

Created: 12/27/18  
Last revised 1/29/19

**PROPERTY ADDRESS:  
VACANT PROPERTY AT THE  
NORTHEAST CORNER OF  
ROUTE 59 AND 103<sup>rd</sup> STREET  
NAPERVILLE, IL 60564**

**P.I.N.S  
07-01-10-300-002  
07-01-10-300-028  
07-01-10-300-029**

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

**ANNEXATION AGREEMENT**  
**FOR WAGNER FARMS**

THIS ANNEXATION AGREEMENT (hereinafter referred to as the “Agreement”) is entered into, by and between the CITY OF NAPERVILLE, an Illinois municipal corporation and home rule unit of local government under the statutes and Constitution of the State of Illinois, with offices at 400 South Eagle Street, Naperville, Illinois 60540, (hereinafter referred to as the “CITY”) and Pulte Home Company, LLC with offices at 1900 East Golf Road, Suite 300, Schaumburg, Illinois 60173 as OWNER and as DEVELOPER (herein also referred to as the “OWNER AND DEVELOPER”).

**RECITALS**

WHEREAS, the OWNER AND DEVELOPER is the owner of record of all of the real property described in **EXHIBIT A**, which property is contiguous to the CITY and not within the corporate limits of any municipality (hereinafter referred to as the “SUBJECT PROPERTY”); and

WHEREAS, the OWNER AND DEVELOPER has signed and filed a Petition for Annexation and Zoning with the Naperville City Clerk, for the SUBJECT PROPERTY; and

WHEREAS, all notices, publications, public hearings and all other matters attendant to such Petition for Annexation and Zoning have been given, held or performed as required by statute, the Naperville Municipal Code, as amended from time to time, and CITY ordinances, regulations, and procedures; and

WHEREAS, the CITY’S corporate authorities have considered the annexation of the SUBJECT PROPERTY and have determined the Petition for Annexation and Zoning to be in order; and

WHEREAS, the OWNER AND DEVELOPER proposes that the SUBJECT PROPERTY be developed pursuant to the zoning classification(s) specified in the CITY'S Zoning Ordinance, and the terms and conditions set forth herein; and

WHEREAS, in addition to the matters specified above, the parties hereto have considered all other matters and hereby agree that the development of the residential portion of the SUBJECT PROPERTY, comprised of approximately 105 acres, legally described on **EXHIBIT B** (hereinafter referred to as the "WAGNER FARMS-RESIDENTIAL"), for the uses permitted in the R2 (Single Family and Low Density Multiple Family Residence) District, and hereby agree that the development of the approximately 8 acres located at the northeast corner of Route 59 and 103<sup>rd</sup> Street, legally described on **EXHIBIT C** (hereinafter referred to as the "WAGNER FARMS-CHURCH"), for the uses permitted in the OCI (Office Commercial and Institutional) District of the CITY'S Zoning Ordinance and in accordance with the terms and conditions of this Agreement will inure to the benefit and improvement of the CITY and its residents, will promote the CITY'S sound planning and development, and will otherwise enhance and promote the general welfare of the CITY'S residents; and

WHEREAS, the CITY and the OWNER AND DEVELOPER has determined that the development of the SUBJECT PROPERTY should proceed as conveniently as possible and be subject to the ordinances, codes and regulations of the CITY, now in force and effect and as amended from time to time, unless specifically amended as part of the special terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the premises and the mutual promises contained herein, the parties agree that:

**GENERAL CONDITIONS FOR**  
**THE ANNEXATION OF THE SUBJECT PROPERTY**

**G1.0 RECITALS.**

G1.1 The above-stated Recitals are a material part of this Agreement and are hereby incorporated in this Subsection G1.1 by reference.

**G2.0 ANNEXATION AND ZONING.**

G2.1 Within sixty (60) days after the execution of this Agreement, or within thirty (30) days of the payment of all applicable fees and submittal of all documents necessary for recording of this Agreement, whichever is later, the CITY shall enact and adopt ordinances for the annexing and zoning the SUBJECT PROPERTY in accordance with Section S1.0 of this Agreement.

G2.2 Notwithstanding the area, lot, yard, and height standards contained in the Naperville Zoning Code for the zoning classification granted pursuant to this Agreement, after the fifth (5th) year after this Agreement is approved, if the SUBJECT PROPERTY is developed with

any residential uses, the SUBJECT PROPERTY may only be developed with uses which comply with the density limitations specified in the then-current zoning classification applicable to the SUBJECT PROPERTY.

**G3.0 ANNEXATION FEES.**

G3.1 The OWNER AND DEVELOPER has paid all applicable annexation fees specified in Section S2.0 in accordance with Section 1-9E-1 of the Naperville Municipal Code.

**G4.0 PARK DISTRICT ANNEXATION.**

G4.1 The OWNER AND DEVELOPER has filed concurrently herewith a petition executed by OWNER AND DEVELOPER to annex the SUBJECT PROPERTY to the Naperville Park District. Said petition is conditional and not effective until annexation of the SUBJECT PROPERTY to the City of Naperville.

**G5.0 TRANSPORTATION IMPACT FEES – INTENTIONALLY OMITTED.**

**G6.0 SIDEWALKS AND OTHER TRANSPORTATION RELATED PUBLIC IMPROVEMENTS.**

G6.1 The OWNER AND DEVELOPER shall, at its sole cost and expense, construct and install, or pay the cost of the installation of sidewalks along the entire frontage of collector and arterial rights-of-way adjacent to the SUBJECT PROPERTY in accordance with the City of Naperville Municipal Code, as amended from time to time.

G6.2 At the time of Final Plat approval for those portions of the SUBJECT PROPERTY adjacent to the collector and/or arterial rights-of-way the OWNER AND DEVELOPER shall, at the sole discretion of the CITY,

1. construct sidewalks along said roadway or
2. pay to the CITY the estimated costs of the construction of the sidewalks along said roadways.

Upon payment, OWNER AND DEVELOPER shall have no further obligation to construct said sidewalk.

**G7.0 UTILITY LINES AND EASEMENTS.**

G7.1 The OWNER AND DEVELOPER shall grant to the CITY, at no cost to the CITY, any easements within the SUBJECT PROPERTY which the CITY may determine are necessary for the purposes of constructing, installing, replacing and maintaining sanitary sewers, water mains, electric service facilities, and other utilities necessary or incidental to service the SUBJECT PROPERTY.

G7.2 The CITY shall allow the OWNER AND DEVELOPER to use appropriate easements obtained by the CITY from other parties for the purpose of providing sanitary sewers, water mains and other utilities to service the SUBJECT PROPERTY.

**G8.0 WATER SUPPLY AND DISTRIBUTION SYSTEM AND SANITARY SEWER COLLECTION SYSTEM.**

G8.1 The OWNER AND DEVELOPER shall be solely responsible for the cost and expense incurred to extend the CITY'S water distribution system and sanitary sewer collection system to the SUBJECT PROPERTY. Payment shall be due at the time a building permit is issued if the CITY constructs and installs the proposed extension or any portion thereof.

G8.2 Reserved.

G8.3 The CITY shall permit the connection of the structures reasonably contemplated to be built on the SUBJECT PROPERTY to the CITY'S water supply and distribution system and sanitary sewer collection system, and shall supply water and collection facilities thereto to the same extent as may be supplied to other structures and areas within the CITY.

G8.4 The OWNER AND DEVELOPER shall be responsible for the cost of all water lines and sanitary sewer lines and related appurtenances located on the SUBJECT PROPERTY.

G8.5 The OWNER AND DEVELOPER shall also be responsible to pay for all infrastructure availability charges, connection fees and user fees for the CITY'S water distribution system and sanitary sewer collection system as set forth in the CITY'S ordinances, rules, and regulations.

**G9.0 WASTEWATER TREATMENT PLANT CAPACITY.**

G9.1 The CITY guarantees that at the time building permits are requested, sufficient wastewater treatment plant capacity shall exist to provide complete and adequate wastewater treatment services for the SUBJECT PROPERTY without payment of any fees other than those specified in Subsection G9.2 of this Agreement.

G9.2 The OWNER AND DEVELOPER shall pay all applicable wastewater infrastructure availability charges, connection fees and customary wastewater user fees in accordance with Title 8 of the Naperville Municipal Code, as amended and any rules and regulations promulgated pursuant to Title 8.

**G10.0 UTILITY OVERSIZING.**

G10.1 The OWNER AND DEVELOPER shall construct and install at its sole cost and expense all water and sanitary sewer lines shown on the approved Final Engineering plans submitted for development of the SUBJECT PROPERTY.

G10.2 The CITY shall pay for oversized water or sanitary sewer lines constructed as required by the CITY in accordance with the provisions of this Section to provide for increased capacity, not merely to compensate for slope differential.

G10.3 Upon installation and acceptance by the CITY of said oversized lines, for

residential lines, the CITY shall reimburse the OWNER AND DEVELOPER for the difference between the cost to construct an eight (8”) inch line and the cost to construct the oversized line. For non-residential lines, the CITY shall reimburse the OWNER AND DEVELOPER for the difference between the cost to construct a twelve (12”) inch line and the cost to construct the oversized line.

G10.4 All such oversized lines shall be constructed and installed in strict accordance with the provisions of Section 7-3-6 of the Naperville Municipal Code (Cost Sharing Policy), as amended.

**G11.0 UTILITY REBATES, SPECIAL CONNECTION FEES, RECAPTURE FEES, SPECIAL ASSESSMENTS OR SPECIAL SERVICE AREAS TAXES.**

G11.1 OWNER AND DEVELOPER shall pay any and all existing Utility Rebates, Special Connection Fees, Recapture Fees, Special Assessments, or Special Service Area Taxes when due as specified in Section S3.0.

G11.2 OWNER AND DEVELOPER shall further pay any and all future Utility Rebates, Special Connection Fees, Special Assessments, Recapture Fees, or Special Service Area Taxes, which may be properly and legally approved, established, or levied in the future. Notwithstanding the foregoing, this provision does not abrogate the right of any property owner to contest any Special Assessment or Special Service Area Tax.

G11.3 The sum of the monies to be paid pursuant to 70 ILCS 705/20(e)(1)-(5) as a result of disconnection of the SUBJECT PROPERTY from a fire protection district shall be the sole responsibility of the OWNER AND DEVELOPER which responsibility shall be deemed fulfilled upon payment of said sum to the CITY. Payment in full shall be paid prior to recordation of the ordinance approving annexation of the Subject Property to the CITY and prior to recordation of this Agreement. Failure or oversight to collect said sum shall not release the OWNER AND DEVELOPER from liability therefore. This provision shall survive the expiration or termination of this Agreement.

**G12.0 ELECTRICAL UTILITY SERVICE.**

G12.1 The CITY shall connect the structures reasonably contemplated to be built on the SUBJECT PROPERTY to the CITY’S electrical utility system, and shall supply electrical service to those structures to the same extent service is provided on a regular basis to CITY’S other electric customers.

G12.2 The OWNER AND DEVELOPER shall accept all electrical power and energy required for the SUBJECT PROPERTY from the CITY’S electrical utility system at the time such service is available.

G12.3 The OWNER AND DEVELOPER shall pay all applicable connection fees, and costs related to on-site electrical distribution facilities and customary user fees in accordance with Title 8 of the Naperville Municipal Code.

**G13.0 REFUSE AND WEED CONTROL.**

G13.1 During all phases of construction, OWNER AND DEVELOPER shall provide a sufficient number of construction-sized dumpsters to contain all trash and debris generated throughout the entire area of the project.

G13.2 OWNER AND DEVELOPER shall prevent such containers from overflowing and shall prevent debris from blowing from the site by having the containers emptied as soon as reasonably possible once they are filled.

G13.3 During all phases of construction, OWNER AND DEVELOPER shall regularly cut all weeds and grass in excess of eight (8") inches high on the site and on the right-of-way adjacent to the site.

**G14.0 CHANGES TO ORDINANCES AND REGULATIONS.**

G14.1 If during the first five (5) years of the term of this Agreement, the provisions of the existing Naperville Zoning Code as it relates to the SUBJECT PROPERTY are amended to impose more stringent requirements in the subdivision, development, or construction on the SUBJECT PROPERTY, then such more stringent requirements shall not be effective as applied to the SUBJECT PROPERTY unless such change is agreed to by the parties hereto. This provision shall not apply to amendments to the Naperville Municipal Code related to conditional uses other than those conditional uses already approved by the Naperville Plan Commission for the SUBJECT PROPERTY.

G14.2 Except as provided in Subsections G14.2.1 and G14.2.2 and G14.2.3 of this Section, if, during the first two (2) years of the term of this Agreement, the provisions of then-current CITY ordinances or regulations are amended or modified to impose more stringent requirements for the subdivision, or construction of the site development improvements for the SUBJECT PROPERTY, which improvements are specified in the submitted and approved Final Engineering Plans, such amendments or modifications shall not be effective as applied to the SUBJECT PROPERTY, unless such amendments are agreed to by the parties *or* such amendments are adopted to protect the health or safety of the CITY'S residents.

G14.2.1 Any ordinances, standards, or regulations which are the subject of the CITY'S Flood Plain or Stormwater Ordinances for either DuPage or Will County shall be exempt from the provisions of subsection G14.2.

G14.2.2 Any CITY ordinances establishing the payment of subdivision, or development fees, or any taxes, dedication requirements, or reimbursement for costs which may be applicable to the SUBJECT PROPERTY shall be exempt from the provisions of subsection G14.2.

G14.2.3 Any CITY Building, Fire or Life Safety Codes or ordinances or regulations approved after the EFFECTIVE DATE of this Agreement shall be exempt from the provisions of G14.2.

G14.3 If, during the term of this Agreement, any existing, amended, modified or new ordinances, codes or regulations affecting the zoning, subdivision, development, construction of any improvements, buildings, appurtenances, or any other development of any kind or character upon the SUBJECT PROPERTY, other than those upon which site plan approval may be based, are amended or modified to impose less restrictive requirements on development or construction upon properties situated within the CITY'S boundaries, then the benefit of such less restrictive requirements shall inure to the benefit of the OWNER AND DEVELOPER, and anything to the contrary contained herein notwithstanding, the OWNER AND DEVELOPER may proceed with development or construction upon the SUBJECT PROPERTY pursuant to the less restrictive amendment or modification applicable generally to all properties within the CITY.

**G15.0 EXISTING STRUCTURES.**

G15.1 At the time this Agreement is fully executed by the parties hereto, where there are any structures on the SUBJECT PROPERTY:

G15.1.1 A City of Naperville street address shall be assigned to the SUBJECT PROPERTY in accordance with Section 9-2-2 of the Naperville Municipal Code, as amended from time to time within thirty (30) days after this Agreement is fully executed by the parties hereto.

G15.1.2 Any existing structures on the SUBJECT PROPERTY shall be fully accessible for emergency vehicles, including two (2) points of access, and any special conditions specified in Section S6.0 of this Agreement.

G15.2 At the time this Agreement is fully executed by the parties hereto, any existing structures on the SUBJECT PROPERTY which fail to conform to the requirements of the CITY'S duly adopted Building and Fire Prevention Codes, as amended from time to time, shall be brought into conformity with such requirements pursuant to any special conditions specified in Section S7.0 of this Agreement.

**G16.0 EFFECT OF THIS AGREEMENT.**

G16.1 Except as provided in Section G14.0 of this Agreement, if any relevant existing CITY resolution, ordinance, regulations, or interpretation thereof, is inconsistent with or conflicts with any provision of this Agreement, then the provisions of this Agreement shall supersede the terms of said inconsistent resolutions, ordinances, or regulations as they may be applicable to the SUBJECT PROPERTY.

**G17.0 NO DISCONNECTION OR DEANNEXATION.**

G17.1 Neither the OWNER nor the DEVELOPER nor any of their successors in interest shall file, cause to be filed, or take any action that would result in the disconnection or deannexation of the SUBJECT PROPERTY from the CITY during the term of this Agreement.

**G18.0 MODIFICATIONS TO THIS AGREEMENT.**

G18.1 If the OWNER AND DEVELOPER or the CITY wish to modify this Agreement, the CITY shall hold the necessary public hearings.

G18.2 Such hearings shall be held and an approval granted or denial given without unreasonable delay after the request is made.

G18.3 This Section shall not be construed to require the CITY to modify this Agreement.

G18.4 Any such amendment or modification may be made only as to a portion of the SUBJECT PROPERTY, or as to the provisions applying exclusively thereto, and may be without the consent of the owners of other portions of the SUBJECT PROPERTY not affected by the amendment or modification.

**G19.0 BINDING EFFECT AND TERM.**

G19.1 The parties intend that the terms and conditions of this Agreement shall be a covenant running with the land and shall be recorded against the title of the SUBJECT PROPERTY and shall be binding upon and inure to the benefit of the parties hereto, grantees, successors in interest, assignees, heirs, executors, or lessees, and upon any successor CITY officials and successor municipalities for a period of twenty (20) years from the EFFECTIVE DATE of this Agreement.

G19.2 The zoning classification for the SUBJECT PROPERTY established by this Agreement shall survive the expiration of this Agreement unless changed in accordance with applicable law.

G19.3 Any obligation owed by OWNERS AND DEVELOPERS for payment or reimbursement of monies provided for herein shall survive the termination or expiration of this Agreement.

G19.4 Any obligations to be performed hereunder by OWNERS AND DEVELOPERS shall survive the termination or expiration of this Agreement.

**G20.0 CONTINUING RESPONSIBILITY.**

G20.1 If the OWNER AND DEVELOPER sells or conveys all or any portion of the SUBJECT PROPERTY during the term of this Agreement, all of the OWNER AND DEVELOPER'S obligations specified in this Agreement shall devolve upon and be assumed by such purchaser, grantee, or successor in interest, and the OWNER AND DEVELOPER shall be released from such obligations, provided the conditions of subsection G20.2 of this Agreement have been met.

G20.2 No sale or conveyance shall be effective to release the OWNER AND DEVELOPER from the obligations imposed by this Agreement until the purchaser or grantee has posted good and sufficient surety, as determined by the CITY, to secure the performance of all of



the OWNER AND DEVELOPER'S obligations contained in this Agreement and as required by CITY ordinance, policy, or regulation.

G20.3 Any provision contained in this Agreement which provides for payment or reimbursement of money to the CITY, and/or which provides for the dedication or conveyance of property to the CITY, shall survive the termination or expiration of this Agreement.

**G21.0 SEVERABILITY.**

G21.1 If any of the provisions of this Agreement are determined by a court of competent jurisdiction to be invalid, such provisions shall be deemed to be stricken, and such adjudication shall not affect the validity of the remainder of the terms of this Agreement as a whole or of any section, subsection, sentence or clause not adjudged to be invalid.

G21.2 The invalidity of any such provision shall not affect any zoning classification for the SUBJECT PROPERTY that has been approved by the CITY pursuant to the provisions of the CITY'S ordinances and regulations. Any change to such zoning classification shall take place only in accordance with applicable statutes and ordinances.

**G22.0 NOTICES.**

G22.1 Any notice or demand hereunder from one party to another party or to an assignee or successor in interest of either party or from an assignee or successor in interest of either party to another party, or between assignees or successors in interest of either party shall be in writing and shall be deemed duly served if mailed by prepaid registered or certified mail addressed to the parties specified in Section S4.0 or any individual or entity substituted according to subsection G22.2 of this Agreement.

G22.2 The parties, or any assignee or successor in interest, may substitute names and addresses for notices as appropriate.

**G23.0 GOVERNING LAW AND VENUE.**

G23.1 This Agreement shall be governed by the laws of the State of Illinois both as to interpretation and performance, and any legal proceeding of any kind arising from this Agreement shall be filed in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

**G24.0 FORCE MAJEURE.**

G24.1 Subject to the provisions of G24.2 whenever a period of time is provided for in this Agreement for either the CITY or OWNER AND DEVELOPER to do or perform any act or obligation, neither party shall be liable for any delays or inability to perform due to causes beyond the control of said party such as war, riot, strike or lockout by or against either party's own employees or suppliers, unavoidable casualty or damage to personnel, materials or equipment, fire, flood, storm, earthquake, tornado or any act of God.

G24.2 Provided, however, that said time period shall be extended for only the actual amount of time said party is so delayed. Except as to a strike or lockout by or against either

party's own employees or suppliers, an act or omission shall not be deemed to be “beyond OWNER AND DEVELOPER’S control” if committed, omitted or caused by OWNER AND DEVELOPER, OWNER AND DEVELOPER’S employees, officers or agents or a subsidiary, affiliate or parent of OWNER AND DEVELOPER or by any corporation or other business entity that holds a controlling interest in OWNER AND DEVELOPER, whether held directly or indirectly.

**G25.0 ENFORCEABILITY.**

G25.1 This Agreement shall be enforceable by any of the parties hereto by any appropriate action at law or in equity to secure the performance of the covenants and terms of this Agreement. In the event that the CITY seeks enforcement of any aspect of this Agreement in a court of competent jurisdiction, and prevails in whole or in part in such action, the OWNER AND DEVELOPER shall reimburse the CITY for its costs and expenses, including but not limited to reasonable attorneys’ fees (in-house or outside counsel) within thirty (30) days of receipt of an invoice therefor.

**G26.0 CHALLENGE TO ANNEXATION.**

G26.1 If the annexation of the SUBJECT PROPERTY is challenged in any court of legal jurisdiction, the parties to this Agreement agree to cooperate to defend the validity of this annexation. OWNER AND DEVELOPER agrees to hold the CITY harmless and to reimburse the CITY for any and all expenses incurred by the CITY for said defense including but not limited to reimbursement for any services of outside legal counsel. If the annexation of the SUBJECT PROPERTY is challenged and is held to be invalid: (a) any real estate taxes which have been paid to the CITY shall not be rebated to the OWNER AND DEVELOPER, or its successors and assigns; and (b) the CITY shall enter into a separate written service agreement with the OWNER AND DEVELOPER, or its successor and assigns, so as to provide utility service to the SUBJECT PROPERTY in accordance with the general terms of this Agreement to the extent permitted by law.

**G27.0 TIMING OF GRANTS OF PROPERTY INTERESTS.**

G27.1 When any dedication of right-of-way, grant of easement, or other dedication or grant of property interests to the CITY is provided for in this Agreement, said dedication or grant shall occur prior to, or simultaneously with, the recording of any final plat of subdivision or issuance of any permit, whichever occurs first.

G27.2 Failure to comply with the timing requirements set forth in this Section shall not relieve the OWNER AND DEVELOPER of the obligations set forth in this Section, and the provisions of this Section shall survive the expiration or termination of this Agreement.

**G28.0 NON-WAIVER OF RIGHTS.**

G28.1 No failure of either Party to exercise any power given to it hereunder or to insist upon strict compliance by the other party with its obligations hereunder, and no custom or practice of the Parties at variance with the terms hereof, nor any payment under

this Agreement shall constitute a waiver of either party's right to demand compliance with the terms hereof.

**G29.0 CAPTIONS AND PARAGRAPH HEADINGS.**

G29.1 Captions and paragraph headings are for convenience only and are not a part of this Agreement and shall not be used in construing it.

**G30.0 ENTIRE AGREEMENT.**

G30.1 This Agreement sets forth all the covenants, conditions and promises between the Parties with regard to the subject matter set forth herein and there are no covenants, promises, agreements, conditions or understandings between the Parties, either oral or written, other than those contained in this Agreement.

**G31.0 AUTHORIZATIONS.**

G31.1 The OWNER AND DEVELOPER'S authorized representatives who have executed this Agreement warrant that they have been lawfully authorized by the OWNER AND DEVELOPER to execute this Agreement on its behalf. The Mayor and City Clerk warrant that they have been lawfully authorized to execute this Agreement. The OWNER AND DEVELOPER shall deliver to the CITY within ten (10) days of the EFFECTIVE DATE on page 1 of this Agreement copies of all articles of incorporation, bylaws, resolutions, ordinances or other documents which evidence their legal authority to execute this Agreement.

**G32.0 SURETY.**

G32.1 All public improvements required to be done by the OWNER AND DEVELOPER for any phase of the SUBJECT PROPERTY shall be secured by a cash deposit or Letter of Credit in a form approved by the City Attorney, in an amount approved by the City Engineer, and in compliance with the Naperville Municipal Code. This provision shall apply whether or not a Letter of Credit is specified for each improvement. Notwithstanding provision of said surety, until the public improvements covered by such surety instrument have been accepted by the CITY, or approved by the City Engineer, as applicable, 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.

**G33.0 ACCEPTANCE OF PUBLIC IMPROVEMENTS.**

G33.1 Subject to approval by the City Engineer, the CITY shall accept public improvements installed by the OWNER AND DEVELOPER on the SUBJECT PROPERTY, or within the adjacent public right-of-way, pursuant to the process set forth in Section 7-1-7 of the Naperville Municipal Code. Upon CITY acceptance thereof, the OWNER AND DEVELOPER shall post a cash deposit or maintenance letter of credit in a form and amount approved by the City

guaranteeing said improvements against defects in materials or workmanship in the amount of ten percent (10%) of the estimated cost of said improvement to be effective for a period of one year from the date of acceptance.

**G34.0 INCORPORATION OF EXHIBITS.**

G34.1 Each exhibit referenced herein shall be deemed incorporated herein and made part hereof.

**SPECIAL CONDITIONS FOR THE ANNEXATION OF  
SUBJECT PROPERTY**

To the extent that there is any inconsistency between the terms or conditions of the following Special Conditions and the General Conditions, the terms and conditions set forth in the Special Conditions of this agreement shall prevail. To the extent that provisions in the Special and General Conditions are not inconsistent, they shall be read together.

**S1.0 ANNEXATION AND ZONING.**

S1.1 The Zoning Classification for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY determined in accordance with Title 6 of the Naperville Municipal Code shall be R2 (Single Family and Low Density Multiple Family) District, and the WAGNER FARMS-CHURCH portion of the SUBJECT PROPERTY determined in accordance with Title 6 of the Naperville Municipal Code shall be OCI (Office Commercial and Institutional) District.

S1.2 A plat of annexation prepared by Cemcon Ltd., dated May 22, 2018, last revised September 13, 2018, which conforms with the statutory requirements is attached hereto as **EXHIBIT D.**

**S2.0 ANNEXATION FEES.**

S2.1 The Annexation Fee calculated in accordance with Section 1-9E-1 of the Naperville Municipal Code for the SUBJECT PROPERTY is three thousand seven hundred dollars (\$3,700.00) which has been paid by the OWNER AND DEVELOPER.

**S3.0 UTILITY REBATES, SPECIAL CONNECTION FEES, RECAPTURE FEES, SPECIAL ASSESSMENTS OR SPECIAL SERVICE AREAS TAXES.**

S3.1 OWNER AND DEVELOPER shall pay any and all existing Utility Rebates, Recapture Fees, Special Assessments, or Special Service Area Taxes when due as specified as follows:

Recapture Fees:

99<sup>th</sup> Street Trunk Sewer: \$57,356.64

(77.89 acres at \$736.38 per acre)

Due: Prior to recordation of this Agreement

111<sup>th</sup> Street Pump Station: \$20,069.31

(35.45 acres at \$566.13 per acre)

Due: Prior to recordation of this Agreement

103<sup>rd</sup> Street Improvements to CITY Collector Standards adjacent to the SUBJECT PROPERTY: \$236,564.52

Due: Prior to recordation of this Agreement

S3.2 Notwithstanding the provisions of Section G11.3 herein, since the SUBJECT PROPERTY is located within the Naperville Fire Protection District, and prior to annexation was served by the Naperville Fire Department, the OWNER AND DEVELOPER has no obligation to make payment pursuant to 70 ILCS 705/20(e)(1)-(5).

**S4.0 ADDRESSES FOR NOTICES REQUIRED BY THIS AGREEMENT.**

S4.1 Whenever notice is required to be given pursuant to this Agreement, the same shall be in writing, and either personally delivered, sent by a nationally recognized overnight delivery service, postage prepaid, or sent via United States certified mail, return receipt requested, postage prepaid, and addressed to the parties at their respective addresses set forth below, or at such other addresses as either party hereto, by written notice in the manner specified below, may designate from time to time.

**IF TO THE CITY:**

City Clerk, 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 THE OWNER AND DEVELOPER:**

Tina Dalman  
Pulte Home Company LLC  
1900 East Golf Road, Suite 300  
Schaumburg, Illinois 60173

**WITH COPIES TO:**

Russell Whitaker III, Attorney  
Rosanova & Whitaker Ltd  
127 Aurora Avenue  
Naperville, Illinois 60540

**S5.0 FIRE CODES AND REGULATIONS.**

S5.1 The provisions of Section G14.0 this Agreement notwithstanding, any amendments to the CITY'S Building, Fire, or Life Safety Codes or regulations approved and enacted after the EFFECTIVE DATE of this Agreement shall be applicable to the SUBJECT PROPERTY without exception.

**S6.0 EXISTING STRUCTURES.**

S6.1 OWNER AND DEVELOPER shall apply for and obtain a demolition permit from the CITY prior to commencing demolition of the existing structures located on the SUBJECT PROPERTY. Said existing structures shall be vacant as of the EFFECTIVE DATE of this AGREEMENT and shall remain vacant until demolished. The OWNER AND DEVELOPER shall demolish the existing structures on the SUBJECT PROPERTY within ninety (90) days from the EFFECTIVE DATE of this AGREEMENT. During said ninety (90) day timeframe, the provisions of G15.2 shall not be applicable; thereafter, if demolition of all of the structures on the SUBJECT PROPERTY have not been demolished, the provisions of Section G15.2 shall be operative.

**S7.0 EMERGENCY ACCESS.**

S7.1 OWNER AND DEVELOPER shall construct, at OWNER AND DEVELOPER'S sole costs, two points of access for emergency vehicles as approved by the City Engineer prior to issuance of the first building permit for each respective phase of the SUBJECT PROPERTY; said accesses will be maintained until the roadways in such phase have been constructed by the OWNER AND DEVELOPER and approved by the City Engineer.

**S8.0 SCHOOL AND PARK DONATIONS.**

S8.1 School Donation. OWNER AND DEVELOPER agrees to abide by the land cash donation provisions set forth in Section 7-3-5 of the Naperville Municipal Code, as amended from time to time (hereinafter referred to as "CODE"). CITY agrees that the provisions of Section 7-3-5 shall be met by payment of a cash-in-lieu of land donation. OWNER AND DEVELOPER hereby elects to pay said cash-in-lieu of land donation on a per-permit basis under Section 7-3-5.2.2 of the Code. OWNER AND DEVELOPER acknowledges that credit will not be given for any existing structures located on the SUBJECT PROPERTY. OWNER AND DEVELOPER shall include a notation of its election to make payment of the cash-in-lieu of land donation on a per permit basis on each final plat of subdivision for the SUBJECT PROPERTY pursuant to Section 7-3-5.2.3 of the Code. OWNER AND DEVELOPER acknowledges and agrees that the cash-in-lieu of payment agreed to herein shall not be paid under protest or otherwise objected to.

S8.2 Park District Donation. An agreement, attached hereto as **EXHIBIT E**, as provided for in Section 7-3-5:12.7 of the Naperville Municipal Code ("Park Donation Agreement") has been reached between the OWNER AND DEVELOPER and the Naperville Park District ("PARK DISTRICT") regarding the cash contribution to be made to the Park District which shall represent full satisfaction of OWNER AND DEVELOPER'S obligation to make a land-cash payment under the provisions of the Naperville Municipal Code for development of the SUBJECT PROPERTY as provided herein. Said Park Donation Agreement shall be fully executed and shall be recorded with the Will County Recorder prior to recordation of any final plat of subdivision for the SUBJECT PROPERTY. Each final plat of subdivision for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY shall contain a note referencing the

existence of such agreement and the recording number thereof. OWNER AND DEVELOPER acknowledges and agrees that the payments required under the Park Donation Agreement shall not be paid under protest or otherwise objected to.

**S9.0 SIDEWALKS.**

S9.1 Route 59 Sidewalk. The OWNER AND DEVELOPER shall install a five-foot (5') wide public sidewalk (hereinafter referred to as "Route 59 Sidewalk") at the OWNER AND DEVELOPER's sole cost, across the full frontage of the SUBJECT PROPERTY on the east side of Route 59 and extend said Route 59 Sidewalk from the SUBJECT PROPERTY's north property line to connect to the existing public sidewalk on Route 59 as depicted on the preliminary engineering plans for the SUBJECT PROPERTY attached hereto as **EXHIBIT F**.

S9.1.1 Subject to review and reasonable approval of the terms and conditions thereof by the City Attorney, OWNER AND DEVELOPER shall negotiate and obtain on behalf of the CITY a permanent grant of easement for construction, maintenance, repair, and operation of that portion of the Route 59 Sidewalk that crosses the property owned by Commonwealth Edison (also referenced herein as "ComEd"). The easement shall provide for public access by way of an easement agreement running to the benefit of the CITY as grantee so that a portion of said public Route 59 Sidewalk may be located on property owned by ComEd as depicted on **EXHIBIT F** (herein referenced as the "Route 59 Sidewalk ComEd Easement"), the specifications of which may be modified with the approval of the City Engineer during Final Engineering. Said permanent easement agreement, or such other agreement or legal instrument as may be approved by the City Attorney, shall be recorded with the Will County Recorder prior to any non-model home occupancy permit being issued for the SUBJECT PROPERTY.

The Route 59 Sidewalk shall be constructed by OWNER AND DEVELOPER and approved by the City Engineer within nine (9) months of recordation of the Route 59 Sidewalk ComEd Easement. If the Route 59 Sidewalk is not constructed and approved within said nine (9) month timeframe, or such other timeframe as is agreed to in writing by the City Engineer, no further building permits shall be issued for the SUBJECT PROPERTY.

S9.2 103<sup>rd</sup> Street Sidewalk. The OWNER AND DEVELOPER shall install a five-foot (5') wide public sidewalk, at the OWNER AND DEVELOPER's sole cost, on the north side of 103<sup>rd</sup> Street from the intersection of 103<sup>rd</sup> Street and the new "Road B", as said "Road B" is depicted on page 1 of **EXHIBIT F**, to the east property line of the SUBJECT PROPERTY (hereinafter "103<sup>rd</sup> Street Sidewalk") so that said sidewalk connects to the existing public sidewalk on 103<sup>rd</sup> Street. The 103<sup>rd</sup> Street Sidewalk shall be completed by the OWNER AND DEVELOPER, and approved by the City Engineer, no later than nine (9) months following issuance of the first non-model certificate of occupancy for the SUBJECT PROPERTY unless another timeframe is agreed to in writing by the City Engineer.



S9.3 Internal Subdivision Sidewalks. The OWNER AND DEVELOPER shall install a five-foot (5') wide public sidewalk (the "Internal Sidewalk"), at the OWNER AND DEVELOPER'S sole cost, along both sides of all public right-of-way internal to the SUBJECT PROPERTY except where there is a Shared Use Path as defined in Section S10.1.1 below. All Internal Sidewalk shall be installed prior to issuance of the final occupancy permit for each residential lot within the SUBJECT PROPERTY. Notwithstanding the forgoing, the City Engineer, at his sole discretion, may require completion of the Internal Sidewalk, or some portion thereof, if said Internal Sidewalk has not been completed within three (3) years after recordation of the final plat of subdivision for that phase of the SUBJECT PROPERTY.

S9.4 The provisions of this Section S9.0, and each sub-part hereof, shall survive the expiration or termination of this Agreement.

**S10.0 SHARED USE PATHS.**

S10.1 General Provisions Applicable to Shared Use Paths. The Wagner Farms development proposed by the OWNER AND DEVELOPER for the SUBJECT PROPERTY includes shared use paths depicted on **EXHIBIT F** (denoted as "10' Asphalt Path") and generally described in Subsections S10.2, S10.3, and S10.4 below. The provisions set forth in this Section S10.1 and each subsection hereof shall be applicable to all Shared Use Paths, as that term is defined herein, unless otherwise specified herein.

S10.1.1 The design and construction of all aspects of all shared use paths, as individually described and referenced in Subsections S10.2, S10.3 and S10.4 below (hereinafter cumulatively referenced as "Shared Use Paths"), shall be at the sole cost of the OWNER AND DEVELOPER. Said Shared Use Paths shall be constructed in accordance with Final Engineering plans approved by the City Engineer. Unless otherwise specified in the Final Engineering plans, all Shared Use Paths shall be ten feet (10') wide.

S10.1.2 Said Shared Use Paths, with the exception of the 103<sup>rd</sup> Street Shared Use Path described in Subsection S10.2 below, shall be owned, operated, maintained, repaired, and reconstructed provided herein by the OWNER AND DEVELOPER, or the Wagner Farms Homeowners' Association upon transfer of that obligation by the OWNER AND DEVELOPER to the Wagner Farms Homeowners' Association as set forth in S10.1.2.1 below, at their sole cost. Access to the Shared Use Paths shall be granted to the general public for pedestrian use, including but not limited to bicycles, as set forth in the "Wagner Farms Shared Use Paths Rules and Regulations" attached hereto as **EXHIBIT G**. Said Rules and Regulations may be modified by the Wagner Farms Homeowners' Association provided that the use of the Shared Use Paths by the general public is maintained and not unreasonably limited or restricted. It is understood that the Wagner Farms Homeowners' Association may prohibit access to portions of the Shared Use Paths: (i) for maintenance, repair, replacement, or reconstruction of the Shared Use Paths (to the extent required by said maintenance, repair, replacement or reconstruction); and (ii) to the extent necessary to address safety issues.

Notwithstanding the foregoing, unless otherwise approved in writing by the City Engineer, the Shared Use Paths shall remain open and available for public access not less than three hundred (300) days in a calendar year.

S10.1.2.1 With the exception of the 103<sup>rd</sup> Street Shared Use Path described in Subsection S10.2 below, OWNER AND DEVELOPER shall remain obligated to own, operate, maintain, repair, and reconstruct the Shared Use Paths in good, safe, and clean condition at all times for the safety and comfort of the pedestrians who will use said Paths. OWNER AND DEVELOPER shall cause the formation of a homeowner's association for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY, to be known as the Wagner Farms Homeowners' Association, and shall record a DECLARATION OF COVENANTS as defined and set forth in Section S10.1.5 below. OWNER AND DEVELOPER may transfer its obligations with respect to the Shared Use Paths to the Wagner Farms Homeowner's Association at OWNER AND DEVELOPER's discretion and in accord with all applicable laws. OWNER AND DEVELOPER shall give the City Engineer written notice of said transfer, and accurate contact information for the Wagner Farms Homeowners' Association, not less than thirty (30) days prior to such transfer of obligations.

S10.1.2.2 Subject to the provisions of the Dormant Special Service Area described in Section S10.1.3 below, OWNER AND DEVELOPER, and thereafter, the Wagner Farms Homeowners' Association, shall be responsible for all costs associated with the ownership, operation, maintenance, repair, reconstruction, and replacement of the Shared Use Paths (with the exception of the 103<sup>rd</sup> Street Shared Use Path described in Subsection S10.2 below), including but not limited to the Shared Use Paths located on Commonwealth Edison property.

S10.1.2.3 OWNER AND DEVELOPER, and thereafter, the Wagner Farms Homeowners' Association shall defend (with legal counsel approved by the City, which approval shall not be unreasonably withheld), indemnify, and hold harmless the City of Naperville and its officers, agents, and employees against any claims of any kind whatsoever arising from or related to the ownership, operation, maintenance, repair, or reconstruction of the Shared Use Paths (except for the 103<sup>rd</sup> Street Shared Use Path).

S10.1.3 Dormant Special Service Area. OWNER AND DEVELOPER shall petition the Naperville City Council, and in conjunction with the CITY, shall take all steps necessary to form a back-up or "dormant" special service area (herein referenced as "Dormant Special Service Area") on the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY in order to provide funding for the continued operation, maintenance, repair and reconstruction of the Shared Use Paths (with the exception of the 103<sup>rd</sup> Street Shared Use Path) in the event that either the OWNER

AND DEVELOPER or the Wagner Farms Homeowners' Association fail to timely and adequately perform those responsibilities. The City Engineer shall, with the assistance of the OWNER AND DEVELOPER, determine the amount of taxes estimated to be necessary to be generated by the Dormant Special Service Area in the event the Dormant Special Service Area is activated. The decision to activate the Dormant Special Service Area shall be made at the sole discretion of the CITY. The CITY shall give the Wagner Farms Homeowners' Association not less than sixty (60) days' notice of its intent to activate the Dormant Special Service Area. All notice required to be given, and all costs associated with the formation of the Dormant Special Service Area, shall be the responsibility of the OWNER AND DEVELOPER. An ordinance passed by the Naperville City Council approving the establishment of the Dormant Special Service Area must be recorded with the Will County Recorder prior to OWNER AND DEVELOPER conveying any portion of the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY to any person or entity unless a different timeframe is approved in writing by the City Manager.

S10.1.4 ComEd Property. The Connection Shared Use Paths described in Section S10.4 below will be located in part on property owned by Commonwealth Edison. The terms and conditions associated with the ownership, operation, maintenance, repair and replacement of said Connection Shared Use Paths shall be as set forth herein, including but not limited to the "General Provisions Applicable to Shared Use Paths" (including each sub-part thereof) and Section S10.4 below. OWNER AND DEVELOPER, and thereafter, the Wagner Farms Homeowners' Association, will be responsible for all costs associated with the ownership, operation, maintenance, repair, replacement, and reconstruction of that portion of the Connection Shared Use Paths located on ComEd property.

S10.1.5 Declaration of Covenants, Conditions and Restrictions. Prior to the conveyance of the first single-family dwelling unit to a purchaser of a dwelling unit in the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY, the OWNER AND DEVELOPER shall record a declaration of covenants, conditions, and restrictions (hereinafter "DECLARATION OF COVENANTS") against the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY which shall include provisions for the transfer of OWNER AND DEVELOPER'S obligations with respect to the Shared Use Paths to the Wagner Farms Homeowners' Association.

The DECLARATION OF COVENANTS shall include, but shall not be limited to, provisions (to be approved in final form by the City Attorney) which provide that after transfer of obligations from the OWNER AND DEVELOPER to the Wagner Farms Homeowners' Association, the Wagner Farms Homeowners' Association shall at its sole cost: (i) operate, maintain, repair and reconstruct the Shared Use Paths (with the exception of the 103<sup>rd</sup> Street Shared Use Path) as provided or referenced herein in a good, safe, and clean condition at its sole cost; (ii) fund the obligations related to the Shared Use

Paths set forth or referenced herein; (iii) defend, indemnify and hold the City harmless as described in Section S10.1.2.3 above; (iv) implement the “Wagner Farms Shared Use Paths Rules and Regulations” attached hereto as **EXHIBIT G** which Wagner Farms Shared Use Paths Rules and Regulations shall not be amended without review and written approval of the City Engineer; and (v) mow and otherwise maintain in good condition the landscaped berms on Outlot H and Outlot K by a commercial landscape contractor.

Further, the DECLARATION OF COVENANTS shall give clear and prominent notice of the existence of the Dormant Special Service Area which notice shall include information, including but not limited to: why the Dormant Special Service Area may be activated, the City’s rights thereunder, the Wagner Farms Homeowners’ Association obligations thereunder, and the recording number of the City of Naperville ordinance establishing the Dormant Special Service Area.

Finally, the DECLARATION OF COVENANTS shall provide that said DECLARATION OF COVENANTS shall not be amended as to the provisions set forth above without approval of the Naperville City Council.

The foregoing provisions of the DECLARATION OF COVENANTS shall be subject to the reasonable review and approval of the City Engineer and the City Attorney prior to recordation of the DECLARATION OF COVENANTS. Until the OWNER AND DEVELOPER has transferred the obligations described above to the Wagner Farms Homeowners’ Association, OWNER AND DEVELOPER shall be solely responsible for said obligations.

S10.1.6 Easements. In the event that the City, at its sole discretion, activates the Dormant Special Service Area, the CITY and its designees will need the right of access to that portion of the Shared Use Paths not located in the public right-of-way, other than the 103<sup>rd</sup> Street Shared Use Path. Therefore, in addition to the ComEd Easement for the Connection Shared Use Paths as defined and described in Section S10.4 below, a permanent easement shall be granted to the CITY by the OWNER AND DEVELOPER over the Shared Use Paths (with the exception of the 103<sup>rd</sup> Street Shared Use Path) plus five (5) feet on each side thereof (except in those instances where the easement would encroach on an adjacent buildable lot, in which case the easement shall extend to the lot-line of said buildable lot), on each final plat of subdivision for the SUBJECT PROPERTY which includes any Shared Use Paths.

In addition to the foregoing, a permanent easement shall also be required to be granted on the final subdivision plat by the OWNER AND DEVELOPER to the CITY for the 103<sup>rd</sup> Street Shared Use Path for public access if the 103<sup>rd</sup> Street Shared Use Path encroaches onto the SUBJECT PROPERTY. All easements described and referenced herein shall be subject to the review and approval of the City Engineer and the City Attorney, which approvals shall not be unreasonably withheld.

S10.1.7 Final Engineering Controls. Where reference is made herein to design and construction of Shared Use Paths as depicted on **EXHIBIT F**, such design and construction requirements may be modified by the approved Final Engineering plans without amendment of this Agreement.

S10.2 103<sup>rd</sup> Street Shared Use Path. A Shared Use Path shall be constructed across the frontage of the SUBJECT PROPERTY on the north side of 103<sup>rd</sup> Street from the intersection of 103<sup>rd</sup> Street and Route 59 to the intersection of 103<sup>rd</sup> Street and the road designated as “Road B” as depicted on **EXHIBIT F**. Said Shared Use Path shall be referenced herein as the “103<sup>rd</sup> Street Shared Use Path”. The 103<sup>rd</sup> Street Shared Use Path shall be completed by the OWNER AND DEVELOPER, and approved by the City Engineer, not later than nine (9) months following the first certificate of occupancy for a non-model home being issued for the SUBJECT PROPERTY unless another timeframe is agreed to in writing by the City Engineer. Upon completion and approval of the 103<sup>rd</sup> Street Shared Use Path, said 103<sup>rd</sup> Street Shared Use Path shall be accepted by the CITY by means of a fully executed bill of sale submitted by the OWNER AND DEVELOPER in a form approved by the City Attorney. Thereafter, the CITY shall be responsible for the continued operation, maintenance, repair and reconstruction of the 103<sup>rd</sup> Street Shared Use Path. Failure to complete construction as approved by the City Engineer of said 103<sup>rd</sup> Street Shared Use Path on or before the timeframe described above will result in the City’s ability, at its sole discretion, to deny issuance of any further building permits on the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY until completion and approval thereof.

S10.3 Internal Shared Use Paths. Internal shared use paths shall be constructed on the SUBJECT PROPERTY as such paths are depicted on **EXHIBIT F**. Said internal shared use paths shall be referenced herein as “Internal Shared Use Paths”. The Internal Shared Use Paths located within each phase of the SUBJECT PROPERTY shall be constructed by the OWNER AND DEVELOPER, and approved by the City Engineer, not later than nine (9) months following the issuance of the first non-model certificate of occupancy in each respective platted phase, unless another timeframe is agreed to in writing by the City Engineer. Failure by the OWNER AND DEVELOPER to construct the Internal Shared Use Paths, and to obtain approval thereof from the City Engineer, within the timeframe described above will result in the City’s ability, at its sole discretion, to deny issuance of any further building permits on the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY until completion and approval thereof.

S10.4 Connection Shared Use Paths. In order to connect the Internal Shared Use Paths to the existing paths located north of the SUBJECT PROPERTY in Naperville Park District’s Frontier Park, the OWNER AND DEVELOPER shall cause the Internal Shared Use Paths to extend from Outlot B and Outlot C of the SUBJECT PROPERTY to the paths in Frontier Park as depicted on **EXHIBIT F**. Said paths shall be referenced herein as “Connection Shared Use Paths”. A portion of the Connection Shared Use Paths will be located on property owned by ComEd. Subject to the reasonable review and approval of the terms and conditions thereof by the City Attorney, OWNER AND DEVELOPER shall negotiate, obtain, and record a permanent grant

of easement, or such other agreement or legal instrument as may be approved by the City Attorney, for construction, maintenance, repair and operation of the Connection Shared Use Paths on ComEd property in order to provide for public access (hereinafter the “ComEd Easement for the Connection Shared Use Paths”). Said ComEd Easement for the Connection Shared Use Paths shall run to the benefit of the City of Naperville and shall include such provisions as may be required by the City Attorney, including but not limited to a provision that the CITY shall be permitted to assign its easement rights thereunder to the OWNER AND DEVELOPER and to the Wagner Farms Homeowners’ Association, which entities shall be responsible, at their sole cost, for all construction, maintenance, repair, reconstruction, and operation obligations for the Connection Shared Use Paths. The City Attorney may modify the requirements of the easement, or such other agreement or legal instrument as may be approved by the City Attorney, provided that such modification(s) are not inconsistent with the intent of the provisions set forth above. Such modifications shall not require an amendment of this Agreement.

S10.4.1 The ComEd Easement for the Connection Shared Use Paths shall be recorded with the Will County Recorder prior to issuance of the first non-model home occupancy permit for the SUBJECT PROPERTY.

S10.4.2 The Connection Shared Use Path which extends from Outlot B of the SUBJECT PROPERTY to Frontier Park shall be constructed by OWNER AND DEVELOPER and approved by the City Engineer within six (6) months of recordation of the ComEd Easement for the Connection Shared Use Paths as provided above, or such other timeframe as may be agreed to in writing by the City Engineer.

S10.4.3 The Connection Shared Use Path which extends from Outlot C of the SUBJECT PROPERTY to Frontier Park shall be constructed by the OWNER AND DEVELOPER and approved by the City Engineer within six (6) months of recordation of the final plat of subdivision which includes Outlot C of the SUBJECT PROPERTY, or such other timeframe as may be agreed to in writing by the City Engineer.

S10.4.4 Failure to complete construction of the Connection Shared Use Paths as described in S10.4.2 and S10.4.3 above will result in the City’s ability, at its sole discretion, to deny issuance of any further building permits for the SUBJECT PROPERTY until completion and approval thereof.

S10.5 Survival. The provisions of this Section S10, and each subpart hereof, shall survive the expiration or termination of this Agreement.

**S11.0 ROUTE 59 AND ROLLINGRIDGE ROAD TRAFFIC SIGNAL AND INTERSECTION IMPROVEMENTS.**

S11.1 Pursuant to OWNER AND DEVELOPER’S plans for development of the SUBJECT PROPERTY, Rollingridge Road is proposed to intersect with Illinois Route 59. While a traffic signal at the intersection of Rollingridge Road and Illinois Route 59 has not been determined to be warranted as of the EFFECTIVE DATE of this Agreement, the Illinois

Department of Transportation (“IDOT”) may determine in the future that certain improvements are warranted for said intersection, including but not limited to a traffic signal, related appurtenances and equipment, electric conduit, and roadway improvements (hereinafter cumulatively referenced as “Traffic Signal and Intersection Improvements”). In preparation therefor, OWNER AND DEVELOPER shall install conduit under the roadway it constructs at the intersection of Illinois Route 59 and Rollingridge Road, as approved by the City Engineer, to serve a future traffic signal. Further, OWNER AND DEVELOPER agrees to:

S11.1.1 Pay one hundred and seventy-five thousand dollars (\$175,000.00) to the CITY to be used by the CITY toward the cost of the Traffic Signal and Intersection Improvements. Said payment shall be made to the CITY by OWNER AND DEVELOPER prior to recordation of the first final plat of subdivision for the SUBJECT PROPERTY. If Traffic Signal and Intersection Improvements are warranted by IDOT within seven (7) years of issuance of the 312<sup>th</sup> final occupancy permit for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY, and fifty percent (50%) of the cost of said Traffic Signal and Intersection Improvements exceeds one hundred and seventy-five thousand dollars (\$175,000.00), OWNER AND DEVELOPER shall have no obligation to contribute additional money toward the cost of said Traffic Signal and Intersection Improvements. If fifty percent (50%) of the cost of said Traffic Signal and Intersection Improvements comes to less than one hundred and seventy-five thousand dollars (\$175,000.00), the CITY shall refund to the OWNER AND DEVELOPER an amount which results in the OWNER AND DEVELOPER paying only fifty percent (50%) of the total cost of said Improvements.

If the Traffic Signal and Intersection Improvements are not warranted within seven (7) years of issuance of the 312<sup>th</sup> final occupancy permit for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY, the CITY shall refund the one hundred and seventy-five thousand dollars (\$175,000.00) to the OWNER AND DEVELOPER (without interest) at the address set forth in Section S4.0 hereof.

If OWNER AND DEVELOPER is no longer an active entity in good standing in the State of Illinois as reflected by the Illinois Secretary of State’s website by the date a refund is due, if any refund is due, the CITY shall be entitled to retain said funds and to deposit said funds in its General Fund to be used for CITY purposes. Notwithstanding the foregoing, if OWNER AND DEVELOPER assigns, conveys, or otherwise transfers its interests under this Agreement to another entity, and said entity is an active entity in good standing in the State of Illinois as reflected by the Illinois Secretary of State’s website on the date a refund described above is due, said entity shall be entitled to said refund so long as the CITY has been given prior notice, as provided herein, of each assignment, conveyance, or transfer. In order to ensure that the CITY has the necessary information to make the refund described above, if such refund becomes due, any individual and/or entity to which OWNER AND DEVELOPER’S interests in the

WAGNER FARMS-RESIDENTIAL portion of this Agreement have been conveyed, and each successor entity to which such rights are conveyed, is obligated to give written notice of such conveyance to the CITY. Said notice shall be provided as set forth in Section S4.0 of this Agreement.

**S12.0 REQUIRED RIGHT-OF-WAY DEDICATION.**

S12.1 OWNER AND DEVELOPER agree to dedicate, at no cost, the following rights-of-way adjacent to the SUBJECT PROPERTY as described on the Preliminary Plat of Subdivision attached hereto as **EXHIBIT H**, and as will be dedicated on the applicable final plats of subdivision for the SUBJECT PROPERTY.

- i. **103<sup>rd</sup> Street:** OWNER AND DEVELOPER shall dedicate fifty feet (50') of right-of-way along 103<sup>rd</sup> Street to the CITY as depicted on the Preliminary Plat of Subdivision;
- ii. **Route 59:** OWNER AND DEVELOPER shall dedicate right-of-way to the Illinois Department of Transportation (IDOT) along Route 59 as depicted on the Preliminary Plat of Subdivision; and
- iii. **Cut corners:** OWNER AND DEVELOPER shall dedicate a 50' cut corner at the northeast corner of Illinois Route 59 and 103<sup>rd</sup> Street.

**S13.0 103<sup>RD</sup> STREET RIGHT TURN LANE.**

S13.1 OWNER AND DEVELOPER agrees, at the OWNER AND DEVELOPER's sole cost, to construct a right turn lane along the northside of 103<sup>rd</sup> Street for vehicles turning right from westbound 103<sup>rd</sup> Street to northbound Route 59, as depicted on **EXHIBIT F**, and as may be modified by the approved Final Engineering Plans (the "103<sup>rd</sup> Street Improvement"). The 103<sup>rd</sup> Street improvement includes traffic signal modifications that require permitting through IDOT and said permitting is anticipated to take up to eighteen (18) months following the EFFECTIVE DATE, and as such, shall not be a condition of final engineering approval or issuance of construction permits for WAGNER FARMS-RESIDENTIAL. As of the date of this Agreement, OWNER AND DEVELOPER has commenced the IDOT permitting process and is hereby obligated to, in good faith, proceed diligently toward the issuance of the IDOT permit for the 103<sup>rd</sup> Street Improvements. Notwithstanding the foregoing, OWNER AND DEVELOPER shall not be required to post surety with the CITY for any part of the 103<sup>rd</sup> Street Improvements where surety for that portion of the 103<sup>rd</sup> Street Improvements has been posted with IDOT.

Construction of the 103<sup>rd</sup> Street Improvements shall have been completed by the OWNER AND DEVELOPER, and approved by the City Engineer, within the earlier of: (i) seven (7) months after the issuance of the IDOT permit for the 103<sup>rd</sup> Street Improvements; or (ii) prior to issuance of the 250<sup>th</sup> building permit for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY. The City engineer may authorize additional time to complete the 103<sup>rd</sup>



Street Improvements in his reasonable discretion. If the 103<sup>rd</sup> Street Improvements are not completed within the above-described timeframe, or such extension as is approved in writing by the City Engineer, the CITY may, at its discretion, cease issuance of any further building permits for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY.

Surety for the 103<sup>rd</sup> Street Improvements shall be included in the surety provided by the OWNER AND DEVELOPER to the CITY prior to recordation of the first final plat of subdivision for the SUBJECT PROPERTY.

S13.2 A maintenance surety for the 103<sup>rd</sup> Street Improvements shall not be required. However, the OWNER AND DEVELOPER shall require all contractors performing work on the 103<sup>rd</sup> Street Improvements to either (i) provide warranties for their work to the CITY in addition to the warranties provided to the OWNER AND DEVELOPER; or (ii) agree in writing that OWNER AND DEVELOPER will transfer the contractors' warranties to the CITY prior to CITY acceptance of said 103<sup>rd</sup> Street Improvements. Prior to acceptance of the 103<sup>rd</sup> Street Improvements by the CITY, the CITY must have received the contractor warranties in a form satisfactory to the City Engineer and the City Attorney, or have received assignment of contractor warranties from the OWNER AND DEVELOPER in a form satisfactory to the City Engineer and the City Attorney.

#### **S14.0 ROUTE 59 IMPROVEMENTS.**

S14.1 OWNER AND DEVELOPER agrees, at the OWNER AND DEVELOPER's sole cost, to construct the Route 59 Improvements associated with the WAGNER FARMS-RESIDENTIAL portion of the property, which improvements are depicted on **EXHIBIT F** and include: (i) a new full access onto Route 59 opposite of existing Rollingridge Road; (ii) a new northbound deceleration lane for "Road A", as depicted on **EXHIBIT F**; (iii) converting the existing full access at "Road C", as depicted on **EXHIBIT F**, to a three-quarter access; and other pavement modifications (collectively the "Route 59 Improvements"). The Route 59 Improvements do not include the 103<sup>rd</sup> Street Improvement as defined in S13.1 or the new right-in/right-out access to the WAGNER FARMS-CHURCH portion of the property as depicted on **EXHIBIT F**. The Route 59 Improvements require permitting through IDOT and said permitting is anticipated to take up to twelve (12) months following the EFFECTIVE DATE, and as such, shall not be a condition of final engineering approval or issuance of construction permits for WAGNER FARMS-RESIDENTIAL. As of the date of this Agreement, OWNER AND DEVELOPER has commenced the IDOT permitting process and is hereby obligated to, in good faith, proceed diligently toward the issuance of the IDOT permit for the Route 59 Improvements. Notwithstanding the foregoing, OWNER AND DEVELOPER shall not be required to post surety with the CITY for any part of the Route 59 Improvements where surety for that portion of the Route 59 Improvements has been or will be posted with IDOT.

Construction of the Route 59 Improvements shall be completed by the OWNER AND DEVELOPER, and approved by the City Engineer, within the earlier of: (i) seven (7) months after the issuance of the IDOT permit for the Route 59 Improvements; or (ii) prior to issuance of

the 250<sup>th</sup> building permit for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY. The City engineer may authorize additional time to complete the Route 59 Improvements in his reasonable discretion. If the Route 59 Improvements are not completed within the above-described timeframe, or such extension as is approved in writing by the City Engineer, the CITY may, at its discretion, cease issuance of any further building permits for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY.

**S15.0 SURETY.**

S15.1 Public improvements required to be constructed or installed by the OWNER AND DEVELOPER for any phase of the SUBJECT PROPERTY, other than those improvements where surety has or will be posted with IDOT, shall be secured by one or both of the following forms of surety as agreed by the City Engineer:

S15.1.1 Letter of Credit or Cash Deposit. A cash deposit or Letter of Credit (hereinafter cumulatively referenced as “Surety”) in a form and from a source approved by the City Attorney, in an amount approved by the City Engineer, and in compliance with the Naperville Municipal Code.

S15.1.2 Hybrid Letter of Credit and Performance Bond. (a) A surety bond in a form and from a source approved by the City Attorney in the amount of 80% of 110% of the OWNER AND DEVELOPER’S engineer's opinion of probable cost (hereinafter “EOPC”) of constructing the public improvements in question, as approved by the City Engineer; and (b) a letter of credit (hereinafter “Letter of Credit”) in a form and from a source approved by the City Attorney in the amount of 20% of 110% of said EOPC. The CITY agrees to accept public improvements, after the approval of their construction by the City Engineer, on an improvement-by-improvement, phase-by-phase basis (e.g. underground utilities, paving, street lights, etc.). As these improvements are accepted by the CITY, the amount of the aforesaid surety bond will be reduced incrementally and after the amount of the surety bond has been reduced to zero, the amount of the Letter of Credit will then be reduced incrementally in the same manner.

S15.1.3 Notwithstanding provision of sureties or cash deposits as set forth in S15.1.1 and S15.1.2 above, until the public improvements covered thereby have been accepted by the CITY, or approved by the City Engineer, as applicable, the OWNER AND DEVELOPER shall remain obligated for completion of said public improvements at its cost 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 performance or payment.

S15.1.4 OWNER AND DEVELOPER shall not be required to post surety for improvements to be constructed by OWNER AND DEVELOPER within IDOT right-of-way provided that OWNER AND DEVELOPER has deposited surety for such

improvements with IDOT.

S15.1.5 The CITY agrees that OWNER AND DEVELOPER may post surety for each phase of the SUBJECT PROPERTY where a final plat of subdivision has been recorded as work is permitted by the CITY.

**S16.0 OUTLOT H AND K GRADING.**

S16.1 OWNER AND DEVELOPER intends to install landscape berms across the Route 59 frontage of the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY. Said berms, to be located on Outlot H and Outlot K, may be designed with a maximum 3:1 slope, subject to said berms being maintained by a commercial landscape contractor. The OWNER AND DEVELOPER, and subsequently the Wagner Farms Homeowners' Association, shall be solely responsible to mow and otherwise maintain in good condition the landscaped berms on Outlot H and Outlot K by a commercial landscape contractor, and shall be solely responsible for all costs associated therewith.

**S17.0 MASTER PLAN APPROVALS.**

S17.1 The OWNER AND DEVELOPER may submit building permit applications to the CITY for master plan approval of each of the unit types contemplated for the WAGNER FARMS-RESIDENTIAL portion of the SUBJECT PROPERTY. Master plan approval of unit type shall not relieve OWNER AND DEVELOPER from the obligation, as set forth in the Municipal Code, to submit a separate building permit for each lot prior to the commencement of construction, but shall serve as a mechanism to facilitate prompt and efficient review of individual building permit applications by the CITY.

**S18.0 CHALLENGES TO ANNEXATION.**

S18.1 Notwithstanding the provisions of the first sentence set forth in Section G26.1 of this Agreement, in the event that the annexation of the SUBJECT PROPERTY is challenged in any court of legal jurisdiction, the OWNER AND DEVELOPER shall defend, indemnify and hold the CITY and its officers, agents, and employees harmless therefor. In the event of such a challenge, the OWNER AND DEVELOPER may select counsel to represent the CITY subject to approval of the City Attorney, which approval shall not be unreasonably withheld. The remainder of the provisions set forth in Section G26.1 shall remain in full force and effect.

**S19.0 AUTHORIZATION REVIEW.**

S19.1 OWNER AND DEVELOPER shall provide the documentation described in Section G31.0 hereof to the City Attorney within thirty (30) calendar days of the EFFECTIVE DATE. If the CITY has not objected to said documentation within thirty (30) calendar days of the date of receipt thereof by the City Attorney, then said documentation shall be deemed sufficient for the purposes submitted and any obligation of OWNER AND DEVELOPER under Section G31.0 shall be deemed to be satisfied.

**S20.0 EFFECTIVE DATE.**

S20.1 This Agreement shall be effective upon recordation with the Office of the Will County Recorder (hereinafter referred to as “EFFECTIVE DATE”).

/ SIGNATURES ON FOLLOWING PAGES /

**IN WITNESS WHEREOF**, the parties set their hands and seals on the dates set forth below.

**CITY OF NAPERVILLE**

By: \_\_\_\_\_  
Steve Chirico  
Mayor

Attest  
By: \_\_\_\_\_  
Pam Gallahue, Ph.D.  
City Clerk

State of Illinois        )  
                                  )  
County of DuPage     )

The foregoing instrument was acknowledged before me by Steve Chirico, Mayor, and Pam Gallahue, Ph.D. City Clerk, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

-seal-

**OWNER/PULTE HOME COMPANY, LLC**

By: \_\_\_\_\_  
[name]  
[title]

Attest  
By: \_\_\_\_\_  
[name]  
[title]

State of Illinois            )  
  )  
County of \_\_\_\_\_        )

The foregoing instrument was acknowledged before me by \_\_\_\_\_,  
\_\_\_\_\_, and \_\_\_\_\_, this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_.

-seal-

\_\_\_\_\_  
Notary Public

**DEVELOPER/PULTE HOME COMPANY, LLC**

By: \_\_\_\_\_  
[name]  
[title]

Attest  
By: \_\_\_\_\_  
[name]  
[title]

State of Illinois            )  
  )  
County of \_\_\_\_\_        )

The foregoing instrument was acknowledged before me by \_\_\_\_\_,  
\_\_\_\_\_, and \_\_\_\_\_, this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_.

-seal-

\_\_\_\_\_  
Notary Public

This instrument was prepared by The City of Naperville, 400 S. Eagle Street, Naperville, Illinois, 60540.

## LEGAL DESCRIPTION OF THE SUBJECT PROPERTY

### PARCEL ONE:

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, WHEATLAND TOWNSHIP, WILL COUNTY, ILLINOIS.

PIN: 07-01-10-300-002-0000

### PARCEL TWO:

THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, WHEATLAND TOWNSHIP, WILL COUNTY, ILLINOIS; EXCEPT AND EXCLUDING THAT PART TAKEN BY THE ILLINOIS DEPARTMENT OF TRANSPORTATION FOR HIGHWAY EXPANSION ALONG ILLINOIS ROUTE 59 IN COURT CASE 95 ED 7525; AND ALSO EXCEPT AND EXCLUDING THAT PART OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SOUTHWEST QUARTER AND HEADING THENCE NORTH 88 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 80.58 FEET TO THE POINT OF BEGINNING: CONTINUING AT THE POINT OF BEGINNING, THENCE NORTH 88 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 480.00 FEET TO A POINT; THENCE SOUTH 01 DEGREES 03 MINUTES 08 SECONDS EAST, A DISTANCE OF 920.00 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 456.58 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ILLINOIS ROUTE 59 PER DOCUMENT R96-057627; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 382.58 FEET TO A POINT; THENCE NORTH 08 DEGREES 13 MINUTES 31 SECONDS WEST, A DISTANCE OF 90.55 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 5.00 FEET TO A POINT, THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 160.00 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 5.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 250.00 FEET TO A POINT; THENCE NORTH 88 DEGREES 06 MINUTES 54 SECONDS EAST, A DISTANCE OF 10.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 44.30 FEET TO THE POINT OF BEGINNING.

PIN: 07-01-10-300-028-0000

### PARCEL THREE

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SOUTHWEST QUARTER AND HEADING THENCE NORTH 88 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 80.58 FEET TO THE POINT OF BEGINNING: CONTINUING AT THE POINT OF BEGINNING, THENCE NORTH 88 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 480.00 FEET TO A POINT; THENCE SOUTH 01 DEGREE 03 MINUTES 08 SECONDS EAST, A DISTANCE OF 920.00 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 456.58 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF ILLINOIS ROUTE 59 PER DOCUMENT R96-057627; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 382.58 FEET TO A POINT; THENCE NORTH 08 DEGREES 13 MINUTES 31 SECONDS WEST, A DISTANCE OF 90.55 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 5.00 FEET TO A POINT, THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 160.00 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 5.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 250.00 FEET TO A POINT; THENCE NORTH 88 DEGREES 06 MINUTES 54 SECONDS EAST, A DISTANCE OF 10.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 44.30 FEET TO THE POINT OF BEGINNING, WILL COUNTY, IL.

PIN: 07-01-10-300-028-0000

**LEGAL DESCRIPTION**  
**WAGNER FARMS-RESIDENTIAL PORTION OF THE SUBJECT PROPERTY**

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, WHEATLAND TOWNSHIP, WILL COUNTY, ILLINOIS, AND ALSO INCLUDING THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, WHEATLAND TOWNSHIP, WILL COUNTY, ILLINOIS, EXCEPT AND EXCLUDING THAT PART OF SAID WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, PART TAKEN BY THE ILLINOIS DEPARTMENT OF TRANSPORTATION FOR HIGHWAY EXPANSION ALONG ILLINOIS ROUTE 59 IN COURT CASE 95 ED 7525 EXCEPT AND EXCLUDING ANY PART OF THE FOLLOW DESCRIBED PARCEL THAT LIES IN SAID SOUTHWEST QUARTER: THAT PART OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED BY COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN AS MEMORIALIZED PER MONUMENT RECORD RECORDED AS DOCUMENT R98-099748; THENCE NORTH 01 DEGREES 51 MINUTES 11 SECONDS WEST (BEARINGS ASSUMED FOR DESCRIPTION PURPOSES), 605.28 FEET ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER AS ESTABLISH BETWEEN THE AFORESAID MONUMENT RECORD AND A MONUMENT RECORD FOR THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER RECORDED AS DOCUMENT R98-099749; THENCE NORTH 88 DEGREES 08 MINUTES 49 SECONDS EAST, 111.87 FEET PERPENDICULAR TO THE LAST DESCRIBED COURSE TO A POINT OF BEGINNING ON THE EASTERLY LINE OF ILLINOIS ROUTE 59 PER COURT CASE 95 ED-7525 AND DOCUMENT R96-057627; THENCE NORTH 88 DEGREES 06 MINUTES 38 SECONDS EAST, 105.09 FEET; THENCE SOUTH 46 DEGREES 26 MINUTES 08 SECONDS EAST, 55.92 FEET; THENCE NORTH 88 DEGREES 06 MINUTES 38 SECONDS EAST, 316.96 FEET; THENCE SOUTH 61 DEGREES 07 MINUTES 14 SECONDS EAST, 174.41 FEET; THENCE SOUTH 17 DEGREES 06 MINUTES 32 SECONDS EAST, 215.87 FEET; THENCE SOUTH 62 DEGREES 51 MINUTES 50 SECONDS EAST, 112.42 FEET; THENCE SOUTHERLY, 73.95 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 175.00 FEET, A CHORD BEARING SOUTH 11 DEGREES 08 MINUTES 48 SECONDS WEST; THENCE SOUTH 00 DEGREES 57 MINUTES 30 SECONDS EAST, 75.77 FEET TANGENT TO THE LAST DESCRIBED COURSE; THENCE SOUTH 44 DEGREES 02 MINUTES 30 SECONDS WEST, 42.43 FEET TO A LINE THAT IS 40 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE SOUTH 89 DEGREES 02 MINUTES 30 SECONDS WEST, 667.98 FEET ALONG SAID PARALLEL LINE TO A LINE THAT IS 14 FEET NORTHEASTERLY OF AND PARALLEL WITH A NORTHEASTERLY LINE OF ILLINOIS ROUTE 59, AFORESAID; THENCE NORTH 46 DEGREES 25 MINUTES 36 SECONDS WEST, 71.22 FEET ALONG SAID NORTHEASTERLY PARALLEL LINE TO SAID EASTERLY LINE OF ILLINOIS ROUTE 59; THENCE NORTH 01 DEGREES 53 MINUTES 22 SECONDS WEST, 507.07 FEET TO THE POINT OF BEGINNING, IN WILL COUNTY, IL.



**LEGAL DESCRIPTION**  
**WAGNER FARMS-CHURCH PORTION OF THE SUBJECT PROPERTY**

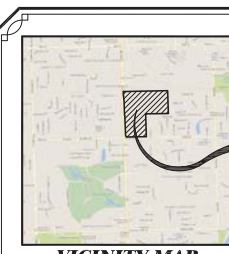
THAT PART OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED BY COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN AS MEMORIALIZED PER MONUMENT RECORD RECORDED AS DOCUMENT R98-099748; THENCE NORTH 01 DEGREES 51 MINUTES 11 SECONDS WEST (BEARINGS ASSUMED FOR DESCRIPTION PURPOSES), 605.28 FEET ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER AS ESTABLISH BETWEEN THE AFORESAID MONUMENT RECORD AND A MONUMENT RECORD FOR THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER RECORDED AS DOCUMENT R98-099749; THENCE NORTH 88 DEGREES 08 MINUTES 49 SECONDS EAST, 111.87 FEET PERPENDICULAR TO THE LAST DESCRIBED COURSE TO A POINT OF BEGINNING ON THE EASTERLY LINE OF ILLINOIS ROUTE 59 PER COURT CASE 95 ED-7525 AND DOCUMENT R96-057627; THENCE NORTH 88 DEGREES 06 MINUTES 38 SECONDS EAST, 105.09 FEET; THENCE SOUTH 46 DEGREES 26 MINUTES 08 SECONDS EAST, 55.92 FEET; THENCE NORTH 88 DEGREES 06 MINUTES 38 SECONDS EAST, 316.96 FEET; THENCE SOUTH 61 DEGREES 07 MINUTES 14 SECONDS EAST, 174.41 FEET; THENCE SOUTH 17 DEGREES 06 MINUTES 32 SECONDS EAST, 215.87 FEET; THENCE SOUTH 62 DEGREES 51 MINUTES 50 SECONDS EAST, 112.42 FEET; THENCE SOUTHERLY, 73.95 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 175.00 FEET, A CHORD BEARING SOUTH 11 DEGREES 08 MINUTES 48 SECONDS WEST; THENCE SOUTH 00 DEGREES 57 MINUTES 30 SECONDS EAST, 75.77 FEET TANGENT TO THE LAST DESCRIBED COURSE; THENCE SOUTH 44 DEGREES 02 MINUTES 30 SECONDS WEST, 42.43 FEET TO A LINE THAT IS 40 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE SOUTH 89 DEGREES 02 MINUTES 30 SECONDS WEST, 667.98 FEET ALONG SAID PARALLEL LINE TO A LINE THAT IS 14 FEET NORTHEASTERLY OF AND PARALLEL WITH A NORTHEASTERLY LINE OF ILLINOIS ROUTE 59, AFORESAID; THENCE NORTH 46 DEGREES 25 MINUTES 36 SECONDS WEST, 71.22 FEET ALONG SAID NORTHEASTERLY PARALLEL LINE TO SAID EASTERLY LINE OF ILLINOIS ROUTE 59; THENCE NORTH 01 DEGREES 53 MINUTES 22 SECONDS WEST, 507.07 FEET TO THE POINT OF BEGINNING, IN WILL COUNTY, IL.

# PLAT OF ANNEXATION

## WAGNER FARM, NAPERVILLE, IL

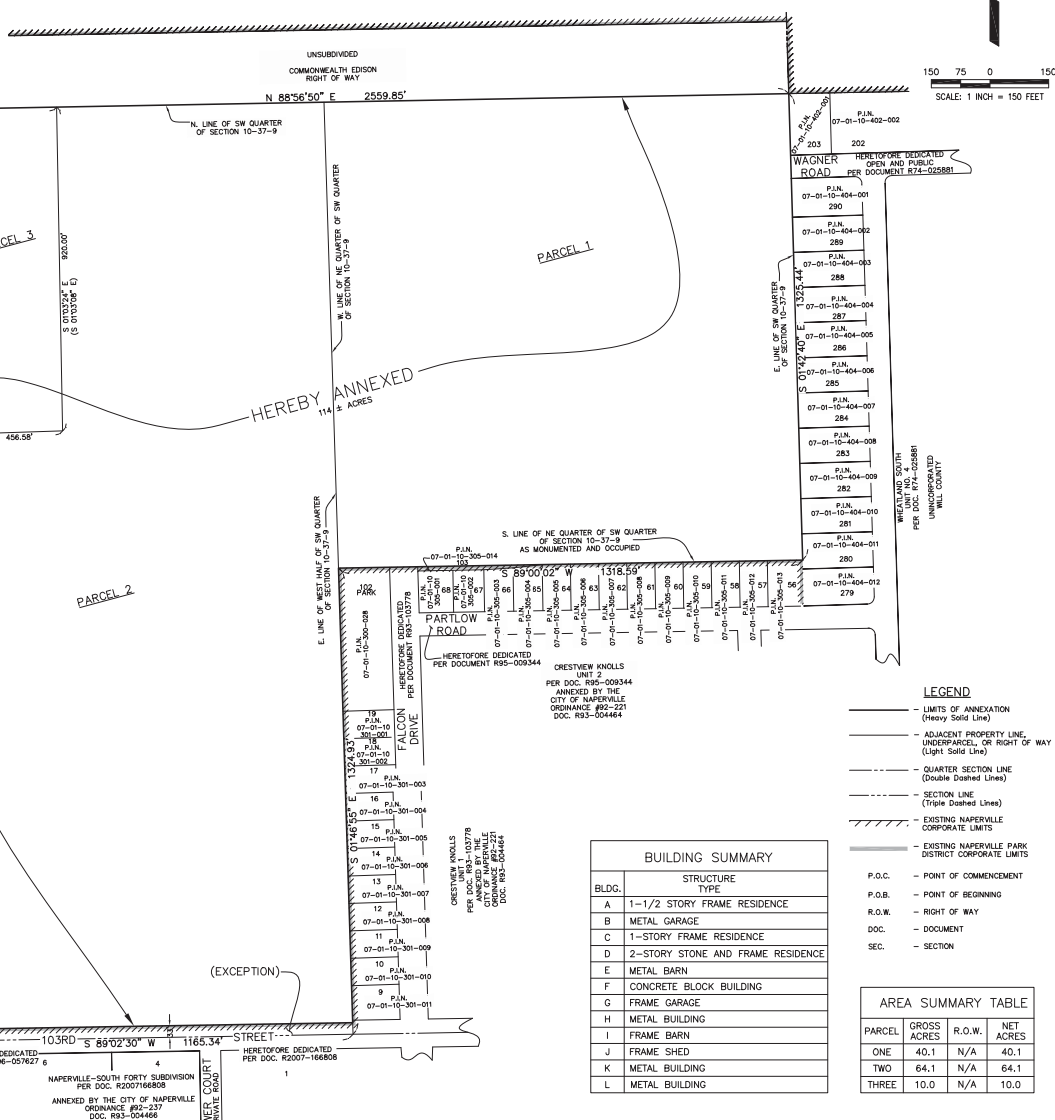
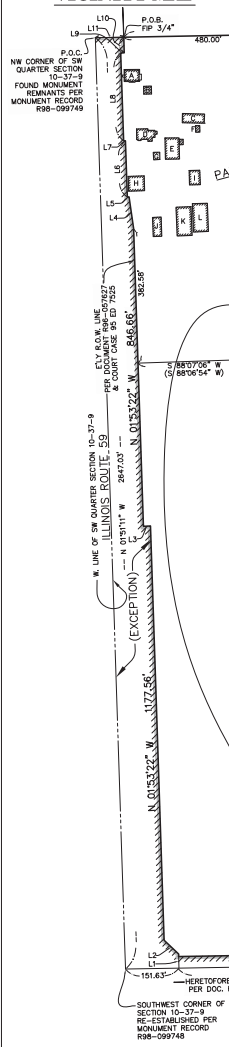
OF PART OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN WILL COUNTY, ILLINOIS

THIS PLAT HAS BEEN SUBMITTED FOR RECORDING BY  
 ENG. RECORD NO.  
 NAME: NAPERVILLE CITY CLERK  
 ADDRESS: 400 S. EAGLE STREET  
 NAPERVILLE, IL 60540



SITE LOCATION

### VICINITY MAP



- LEGEND**
- LIMITS OF ANNEXATION (Heavy Solid Line)
  - ADJACENT PROPERTY LINE, UNDERPARCEL, OR RIGHT OF WAY LINE (Light Solid Line)
  - QUARTER SECTION LINE (Double Dashed Line)
  - SECTION LINE (Triple Dashed Line)
  - EXISTING NAPERVILLE CORPORATE LIMITS
  - EXISTING NAPERVILLE PARK DISTRICT CORPORATE LIMITS
  - P.O.C. --- POINT OF COMMENCEMENT
  - P.O.B. --- POINT OF BEGINNING
  - R.O.W. --- RIGHT OF WAY
  - DOC. --- DOCUMENT
  - SEC. --- SECTION

**BUILDING SUMMARY**

BLDG.	STRUCTURE TYPE
A	1-1/2 STORY FRAME RESIDENCE
B	METAL GARAGE
C	1-STORY FRAME RESIDENCE
D	2-STORY STONE AND FRAME RESIDENCE
E	METAL BARN
F	CONCRETE BLOCK BUILDING
G	FRAME GARAGE
H	METAL BUILDING
I	FRAME BARN
J	FRAME SHED
K	METAL BUILDING
L	METAL BUILDING

**AREA SUMMARY TABLE**

PARCEL	GROSS ACRES	R.O.W. ACRES	NET ACRES
ONE	40.1	N/A	40.1
TWO	64.1	N/A	64.1
THREE	10.0	N/A	10.0

**PARCEL DESCRIPTIONS**

**PARCEL ONE:** THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, WHEATLAND TOWNSHIP, WILL COUNTY, ILLINOIS.

**PARCEL TWO:** THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, WHEATLAND TOWNSHIP, WILL COUNTY, ILLINOIS; EXCEPT THAT PART TAKEN BY THE ILLINOIS DEPARTMENT OF TRANSPORTATION FOR HIGHWAY EXPANSION ALONG ILLINOIS ROUTE 59 IN COURT CASE 95 ED 7525; AND ALSO EXCEPT THAT PART OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SOUTHWEST QUARTER AND HEADING THENCE NORTH 88 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 80.58 FEET TO THE POINT OF BEGINNING; CONTINUING AT THE POINT OF BEGINNING, THENCE NORTH 88 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 480.00 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 920.00 FEET TO A POINT OF THE EASTERLY RIGHT-OF-WAY LINE OF ILLINOIS ROUTE 59 PER DOCUMENT R96-057627; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 382.58 FEET TO A POINT; THENCE NORTH 08 DEGREES 13 MINUTES 31 SECONDS WEST, A DISTANCE OF 90.55 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 5.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 160.00 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 5.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 250.00 FEET TO A POINT; THENCE NORTH 88 DEGREES 06 MINUTES 54 SECONDS EAST, A DISTANCE OF 10.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 44.30 FEET TO THE POINT OF BEGINNING, EXCEPT THAT PART PREVIOUSLY ANNEXED TO THE CITY OF NAPERVILLE.

**PARCEL THREE:** THAT PART OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SOUTHWEST QUARTER AND HEADING THENCE NORTH 88 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 80.58 FEET TO THE POINT OF BEGINNING; CONTINUING AT THE POINT OF BEGINNING, THENCE NORTH 88 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 480.00 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 920.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF ILLINOIS ROUTE 59 PER DOCUMENT R96-057627; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 382.58 FEET TO A POINT; THENCE NORTH 08 DEGREES 13 MINUTES 31 SECONDS WEST, A DISTANCE OF 90.55 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 5.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 160.00 FEET TO A POINT; THENCE SOUTH 88 DEGREES 06 MINUTES 54 SECONDS WEST, A DISTANCE OF 5.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 250.00 FEET TO A POINT; THENCE NORTH 88 DEGREES 06 MINUTES 54 SECONDS EAST, A DISTANCE OF 10.00 FEET TO A POINT; THENCE NORTH 01 DEGREE 53 MINUTES 06 SECONDS WEST, A DISTANCE OF 44.30 FEET TO THE POINT OF BEGINNING.

**WILL COUNTY TAX MAPPING CERTIFICATE**

STATE OF ILLINOIS )  
 COUNTY OF WILL ) SS  
 I, \_\_\_\_\_, DIRECTOR OF THE TAX MAPPING AND PLATING OFFICE DO HEREBY CERTIFY THAT I HAVE CHECKED THE PROPERTY DESCRIPTION ON THIS PLAT FOR THAT PORTION WITHIN THE LIMITS OF WILL COUNTY AGAINST AVAILABLE COUNTY RECORDS AND FIND SAID DESCRIPTION TO BE TRUE AND CORRECT. THE PROPERTY HEREIN DESCRIBED IS LOCATED ON TAX MAP # \_\_\_\_\_ AND IS IDENTIFIED AS PERMANENT REAL ESTATE TAX INDEX NUMBER (PIN) \_\_\_\_\_

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 20\_\_\_\_

DIRECTOR \_\_\_\_\_

**CITY COUNCIL CERTIFICATE**

STATE OF ILLINOIS )  
 COUNTY OF DUPAGE ) SS  
 THIS PLAT OF ANNEXATION IS IDENTIFIED AS THAT REAL ESTATE INCORPORATED INTO AND MADE PART OF THE CITY OF NAPERVILLE OF WILL AND DUPAGE COUNTIES BY ORDINANCE NO. \_\_\_\_\_ ADOPTED BY THE CITY COUNCIL AT A MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2018.

BY: \_\_\_\_\_ MAYOR ATTEST: \_\_\_\_\_ CITY CLERK

**NAPERVILLE PARK DISTRICT CERTIFICATE**

STATE OF ILLINOIS )  
 COUNTY OF DU PAGE ) SS  
 THIS PLAT OF ANNEXATION IS IDENTIFIED AS THAT REAL ESTATE INCORPORATED INTO AND MADE A PART OF THE NAPERVILLE PARK DISTRICT OF WILL AND DUPAGE COUNTIES BY ORDINANCE NO. \_\_\_\_\_ ADOPTED BY THE BOARD OF PARK DISTRICT COMMISSIONERS AT A MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2018.

BY: \_\_\_\_\_ PRESIDENT ATTEST: \_\_\_\_\_ SECRETARY

**WILL COUNTY RECORDER'S CERTIFICATE**

STATE OF ILLINOIS )  
 COUNTY OF WILL ) SS  
 THIS INSTRUMENT \_\_\_\_\_ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF WILL COUNTY, ILLINOIS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 2018 AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M.

RECORDER OF DEEDS \_\_\_\_\_

**LINE TABLE**

LINE	BEARING MEASURED	LENGTH MEASURED	BEARING RECORD	LENGTH RECORD
L1	N 00°57'49" W	40.00'	---	---
L2	N 46°25'36" W	57.02'	---	---
L3	S 85°47'20" W	20.02'	---	---
L4	N 08°13'47" W	90.55' (N 08°13'31" W)	(90.55')	(90.55')
L5	S 88°06'38" W	5.00'	(S 88°06'54" W)	(5.00')
L6	N 01°53'22" W	160.00'	(N 01°53'06" W)	(160.00')
L7	S 88°06'38" W	5.00'	(S 88°06'54" W)	(5.00')
L8	N 01°53'22" W	250.00'	(N 01°53'06" W)	(250.00')
L9	N 88°06'38" E	10.00'	(N 88°06'54" E)	(10.00')
L10	N 01°53'22" W	44.27'	(N 01°53'06" W)	(44.30')
L11	N 88°56'50" E	80.58'	(N 88°56'52" E)	(80.58')

**SURVEYOR'S NOTES**

- DIMENSIONS ENCLOSED IN ( ) INDICATE RECORD OR DEED DATA. ALL OTHER DIMENSIONS ARE MEASURED, OR MEASURED EQUAL RECORD.
- THERE ARE EJECTORS THAT RESIDE ON THE PROPERTY ANNEXED HEREBY.
- THE MEASURED BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE SW QUARTER OF SECTION 10-37-9 BEING N 01°51'11" W. MEASUREMENTS BETWEEN 2 MONUMENTS AS ESTABLISHED BY RECORD DOCUMENTS REFERENCED HEREON. MEASUREMENTS WERE DERIVED FROM OBSERVATIONS UTILIZING THE CITY OF NAPERVILLE SURVEY CONTROL NETWORK MONUMENTS.

PREPARED FOR:  
 PULTE HOME COMPANY, LLC  
 A MICHIGAN LIMITED LIABILITY COMPANY  
 1900 E. GOLF ROAD, SUITE 300  
 SCHAMBURG, IL 60173  
 (647) 230-5292

PREPARED BY:  
**CEMCON, Ltd.**  
 Consulting Engineers, Land Surveyors & Planners  
 2280 White Oak Circle, Suite 100 Aurora, Illinois  
 630.862.2100 Fax: 630.862.2199  
 E-Mail: ccm@cemcon.com Website: www.cemcon.com

DISC NO: 402109 FILE NAME: ANNEX  
 DRAWN BY: MMC FLD, BK. / PG. NO: DB1/5-22  
 COMPLETION DATE: 05-22-18 JOB NO: 402109

**WAGNER FARM - PLAT OF ANNEXATION**  
**CITY OF NAPERVILLE PROJECT NUMBER IS**  
**18-1000087**  
 REVISIONS: 9/13/18\_MMC PER CITY REVIEW SHEET 1 OF 1  
 LETTER DATED 9/5/18 Copyright © 2018 Cemcon, Ltd. All rights reserved.

PETER A. BLAESER  
 ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3072  
 MY REGISTRATION EXPIRES ON NOVEMBER 30, 2018  
 PROFESSIONAL DESIGN FIRM LICENSE NUMBER 184-002937  
 EXPIRES APRIL 30, 2019

# EXHIBIT D

PLAT FILE GENERATED 05/27/18

## IMPACT FEE PAYMENT AGREEMENT

### WAGNER FARMS

THIS IMPACT FEE PAYMENT AGREEMENT (the “**Agreement**”) is entered into, by and between the Naperville Park District, -----, with offices at 320 Jackson Avenue, Naperville, Illinois 60540 (the “**District**”) and Pulte Home Company LLC with offices at 1900 East Golf Road, Suite 300, Schaumburg, Illinois 60173 (“**Pulte**”).

### RECITALS

**WHEREAS**, Pulte is contract purchaser and developer of that certain parcel of property consisting of approximately 106 acres located at the northeast corner of Route 59 and 103<sup>rd</sup> Street in the City of the Naperville and commonly known as Wagner Farms (the “**Property**”).

**WHEREAS**, Pulte is seeking annexation and development approvals from the City of Naperville to develop the Property as a 312 unit single family subdivision (the “**Project**”).

**WHEREAS**, pursuant to the provisions of the City of Naperville’s Subdivision Regulations, Pulte is required to pay to the District certain impact fees associated with the construction of new residential dwelling units (the “**Impact Fees**”).

**WHEREAS**, the District is pursuing the development of a new public plaza at the Frontier Sports Complex (the “**Plaza**”).

**WHEREAS**, Pulte and the District have considered their respective interests in the Project and the Plaza and have come to agreement on terms for the amount and schedule of payment for the Impact Fees as more specifically set forth in this Agreement.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties agree that:

**Section 1. Amount of Impact Fee.** Pulte and the District agree that the Impact Fee for the project shall be based on the park donation worksheet attached hereto as **Exhibit A** and made a part hereof (the “**Worksheet**”). The Worksheet is based on the anticipated approval of 312 units, Pulte’s proposed product mix and assumed bedroom counts for the Project. In the event that the City approves other than 312 units, the Worksheet shall be updated to reflect the approved unit count. The Worksheet shall not otherwise be modified without the express written agreement of Pulte and the District. Irrespective of the provisions of the City of Naperville Subdivision Regulations, it is the express intent of Pulte and the District that Pulte pay the Impact Fee based on the assumed bedroom counts as set forth in the Worksheet and that the Worksheet is not hereafter updated to reflect actual bedroom counts.

**Section 2. Payment Schedule.** Pulte shall pay the amount reflected on the Worksheet to the City of Naperville in three installments. The first installment shall be in the amount of \$955,299.56 and shall be due on June 15, 2019. The second installment shall be in the amount of \$955,299.56 and shall be due on or before October 15, 2019. The third and final installment shall be in the amount of \$955,299.56 and shall be due on or before December 15, 2019. Upon payment of the final installment, Pulte shall have no further obligation with respect to the payment of Impact Fees related to the Project unless the number of dwelling units in the project is increased, in which event the Pulte shall be responsible for the payment of additional sums to the District pursuant to the terms of the Subdivision Regulations.

**Section 3. Use of Funds.** The District acknowledges that the Impact Fees from the Project will be the primary funding source for the Plaza and that Pulte has entered into this Agreement to facilitate the District's construction of the Plaza improvements. The Plaza will be a regional attraction that will improve the south Naperville community, including the Project. The District shall commence construction of the Project in 2019.

**Section 4. Trail Connections.** The Project includes two trailhead connections into Frontier Park. The District agrees to grant to Pulte such grading and construction easements as are necessary and appropriate to construct said connections as generally depicted on **Exhibit B**, attached hereto and made a part hereof. The terms of said easement shall be subject to the review and approval of the District. The District will own, maintain and repair and replace any trailhead connections constructed by Pulte within Frontier Park.

**Section 5. Effective Date.** As of the date of this Agreement, Pulte has not obtained final development approvals nor has Pulte acquired title to the Property. Pulte does not intend to acquire title to the Property until such time as it has obtained annexation, zoning and preliminary development approvals from the City of Naperville. It is the intent of the Parties that this Agreement is expressly contingent on, and shall only be effective upon Pulte's acquisition of title to the Property ("Effective Date"). In the event that Pulte has not acquired title to the Property by June 15, 2109, the parties shall have no continuing obligations hereunder.

**Section 6. Default.** The parties acknowledge and agree that Pulte's development of the Project will be governed by Pulte's annexation agreement with the City of Naperville. This Agreement shall be incorporated by reference in the Annexation Agreement. In the event of a default under the terms of this Agreement, Pulte and the District agree that the City of Naperville may take such action as is appropriate under the terms of the Annexation Agreement, including but not limited to withhold permits for the Project.

**Section 7. Mutual Assistance.** The parties agree to do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in furthering the objectives of this Agreement, including the giving of such notices, the holding of such hearings, the sharing of information, the enactment of resolutions and

ordinances and the taking of such other actions as may be necessary to enable the parties' compliance with the terms and provisions of this Agreement.

**Section 8. Entire Agreement.** This Agreement contains the entire agreement between the parties hereto. All negotiations between the parties are merged into this Agreement and there are no understandings or agreements, written or verbal, other than those incorporated into this Agreement.

**Section 9. Severability.** If any provisions of this Agreement are determined by a court of competent jurisdiction to be invalid, such provisions shall be deemed to be stricken, and such adjudication shall not affect the validity of the remainder of the terms of this Agreement as a whole or of any paragraph, subparagraph, sentence or clause not adjudged to be invalid.

SIGNATURE PAGES TO FOLLOW

NAPERVILLE PARK DISTRICT

By: \_\_\_\_\_  
President, Board of Park Commissioners

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Secretary, Board of Park Commissioners

Date: \_\_\_\_\_

PULTE HOME COMPANY LLC,

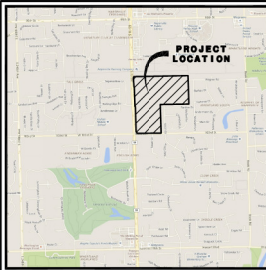
By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

# PRELIMINARY ENGINEERING PLAN FOR **WAGNER FARMS**

PART OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH,  
RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN WILL COUNTY, ILLINOIS.



## LOCATION MAP

### BENCHMARKS/CONTROL POINTS

**ELEVATION REFERENCE MARKS**

RMI-NAPERVILLE SURVEY MON. #1003. BERNSTEIN 30 TOP SECURITY MONUMENT, CONSISTING OF A 9/16" DIA. STAINLESS STEEL DATUM POINT ON THREADED 9/16" X 4" LONG ROD TOTALING (8") IN LENGTH WITH GREASED TOP SECURITY SLEEVE ENCLOSED IN SAND AND 6" PVC PIPE WITH BMAC 6 ALUMINUM ACCESS COVER. ELEVATION=670.06 (NAVD 88)

RME-NAPERVILLE SURVEY MON. #1002. BERNSTEIN 30 TOP SECURITY MONUMENT, CONSISTING OF A 9/16" DIA. STAINLESS STEEL DATUM POINT ON THREADED 9/16" X 4" LONG ROD TOTALING (24") IN LENGTH WITH GREASED TOP SECURITY SLEEVE ENCLOSED IN SAND AND 6" PVC PIPE WITH BMAC 6 ALUMINUM ACCESS COVER. ELEVATION=667.49 (NAVD 88)

(HELD ABOVE BENCHMARKS AS THE BASIS OF VERTICAL DATUM FOR PROJECT)

CP 102 - CROSS CUT IN TOP OF CURB ADJACENT TO FIRE HYDRANT AT END OF FALCON DRIVE ON WEST SIDE OF ROAD. ELEV: 664.395 NAVD 88

CP 113 - CUT CROSS IN CENTERLINE HEADWALL OF TRIPLE 21" RCP AT THE NORTHEAST CORNER OF ROUTE 59 B 103RD STREET. ELEV: 668.19 NAVD88

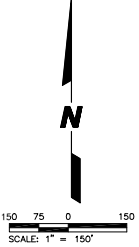
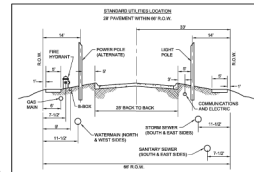
CP 104 - CUT CROSS IN CENTERLINE OF THE END OF THE CONCRETE WALK AT SOUTHWEST CORNER OF SITE. ELEV: 668.25 NAVD88

### SITE DATA

A. TOTAL AREA	114.28 AC.	100%
B. PROPOSED ZONING	R2	
C. EXTERNAL R.O.W.	2.19 AC.	1.92%
(103'± STREET)	1.36 AC.	
D. ROUTE 59	0.83 AC.	
E. INTERNAL R.O.W.	24.05 AC.	21.04%
F. COMMON OPEN SPACE (STORMWATER MANAGEMENT/OPEN SPACE (LANDSCAPE BUFFERS))	21.90 AC.	19.16%
G. CHURCH SITE	6.08 AC.	7.07%
H. NET RESIDENTIAL (DETACHED)	56.06 AC.	50.81%
I. NO. OF LOTS (DETACHED)	312	
J. MINIMUM LOT SIZE	6,838 S.F.	
K. MAXIMUM LOT SIZE	20,063 S.F.	
L. AVERAGE LOT SIZE	8,146 S.F.	
M. FRONT YARD SETBACK	25 FT.	
N. CORNER SIDE YARD SETBACK	10 FT.	
O. INTERIOR SIDE YARD SETBACK	6" MIN. W/COMBINED 16" TOTAL	
P. REAR YARD SETBACK	25 FT.	
Q. GROSS MODIFIED DENSITY	2.78 DU/AC.	

### LEGEND

EXISTING	PROPOSED	DESCRIPTION
○	○	MANHOLE
○	○	CATCH BASIN
○	○	INLET
○	○	CLEAROUT
○	○	SLOPE INLET BOX
○	○	HEADWALL
○	○	END SECTION
○	○	STORM SEWER
○	○	SANITARY SEWER
○	○	WATERMAIN
○	○	VALVE & BOX
○	○	WATER VALVE IN VAULT
○	○	FIRE HYDRANT
○	○	CONTOURS
○	○	ELEVATIONS
○	○	STREET LIGHT
○	○	WATERMAIN PROTECTION
○	○	SILT FENCE INLET PROTECTOR
○	○	TEMPORARY STRAW BALE DITCH ONEG
○	○	SILT FENCE DITCH CHECK
○	○	RIP-RAP
○	○	OVERFLOW ROUTE



**NOTES**

DIMENSIONS SHOWN ALONG CURVED LINES ARE ARC DISTANCES. ALL RIGHT-OF-WAYS ARE TO BE PUBLIC DEDICATIONS. ALL STREETS, UTILITY PIPES AND MAINS SHALL BE PUBLICLY OWNED AND MAINTAINED.

STORMWATER STORAGE VOLUMES TO BE PROVIDED AND THE DESIGN OF STORMWATER MANAGEMENT FACILITIES SHALL BE IN ACCORDANCE WITH CITY OF NAPERVILLE AND WILL COUNTY REQUIREMENTS.

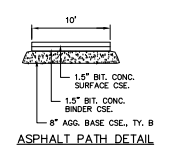
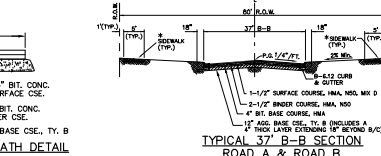
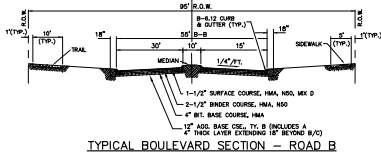
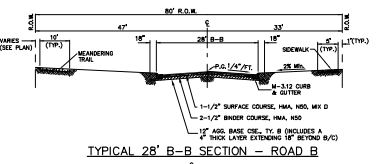
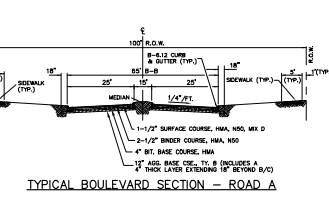
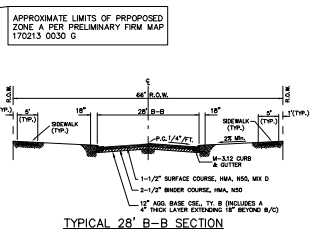
UNLESS OTHERWISE NOTED ALL WATERMAIN AND SANITARY SEWER TO BE 8" DIAMETER.

ALL SANITARY SERVICE CONNECTIONS TO SANITARY SEWER MAINS MUST HAVE AN OVERHEAD SEWER SYSTEM WITHIN THE BUILDING.

ANY TRAILS NOT IN PUBLIC RIGHT-OF-WAY WILL BE MAINTAINED BY THE HOME OWNERS ASSOCIATION.

APPROPRIATE SIGNAGE AND STRIPING WILL BE PROVIDED WITH THE FINAL ENGINEERING PLANS.

ANY EXISTING WELL AND SEPTIC FIELDS SHALL BE ABANDONED ACCORDING TO COUNTY HEALTH DEPARTMENT.

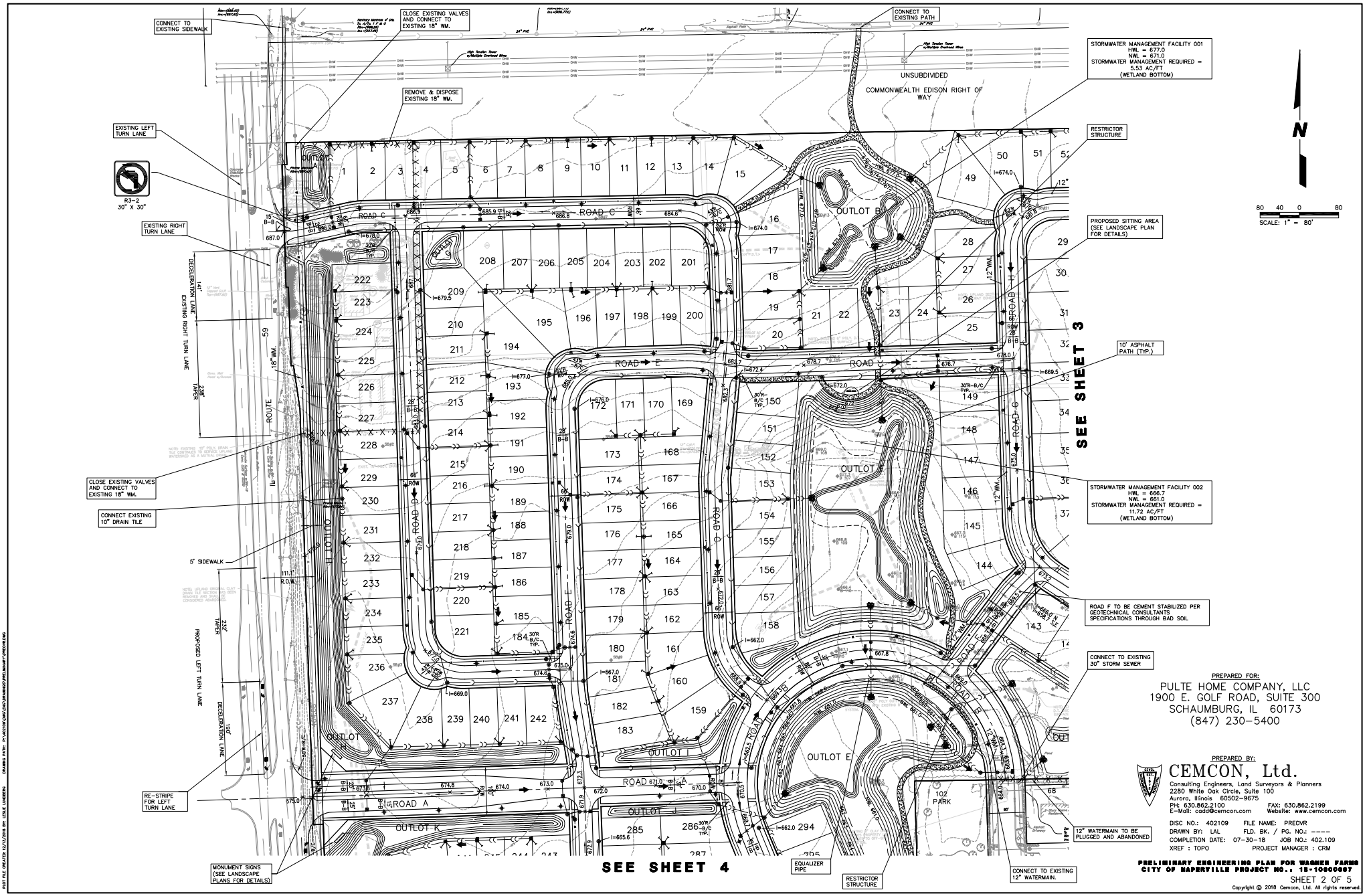


PREPARED FOR:  
PULTE HOME COMPANY, LLC  
1900 E. GOLF ROAD, SUITE 300  
SCHAUMBURG, IL 60173  
(847) 230-5400

PREPARED BY:  
**CEMCON, Ltd.**  
Consulting Engineers, Land Surveyors & Planners  
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E-Mail: [ceemcon@cemcon.com](mailto:ceemcon@cemcon.com) Website: [www.cemcon.com](http://www.cemcon.com)

DISC NO: 402109 FILE NAME: PRELOVR  
DRAWN BY: LAL FLD. BK. / PG. NO.: ----  
COMPLETION DATE: 07-30-18 JOB NO.: 402.109  
XREF: TOPO PROJECT MANAGER: CRM  
10-12-18/LAL: REVISED PER CITY REVIEW COMMENTS DATED 9/5/18  
12-12-18/LAL: REVISED PER CITY REVIEW COMMENTS DATED 11/14/18

**PRELIMINARY ENGINEERING PLAN FOR WAGNER FARMS**  
**CITY OF NAPERVILLE PROJECT NO. 18-1080087**  
SHEET 1 OF 5  
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SCALE: 1" = 80'

SEE SHEET 3

SEE SHEET 4

STORMWATER MANAGEMENT FACILITY 001  
 HWL = 671.0  
 NWL = 671.0  
 STORMWATER MANAGEMENT REQUIRED =  
 5.53 AC/FT  
 (WETLAND BOTTOM)

PROPOSED SITTING AREA  
 (SEE LANDSCAPE PLAN  
 FOR DETAILS)

10' ASPHALT  
 PATH (TYP.)

STORMWATER MANAGEMENT FACILITY 002  
 HWL = 666.7  
 NWL = 661.0  
 STORMWATER MANAGEMENT REQUIRED =  
 11.72 AC/FT  
 (WETLAND BOTTOM)

ROAD F TO BE CEMENT STABILIZED PER  
 GEOTECHNICAL CONSULTANTS  
 SPECIFICATIONS THROUGH BAD SOIL

CONNECT TO EXISTING  
 30" STORM SEWER

PREPARED FOR:  
 PULTE HOME COMPANY, LLC  
 1900 E. GOLF ROAD, SUITE 300  
 SCHAUMBURG, IL 60173  
 (847) 230-5400

PREPARED BY:  
**CEMCON, Ltd.**  
 Consulting Engineers, Land Surveyors & Planners  
 2280 White Oak Circle, Suite 100  
 Aurora, Illinois 60502-9675  
 PH: 630.862.2100 FAX: 630.862.2199  
 E-Mail: ccs@cemcon.com Website: www.cemcon.com

DISC NO.: 402109 FILE NAME: PREDR  
 DRAWN BY: LAL FLD. BK. / PG. NO.: ----  
 COMPLETION DATE: 07-30-18 JOB NO.: 402.109  
 XREF : TOPO PROJECT MANAGER : CRM

PRELIMINARY ENGINEERING PLAN FOR WAGNER FARMS  
 CITY OF NAPERVILLE PROJECT NO.: 18-1080087  
 SHEET 2 OF 5  
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EXHIBIT F





SEE SHEET 2

ROAD F TO BE CEMENT STABILIZED PER GEOTECHNICAL CONSULTANTS SPECIFICATIONS THROUGH BAD SOIL

RESTRICTOR STRUCTURE

RE-GRADE AREA FOR REQUIRED 2.90 AC-FT OF COMPENSATORY STORAGE

CONNECT TO EXISTING 12" WATERMAIN

12" WATERMAIN TO BE PLUGGED AND ABANDONED

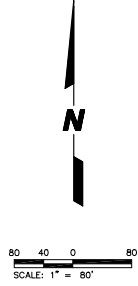
CONSTRUCT MH OVER EXIST. 12" SAN. SEWER INV. = 652.8

12" WATERMAIN TO BE PLUGGED AND ABANDONED

CONNECT TO EXISTING 12" WATERMAIN

10' ASPHALT PATH (TYP.)

CONNECT TO EXISTING PATH



PREPARED FOR:  
 PULTE HOME COMPANY, LLC  
 1900 E. GOLF ROAD, SUITE 300  
 SCHAUMBURG, IL 60173  
 (847) 230-5400

PREPARED BY:  
**CEMCON, Ltd.**  
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 COMPLETION DATE: 07-30-18 JOB NO.: 402.109  
 XREF : TOPO PROJECT MANAGER : CRM

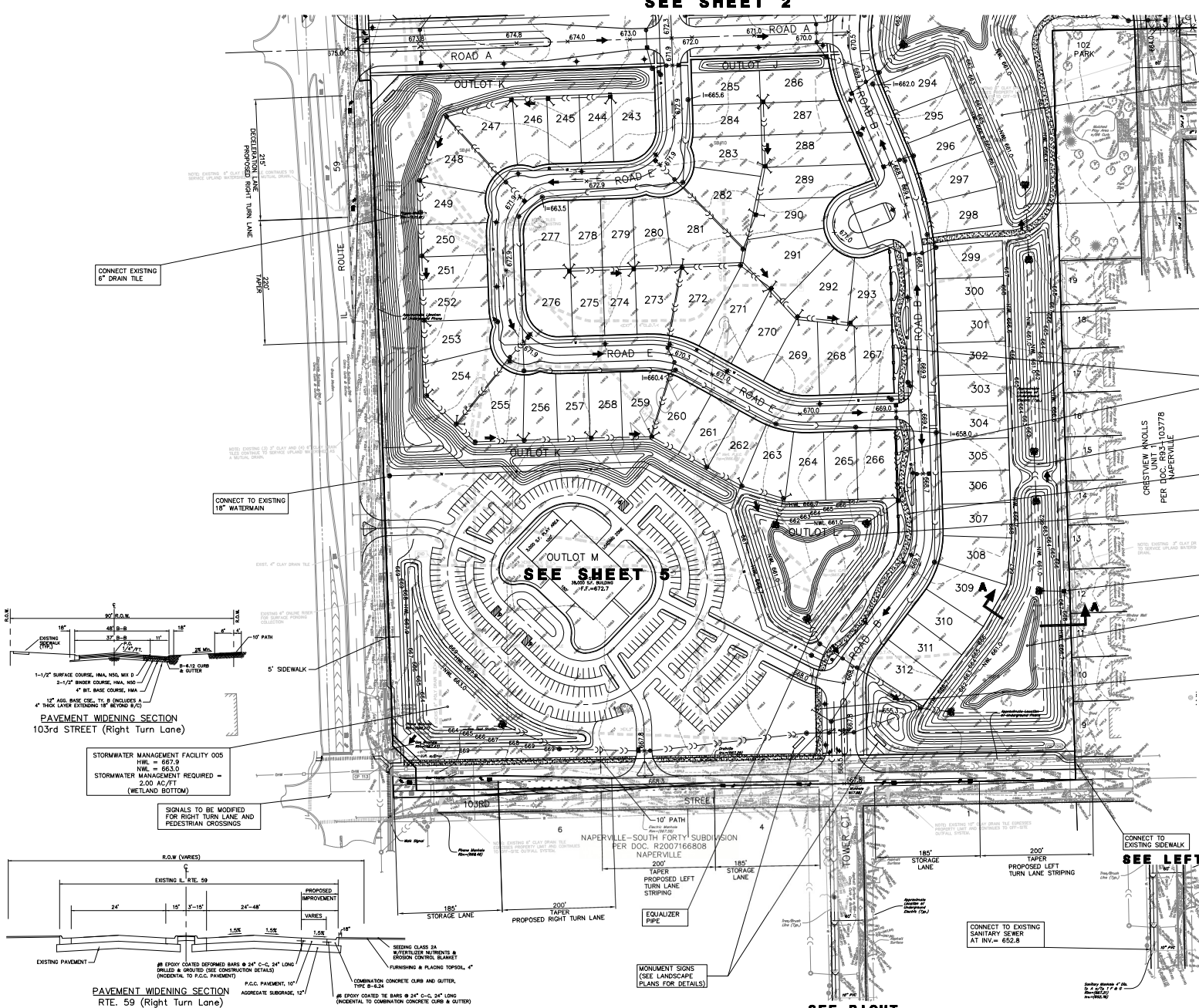
PRELIMINARY ENGINEERING PLAN FOR WAGNER FARMS  
 CITY OF NAPERVILLE PROJECT NO. 15-1060007  
 SHEET 3 OF 5  
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EXHIBIT F

SEE SHEET 2



80 40 0 80  
SCALE: 1" = 80'



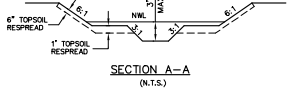
STORMWATER MANAGEMENT FACILITY 003  
HWL = 666.7  
NWL = 661.0  
STORMWATER MANAGEMENT REQUIRED =  
6.91 AC/FT  
(WETLAND BOTTOM)

EQUALIZER PIPE

STORMWATER MANAGEMENT FACILITY 004  
HWL = 666.7  
NWL = 661.0  
STORMWATER MANAGEMENT REQUIRED =  
2.06 AC/FT  
(WETLAND BOTTOM)

PROPOSED FENCE  
(SEE LANDSCAPE PLAN FOR DETAILS)

EQUALIZER PIPE



STORMWATER MANAGEMENT FACILITY 014  
HWL = 666.7  
NWL = 661.0  
STORMWATER MANAGEMENT REQUIRED =  
4.51 AC/FT  
(WETLAND BOTTOM)

CONNECT EXISTING  
3\"/>

STORMWATER MANAGEMENT FACILITY 012  
HWL = 666.7  
NWL = 661.0  
STORMWATER MANAGEMENT REQUIRED =  
5.03 AC/FT  
(WETLAND BOTTOM)

STUB & PLUG 6\"/>

NOTE:  
PULTE TO MASS GRADE AND PROVIDE UTILITY  
AND ROADWAY STUBS TO CHURCH SITE.  
COMPASS CHURCH TO DEVELOP OUTLOT M  
INDEPENDENTLY.

PREPARED FOR:  
PULTE HOME COMPANY, LLC  
1900 E. GOLF ROAD, SUITE 300  
SCHAUMBURG, IL 60173  
(847) 230-5400

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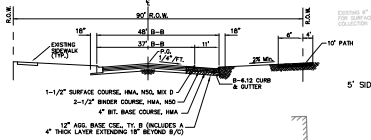
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DRAWN BY: LAL FLD. BK. / PG. NO.: ---  
COMPLETION DATE: 07-30-18 JOB NO.: 402.109  
XREF: TOPO PROJECT MANAGER: CRM

PRELIMINARY ENGINEERING PLAN FOR WAGNER FARMS  
CITY OF NAPERVILLE PROJECT NO. 18-1060087  
SHEET 4 OF 5  
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SEE SHEET 5

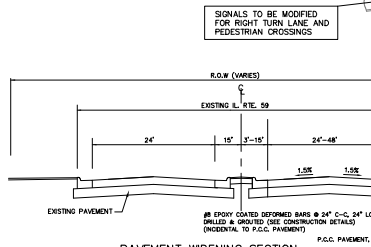
SEE LEFT

SEE RIGHT



PAVEMENT WIDENING SECTION  
103rd STREET (Right Turn Lane)

STORMWATER MANAGEMENT FACILITY 005  
HWL = 667.9  
NWL = 663.0  
STORMWATER MANAGEMENT REQUIRED =  
2.00 AC/FT  
(WETLAND BOTTOM)



PAVEMENT WIDENING SECTION  
RTE. 59 (Right Turn Lane)

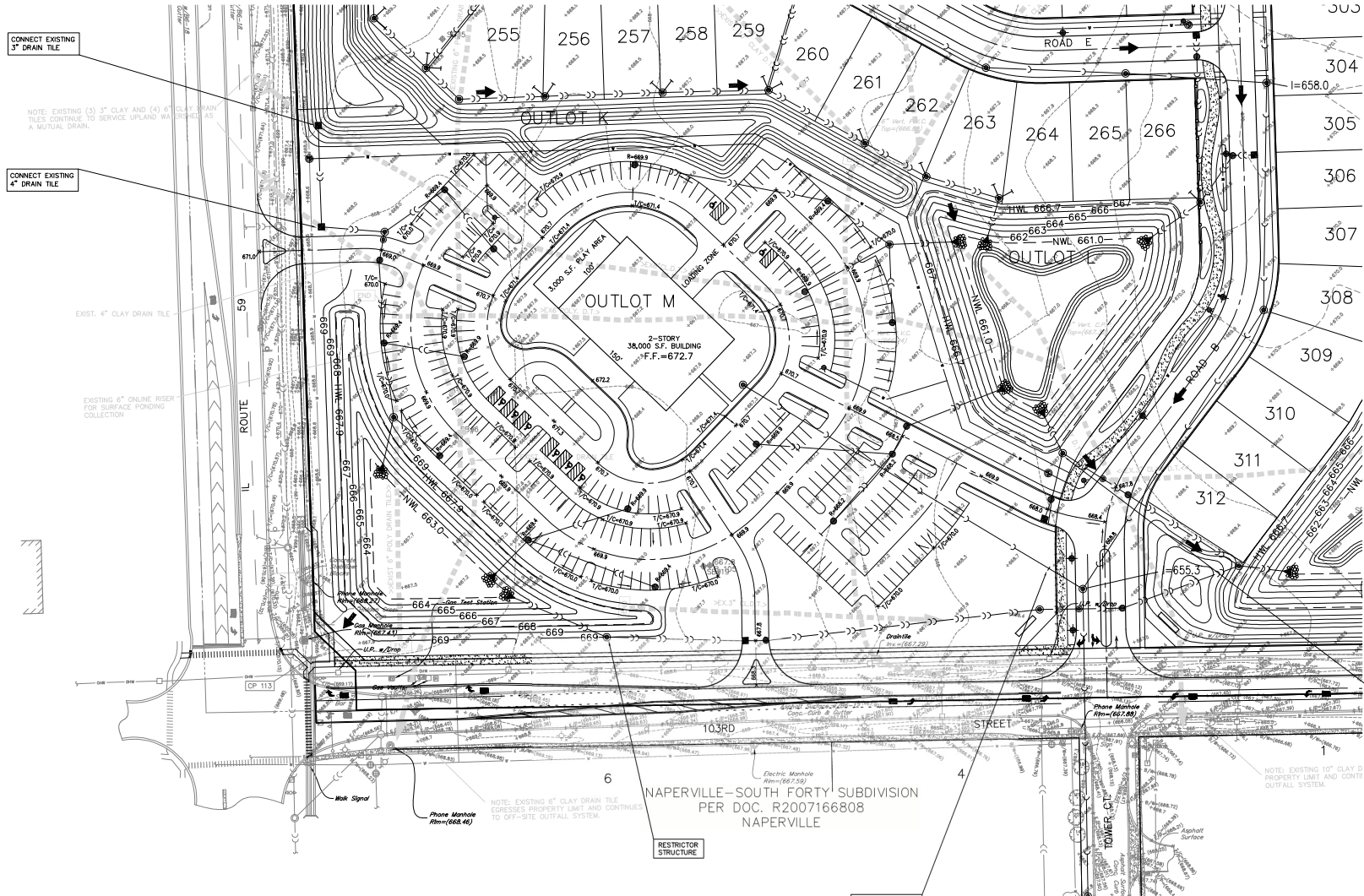
SEEDING CLASS 2A  
NUTRIENTEN &  
FERTILIZERS & PLACING TOPSOIL, 4"  
FIRE 2-224

#6 EPOXY COATED RE BARS @ 24\"/>

MONUMENT SIGNS  
(SEE LANDSCAPE  
PLANS FOR DETAILS)

EXHIBIT F

SEE SHEET 4



SEE SHEET 4

SITE DATA	
A. TOTAL AREA	8.05 Ac.
<b>PARKING REQUIREMENTS</b>	
B. TOTAL AREA FIRST FLOOR: 28,000 S.F.	
WORSHIP CENTER: 600 SEATS	PARKING REQUIRED: 200 SPACES
CAFE: 5,000 S.F.	PARKING REQUIRED: 20 SPACES
TOTAL AREA SECOND FLOOR: 10,000 S.F.	
OFFICES: 10,000 S.F.	PARKING REQUIRED: 33 SPACES
TOTAL PARKING REQUIRED: 253 SPACES	
TOTAL PARKING PROVIDED: 307	
PARKING SURPLUS: 54 SPACES	

NOTE: FULTE TO MASS GRADE AND PROVIDE SANITARY AND ROADWAY STUBS TO CHURCH SITE AND CONSTRUCT WATERMAIN CONNECTION. COMPASS CHURCH TO DEVELOP OUTLOT M INDEPENDENTLY.

PREPARED FOR:  
**PULTE HOME COMPANY, LLC**  
 1900 E. GOLF ROAD, SUITE 300  
 SCHAUMBURG, IL 60173  
 (847) 230-5400

PREPARED BY:  
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DISC NO.: 402109 FILE NAME: PREOVR  
 DRAWN BY: LAL FLD. BK. / PG. NO.: ---  
 COMPLETION DATE: 07-30-18 JOB NO.: 402.109  
 XREF: TOPO PROJECT MANAGER: CRM

**PRELIMINARY ENGINEERING PLAN FOR WARNER FARMS**  
**CITY OF NAPERVILLE PROJECT NO. 18-1080007**  
 SHEET 5 OF 5  
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**DETENTION REQUIRED**  
 IMPERVIOUS AREA = 5.10 Ac.  
 (w/ 10% EXTRA)  
 CURVE NO. 99.0  
 DETENTION REQUIRED = 3.50 Ac.Ft.  
 DETENTION PROVIDED ON-SITE = 2.00 Ac.Ft.  
 SITE DETENTION PROVIDED IN SHARED BASIN = 1.50 Ac.Ft.

NAPERVILLE-SOUTH FORTY SUBDIVISION  
 PER DOC. R2007166808  
 NAPERVILLE

RESTRICTOR  
 STRUCTURE

CONNECT TO 8" SANITARY SEWER STUB

CONNECT TO STORM MANHOLE

CONNECT EXISTING 3" DRAIN TILE

CONNECT EXISTING 4" DRAIN TILE

NOTE: EXISTING (3) 3" CLAY AND (4) 6" CLAY DRAIN TILES CONTINUE TO SERVICE UPLAND WATERSHED AS A MUTUAL DRAIN.

EXIST. 4" CLAY DRAIN TILE  
 EXISTING 6" ONLINE RISER FOR SURFACE PONDING COLLECTION

NOTE: EXISTING 4" CLAY DRAIN TILE EXCEEDS PROPERTY LIMIT AND CONTINUES TO OFF-SITE OUTFALL SYSTEM.

NOTE: EXISTING 10" CLAY D PROPERTY LIMIT AND CONTI OUTFALL SYSTEM.

NOT FILE CREATED: 12/12/2018 BY: LALC, LALC/CDD

## WAGNER FARMS

### RULES AND REGULATIONS FOR USE OF SHARED USE PATHS

The Shared Use Paths owned and/or operated by the Wagner Farms Homeowners' Association are subject to those easements granted pursuant to the applicable final plats of subdivision for Wagner Farms and the easement agreement with Commonwealth Edison. These Rules and Regulations, as may be amended with the written approval of the City Engineer of the City of Naperville, shall expressly limit the right to utilize the Shared Use Paths and shall govern the Associations' operation of the Shared Use Paths. By utilization of the Shared Use Paths, each and every user thereof does consent to these Rules and Regulations.

1. Access shall be permitted from sunrise to 1 hour after sunset.
2. Access is limited to the surface of the Shared Use Path.
3. The Shared Use Path may be utilized for only the following activities: walking, jogging, running, hiking, bicycling, cross-country skiing, rollerblading, skateboarding and non-motorized scooters (other than motorized chairs used by disabled persons). Users shall stay to the right, maintain safe speeds, pass on the left and always announce when passing. Bike helmets are strongly encouraged.
4. The following is expressly prohibited on the Shared Use Path:
  - a. Any motorized vehicle, all-terrain vehicles, snowmobiles, motorcycles other than motorized chairs used by disabled persons;
  - b. Drones;
  - c. Ball playing, frisbee, kite flying, "segwaying";
  - d. Horseback riding;
  - e. Tobacco, alcohol, vaping, smokeless cigarettes, smokeless tobacco and other controlled substances;
  - f. Firearms, knives or other weapons, including paintball guns and air rifles;
  - g. Glass containers;
  - h. Fireworks, pyrotechnics, rockets;
  - i. Throwing, shooting or launching of a projectile, swimming, fishing, climbing trees, hunting, trapping, collecting wildlife, removing any natural resource and feeding wildlife;
  - j. Loud talking, loud sounds, speakers, playing instruments and amplification of music;
  - k. Begging, panhandling, soliciting, loitering, camping, lighting a fire, grilling or otherwise cooking;
  - l. Behavior which disrupts, alarms, disturbs, intimidates or otherwise interferes the residential purpose and nature of the subdivision, disrupts the peace, specifically including the use of any obscene language or gestures;
  - m. Any gathering, meeting or public assembly, whether for purposes of public protest or otherwise;
  - n. Any commercial purpose;
  - o. No person other than the Association shall place, distribute or post any art, literature, handbill, advertisement or other written material (including signs);
  - p. Any person under the influence of alcohol or any other controlled substance; and
  - q. Littering or dumping of any debris, grass clippings, leaves or other landscape materials.
5. Be aware of wildlife both on and off the Shared Use Paths.
6. Practice "leave no trace." Dispose of all garbage and trash in receptacles or take away.

7. Domestic pets are permitted on the Shared Use Paths but shall be leashed at all times and leashes shall not be longer than 10 feet. Owners must clean-up after their pets and shall not allow their pets to disturb or harass residents, visitors or wildlife.
8. Each and every user of the Shared Use Paths shall be solely liable for any damage caused by their use thereof, whether said use is permitted or prohibited.
9. Each and every user of the Shared Use Paths assumes any and all risks incident to the use of the Shared Use Paths, including the risk of lost, stolen or damaged property or personal injury, whether such injuries occurred prior to, during or after use of the Shared Use Path.
10. The Association shall have no obligation to monitor or patrol the Shared Use Paths or to enforce these Rules and Regulations and shall not be responsible for the behavior of others.
11. The Association reserves the right to monitor and record any activity on the Shared Use Paths to ensure compliance with these Rules and Regulations, and to utilize such recording when necessary to demonstrate user violation of these Rules and Regulations.
12. The Association or its designee may either temporarily or permanently, as it deems appropriate, prohibit an individual's utilization of the Shared Use Path if the Association reasonably believes that the individual has violated these Rules and Regulations, or if the Association or its designee has a factual basis to believe that an individual intends to violate these Rules and Regulations.

