving a preliminary plat of subdivision for Lots 2 and 3 of CityGate Centre Subdivision; and |

Ordinance 19-125 An ordinance approving a variance from Section 5-2C-3 (Exterior Wall Construction) of Title 5 (Building Regulations) of the Naperville Municipal Code.

C. OWNER AND DEVELOPER has petitioned the City for approval of a Final Plat of Subdivision for the Lincoln at CityGate Centre Subdivision (“**Final Subdivision Plat**”) in order to consolidate a portion of Lot 3 into Lot 2 and to vertically subdivide the SUBJECT PROPERTY for future ownership purposes.

D. OWNER AND DEVELOPER has requested amendment of this Agreement to include CALAMOS as a Party hereto for the limited purposes described in Paragraph 12 hereof.

D. By entering into this Agreement, the City is acting pursuant to its home rule authority under the Constitution and laws of the State of Illinois.

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties agree as follows:

1. **Recitals Incorporated.** The foregoing Recitals are incorporated herein as though fully set forth in this Section 1.
2. **Ongoing Compliance.** In the development and operation of the SUBJECT PROPERTY, the OWNER AND DEVELOPER shall be subject to and shall fulfill all conditions set forth or referenced herein associated with the SUBJECT PROPERTY, including but not limited to: (i) the terms of this Agreement; (ii) the provisions of the Naperville Municipal Code, as amended from time to time; and (iii) all ordinances and resolutions passed or adopted by the Naperville City Council related to the SUBJECT PROPERTY, including but not limited to the Lincoln at CityGate Centre Ordinances.
3. **Development of the SUBJECT PROPERTY.** OWNER AND DEVELOPER shall construct all improvements related to the development of the SUBJECT PROPERTY in compliance with final engineering plans prepared by Kimley-Horn and Associates, Inc., dated January 31, 2020, last revised April 14, 2020 (“**Final Engineering Plans**”) at its sole cost unless otherwise provided herein.
4. **School Donation: \$163,638.03** (based on 211 one-bedroom apartment units and 74 two-bedroom apartment units), in accordance with Table A (attached). OWNER AND DEVELOPER acknowledges that the required school donation amount (\$163,638.03) is calculated based on Section 7-3-5 (Dedication of Park Lands and School Sites or For Payments or Fees In Lieu Of) of the Naperville Municipal Code. Section 7-3-5:4.1 estimates that the proposed 285 apartment units will generate 21.8 students to Indian Prairie School District 204 (“**SCHOOL DISTRICT #204**”). OWNER AND DEVELOPER has elected to pay a cash-in-lieu of a contribution of land for the required school donation pursuant to the “Estimated Lump Sum Payment” provisions set forth in Section 7-3-5:5.2.1 and Subsection 5:5.2.1.1 of the Naperville Municipal Code.

OWNER and DEVELOPER agrees that payment of the school donation amount established herein shall not be paid under protest, or otherwise objected to, and shall be paid prior to recording the Final Subdivision Plat for the SUBJECT PROPERTY.

4.1 **Potential Additional School Donation.** SCHOOL DISTRICT #204 does not agree that the proposed 285 apartment units will generate 21.8 students and estimates the apartment units will generate 112.9 students. Therefore, OWNER AND DEVELOPER agrees that one year after issuance of the certificate of occupancy for the apartment building, SCHOOL DISTRICT #204 will notify OWNER AND DEVELOPER if any additional students above 22 students have enrolled in Indian Prairie School District #204. Upon notification that over 22 students have enrolled in Indian Prairie School District 204, OWNER AND DEVELOPER will verify the number of additional students and the enrollment of said students. OWNER AND DEVELOPER will then be required to pay SCHOOL DISTRICT #204 the amount of \$7,506.33 (\$163,638.03 divided by 21.8) for each student above 22 students for up to a total of 22 additional students as described in the letter from School District #204 which reflects the foregoing agreement between School District #204 and the OWNER AND DEVELOPER and is attached to this Agreement and made part hereof as **Exhibit A**.

5. Park Donation: \$1,142,670.43 (based on 211 one-bedroom apartment units and 74 two bedroom apartment units and a 20% credit for the provision of private open space), in accordance with Table B (attached). OWNER AND DEVELOPER acknowledges that the required park donation amount (\$1,142,670.43) is calculated based on Section 7-3-5 (Dedication of Park Lands and School Sites or For Payments or Fees In Lieu Of) of the Naperville Municipal Code. OWNER AND DEVELOPER is eligible for a 20% credit in the total park donation payment due to the provision of private open space for recreation areas and facilities pursuant to Section 7-3-5:1.3 (Dedication of Park Lands and School Sites or For Payments of Fees in Lieu of: Credit for Private Open Spaces and Recreation Areas). The required park donation without the 20% credit would be \$1,433,094.96. OWNER AND DEVELOPER has negotiated an agreement with the Naperville Park District regarding the 20% credit and required amenities which will be recorded with the DuPage County Recorder, and is attached to this Agreement, and made part hereof, as Exhibit B.

OWNER AND DEVELOPER has elected to pay the cash-in-lieu of a contribution of land as described above for the required park donation pursuant to the "Estimated Lump Sum Payment" provisions set forth in Section 7-3-5:5.2.1 and Subsection 5:5.2.1.1 of the Naperville Municipal Code. OWNER and DEVELOPER agrees that payment of the park donation amount established herein shall not be paid under protest, or otherwise objected to, and shall be paid prior to recording the Final Subdivision Plat for the SUBJECT PROPERTY.

6. Fees Due. OWNER AND DEVELOPER shall pay all fees (which fees shall not be paid under protest or otherwise objected to) set forth herein and required by the Naperville Municipal Code as amended from time to time, including but not limited to the following:

6.1 Engineering Review Fee: \$5,118.07 (1.65% of the approved engineer's cost estimate). This fee is due prior to recording the Final Plat of Subdivision for the SUBJECT PROPERTY.

6.2 Infrastructure Availability Charges and User Fees. Upon a request for connection and service to the City's water or sanitary system, OWNER AND DEVELOPER shall pay for all infrastructure availability charges and user fees in accordance with Title 8 of the Naperville Municipal Code, as amended from time to time, as are applicable to that portion of the SUBJECT PROPERTY for which connection and service is requested.

6.3 Facility Installation Charges and User Fees. Upon a request for connection and service to the City of Naperville electric system, the OWNER AND DEVELOPER shall pay for all Facility Installation Charges (FIC) and user fees in accordance with Title 8 of the Naperville Municipal Code as amended from time to time, as are applicable to that portion of the SUBJECT PROPERTY for which connection and service is requested.

7. Financial Surety. Financial surety in a form and from a source acceptable to the City Attorney shall be provided and maintained by the OWNER AND DEVELOPER in the amount of \$341,204.60 (110% of the approved engineer's cost estimate) which guarantees the completion of public improvements and soil erosion and sedimentation control for the SUBJECT PROPERTY ("**Public Improvements**"). Financial surety shall be received and approved prior to issuance of a site development permit. Notwithstanding provision of said surety, until the Public Improvements have been accepted by the CITY, the OWNER AND DEVELOPER shall remain obligated for completion of said Public Improvements and/or (at the City's sole discretion) to pay any costs for said Public Improvements to the extent that the surety is not sufficient to pay for the costs of the Public Improvements, or in the event of any denial, or partial denial of coverage by the surety, or failure of the surety to timely respond to a demand for payment. Prior to acceptance of the Public Improvements by the City, the OWNER AND DEVELOPER shall provide the City with a maintenance surety for the Public Improvements in a form approved by the City Attorney and in conformity with the Naperville Municipal Code then in effect.

As to any surety, or maintenance surety, provided by the OWNER AND DEVELOPER to the City hereunder, the OWNER AND DEVELOPER agrees that: (1) at no time shall the City be liable for attorneys' fees with respect thereto; (2) OWNER AND DEVELOPER shall be liable to pay the City's reasonable attorneys' fees and costs (in-house or outside counsel) in enforcement thereof; and (3) the list of circumstances set forth in such surety (including any exhibit thereto) as bases for default thereunder shall entitle the City to draw on said surety.

8. Building Permits. No building permits shall be issued for the SUBJECT PROPERTY, or any portion thereof, until the Final Subdivision Plat has been recorded and until the City has determined that sufficient improvements have been installed and are functioning to protect the health, safety, and welfare of the public.

9. Rental Units. OWNER AND DEVELOPER agrees that all units in the SUBJECT PROPERTY will be for rental only and will not be utilized as condominiums. This provision is binding on the OWNER AND DEVELOPER and its respective successors, assigns, and transferees, and any subsidiary, affiliate or parent of the OWNER AND DEVELOPER. The City has the right, but not the obligation, to enforce this provision. The City Council may agree to waive this requirement in the future.

10. Landscaping. The OWNER AND DEVELOPER agrees to install trees and landscaping materials on and adjacent to the SUBJECT PROPERTY as depicted on the final landscape plan prepared by Daniel Weinbach & Partners, Ltd. on January 15, 2020, last revised on March 27, 2020. The landscaping must be completed to the satisfaction of the City Engineer no later than April 7, 2023. The City shall have the right to withhold issuance of any further building and occupancy permits for failure to complete the landscaping punch list items by April 7, 2023. Said timeframe may be modified by written approval of the City Engineer.

11. Attainable Housing Donation. OWNER AND DEVELOPER has offered to contribute two hundred thousand dollars (\$200,000.00) to the City to promote affordable or attainable housing in the City, or for such other related purpose as the City deems appropriate in its sole discretion. Said payment shall be made prior to issuance by the City of a building permit for any portion of the SUBJECT PROPERTY.

12. Traffic Signal. CALAMOS agrees that CALAMOS shall, at its cost without reimbursement or participation by the OWNER AND DEVELOPER or any affiliate thereof, or by the City, complete the design, installation, and construction associated with a traffic signal at Ferry Road and Comfort Drive within twelve (12) months of CALAMOS's receipt of all necessary approvals to construct the aforementioned traffic signal, including without limitation, CALAMOS's obtaining permitting from the DuPage Department of Transportation. The Parties acknowledge and agree that the DuPage Department of Transportation's issuance of permitting is contingent on signal warrants being met at said intersection. Permitting will be required through DuPage County. Once the traffic signal is installed, the CITY will pay DuPage County for energy and maintenance costs. CALAMOS will not be responsible for any future maintenance costs of said traffic signal. In addition to the foregoing, subsections 13.1, 13.2, 13.5, and 13.6 of this Agreement are hereby incorporated and made part of this paragraph 12 as though fully set forth herein and shall be applicable to CALAMOS. CALAMOS has no responsibilities, duties or obligations under this Agreement other than as expressly set forth in this Paragraph 12. For the sake of clarity, OWNER AND DEVELOPER shall not be responsible for any traffic signal work and shall not be in breach of this Agreement or denied any rights or benefits under this Agreement if such work is not punctually or faithfully performed by CALAMOS. The foregoing notwithstanding, nothing herein provided in this Paragraph 12 is intended to prohibit CALAMOS from seeking participation in the cost of the design, installation, and construction of said traffic signal from any other entity.

13. General Conditions.

13.1 Binding Effect. City and OWNER AND DEVELOPER acknowledge and agrees that the terms contained herein shall be binding upon and inure to the benefit of the CITY and the OWNER AND DEVELOPER, and their respective successors, assigns, and transferees, and any subsidiary, affiliate or parent of the OWNER AND DEVELOPER. CALAMOS acknowledges and agrees that the terms set forth in paragraph 12 of this Agreement, including but not limited to those terms incorporated by reference in paragraph 12, shall be binding upon CALAMOS and its successors, assigns, and transferees, and any subsidiary, affiliate or parent of CALAMOS.

13.2 Severability. It is mutually understood and agreed that all agreements and covenants herein are severable and that in the event any of them shall be held to be invalid by any court of competent jurisdiction, this Agreement shall be interpreted as if such invalid agreement or covenant were not contained herein.

13.3 Amendment. The agreements, covenants, terms and conditions herein contained may be modified only through the written mutual consent of the Parties hereto.

13.4 Assignment. This Agreement may not be assigned by any Party without the written consent of the other Parties, except that OWNER AND DEVELOPER shall have the right, without CALAMOS' or the City's consent, to assign this Agreement to an affiliate of Lincoln Property Company National LLC. OWNER AND DEVELOPER shall give prior written notice to the City Attorney that such assignment is intended, and shall document the affiliate status of the assignee.

13.5 Choice of Law and Venue. This Agreement shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this Agreement shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

13.6 Ambiguity. If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

13.7 Recordation. This Agreement will be recorded by the City with the office of the DuPage County Recorder.

13.8 Term. This Agreement shall be effective upon the Effective Date set forth in Section 13.14 hereof and shall terminate, without further action by either Party, upon the later of ten (10) years from the Effective Date or issuance of all final certificates of occupancy for the SUBJECT PROPERTY.

13.9 Automatic Expiration. If the final plat of subdivision for the SUBJECT PROPERTY is not recorded within five (5) years of the date of approval of the ordinance approving the final plat of subdivision and this Agreement by the City Council, the final plat of subdivision and this Agreement shall automatically lapse and become null and void without further action by the City.

13.10 Survival. The terms and conditions set forth in the following paragraphs of this Agreement shall survive the expiration or termination of this Agreement: 1 through 8, 12, and 13.1, 13.2, 13.5, 13.6, and 13.10.

13.11 Authority to Execute/OWNER AND DEVELOPER. The undersigned warrants that he/she is the OWNER AND DEVELOPER of the SUBJECT PROPERTY, or is the duly authorized representative of the OWNER AND DEVELOPER of the SUBJECT PROPERTY in the case of a corporation, partnership, trust, or similar ownership form which owns the SUBJECT PROPERTY and that the undersigned has full power and authority to sign this document and voluntarily agrees to the provisions set forth herein.

13.12 Authority to Execute/City. The undersigned City Manager warrants that he has been directed to, and has the authority to, execute this Agreement. The undersigned City Clerk warrants that she has been directed to, and has the authority to, attest the signature of the City Manager on this Agreement.

13.13 Authority to Execute/CALAMOS. The undersigned warrants that he/she is authorized to enter into this Agreement and bind CALAMOS as provided herein.

13.14 Effective Date. The effective date of this Agreement ("Effective Date") shall be the date upon which it is fully executed by all Parties hereto.

13.15 ADDRESSES FOR NOTICES TO PARTIES

IF TO THE CITY:

City Engineer, City of Naperville
400 South Eagle Street
Naperville, Illinois 60540

WITH COPIES TO:

City Attorney, City of Naperville
400 South Eagle Street
Naperville, Illinois 60540

IF TO OWNER AND DEVELOPER:

CityGate Centre Ventures LLC
1110 Jorie Boulevard
Oak Brook, IL 60523
Attention: Joseph Segobiano
Telephone: (630) 572-6661
Email: jsegobiano@lpsi.com

WITH COPIES TO:

CityGate Centre Ventures LLC
c/o Lincoln Property Company
2000 McKinney Avenue, Suite 1000
Dallas, TX 75201
Attention: Kim McCormick
Telephone: 214.740.3535
Email: kmccormick@lpsi.com

IF TO CALAMOS:

Calamos Property Holdings LLC
2020 Calamos Court
Naperville, Illinois 60563-2787
Attention: Mr. Ken Witkowski
Telephone: (630) 245-1082
Email: kwitkowski@calamos.com

WITH COPIES TO:

Calamos Property Holdings LLC
2020 Calamos Court
Naperville, Illinois 60563-2787
Attention: Legal Department
Telephone: (630) 245-7200
legalnotices@calamos.com

13.16 Entirety. This Agreement amends and restates that Owner's Acknowledgement and Acceptance Agreement for Lincoln at CityGate Centre between OWNER AND DEVELOPER and the CITY dated May 19, 2020, in its entirety.

/SIGNATURES ON FOLLOWING PAGES/

CALAMOS PROPERTY HOLDINGS, LLC [Only for the purposes set forth in paragraph 12]:

[Signature]

[Printed name]

[Title]

Signature to be added and
inserted in City Council
Q&A

State of Illinois)
) ss
County of DuPage)

The foregoing instrument was acknowledged before me by _this_ day of 2020.

Notary Public

Print Name

Given under my hand and official seal this ____ day of _____, 2020.

-Seal-Notary Public

My Commission Expires: _____



Business Office
Jay Strang, Chief School Business Official

September 18, 2019

Mrs. Allison Laff
City of Naperville
Planning Team Operations Manager
South Eagle Street
Naperville, Illinois

RE: Lincoln at City Gate

The Board of Education has evaluated the proposed Lincoln at City Gate development. As always, the primary concerns of the district are the estimated number of children to be generated by the project, the capacity of the schools which would serve this development and the balance between estimated revenues generated vs. cost to educate the students generated from the development.

Several discussions over the previous months have led to a deeper understanding of the true impact of residential developments on Indian Prairie School District 204. We appreciate the conversations and the efforts of all involved. With that being said, Lincoln at City Gate has proposed an option that more closely recognizes the potential impact of students coming from the development. The Board of Education has carefully considered this new proposal and can agree to support the development under the terms stated in the attached letter from Mr. Vince Rosanova dated September 10, 2019

If you have any further questions, please contact me at 630-375-3070.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Strang", is written over a light blue horizontal line.

Jay Strang
Chief School Business Official

Cc: Board of Education, Indian Prairie School District
Dr. Karen Sullivan, Superintendent
Vince Rosanova, Rosanova & Whitaker Ltd.

Rosanova & Whitaker, Ltd.
Attorneys At Law

127 Aurora Avenue
Naperville, Illinois 60540
phone 630-355-4600 • fax 630-352-3610
www.rw-attorneys.com

September 10, 2019

VIA Email To: jay_strang@ipdsd.com

Jay Strang, Chief School District Official
Indian Prairie School District 204
780 Shoreline Drive
Naperville, Illinois 60564

Re: Lincoln at City Gate, Naperville, Illinois

Dear Mr. Strang:

On September 3, 2019 representatives from Lincoln Property Company met with School Board Members and proposed the below strategy to address the District's concern with current student generation. Putting aside our difference of opinion as to the number of students anticipated to be generated by Lincoln's development, we would like to offer the following strategy to address the District's concerns which is over and above what City Code requires.

At the time of recording the final plat of subdivision for the Lincoln at City Gate project, Lincoln will pay a land cash fee in the sum of \$184,741.32 which is based on the anticipated 24.8 students to be generated pursuant to the City's land cash ordinance currently in effect. Lincoln will not request any reduction to this number despite the fact Lincoln believes the actual student generation will be in the ball park of 8 students.

To address the School Districts concern that additional students over and above 24.8 may be generated, Lincoln will agree that at the 12 month anniversary of the certificate of occupancy issuance for this project, if there are additional students exceeding the 24.8 that Lincoln has already paid for, the District is to notify Lincoln and upon Lincoln confirming said enrollment, Lincoln will pay the sum of \$7,448.34 (\$184,741.32 divided by 24.8) for each student above 25 up to a total of 24 additional students.

Upon your review, please feel free to contact me for further discussion.

Very truly yours,

Vincent M. Rosanova

Vincent M. Rosanova

cc. Joe Segobiano – Lincoln Property Company
Kasey Evans – City of Naperville

EXHIBIT A

EXHIBIT C

Rosanova & Whitaker, Ltd.
Attorneys At Law

127 Aurora Avenue
Naperville, Illinois 60540
phone 630-355-4600 • fax 630-352-3610
www.rw-attorneys.com

September 10, 2019
Updated March 13, 2020

VIA Email To: jay_strang@ipisd.com

Jay Strang, Chief School District Official
Indian Prairie School District 204
780 Shoreline Drive
Naperville, Illinois 60564

Re: Lincoln at City Gate, Naperville, Illinois

Dear Mr. Strang:

On September 3, 2019 representatives from Lincoln Property Company met with School Board Members and proposed the below strategy to address the District's concern with current student generation. Putting aside our difference of opinion as to the number of students anticipated to be generated by Lincoln's development, we would like to offer the following strategy to address the District's concerns which is over and above what City Code requires.

At the time of recording the final plat of subdivision for the Lincoln at City Gate project, Lincoln will pay a land cash fee in the sum of \$163,638.03 which is based on the anticipated 21.8 students to be generated pursuant to the City's land cash ordinance currently in effect. Lincoln will not request any reduction to this number despite the fact Lincoln believes the actual student generation will be in the ball park of 8 students.

To address the School Districts concern that additional students over and above 21.8 may be generated, Lincoln will agree that at the 12 month anniversary of the certificate of occupancy issuance for this project, if there are additional students exceeding the 21.8 that Lincoln has already paid for, the District is to notify Lincoln and upon Lincoln confirming said enrollment, Lincoln will pay the sum of \$7,506,33 (\$163,638.03 divided by 21.8) for each student above 22 up to a total of 22 additional students.

Upon your review, please feel free to contact me for further discussion.

Very truly yours,

Vincent M. Rosanova

Vincent M. Rosanova

cc. Joe Segobiano – Lincoln Property Company

EXHIBIT A

EXHIBIT C

**AGREEMENT FOR LAND CASH CONTRIBUTION PURSUANT TO CITY OF
NAPERVILLE CODE SECTION 7-3-5:12.7**

THIS AGREEMENT is made this 20TH day of FEBRUARY, 2020 by and between the NAPERVILLE PARK DISTRICT, a body corporate and politic created pursuant to 70 ILCS 1205-1 et seq. and following Illinois Revised Statutes (1987), (The Park District Code), whose principal office is located at 320 West Jackson Avenue, Naperville, Illinois 60540 (hereinafter referred to as the “**District**”), and CityGate Centre Ventures, LLC a Delaware limited liability company, whose principal place of business is located at 1110 Jorie Boulevard, Suite 300, Oak Brook, Illinois 60523 (hereinafter referred to as the “**Developer**”).

WHEREAS, the Developer is the contract purchaser of a portion of lots 2 and 3 of the CityGate Centre Subdivision located in Naperville, Illinois (hereinafter referred to as “Property”); and

WHEREAS, the Developer will be developing the Property as a mixed-use development consisting of a +/- 40,000 square foot event center as well as 285 apartments (hereinafter referred to as the “**Project**”), all in accordance with the applicable zoning laws and ordinances of the City; and

WHEREAS, in accordance with Section 7-3-5:1.3 of the City of Naperville Municipal Code, the developer has designed the Project to include substantial open space and recreational facilities which will have the effect of reducing the demand for local public recreational services and Developer is therefore entitled to a reduction in its required land cash contribution; and

NOW THEREFORE, be it and it is hereby agreed by both the District and the Developer as follows:

1. The foregoing recitals shall be and are hereby incorporated in this Paragraph 1 as if said recitals were fully set forth herein.
2. The Developer agrees that the Project shall include the amenities and open space features as delineated on the Final Planned Unit Development Plan and Itemization of Amenities which are attached hereto as Exhibit A (hereinafter collectively referred to as "Amenities"). These Amenities are intended to relieve some pressure from the residents of the Project on the use of Park District facilities.
3. Provided that the Amenities are installed and available to the occupants no later than when 50% of the units are occupied, and further provided that the Amenities satisfy the requirements expressly set forth on Exhibit A, and further provided that the Amenities remain and continue to satisfy the requirements of Exhibit A for a term of fifteen (15) years from the date that the first of the Amenities is installed or placed on the Property (or the land adjacent thereto), then the District and Developer hereby agree that the Developer shall be granted a twenty percent (20%) reduction in its required land/cash payment obligation pursuant to Section 7-3-5:1.3 of the City of Naperville Municipal Code. A copy of the City's land cash table anticipating 285 apartments is attached hereto as Exhibit B. Should the bedroom or unit

count be modified by the Developer or City, the Developer shall pay the land cash fee then applicable, subject to the twenty percent (20%) reduction provided for herein.

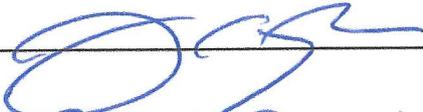
4. The District and the Developer acknowledge that all portions of the Project shall be utilized solely by the Developer, its tenants, guests, lessees, licensees and invitees and nothing herein shall be construed as a grant to the public to utilize any portion of the Property or any of the Amenities without Developer's written permission. The private open space substituting for dedicated parks, and the Amenities to be installed or placed therein, shall be designed and constructed by the Developer in accordance with detailed plans approved by the City, upon review and comment by the Naperville Park District, and shall be maintained by the Developer in a good quality, condition and state of repair. Specifically, the Property's indoor fitness facility shall be well maintained, kept neat and clean and all exercise equipment installed or placed therein shall be kept in good working order. The exercise equipment installed or placed in the Property's indoor fitness facility shall be of a quality no less than that used by the Naperville Park District in its own facilities (as of the date of initial installation or placement of such exercise equipment in the fitness facility) and shall be of reasonable quantity as determined by reference to national standards. So long as the Developer satisfies the foregoing requirements, the Developer shall be conclusively deemed to have satisfied the requirements of Section 7-3-5:1.3 of the City of Naperville Municipal

Code (and its successors) with respect to private open space substituting for dedicated parks, and the Amenities installed or placed therein.

5. This Agreement shall be recorded with the DuPage County Recorder of Deeds.
6. This Agreement shall be binding upon the parties hereto and their successors and assigns.
7. In the event of a default by any party hereunder, the non-defaulting party shall be entitled to seek all remedies available at law or in equity including, without limitation, the specific performance of such defaulted obligation. All costs and expenses including but not limited to court costs and reasonable attorneys' fees incurred by the non-defaulting party as a result of the default or the defaulting party shall be paid by the defaulting party. No party shall be in default hereunder unless such party materially breaches this Agreement and fails to cure such breach within thirty (30) days after receiving notice of the breach and a demand for cure by the other party.
8. The obligations of the Developer as set forth in this Agreement are expressly contingent on the Developer's acquisition of the Property and development of the Project.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seal this _____ day of _____, 2020.

NAPERVILLE PARK DISTRICT

By:  _____

Its: Board President _____

CITYGATE CENTRE VENTURES, LLC

By: _____

Its: _____

CITYGATE CENTRE VENTURES LLC
a Delaware limited liability company

By: LPC MM CityGate LLC
a Delaware limited liability company

By: LPC Manager, Inc.,
a Delaware corporation, its manager

By:  _____
Its: AUTHORIZED REPRESENTATIVE

Exhibit A
"Amenities"

1/27/2020

EXHIBIT B

EXHIBIT C

Lincoln at CityGate Amenity Spaces

- Club-quality fitness center
 - Pickle Ball court
 - Bike lounge for storage and repair
 - Courtyard with bocce ball, seating for small gatherings and grilling stations
 - Resort-Style pool with private cabanas, fire pit and outdoor grilling stations
 - Indoor/Outdoor dog run and dog wash
-

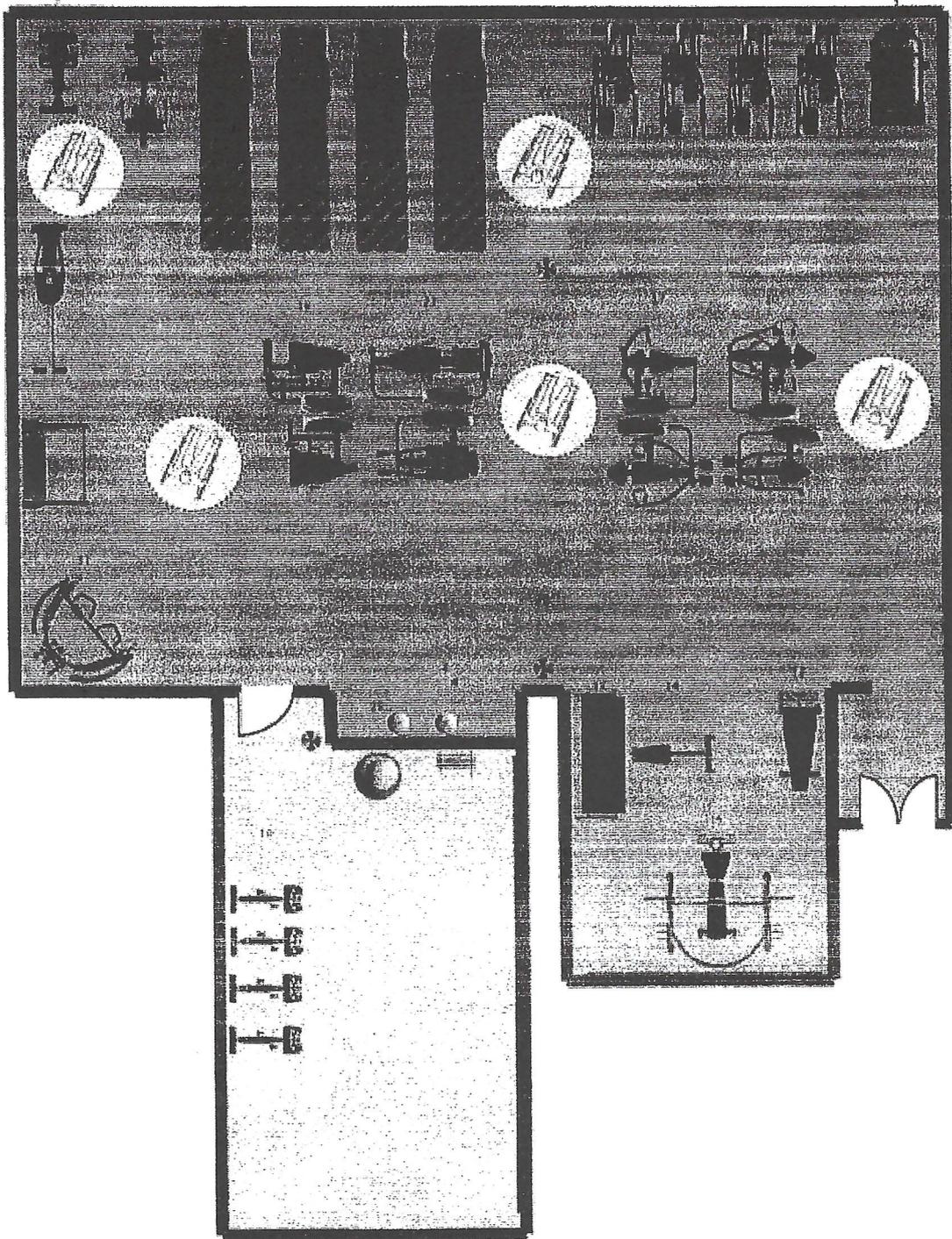
Fitness Center Program

Lincoln at CityGate's Fitness Center will be a +/- 2,400 square foot State of the Art Fitness Center. Residents will have 24/7 access to the following types of equipment:

- Treadmills
- Self-power treadmills
- Stairmaster
- Elliptical machines
- Rowing machines
- TRX training zone
- Multi-Function Station
- Kettle balls
- Medicine balls
- Dumb bells
- Yoga studio
- Yoga Matts
- Spin cycles
- Smith machine/bench press machine
- Exercise bike
- Triceps press machine
- Chest press machine
- Lat pulldown machine
- Leg extension machine
- Leg curl machine
- Leg press machine
- Shoulder press machine
- Bicep curl machine
- *Well Beats program

*The Well Beats program is a premier on-demand fitness provider that delivers fitness classes, workout plans, and fitness assessments to users anytime. Over 29 channels and hundreds of virtual classes are available with something for every age, stage and ability. Classes are run by certified instructors and are offered from 1-50 minutes in length. Residents can benchmark and track results with the wellbeats app. Wellbeats offers a simple way to begin classes by using a touchpad in the fitness studio and in three clicks; you are all set to begin a workout.

Example Fitness Center Design



*Proposed layout – subject to change

EXHIBIT B

EXHIBIT C

Draft Type of Equipment

| Cardio | |
|---|---|
| DATA Package - includes wifi, asset management, web applications | 9 |
| Matrix T7xe Treadmill w/ 16" touchscreen TV | 3 |
| Matrix A3xe Ascent Trainer w/ 10" touchscreen TV | 2 |
| Matrix E3xe Elliptical Trainer w/ 10" touchscreen TV | 1 |
| Matrix C3xe Climbmill Trainer w/ 10" touchscreen TV | 1 |
| Lemond L-15300-A REVMaster PRO CYCLING BIKE *L-15450 cadence meter | 3 |
| Matrix R3xe Recumbent Bike w/ 10" touchscreen TV | 1 |
| Matrix U3xe Upright Bike w/ 10" touchscreen TV | 1 |
| Matrix Rower-02 Indoor Rower | 1 |
| T-DPT - S-Drive Performance Trainer; non-motorized Treadmill | 1 |

| Strength | |
|--|---|
| VS-S13-USB3 Versa Converging Chest Press STD Stack, Plus Package | 1 |
| VS-S33-USB3 Versa Diverging Lat Pulldown STD Stack, Plus Package | 1 |
| VS-S23-USB3 Versa Converging Shoulder Press STD Stack, Plus Package | 1 |
| VS-S40-USB3 Versa Bicep Curl STD Stack, Plus Package | 1 |
| VS-S42-USB3 Versa Triceps Press STD Stack, Plus Package | 1 |
| VS-S71-USB3 Versa Leg Extension STD Stack, Plus Package | 1 |
| VS-S72-USB3 Versa Seated Leg Curl STD Stack, Plus Package | 1 |
| VS-S70-USB4 Versa Leg Press HVY Stack, Plus Package | 1 |
| VS-VFT LS + VS-FTS30 Functional Trainer STD Stack, 30" Storage, includes VS-FTHP Handle Pkg; (v-bar, curl bar, ropes, ankle strap) | 1 |
| MG-PL62 Smith Machine | 1 |
| MG-A85 Magnum Multi-Adjustable Bench | 1 |
| MG-A86 Magnum Multi-Adjustable Bench w/ Decline | 1 |
| MG-A61 Adjustable Decline Bench | 1 |
| MG-A42 3-tier Dumbbell Rack w/Saddles (15 pr.) | 1 |

| Free Weights | |
|---|---|
| XULT Rubber Plate 45lb Black, XT-45RUBR-PLATE | 6 |
| Free Weights | |
| XULT Rubber Plate 25lb Black, XT-25RUBR-PLATE | 4 |
| XULT Rubber Plate 10lb Black, XT-10RUBR-PLATE | 4 |
| XULT Rubber Plate 05lb Black, XT-05RUBR-PLATE | 4 |
| XULT Rubber Plate 2.5lb Black, XT-2.5RUBR-PLATE | 2 |
| XULT XT-5-50RBR-RND, XULT Rubber Round Dumbbell 005- 050lb Set Black | 1 |
| XULT XT-055-075RBR-RND, XULT Rubber Round Dumbbell 055-75lb Set Black | 1 |

| Accessories | |
|---|---|
| TRX - TRXCLUB4 commercial suspension trainer | 2 |
| TRX - SL-1SUSBAY-BDL - TRX Single Suspension Bay | 1 |
| - 2 Suspension Trainer Anchor Points | |
| - 3 Standard Storage Shelves (SL16-STNDSHELF x3) | |
| - 1 TRX "Functional Training" Magnet (SL-MAG-BAYFT x1) | |
| TRX - EXMDBL-10-4-12 - TRX 10" Med Ball Set | 1 |
| - Includes 4, 6, 8, 10, 12 LB Med Balls | |
| TRX - EXKTBL-4-EXKTBL-24 - TRX Gravity Cast Kettlebell Set | 1 |
| -Includes 4, 6, 8, 12, 16, 20, 24 KG Single KBs | |
| TRX - EXFMRL-36 - TRX Foam Roller- 36" | 3 |
| XT-RACK-ST-BALL-03, XULT Stability Ball Rack with 3 Balls | 1 |
| -XT-55CM-1000BALL | |
| -XT-65CM-1000BALL | |
| -XT-75CM-1000BALL | |
| XT-12MM-TPE-56"MAT, Fit Mat w/groumets 12mm TPE 56" x 23" - Black | 5 |
| XT-WALL-MAT-RACK, XULT Wall Mat Rack | 1 |

| Electronics | |
|--|---|
| WELLBEATS, WBH-3TV - TV Bundle includes 70" Commercial Grade TV, soundbar, cable(s) & mount; | 1 |
| WELLBEATS, WBH-3SKB - 22" Interactive Touchscreen includes cable(s) & mount | 1 |
| WELLBEATS WBC-Plus Subscription Package | 1 |

*Equipment listed reflects current market of fitness equipment. If the market changes, we will modify the type and make of equipment

Preliminary Pickle Ball Program

Lincoln at CityGate's pickle ball court will be available for the use solely by Hotel Arista guests and Lincoln at CityGate's residents. The pickle ball court will meet the USAPA court specifications and will include fencing on the exterior of the court for both security and containing the ball during play. Residents and guest of Hotel Arista can access the court with the use of the fob.

Preliminary Pickle Ball Court

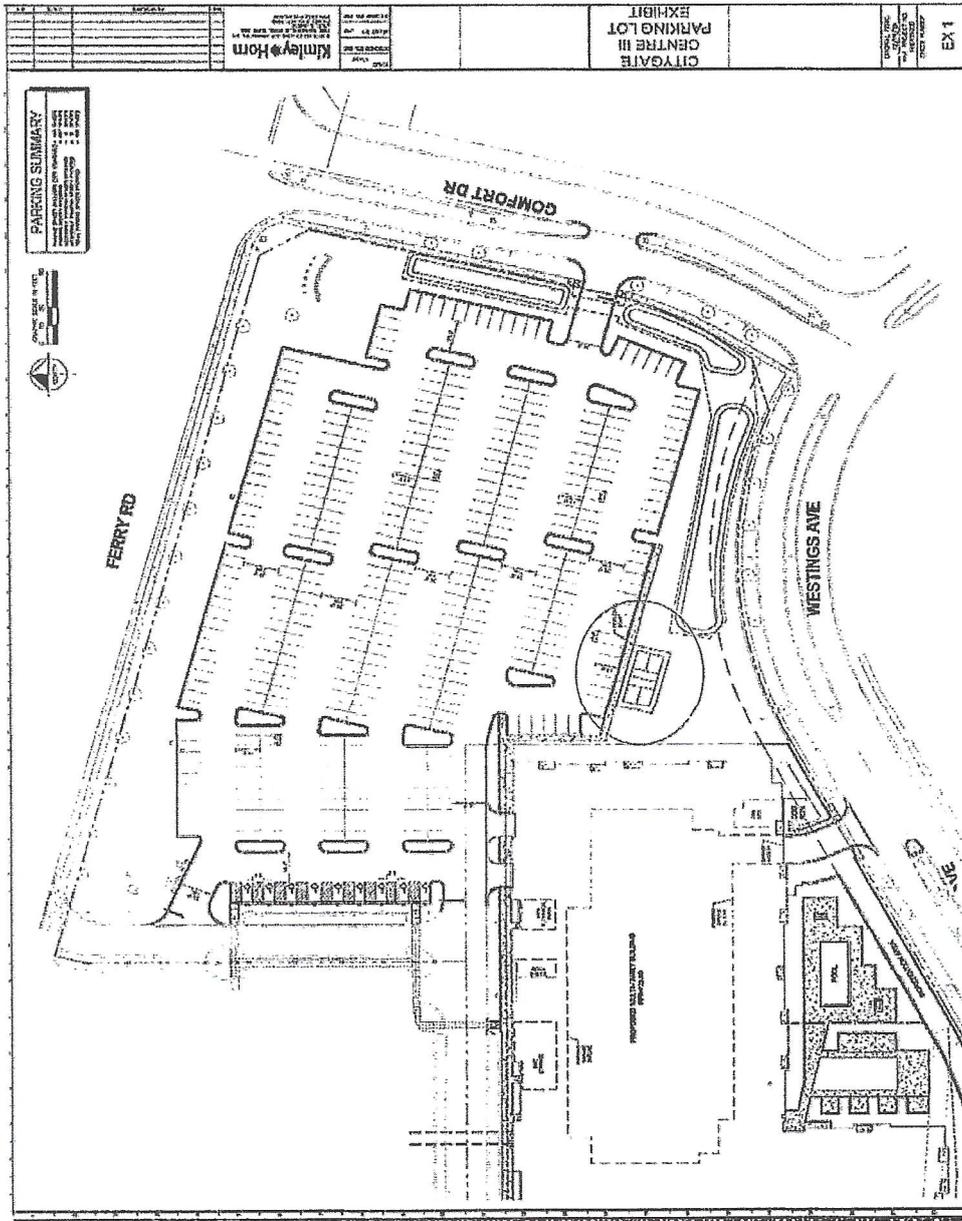


EXHIBIT B

EXHIBIT C

Exhibit B
Land Cash Calculation Table

5061713v.3 1565/0238

1/27/2020

EXHIBIT B

EXHIBIT C

Park Donation Work Sheet

Name of Subdivision Lincoln at CityGate Centre

Park Donation = Land **4.4139** Cash **\$1,428,338.04** ** = Land Donation x \$323,600.00

=Round((Total People Produced x 0.0086),4)

20% credit \$285,667.61

Total donation: \$1,142,670.43

| Type of Unit | Pre-School 0 - 4 Yrs | Elementary Grades K-5 | Junior High Grades 6-8 | High School Grades 9-12 | Adults 18-up | Total per Unit |
|------------------------|-------------------------|--------------------------|---------------------------|----------------------------|-----------------|-------------------|
| Detached | | | | | | |
| Single-family | | | | | | |
| 2-bedroom | 0.127 | 0.327 | 0.000 | 0.118 | 1.779 | 2.453 |
| 3-bedroom | 0.244 | 0.440 | 0.000 | 0.177 | 1.892 | 2.930 |
| 4-bedroom | 0.348 | 0.522 | 0.000 | 0.265 | 2.116 | 3.486 |
| 5-bedroom | 0.333 | 0.533 | 0.000 | 0.279 | 2.344 | 3.750 |
| Attached | | | | | | |
| Single-Family | | | | | | |
| 1-Bedroom | 0.072 | 0.091 | 0.000 | 0.080 | 1.610 | 1.897 |
| 2-Bedroom | 0.157 | 0.178 | 0.000 | 0.113 | 1.746 | 2.253 |
| 3-Bedroom | 0.217 | 0.358 | 0.000 | 0.198 | 2.127 | 3.053 |
| Apartments | | | | | | |
| Efficiency | 0.015 | 0.033 | 0.013 | 0.013 | 1.210 | 1.210 |
| 1-Bedroom | 0.037 | 0.063 | 0.028 | 0.030 | 1.691 | 1.764 |
| 2-Bedroom | 0.037 | 0.152 | 0.091 | 0.083 | 1.748 | 1.906 |
| 3-Bedroom | | | | | 2.330 | 2.692 |
| People Produced | 5.903 | 11.625 | 4.815 | 4.963 | 486.153 | 513.248 |

EXHIBIT B

EXHIBIT C

School Donation Worksheet

Name of Subdivision Lincoln at CityGate Centre

School Donation = **Land** 0.5141 **Cash** \$163,638.03 = Total Land x \$318,300.00
 =Round (((Total Elementary Pop. x 0.0231) + (Total Jr. High Pop. x 0.0208) + (Total High School Pop x 0.0267)),4)

| Type of Unit | Pre-School 0 - 4 Yrs | Elementary Grades K-5 | Junior High Grades 6-8 | High School Grades 9-12 | Adults 18-up | Total per Unit | | | | | | |
|-------------------------------|-------------------------|--------------------------|---------------------------|----------------------------|-----------------|-------------------|-------|--------------|-------|----------------|-------|----------------|
| Detached Single-family | | | | | | | | | | | | |
| 2-bedroom | 0.120 | 0.000 | 0.411 | 0.000 | 0.138 | 0.000 | 0.222 | 0.000 | 1.856 | 0.000 | 2.746 | 0.000 |
| 3-bedroom | 0.268 | 0.000 | 0.486 | 0.000 | 0.153 | 0.000 | 0.135 | 0.000 | 1.913 | 0.000 | 2.955 | 0.000 |
| 4-bedroom | 0.371 | 0.000 | 0.702 | 0.000 | 0.259 | 0.000 | 0.242 | 0.000 | 1.985 | 0.000 | 3.532 | 0.000 |
| 5-bedroom | 0.386 | 0.000 | 0.590 | 0.000 | 0.236 | 0.000 | 0.242 | 0.000 | 2.191 | 0.000 | 3.645 | 0.000 |
| Attached Single-Family | | | | | | | | | | | | |
| 1-Bedroom | | | | | | | | | | 0.000 | | 0.000 |
| 2-Bedroom | 0.206 | 0.000 | 0.084 | 0.000 | 0.057 | 0.000 | 0.030 | 0.000 | 1.318 | 0.000 | 1.697 | 0.000 |
| 3-Bedroom | 0.214 | 0.000 | 0.104 | 0.000 | 0.039 | 0.000 | 0.050 | 0.000 | 1.966 | 0.000 | 2.374 | 0.000 |
| 4-Bedroom | 0.183 | 0.000 | 0.271 | 0.000 | 0.106 | 0.000 | 0.105 | 0.000 | 2.102 | 0.000 | 2.767 | 0.000 |
| Apartments | | | | | | | | | | | | |
| Efficiency | | | | | | | | | 1.400 | 0.000 | 1.400 | 0.000 |
| 211 1-Bedroom | 0.058 | 12.238 | 0.032 | 6.752 | 0.012 | 2.532 | 0.013 | 2.743 | 1.653 | 348.783 | 1.710 | 360.810 |
| 74 2-Bedroom | 0.129 | 9.546 | 0.064 | 4.736 | 0.031 | 2.294 | 0.038 | 2.812 | 1.744 | 129.056 | 2.007 | 148.518 |
| 3-Bedroom | 0.199 | 0.000 | 0.115 | 0.000 | 0.073 | 0.000 | 0.083 | 0.000 | 2.005 | 0.000 | 2.475 | 0.000 |
| People Produced | | 21.784 | | 11.488 | | 4.826 | | 5.555 | | 477.839 | | 509.328 |
| | | | | | | | | | | | | 21.869 |

TABLE A

Date prepared: 4/23/2020

Park Donation Work Sheet

Name of Subdivision Lincoln at CityGate Centre

Park Donation = Land 4.4139 Cash \$1,428,338.04 ** = Land Donation x \$323,600.00

=Round((Total People Produced x 0.0086),4)

20% credit \$285,667.61
Total donation: \$1,142,670.43

| Type of Unit | Pre-School 0 - 4 Yrs | | Elementary Grades K-5 | | Junior High Grades 6-8 | | High School Grades 9-12 | | Adults 18-up | | Total per Unit | |
|------------------------|-------------------------|-------|--------------------------|--------|---------------------------|-------|----------------------------|-------|-----------------|---------|-------------------|---------|
| Detached | | | | | | | | | | | | |
| Single-family | | | | | | | | | | | | |
| 2-bedroom | 0.127 | 0.000 | 0.327 | 0.000 | 0.102 | 0.000 | 0.118 | 0.000 | 1.779 | 0.000 | 2.453 | 0.000 |
| 3-bedroom | 0.244 | 0.000 | 0.440 | 0.000 | 0.179 | 0.000 | 0.177 | 0.000 | 1.892 | 0.000 | 2.930 | 0.000 |
| 4-bedroom | 0.348 | 0.000 | 0.522 | 0.000 | 0.235 | 0.000 | 0.265 | 0.000 | 2.116 | 0.000 | 3.486 | 0.000 |
| 5-bedroom | 0.333 | 0.000 | 0.533 | 0.000 | 0.262 | 0.000 | 0.279 | 0.000 | 2.344 | 0.000 | 3.750 | 0.000 |
| Attached | | | | | | | | | | | | |
| Single-Family | | | | | | | | | | | | |
| 1-Bedroom | | | | | | | | | | | 0.000 | 0.000 |
| 2-Bedroom | 0.072 | 0.000 | 0.091 | 0.000 | 0.044 | 0.000 | 0.080 | 0.000 | 1.610 | 0.000 | 1.897 | 0.000 |
| 3-Bedroom | 0.157 | 0.000 | 0.178 | 0.000 | 0.060 | 0.000 | 0.113 | 0.000 | 1.746 | 0.000 | 2.253 | 0.000 |
| 4-Bedroom | 0.217 | 0.000 | 0.358 | 0.000 | 0.154 | 0.000 | 0.198 | 0.000 | 2.127 | 0.000 | 3.053 | 0.000 |
| Apartments | | | | | | | | | | | | |
| Efficiency | | | | | | | | | 1.210 | 0.000 | 1.210 | 0.000 |
| 211 1-Bedroom | 0.015 | 3.165 | 0.033 | 6.963 | 0.013 | 2.743 | 0.013 | 2.743 | 1.691 | 356.801 | 1.764 | 372.204 |
| 74 2-Bedroom | 0.037 | 2.738 | 0.063 | 4.662 | 0.028 | 2.072 | 0.030 | 2.220 | 1.748 | 129.352 | 1.906 | 141.044 |
| 3-Bedroom | 0.037 | 0.000 | 0.152 | 0.000 | 0.091 | 0.000 | 0.083 | 0.000 | 2.330 | 0.000 | 2.692 | 0.000 |
| People Produced | | 5.903 | | 11.625 | | 4.815 | | 4.963 | | 486.153 | | 513.248 |

CITY OF NAPERVILLE

By: _____
Douglas A. Krieger
City Manager

ATTEST:

By: _____
Pam Gallahue, Ph.D.
City Clerk

Date: _____