

Created: 1/17/17

Last Revised: 9/12/17

**PROPERTY ADDRESS:
SOUTHWEST CORNER MILL
STREET & COMMONS ROAD
NAPERVILLE, IL 60563**

**P.I.N.S
SEE EXHIBIT A**

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

ANNEXATION AGREEMENT
FOR AVENIDA – NAPERVILLE

THIS ANNEXATION AGREEMENT (hereinafter referred to as “Agreement”) is entered into this ____ day of _____, 2017 (hereinafter referred to as the “EFFECTIVE DATE”), 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 Avenida Senior Living, LLC with offices at 130 Newport Center Drive, Suite 220, Newport Beach, CA 92660, which is registered with the Illinois Secretary of State’s Office to conduct business in Illinois (hereinafter referred to as the “OWNER AND DEVELOPER”).

RECITALS

WHEREAS, as of the EFFECTIVE DATE as defined in Section S14.1 hereof, the OWNER AND DEVELOPER is the owner of record of all of the real property described in **EXHIBIT “A”**, attached hereto and incorporated herein by reference, 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 all of the territory described in **EXHIBIT “A”**, which territory is situated in the unincorporated area of the County of DuPage,

Illinois, and is presently contiguous to the CITY. The owner of the property at the time of filing has also signed said petition; 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 or the CITY'S 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, the General Conditions and attached Special Conditions, incorporated herein by reference, which together constitute the terms and conditions of this Agreement; 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 SUBJECT PROPERTY 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, in reliance upon the continued effectiveness of the CITY'S existing ordinances, codes and regulations for the period specified in this Agreement, the CITY and the OWNER AND DEVELOPER are willing to undertake certain obligations as set forth in this Agreement and have materially changed their positions in reliance upon the undertakings provided herein; and

WHEREAS, the CITY and the OWNER AND DEVELOPER have 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 In the event all fees are not paid or all documents are not received by the CITY from OWNER AND DEVELOPER to be recorded with the DuPage County Recorder within one (1) year of the City Council approval of this Agreement, this Agreement shall be null and void and all rights and obligations hereunder shall then terminate.

G2.3 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 residential uses which comply with the density limitations specified in the then-current existing Comprehensive Plan for the land uses including the 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 SUBJECT PROPERTY is annexed to and located within the Naperville Park District. As such, no concurrent annexation petition is required.

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, as shown on the Preliminary Plat of Subdivision which is attached hereto.

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 Upon the written request of the OWNER AND DEVELOPER tendered to the City Engineer and the City Attorney within twelve (12) months of completion of construction of the water distribution system and/or sanitary sewer collection system by the DEVELOPER and

acceptance thereof by the CITY, the CITY shall enter into a cost recapture agreement, in a form acceptable to the City Attorney, which shall be recorded against title for the properties which the CITY reasonably determines will be expected to benefit from the extension of said water distribution system and/or sanitary sewer collection system. The DEVELOPER'S request must be accompanied by a draft of the proposed Recapture Agreement and documentation demonstrating the "as built" costs of such system or systems for which recapture is sought. If such request, proposed Recapture Agreement, and supporting documentation is not provided within the above described twelve (12) month period, the CITY shall no longer have any obligation to enter into a recapture agreement.

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.

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.

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 S5.0 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 AND DEVELOPER nor any of its 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 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 of the OWNER AND DEVELOPER.

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 and their grantees, successors in interest, assignees, heirs, executors, or lessees for a period of twenty (20) years from the EFFECTIVE DATE of this Agreement except for those provisions which shall survive the termination or expiration of this Agreement as provided herein.

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 The OWNER AND DEVELOPER, should they be separate entities and/or individuals, shall be jointly and severally liable for all obligations hereunder. Any obligation owed by OWNER AND DEVELOPER 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 OWNER AND DEVELOPER shall survive the termination or expiration of this Agreement.

G19.5 If the SUBJECT PROPERTY is not annexed to the CITY within 365 days after the City Council approval of this Agreement, this Agreement shall become null and void without any further action by the CITY.

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.

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. If the CITY seeks enforcement of any aspect of this Agreement, including but not limited to the Age Restriction Covenant described in Section S9, 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 agree to hold the CITY harmless and to reimburse the CITY for any and all expenses incurred by the CITY for said defense including 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 successors 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 City Council approval 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 have been accepted by the CITY, the OWNER AND DEVELOPER shall remain obligated for completion of said public improvements and/or (at the CITY'S sole discretion) to pay any costs for said public improvements to the extent that the surety is not sufficient to pay for the costs of the public improvements, or in the event of any denial, or partial denial, of coverage by the surety, or failure of the surety to timely respond to a demand for payment.

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 bond 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.

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 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 V3 Companies of Illinois, Ltd., dated September 6, 2016, last revised December 7, 2016, which conforms with the statutory requirements is attached hereto and incorporated herein by reference as **EXHIBIT “B”**.

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 \$660, which has been paid by the OWNER AND DEVELOPER.

S3.0 UTILITY REBATES, SPECIAL CONNECTION FEES, RECAPTURE FEES, SPECIAL ASSESSMENTS, SPECIAL SERVICE AREAS TAXES, AND OTHER FEES.

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

- i. **Roadway Improvements for West Street and Commons Road to be reimbursed to the CITY:** \$107,547.81. This fee shall be paid to the CITY prior to the recordation of this Agreement and Ordinance annexing the SUBJECT PROPERTY.
- ii. **Mill Street Widening Recapture Fee:** \$156,173.85 (based on one-half of total City share of as-built costs for the Mill Street widening and northbound left turn lane improvements). This fee shall be paid to the CITY prior to the

recording of this Agreement and Ordinance annexing the SUBJECT PROPERTY.

- iii. **Mill Street & Commons Road Traffic Signal:** \$184,600 toward the engineering and construction costs (including reasonable associated roadway improvements) of the traffic signal at Mill Street and Commons Road as set forth in Section S13.1 of this Agreement. Said sum is due prior to the recording of the Ordinance annexing the SUBJECT PROPERTY and prior to recordation of this Agreement.

S3.2 Except for the fees specified in S3.1, there are currently no other Utility Rebates, Special Connection Fees, Special Assessment or Special Service Areas Taxes applicable to the SUBJECT PROPERTY.

S3.3 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.

IF TO THE CITY:

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

WITH COPIES TO:

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

IF TO THE OWNER AND DEVELOPER:

Avenida Senior Living, LLC
130 Newport Center Drive
Suite 220
Newport Beach, CA 92660
Attention: Robert May

WITH COPIES TO:

Russell Whitaker, Attorney
Rosanova & Whitaker Ltd.
30 W. Jefferson Avenue, Suite 200
Naperville, IL 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. Once the OWNER AND DEVELOPER has filed a building permit application and associated permit drawings, the CITY shall review said application and associated permit drawings based on the City's Building, Fire and Life Safety Codes effective as of the date of said building permit application provided that OWNER AND DEVELOPER diligently pursues said permit application and proceeds to permit issuance within six (6) months of the date of said permit application.

S6.0 EMERGENCY ACCESS.

S6.1 OWNER AND DEVELOPER shall not be required to construct separate emergency access during development of the SUBJECT PROPERTY as the existing roadway configuration provides sufficient service to the SUBJECT PROPERTY.

S7.0 PLAT APPROVAL.

S7.1 In lieu of the provisions of the CITY'S ordinances and in order to accomplish the reclassification of the SUBJECT PROPERTY as shown on the Preliminary Plat of Subdivision prepared by V3 Companies of Illinois, Ltd, dated September 20, 2016, last revised August 28, 2017, attached hereto and incorporated herein by reference as **EXHIBIT "C,"** the CITY approves such exhibit and the same shall constitute and satisfy all of the requirements for the Preliminary Plat for the SUBJECT PROPERTY as defined in the ordinances of the CITY. Such preliminary approval shall be valid for a period of five (5) years from the EFFECTIVE DATE of this Agreement unless a final plat is recorded prior to the expiration of said five (5) year period. All final plats and supporting data shall be submitted in accordance with said development and Subdivision Control Regulation provisions.

S8.0 SIDEWALKS.

S8.1 The OWNER AND DEVELOPER agrees to install public sidewalk, at the OWNER AND DEVELOPER'S sole cost, across the Mill Street and Commons Road frontages of the SUBJECT PROPERTY prior to issuance of any occupancy permit for the SUBJECT PROPERTY, or within three (3) years after annexation of the SUBJECT PROPERTY, whichever is sooner. In lieu of constructing required sidewalk along West Street frontage of the

SUBJECT PROPERTY, OWNER AND DEVELOPER agrees to construct a sidewalk extension from the terminus of the existing sidewalk on the west side of West Street south to the existing sidewalk on Bauer Road, all improvements to be located within the CITY'S of right-of-way (the "OFF-SITE SIDEWALK"). The OFF-SITE SIDEWALK shall be constructed prior to the issuance of any occupancy permit for the SUBJECT PROPERTY, or within three (3) years after annexation of the SUBJECT PROPERTY, whichever is sooner. An extension of this timeframe may be granted in writing at the discretion of the City Engineer. The provisions of this Section 8.1 shall survive the expiration or termination of this Agreement.

S9.0 DEVELOPMENT CONTROLS.

S9.1 Age Restriction Covenant. The development of the SUBJECT PROPERTY is being approved on the express condition that it is operated as an age-restricted community. To this end, the SUBJECT PROPERTY shall be developed and at all times operated in accordance with the terms and conditions of the age restriction covenant ("Age Restriction Covenant" or "Covenant") attached hereto and made part hereof as **EXHIBIT "D"**. The Covenant shall run with the land in perpetuity and bind the OWNER AND DEVELOPER, their successors, transferees, and assigns. The Covenant shall run to the benefit of, and according to its terms, may be enforced by: i) the City of Naperville, and/or ii) Community Unit School District 203 (the "SCHOOL DISTRICT"). The Covenant may only be released on written agreement of the owner of the SUBJECT PROPERTY, the CITY and the SCHOOL DISTRICT, which agreement shall be approved by not less than a supermajority of the corporate authorities of the CITY and SCHOOL DISTRICT then in office.

S9.2. Zoning Controls. The SUBJECT PROPERTY shall be subject to CITY zoning controls ("ZONING CONTROLS"):

9.2.1 Conditional Use for Multi-Family Dwellings. Concurrent with this Annexation Agreement, the OWNER AND DEVELOPER has sought zoning relief in the form of a conditional use for Multi-Family Dwellings on the SUBJECT PROPERTY. Should said zoning relief be granted, the conditional use shall be expressly conditioned on the development and operation of the SUBJECT PROPERTY as an age-restricted community consistent with the terms of the Covenant, thereby establishing a separate zoning control as a second mechanism to ensure the continued operation as an age-restricted community.

9.2.2 Variance to Reduce Required Parking. Concurrent with this Annexation Agreement, the OWNER AND DEVELOPER has sought zoning relief in the form of an ordinance granting a variance from the required parking under the Naperville Municipal Code then in effect (“CITY CODE”). Should said zoning relief be granted, the ordinance granting the variance shall be expressly conditioned on the development and operation of the SUBJECT PROEPRTY as an age-restricted community consistent with the terms of the Covenant. Additionally, the parking variance shall be subject to the following additional requirements:

i. As a condition of lease execution, OWNER AND DEVELOPER shall require all residents of the SUBJECT PROPERTY (“Resident(s)”) to provide information with respect to vehicle ownership, and to update such information annually thereafter, including such information as make, model and license plate number of any vehicles owned by the resident. This information shall be emailed to the CITY’S Zoning Administrator within five calendar days upon her request therefor.

ii. OWNER AND DEVELOPER shall actively manage the parking supply on the SUBJECT PROPERTY such that there are not more than 156 resident owned vehicles. In the event that there are more than 156 Resident owned vehicles, OWNER AND DEVELOPER shall be required to construct the LAND BANKED PARKING (as defined in the provisions set forth in Section S18 hereof) which will then permit a maximum of 182 Resident owned vehicles. In addition, OWNER AND DEVELOPER shall maintain 5 parking spaces for employees working at the SUBJECT PROPERTY and 37 spaces for visitors to the SUBJECT PROPERTY (0.25 spaces/unit).

iii. OWNER AND DEVELOPER shall create a parking decal or other hang-tag as a mechanism to monitor and track all resident registered vehicles. OWNER AND DEVELOPER shall include in each Resident’s lease agreement provisions that provide that: (a) No overnight parking shall be permitted except for registered resident vehicles or guest vehicles that have been registered with the property

manager; and (b) OWNER AND DEVELOPER may tow any vehicles parked in violation of the restrictions established for the Community.

- iv. OWNER AND DEVELOPER shall also include in their lease agreements with all Residents that no Resident vehicles or guest vehicles, shall be permitted to park on public streets adjacent to the SUBJECT PROPERTY, including but not limited to Commons Road, West Street, Mohler Court, or Hammer Creek Court. OWNER AND DEVELOPER shall make the same requirement applicable to all agents and employees who perform any work on or at the SUBJECT PROPERTY.
- v. OWNER AND DEVELOPER shall operate, or cause to be operated, a shuttle service for Residents of the development, which shuttle service is intended to provide transportation for group outings or other scheduled errands in an effort to reduce Resident reliance or need for independent vehicle ownership.
- vi. OWNER AND DEVELOPER shall include in their lease agreement with each resident who has a right to utilize space in a parking garage structure, whether it be an attached or detached garage structure, that the garage space shall be used for the primary purposes of parking a registered resident vehicle.
- vii. If at any point, parking demand on the SUBJECT PROPERTY exceeds parking supply on the SUBJECT PROPERTY, the OWNER AND DEVELOPER shall be obligated to correct the parking deficiency by using the Remedies described in Subsection 10.4 hereof within a timeframe agreed upon by the Zoning Administrator.

9.2.3 Lot Area Variance. Concurrent with this Annexation Agreement, the OWNER AND DEVELOPER has sought zoning relief in the form of an ordinance granting a variance from the required Lot Area under CITY CODE. Should said zoning relief be granted, the ordinance granting the variance from the required Lot Area shall be expressly conditioned on the development and operation of the SUBJECT PROEPRTY as an age-restricted community consistent with the terms of the Covenant.

9.2.4 Violations of a Zoning Control. The ZONING CONTROLS are intended and shall be construed as restrictions on the zoning of the SUBJECT PROPERTY, which ZONING CONTROLS the OWNER AND DEVELOPER has voluntarily agreed to as condition of this Agreement. Any violation of a ZONING CONTROL may be prosecuted consistent with the terms of the CITY'S zoning ordinance, which permits i) strict enforcement of any zoning violation, and ii) monetary fines. Each day that a violation persists may constitute and be prosecuted as a separate offense. Notwithstanding the foregoing, in the event of any violation of one or more of the ZONING CONTROLS, the CITY may also take any other action at law or in equity as it deems appropriate.

S10.0 MODIFICATIONS TO ZONING CONTROLS IF THE AGE RESTRICTION COVENANT IS SOUGHT TO BE MODIFIED OR RELEASED.

S10.1 Modification or Release of Covenant. In the event that OWNER AND DEVELOPER seeks to modify or release the Covenant, OWNER AND DEVELOPER shall submit an application for same to the City's Zoning Administrator concurrently with a petition for revised development approvals to modify the ZONING CONTROLS as set forth herein. The application shall include a detailed narrative setting forth the basis for the proposed modification or release of the Covenant and describing any modifications to the ZONING CONTROLS proposed for the SUBJECT PROPERTY in its stead. OWNER AND DEVELOPER shall concurrently file the application with the SCHOOL DISTRICT, and the SCHOOL DISTRICT shall process the application concurrent with the CITY'S review. The Covenant may only be released on written agreement of the owner of the SUBJECT PROPERTY, the CITY and the SCHOOL DISTRICT, which agreement shall be approved by not less than a supermajority (2/3) of the corporate authorities of the CITY and SCHOOL DISTRICT then in office.

S10.2 Modification of ZONING CONTROLS. The ZONING CONTROLS are essential elements of the zoning established for the SUBJECT PROPERTY and can only be modified as provided by the CITY CODE then in effect. In the event that OWNER AND DEVELOPER seeks to modify any or all of the ZONING CONTROLS, OWNER AND DEVELOPER shall submit to the Zoning Administrator an application for: i) a major change

to the conditional use; and/or ii) new zoning variances, as the Zoning Administrator may determine are appropriate.

S10.3 Evaluation of Community Impact. In the event OWNER AND DEVELOPER proposes to modify or release the age-restricted nature of the development, the petition for revised ZONING CONTROLS shall include a new traffic study that takes into account the development conditions on and surrounding the SUBJECT PROPERTY (e.g. total number and type of dwelling units proposed or existing and other data that the CITY determines necessary). OWNER AND DEVELOPER shall also provide other studies or information as required by the Zoning Administrator in order for the CITY to accurately evaluate the anticipated traffic impact on the SUBJECT PROPERTY and the surrounding area if the SUBJECT PROPERTY is permitted to modify the age-restriction. If the CITY determines that the net increase in traffic, school student generation, park usage, or other impact resulting from a non-age restricted development on the SUBJECT PROPERTY will likely not be supported by then existing infrastructure (including but not limited to utilities and/or roadways), or services (including but not limited to school and/or park district capacity), then the CITY may: (i) deny the proposed major change to the conditional use and refuse to modify or release the Covenant; or (ii) approve a major change to the conditional use modifying or releasing the Covenant subject to requirements determined by the CITY at that time which may include a requirement that the OWNER AND DEVELOPER reduce the total number of bedrooms and/or total dwelling unit count on the SUBJECT PROPERTY in order to correspondingly reduce the impact of the proposed non-age restricted development to a level that the CITY determines will be supported by said infrastructure and/or services.

S10.4 Evaluation of Impact to SUBJECT PROPERTY. In the event OWNER AND DEVELOPER proposes to modify or release the age-restricted nature of the development, the petition for revised ZONING CONTROLS shall include an updated parking study that takes into account the development conditions then in effect on and surrounding the SUBJECT PROPERTY (e.g. total number and type of dwelling units proposed or existing and other data that the CITY determines is necessary). In addition, the OWNER AND DEVELOPER shall also provide other studies, data, and/or information as required by the Zoning Administrator in order for the CITY to evaluate the anticipated impact the release of the Covenant would have on parking at the SUBJECT PROPERTY and on surrounding properties. The CITY may

require the OWNER AND DEVELOPER to undertake one or more remedies (“REMEDIES”) to be included in any amended parking variance approved by the CITY. Such REMEDIES may include, but shall not be limited to, one or more of the following:

- i. OWNER AND DEVELOPER shall establish a shared parking agreement with an adjacent property, subject to CITY review;
- ii. OWNER AND DEVELOPER shall reduce the number of bedrooms per dwelling unit;
- iii. OWNER AND DEVELOPER shall reduce the total number of dwelling units;
- iv. OWNER AND DEVELOPER shall assign parking spaces per dwelling unit through lease or sale agreements; and/or
- v. Other solutions as may be reviewed and approved by the City Council.

If an amended variance is not granted by the CITY, or is not granted in its entirety, and the Covenant is modified or released, the OWNER AND DEVELOPER shall be required to cease use of a portion of the SUBJECT PROPERTY sufficient to reduce the parking demand on the SUBJECT PROPERTY to meet CITY CODE requirements then in effect as applicable to the SUBJECT PROPERTY.

S11.0 SCHOOL DONATIONS.

S11.1 In consideration of and subject to the age restriction provisions set forth in Sections S9 and S10 of this Agreement, and subject to the Covenant, the CITY hereby waives the requirements for the OWNER AND DEVELOPER to make a school land cash payment pursuant to Section 7-3-5 of the Naperville Municipal Code. School District #203 has agreed to the terms of the Covenant as represented in their letter attached hereto and made part hereof as **EXHIBIT “E”**.

S11.2 If the age restriction is modified or released in the future to allow the SUBJECT PROPERTY to be occupied by individuals other than as provided for in the Covenant, the waiver provided for herein shall be deemed to be automatically void without further action of the Parties hereto. Concurrent with any such modification of the Covenant, the Parties shall enter into an amendment of this Annexation Agreement or an Owner’s

Acknowledgement and Acceptance, which agreement shall require the land cash payment to School District #203 consistent with the requirement of CITY CODE.

S11. 3 The provisions set forth in this Section 11 and each subsection thereof shall survive the expiration or termination of this Agreement.

S12.0 PARK DONATIONS.

S12.1 In consideration of and subject to the age restriction provisions set forth in Section S9 and S10 of this Agreement, and subject to the Covenant, the OWNER AND DEVELOPER agrees to pay a park donation based on the park donation worksheet attached hereto as **EXHIBIT “F”** attached hereto and made a part hereof, which donation worksheet specifically accounts for the SUBJECT PROPERTY being developed as an age-restricted community. The amount of such payment reflects a deviation from Section 7-3-5:4.2 of the Naperville Municipal Code which is agreed to by the Naperville Park District as evidenced by **EXHIBIT “G”**, attached hereto and made part hereof. OWNER AND DEVELOPER agrees that payment of said amount shall not be paid under protest, or otherwise objected to.

S12.2 If the age restriction is modified or released in the future to allow the SUBJECT PROPERTY to be occupied by individuals other than as provided for in the Covenant, the waiver provided for herein shall be deemed to be automatically void without further action of the Parties hereto. Concurrent with any such modification or release of the Covenant, the Parties shall enter into an amendment of this Annexation Agreement and an Owner’s Acknowledgement and Acceptance, which agreement shall require the land cash payment to School District #203 consistent with the requirement of CITY CODE, but providing a credit for any payment previously made pursuant to this Agreement. The provisions of this Section S10.2 shall survive the expiration or termination of this Agreement.

S12. 3 The provisions set forth in this Section 12 and each subsection thereof shall survive the expiration or termination of this Agreement.

S13.0 INSTALLATION OF STREET LIGHTS.

S13.1 In lieu of the installation of street lights along Commons Road, the OWNER AND DEVELOPER agrees to install public street lights, at the OWNER AND DEVELOPER’S sole cost, across the frontage of the SUBJECT PROPERTY and across the Mill Street frontage of the HarborChase development (approved by Ordinances 14-103, 14-104, 14-105, 14-106, and 14-107) directly north of the SUBJECT PROPERTY in accordance with the final engineering plans

approved by the City Engineer. The street lights across the Mill Street frontage shall be installed on one or both sides of Mill Street as determined by the DuPage County Department of Transportation and the CITY.

S13.2 The street lights described in Section S12.1 above shall be installed within three (3) years of issuance of a building permit for any portion of the SUBJECT PROPERTY or within such other timeframe as agreed to in writing by the City Engineer.

S14.0 TRAFFIC SIGNAL INSTALLATION AT MILL STREET AND COMMONS ROAD.

S14.1 OWNER and DEVELOPER agrees to pay the CITY \$184,600 toward the engineering and construction costs (including reasonable associated roadway improvements) of the traffic signal at Mill Street and Commons Road. Said sum is due prior to the recording of the Ordinance annexing the SUBJECT PROPERTY and prior to recordation of this Agreement.

S15.0 EFFECTIVE DATE.

S15.1 The effective date (herein the “EFFECTIVE DATE”) of this Agreement shall be the date upon which it is recorded with the DuPage County Recorder. If this Agreement is not recorded within one (1) year of the City Council approval of this Agreement, this Agreement shall be automatically null and void and all rights and obligations hereunder shall then terminate.

S16.0 FINANCIAL SURETY.

S16.1 “Surety” shall be defined as a cash deposit, letter of credit or bond pursuant to such form as shall be reasonably approved by the City Attorney. A performance bond or other appropriate form of security may be used as Surety only with the express agreement of the City Attorney and City Engineer.

S16.2 Notwithstanding the provision of any Surety, until the improvements covered by such Surety 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 improvements and/or (at the CITY’s sole discretion) to pay any costs for said improvements to the extent that the Surety is not sufficient to pay for them, 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.

S17.0 WATERMAIN COST SHARING.

S17.1 The OWNER and DEVELOPER agrees to design and construct a sixteen-inch (16”) diameter watermain extension from the existing watermain stub on the south property line to the north property line of the SUBJECT PROPERTY, in accordance with the Final Engineering Plans (hereinafter referred to as “Watermain Improvements”). Construction of the Watermain Improvements shall be completed and accepted by the City prior to issuance of an occupancy permit for the SUBJECT PROPERTY.

S17.2 The CITY agrees to reimburse the OWNER and DEVELOPER the difference between the cost to construct a twelve-inch (12”) diameter watermain and a sixteen (16) inch diameter watermain and appurtenances (hereinafter referred to as “Differential Cost”). The Differential Cost is estimated as shown on the Engineer’s Opinion of Probable Construction Costs.

S17.3 The OWNER AND DEVELOPER shall provide a quote for the 12-inch watermain and an invoice for the 16-inch watermain. After completion and acceptance of the 16” watermain the OWNER and DEVELOPER shall provide an affidavit, sworn statement and lien waivers from all contractors and materials suppliers who performed work on the watermain extension. The City shall pay said Differential Cost due and owing the OWNER and DEVELOPER under the terms of this Agreement within thirty (30) days of receipt of the affidavits, sworn statements and lien waivers.

S18.0 LAND BANKED PARKING.

S18.1 OWNER AND DEVELOPER shall reserve sufficient space to land bank 26 parking spaces on the SUBJECT PROPERTY as depicted on the Preliminary Engineering plans prepared by V3 Companies, Ltd.; dated September 23, 2016, last revised August 29, 2017 and attached hereto as **EXHIBIT “H”**. This provision shall survive the expiration or termination of this Agreement.

S18.2 In the event that the City Engineer, at his or her sole discretion, determines that the construction of the land banked parking spaces on the SUBJECT PROPERTY is necessary, OWNER AND DEVELOPER agrees to obtain all necessary approvals and permits and to commence construction of said land banked parking improvements within one hundred and eighty (180) days of written notice by the CITY that such construction is required. This provision shall survive the expiration or termination of this Agreement.

S18.3 The land banked parking shall be constructed in compliance with the CITY CODE then in effect, including but not limited to all zoning, engineering, and building requirements and regulations.

S19.0 FORCE MAJUERE.

S19.1 For purposes of Force Majeure, as defined in Section G24.0 of this Agreement, a strike or lockout of OWNER AND DEVELOPER'S contractors, subcontractors or material suppliers or the inability of material suppliers to timely deliver building materials shall be basis for a force majeure claim under Section G24.0 by OWNER AND DEVELOPER.

S20.0 MISCELLANEOUS.

S20.1 Expense Reimbursement. Within thirty (30) days of receipt of a bill therefor, OWNER AND DEVELOPER shall reimburse the CITY in full for all attorneys' fees, costs, and expenses, whether in-house or outside counsel, for the City's enforcement of any of the provisions set forth in the following Sections of this Agreement, including each subsection thereof: Sections S8 through S10, S13, and S18.

~ SIGNATURES ON FOLLOWING PAGES ~

IN WITNESS WHEREOF, the parties set their hands and seals as of the EFFECTIVE DATE set forth on page 1 hereof.

CITY OF NAPERVILLE

Attest

By: _____
Steve Chirico
Mayor

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 _____, 2017.

Notary Public

-seal-

OWNER AND DEVELOPER

Avenida Senior Living, LLC, 130 Newport Center Drive, Suite 220, Newport Beach, CA 92660

By: _____
[name]
[title]

Attest
By: _____
[name]
[title]

State of Illinois)
)
County of _____)

The foregoing instrument was acknowledged before me by _____,
_____, and _____, this _____
day of _____, 2017.

Notary Public

-seal-

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

**EXHIBITS TO THE ANNEXATION AGREEMENT
FOR AVENIDA - NAPERVILLE**

EXHIBIT "A"
LEGAL DESCRIPTION OF SUBJECT PROPERTY

EXHIBIT "B"
PLAT OF ANNEXATION

EXHIBIT "C"
PRELIMINARY PLAT OF SUBDIVISION

EXHIBIT "D"
AGE RESTRICTION COVENANT

EXHIBIT "E"
NAPERVILLE SCHOOL DISTRICT LAND/CASH DONATION LETTER

EXHIBIT "F"
PARK DONATION WORKSHEET

EXHIBIT "G"
NAPERVILLE PARK DISTRICT LAND/CASH DONATION LETTER

EXHIBIT "H"
PRELIMINARY ENGINEERING PLANS

LEGAL DESCRIPTION

THAT PART OF NAPER VILLA MANOR, BEING A SUBDIVISION IN THE SOUTH HALF OF SECTION 1 AND IN THE NORTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 21, 1926 AS DOCUMENT 213969, DESCRIBED AS FOLLOWS:

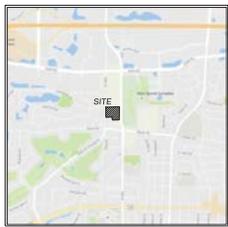
BEGINNING AT THE NORTHWEST CORNER OF LOT 32 IN BLOCK 13 OF SAID NAPER VILLA MANOR: THENCE NORTH 87 DEGREES 41 MINUTES 36 SECONDS EAST ALONG THE NORTH LINE OF BLOCK 13 AND ALONG SAID NORTH LINE EXTENDED EAST, 570.81 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 14; THENCE SOUTH 00 DEGREES 28 MINUTES 08 SECONDS WEST ALONG THE EAST LINE OF SAID BLOCK 14, A DISTANCE OF 565.38 FEET; THENCE SOUTH 87 DEGREES 35 MINUTES 03 SECONDS WEST, 214.62 FEET TO THE CENTERLINE OF VACATED EWING STREET PER PLAT OF VACATION RECORDED SEPTEMBER 14, 2004 AS DOCUMENT NUMBER R2004-241006; THENCE NORTHERLY ALONG SAID CENTERLINE BEING AN ARC OF A CURVE CONCAVE TO THE NORTHEAST AND NONTANGENT TO THE LAST DESCRIBED LINE, HAVING A RADIUS OF 174.76 FEET, HAVING A CHORD BEARING OF NORTH 27 DEGREES 45 MINUTES 48 SECONDS WEST, 172.23 FEET TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 28 MINUTES 08 SECONDS EAST ALONG SAID CENTERLINE OF VACATED EWING STREET, 24.48 FEET TO THE SOUTH LINE, EXTENDED EAST, OF LOT 7 IN SAID BLOCK 13; THENCE SOUTH 87 DEGREES 41 MINUTES 36 SECONDS WEST ALONG SAID SOUTH LINE, EXTENDED EAST, AND ALONG THE SOUTH LINE OF SAID LOT 7, A DISTANCE OF 162.97 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7, BEING ALSO THE NORTHEAST CORNER OF LOT 25 IN SAID BLOCK 13; THENCE SOUTH 00 DEGREES 28 MINUTES 08 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 25 IN BLOCK 13, A DISTANCE OF 16.58 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINES OF LOTS 25, 24, 23, 22 AND 21 IN SAID BLOCK 13, BEING AN ARC OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 337.54 FEET, HAVING A CHORD BEARING OF SOUTH 09 DEGREES 06 MINUTES 33 SECONDS EAST, 112.85 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 21; THENCE SOUTH 72 DEGREES 28 MINUTES 38 SECONDS WEST ALONG THE SOUTHEASTERLY LINE OF SAID LOT 21 IN BLOCK 13, A DISTANCE OF 114.82 FEET TO THE MOST SOUTHERLY CORNER OF SAID LOT 21; THENCE NORTHWESTERLY ALONG THE WESTERLY LINE OF SAID BLOCK 13, BEING AN ARC OF A CURVE CONCAVE TO THE NORTHEAST AND NONTANGENT TO THE LAST DESCRIBED LINE, HAVING A RADIUS OF 452.34 FEET, HAVING A CHORD BEARING OF NORTH 08 DEGREES 57 MINUTES 38 SECONDS WEST, 148.90 FEET TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 28 MINUTES 08 SECONDS EAST ALONG SAID WESTERLY LINE OF BLOCK 13, A DISTANCE OF 402.86 FEET TO THE PLACE OF BEGINNING, ALL IN DUPAGE COUNTY, ILLINOIS.

PINs: 07-12-205-001; 07-12-205-002; 07-12-205-003; 07-12-205-004; 07-12-205-005; 07-12-205-006; 07-12-205-007; 07-12-205-008; 07-12-205-009; 07-12-205-010; 07-12-

205-011; 07-12-205-012; 07-12-205-041; 07-12-205-044; 07-12-206-009; 07-12-206-010; 07-12-206-011; 07-12-206-012; 07-12-206-013; 07-12-206-014; 07-12-206-015; 07-12-206-016; 07-12-206-021; 07-12-206-022.

Common Address: 504 Commons Road

- PARCEL INDEX NUMBERS
- 07-12-205-001
 - 07-12-205-002
 - 07-12-205-003
 - 07-12-205-004
 - 07-12-205-005
 - 07-12-205-006
 - 07-12-205-007
 - 07-12-205-008
 - 07-12-205-009
 - 07-12-205-010
 - 07-12-205-011
 - 07-12-205-012
 - 07-12-205-013
 - 07-12-205-014
 - 07-12-205-015
 - 07-12-206-016
 - 07-12-206-017
 - 07-12-206-018
 - 07-12-206-019
 - 07-12-206-020
 - 07-12-206-021
 - 07-12-206-022



LOCATION MAP
NOT TO SCALE

PLAT OF ANNEXATION TO THE CITY OF NAPERVILLE

PART OF THE NORTH 12 OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

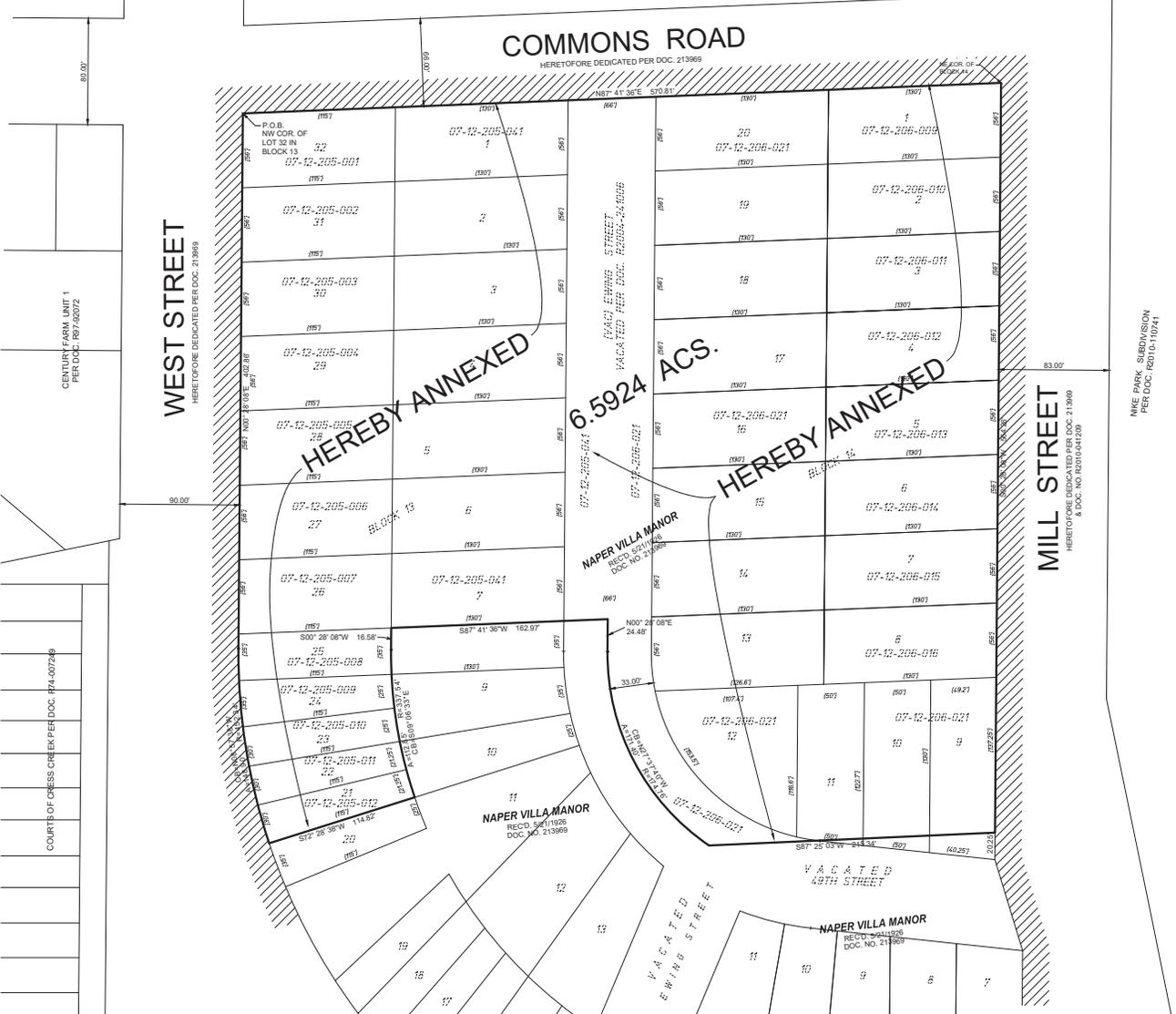
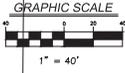
AREA

287,165 S.F. 6.5924 ACS. HEREBY ANNEXED

HARBORCHASE OF NAPERVILLE
PER DOC. R2014-088045

BASIS OF BEARINGS
THE BASIS OF BEARINGS IS THE STATE PLANE COORDINATE SYSTEM (SPCS) NAD 83 (2007) ZONE 1201 (ILLINOIS) WITH PROJECT ORIGIN AT:
LATITUDE: 41-47-48.45274 N
LONGITUDE: 88-09-17.63962 W
ELLIPSOID HEIGHT: 617.881
GROUND SCALE FACTOR: 1.0000517842
ALL MEASUREMENTS ARE ON THE GROUND.

THIS PLAT HAS BEEN SUBMITTED FOR RECORDING BY AND RETURN TO:
NAME: NAPERVILLE CITY CLERK
ADDRESS: P.O. BOX 3020
400 S. EAGLE STREET
NAPERVILLE, IL
60566-7020



LEGEND

- ANNEXATION BOUNDARY LINE
- EXISTING RIGHT-OF-WAY LINE
- LOT LINE
- CENTERLINE
- EXISTING CORPORATE LIMITS OF THE CITY OF NAPERVILLE

ABBREVIATIONS

- PC POINT OF CURVATURE
- PT POINT OF TANGENCY
- 0.00' RECORD DATUM
- 0.00' CALCULATED DATUM
- 0.00' INFORMATION TAKEN FROM DEED
- N NORTH
- S SOUTH
- E EAST
- W WEST
- A ARC LENGTH
- R RADIUS
- CB CHORD BEARING
- CHD-CHORD LENGTH
- P.O.B. PLACE OF BEGINNING
- R.O.W. RIGHT OF WAY

OWNER / DEVELOPER

Avenida Partners, LLC
19700 Fairchild Road, Suite 170
Irvine, California 92612
949-734-7810

NOTES:

- THERE ARE NO ELECTORS RESIDING ON THE PROPERTY HEREBY ANNEXED.
- THERE ARE NO HABITABLE STRUCTURES ON THE PROPERTY HEREBY ANNEXED.

LEGAL DESCRIPTION

THAT PART OF NAPER VILLA MANOR, BEING A SUBDIVISION IN THE SOUTH HALF OF SECTION 12 AND IN THE NORTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 21, 2008 AS DOCUMENT 213969, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF LOT 32 IN BLOCK 13 OF SAID NAPER VILLA MANOR; THENCE NORTH BY DEGREES 41 MINUTES 36 SECONDS EAST ALONG THE NORTH LINE OF BLOCK 13 AND ALSO SAID NORTH LINE EXTENDED EAST, 570.81 FEET TO THE NORTHEAST CORNER OF SAID BLOCK 14; THENCE SOUTH 00 DEGREES 28 MINUTES 08 SECONDS WEST ALONG THE EAST LINE OF SAID BLOCK 14, A DISTANCE OF 364.26 FEET; THENCE SOUTH 87 DEGREES 26 MINUTES 03 SECONDS WEST, 214.34 FEET TO THE CENTERLINE OF VACATED EWING STREET PER PLAT OF VACATION RECORDED SEPTEMBER 14, 2004 AS DOCUMENT NUMBER R2004-241606; THENCE NORTHERLY ALONG SAID CENTERLINE BEING AN ARC OF A CURVE CONVEX TO THE NORTH 27 DEGREES 37 MINUTES 40 SECONDS WEST, 111.40 FEET TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 28 MINUTES 08 SECONDS EAST ALONG SAID CENTERLINE OF VACATED EWING STREET, 24.48 FEET TO THE SOUTH LINE, EXTENDED EAST, OF LOT 1 IN SAID BLOCK 13; THENCE SOUTH 87 DEGREES 41 MINUTES 36 SECONDS WEST ALONG SAID SOUTH LINE, EXTENDED EAST, AND ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 162.81 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; BEING ALSO THE NORTHEAST CORNER OF LOT 25 IN SAID BLOCK 13; THENCE SOUTH 00 DEGREES 28 MINUTES 08 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 25 IN BLOCK 13, A DISTANCE OF 16.58 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG THE NORTHEASTERLY LINES OF LOTS 25, 24, 23, 22 AND 21 IN SAID BLOCK 13, BEING AN ARC OF A CURVE CONVEX TO THE NORTHEAST, HAVING A RADIUS OF 337.54 FEET, HAVING A CHORD BEARING OF SOUTH 09 DEGREES 06 MINUTES 33 SECONDS EAST, 112.86 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 21; THENCE SOUTH 72 DEGREES 28 MINUTES 38 SECONDS WESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 21 IN BLOCK 13, A DISTANCE OF 114.82 FEET TO THE MOST SOUTHWESTERLY CORNER OF SAID LOT 21; THENCE NORTHWESTERLY ALONG THE WESTERLY LINE OF SAID BLOCK 13, BEING AN ARC OF A CURVE CONVEX TO THE NORTHEAST AND NOT TANGENT TO THE LAST DESCRIBED LINE, HAVING A RADIUS OF 452.34 FEET, HAVING A CHORD BEARING OF NORTH 08 DEGREES 57 MINUTES 38 SECONDS WEST, 184.90 FEET TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 28 MINUTES 08 SECONDS EAST ALONG SAID WESTERLY LINE OF BLOCK 13, A DISTANCE OF 402.86 FEET TO THE PLACE OF BEGINNING. ALL IN DUPAGE COUNTY, ILLINOIS.

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF DUPAGE) SS
I, CHARLES W. BARTOSZ, AN ILLINOIS PROFESSIONAL LAND SURVEYOR DO HEREBY CERTIFY THAT THE ANNEXATION PLAT DRAWN HEREON WAS PREPARED AT AND UNDER MY DIRECTION FROM OFFICIAL MAPS AND PLATS. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.
GIVEN UNDER MY HAND AND SEAL THIS ____ DAY OF _____, A.D., 20____
CHARLES W. BARTOSZ
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3188
MY LICENSE EXPIRES ON NOVEMBER 30, 2018
V3 COMPANIES OF ILLINOIS, LTD. PROFESSIONAL DESIGN FIRM NO. 184000902
THIS DESIGN FIRM NUMBER EXPIRES APRIL 30, 2017.
CBARTOSZ@V3CO.COM



CITY OF COUNCIL CERTIFICATE
STATE OF ILLINOIS)
COUNTY OF DU PAGE) SS
APPROVED AND ACCEPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, ILLINOIS, AT A MEETING HELD
THE ____ DAY OF _____, A.D., 20____.
BY: _____ MAYOR ATTEST: _____ CITY CLERK

DUPAGE COUNTY RECORDER CERTIFICATE
STATE OF ILLINOIS)
COUNTY OF DU PAGE) SS
THIS INSTRUMENT _____ WAS FILED FOR RECORD
IN THE RECORDERS OFFICE OF DU PAGE COUNTY, ILLINOIS.
ON THE ____ DAY OF _____, A.D., 20____
AT ____ O'CLOCK ____ M.
RECORDER OF DEEDS

V Engineers 7325 Janes Avenue, Suite 100
Scientists Woodridge, IL 60517
Surveyors 630.724.9200 voice
630.724.0384 fax
v3co.com

PREPARED FOR:
Avenida Partners, LLC
19700 Fairchild Road, Suite 170
Irvine, California 92612
949-734-7810

NO.	DATE	REVISIONS
1	12/07/16	ISSUED FOR PERMIT
2	09/13/17	ADDED 2017 ILLINOIS STATEMENT

PLAT OF ANNEXATION
AVENIDA - NAPERVILLE, ILLINOIS
DRAFTING COMPLETED: 09-06-16 DRAWN BY: CWB PROJECT MANAGER: BR
FIELD WORK COMPLETED: N/A CHECKED BY: CWB SCALE: 1" = 40'
SHEET NO. 1 OF 1

City Project Number: 16-10000136

Project No: 16130
Group No: VP04.1
SHEET NO. 1 OF 1

PRELIMINARY PLAT OF SUBDIVISION OF AVENIDA

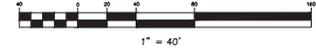
PART THE SOUTH HALF OF SECTION 1 AND IN THE NORTH HALF OF SECTION 12, TOWNSHIP
38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

BASIS OF BEARINGS

THE BASIS OF BEARINGS IS THE STATE PLANE
COORDINATE SYSTEM (SPCS) NAD 83 (2007) ZONE 1201
(ILLINOIS EAST) WITH PROJECT ORIGIN AT:
LATITUDE: 41-47-46.45274 N
LONGITUDE: 88-05-17.63922 W
ELLIPSOID HEIGHT: 617.881
GROUND SCALE FACTOR 1.0000517842
ALL MEASUREMENTS ARE ON THE GROUND.



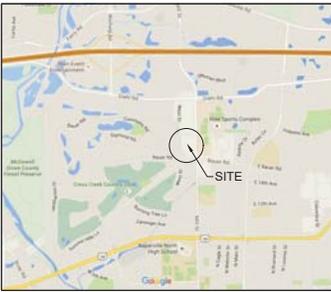
GRAPHIC SCALE



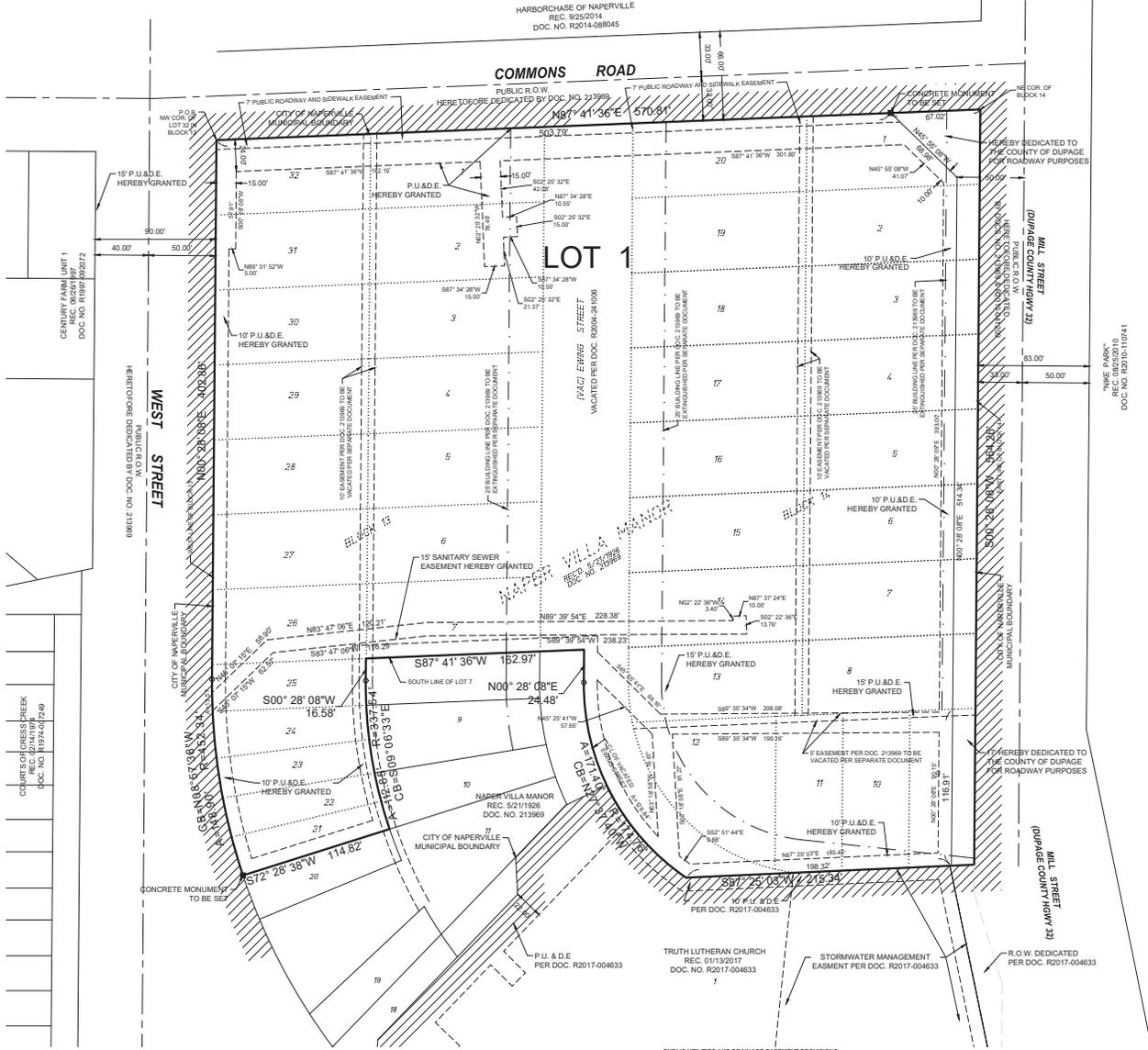
PIN NUMBERS:

07-12-205-001	07-12-205-041
07-12-205-002	07-12-205-044
07-12-205-003	07-12-205-009
07-12-205-004	07-12-205-010
07-12-205-005	07-12-205-011
07-12-205-006	07-12-205-012
07-12-205-007	07-12-205-013
07-12-205-008	07-12-205-014
07-12-205-009	07-12-205-015
07-12-205-010	07-12-205-016
07-12-205-011	07-12-205-021
07-12-205-012	07-12-205-022

THIS PLAT HAS BEEN SUBMITTED FOR
RECORDING BY AND RETURN TO:
NAME: NAPERVILLE CITY CLERK
ADDRESS: 400 S. EAGLE STREET
NAPERVILLE, IL 60540



VICINITY MAP
NOT TO SCALE



LEGEND

- SUBDIVISION BOUNDARY LINE
- EXISTING EASEMENT LINE
- PROPOSED EASEMENT LINE
- BUILDING SETBACK LINE
- CENTER LINE
- UNDERLYING LOT LINE
- EXISTING CORPORATE LIMITS OF THE CITY OF NAPERVILLE

PUBLIC UTILITIES AND DRAINAGE EASEMENT PROVISIONS

EASEMENTS ARE HEREBY RESERVED FOR AND GRANTED TO THE CITY OF NAPERVILLE, ILLINOIS (CITY) AND TO THOSE PUBLIC UTILITY COMPANIES OPERATING UNDER FRANCHISE OR CONTRACT WITH THE CITY, OR OTHERWISE AUTHORIZED BY THE CITY, INCLUDING BUT NOT LIMITED TO ILLINOIS BELL TELEPHONE COMPANY, BSA AT&T ILLINOIS, INCOOR GAS COMPANY, AND THEIR SUCCESSORS AND ASSIGNS, OVER, UPON, UNDER AND THROUGH ALL OF THE AREAS MARKED PUBLIC UTILITIES AND DRAINAGE EASEMENTS OR PROJECT ON THE PLAT FOR THE PERPETUAL, RIGHT, PRIVILEGE AND AUTHORITY TO INSTALL, SURVEY, CONSTRUCT, RECONSTRUCT, REPAIR, INSPECT, MAINTAIN, AND OPERATE VARIOUS UTILITY TRANSMISSION AND DISTRIBUTION SYSTEMS, COMMUNITY ANTENNA TELEVISION, AND INCLUDING STORM AND SANITARY SEWERS, TOGETHER WITH ANY AND ALL NECESSARY MANHOLES, CATCHBASINS, CONNECTIONS, APPLIANCES AND OTHER STRUCTURES AND APPURTENANCES AS MAY BE DEEMED NECESSARY BY SAID CITY, OVER, UPON, UNDER AND THROUGH SAID INDICATED EASEMENTS, TOGETHER WITH THE RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY PERSONNEL AND EQUIPMENT TO DO ANY OF THE ABOVE WORK.

THE RIGHT IS ALSO GRANTED TO TRIM OR REMOVE ANY TREES, SHRUBS OR OTHER PLANTS ON THE EASEMENT THAT INTERFERE WITH THE OPERATION OF THE SEWERS OR OTHER UTILITIES. NO PERMANENT BUILDINGS SHALL BE PLACED ON SAID EASEMENTS, BUT SAME MAY BE USED FOR GARDENS, BERRIES, LANDSCAPING AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE ABOVE SAID USES OR RIGHTS, WHEREIN THE CITY OF NAPERVILLE IS NOT RESPONSIBLE FOR OTHER UTILITIES. THE OTHER UTILITY INSTALLATION SHALL BE SUBJECT TO THE ORDINANCES OF THE CITY OF NAPERVILLE.

EASEMENTS ARE HEREBY RESERVED AND GRANTED TO THE CITY OF NAPERVILLE AND OTHER GOVERNMENTAL AUTHORITIES HAVING JURISDICTION OF THE LAND SUBDIVIDED HEREON OVER THE ENTIRE EASEMENT AREA FOR INTEREST, EGRESS AND THE PERFORMANCE OF MUNICIPAL AND OTHER GOVERNMENTAL SERVICES, INCLUDING BUT NOT LIMITED TO, WATER, STORM AND SANITARY SEWER SERVICE AND MAINTENANCE.

THERE IS HEREBY RESERVED AND GRANTED TO THE CITY AN EASEMENT FOR RIGHT OF ACCESS ON, OVER, ALONG AND ACROSS THE PROPERTY DESCRIBED HEREON FOR THE LIMITED PURPOSE OF READING, EXAMINING, INSPECTING, INSTALLING, OPERATING, MAINTAINING, EXCHANGING, REMOVING, REPAIRING, TESTING AND/OR REPLACING CITY OWNED UTILITY EQUIPMENT AND METERS WHICH SERVE SAID PROPERTY, INCLUDING NECESSARY PERSONNEL AND EQUIPMENT TO DO ANY OF THE ABOVE WORK.

PUBLIC ROADWAY AND SIDEWALK EASEMENT PROVISIONS

A PERMANENT PUBLIC ROADWAY AND SIDEWALK EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF NAPERVILLE, ITS SUCCESSORS AND ASSIGNS OVER THE ENTIRE EASEMENT AREA FOR INTEREST, EGRESS AND AUTHORITY TO CONSTRUCT, RECONSTRUCT AND REPAIR THE PUBLIC ROADWAY AND SIDEWALK WITHIN THE SUBJECT EASEMENT AREA TOGETHER WITH ANY AND ALL NECESSARY BY SAID CITY OVER, UPON, UNDER AND THROUGH SAID INDICATED EASEMENT TOGETHER WITH RIGHT OF INTEREST AND EGRESS ACROSS THE PROPERTY. THE RIGHT IS ALSO GRANTED TO CUT DOWN, TRIM OR REMOVE ANY TREES, SHRUBS OR OTHER PLANTS ON THE EASEMENT THAT INTERFERE WITH THE OPERATION OF THE PUBLIC ROADWAY AND SIDEWALKS. NO PERMANENT BUILDINGS SHALL BE PLACED ON SAID EASEMENT, BUT SAME MAY BE USED FOR LAWNS AND LANDSCAPING AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE APRESAID USES OR RIGHTS.

AREA

LOT 1	276,335 SQ. FT.	6.3438 ACRES
R.O.W.	10,830 SQ. FT.	0.2486 ACRES
TOTAL	287,165 SQ. FT.	6.5924 ACRES

EASEMENTS 59088 SQ. FT. 1.3564 ACRES

- SURVEYOR'S NOTES:**
- DIMENSIONS ALONG CURVED LINES ARE ARC LENGTHS.
 - ONCE THE PLAT SHOWN HEREON IS RECORDED, AND UPON THE COMPLETION OF CONSTRUCTION, 3/4" IRON PIPES WITH PLASTIC CAPS SHALL BE SET AT ALL LOT CORNERS AND CHANGES IN GEOMETRY, UNLESS SHOWN OTHERWISE.

OWNER & SUBDIVIDER:

AVENIDA PARTNERS, LLC
19700 FAIRCHILD RD - STE 170
IRVINE, CA 92612

SURVEYOR:

V3Z COMPANIES
7325 JAMES AVE, SUITE 100
WOODRIDGE, IL 60517

V Engineers 7325 James Avenue, Suite 100
Scientists Woodridge, IL 60517
Surveyors 630.724.0384 voice
630.724.0384 fax
v3co.com

PREPARED FOR:
AVENIDA PARTNERS, LLC
19700 FAIRCHILD RD - STE 170
IRVINE, CA 92612
949-734-7810

NO.	DATE	REVISIONS
1	12/07/16	EXHIBIT C
2	01/10/17	REVISED PER CITY COMMENTS
3	05/26/17	REVISED PER UPDATED SITE PLAN
4	07/13/17	REVISED PER CITY COMMENTS
5	09/28/17	REVISED PER UPDATED UTILITY PLAN

PRELIMINARY PLAT OF SUBDIVISION

AVENIDA - NAPERVILLE, IL

DRAFTING COMPLETED: 09/20/16	DRAWN BY: EJM	PROJECT MANAGER: CWB
FIELD WORK COMPLETED: N/A	CHECKED BY: CWB	SCALE: 1" = 40'

SHEET NO. 1 of 1

City Project Number 16-10000138

Project No: 16130
Group No: VPO4.2

**AVENIDA SENIOR LIVING
AGE RESTRICTION COVENANT**

Pursuant to the provisions of Sections G25.0, S9.0, S9.1, S9.2, S9.2.1, S9.2.2, S9.2.3, S10.0, S10.3, S10.4, S11.0, S11.2, S12.0, S12.1, & S12.2 of the Annexation Agreement for Avenida Senior Living, approved by City of Naperville Ordinance Number 17-____ and recorded with the DuPage County Recorder as R_____, Avenida Senior Living, legally described on **Exhibit A** and depicted on **Exhibit B** attached hereto and made part hereof (the “**Subject Property**”), shall be developed by the Developer (as defined herein), as an age-restricted community (the “**Community**”) as set forth in this Avenida Senior Living Age Restriction Covenant (hereinafter “**Covenant**”).

I. OPERATIONAL REQUIREMENTS CONSISTENT WITH HOUSING FOR OLDER PERSONS EXEMPTION.

- (a) The Community shall be constructed and subsequently operated by Avenida Senior Living, LLC, its successors or assigns (“**Developer**”), as an age-restricted community in accordance with the Fair Housing Amendments Act of 1988, as amended from time-to-time (“**FHAA**”), including, but not limited to, the provisions of the “Housing for Older Persons Act of 1995” (“**HOPA**”) and consistent with the terms of this Covenant. However, in the event that a court of competent jurisdiction determines that any portion of this Covenant is violative of state or federal law, then the Developer shall comply with applicable state or federal law.

It shall be the right, obligation and duty of the Developer to enforce the restrictions contained and referenced in this Covenant in a proactive and diligent manner, and to this end, the Developer shall adopt, implement and enforce rules, regulations and procedures to ensure that at all times the Community complies with the terms of this Covenant and also qualifies for the “Housing for Older Persons” exemption under the FHAA, including, without limitation, rules, regulations and procedures to verify such compliance (cumulatively referenced herein as “**Rules and Regulations**”).

- (b) The Developer shall maintain appropriate records evidencing compliance with the terms of this Covenant and with the Rules and Regulations on an ongoing basis and shall maintain said records (on a rolling basis) for a minimum period of ten (10) years (herein referenced “**Covenant Records**”) which Covenant Records shall also include copies of current and accurate Age Verification Addendums, as defined in paragraph d below), for each Dwelling Unit. Within seven (7) calendar days of a request by the City’s Zoning Administrator and/or a representative of the School District, the Developer shall provide them with copies of then current Rules and Regulations and all Covenant Records.
- (c) At all times one hundred percent (100%) of all occupants in any of the dwelling units (“Dwelling Unit(s)”) within the Community shall be at least fifty-five (55) years of age or older. Additionally, no more than ten percent (10%) of the Dwelling Units within the Community shall be occupied by individuals under the age of sixty-two (62) (the “10% Restriction”). Provided, however, that the 10% Restriction shall not apply to a Dwelling

Unit that is occupied by at least one person over the age of sixty-two (62). The Covenant Records maintained by the Developer shall include documentation which documents compliance with the foregoing and shall be available within seven (7) calendar days upon written request of either Beneficiary

- (d) A person who is under the age of twenty-two (22) years may only be a guest of a resident in the Community during the calendar year for no more than thirty (30) days during the period from August 15 through June 15, inclusive, no more than fourteen (14) of which days are consecutive.
- (e) The Community shall be operated under single ownership. The Developer will include in all leases and/or rental agreements (hereinafter cumulatively referenced as “**Leases**”) for Dwelling Units in the Community an “**Age Verification Addendum**”, an example of which is attached as **Exhibit C**, to verify the age of every occupant in each Dwelling Unit to evidence compliance with the requirements of the “Housing for Older Persons” Exemption under FHAA and the terms of this Covenant. Each Lease of a Dwelling Unit shall prominently include a notice of the age restriction and requirements of this Covenant, with a copy of this Covenant being attached as an addendum thereto. The Lease shall also provide that the lessee shall be obligated to immediately update the Age Verification Addendum upon any change in the occupancy of the Dwelling Unit and shall also be required to provide an updated Age Verification Addendum to the Developer within five (5) calendar days of a request by the Developer. Each lease shall also provide that each lessee executing the lease shall be jointly and severally liable for fines, fees and costs for any violation of this Covenant within the Dwelling Unit subject to that Lease.
- (f) No sub-lease of any Dwelling Unit shall be permitted without the express written permission of the Developer who shall update the Records to include a new Age Verification Addendum for that Dwelling Unit. Any sublease shall comply with the age restrictions set forth herein.

II. ENFORCEMENT OF THIS COVENANT.

- (a) **DEVELOPER COOPERATION.** In addition to its own enforcement obligations, as set forth in Section I(a) above, the Developer shall have an obligation at all times to cooperate with the School District and the City in enforcement efforts pursuant to this Covenant. Such cooperation shall include, but not be limited to: (i) requiring any lessee of a Dwelling Unit to complete a current Age Verification Addendum; and (ii) providing copies of all other necessary and appropriate information in the Developer’s possession or control, or to which the Developer has access, including but not limited to the Covenant Records.
- (b) **INVESTIGATIONS.** The School District and the City shall each have the right to investigate any suspected violations of this Covenant, and the Developer will cooperate with all investigations undertaken by the School District and/or the City as provided herein. The School District or the City shall notify the Developer in the event that a violation of this covenant is suspected and/or if an investigation of a violation of the Covenant may be opened. Within ten (10) calendar days of a request by either the School District and/or the

City, the Developer shall obtain an updated Age Verification Addendum relative to the occupants of one or more Dwelling Units within the Community (see Subsection I(e) above) in order to assist the School District and/or the City in their investigation. If an investigation conducted by the School District or the City reveals that the Covenant has been violated, the School District or the City, shall notify the Developer in writing and the Developer shall, within thirty (30) days of such notice (or such other timeframe as agreed to in writing by the School District and the City) take all necessary steps to cure such breach and shall provide evidence of such cure to the satisfaction of the School District and the City.

- (c) **SCHOOL BOARD AND CITY AS INTENDED BENEFICIARIES.** The School District and the City are the intended Beneficiaries of this Covenant. The right of the School District and the City to enforce this Covenant shall not be construed as a limitation or restriction of the Developer's duty and obligation to enforce this Covenant proactively and diligently as set forth herein. Except as specifically provided in Section III(c) below, nothing herein shall be construed as a limitation on the City's ability to take action as it deems appropriate pursuant to the Naperville Municipal Code, as amended from time to time, and/or pursuant to any City ordinances pertaining to the Subject Property.
- (d) Failure to fulfill the obligation to cooperate described herein shall constitute a violation of this Covenant attributable to the Developer.

III. VIOLATIONS OF THIS COVENANT.

- (a) **RESTRICTION/PENALTY.** The terms of this Covenant shall be enforceable by one or both of the Beneficiaries as provided herein. Except as otherwise provided herein, in the event any action at law is brought by a Beneficiary of this Covenant, the party(s) who caused or knowingly permitted a violation of this Covenant shall pay all costs and penalties provided for in this Covenant and shall reimburse all reasonable costs of any enforcement action taken by the Beneficiaries hereof, including but not limited to costs of investigation, pre-litigation expenses, litigation and attorneys' fees and costs (whether in-house or outside counsel) incurred as a result of such investigation and/or enforcement. Notwithstanding any other provision contained herein, if both the School District and the City seek enforcement of the same violation of this Covenant, they shall only be entitled to reimbursement of the costs and fees incurred by of one of them as agreed upon by them.
- (b) **SCHOOL PENALTY.** No occupant of any Dwelling Unit in the Community shall enroll, attempt to enroll, or assist in any way in enrolling a student in the School District based on residency in the Community. The provisions of this Covenant shall not prohibit any occupant of a Dwelling Unit from enrolling in non-credit, enrichment, adult education classes offered by the School District.

In the event that any occupant of any Dwelling Unit in the Community enrolls, or assists in enrolling, any person under the age of twenty-two (22) in any school within the School District based on residence in the Community ("**Student Generator**"), then said Student Generator shall be liable to the School District for a school penalty ("**School Penalty**") in

the amount of: (i) the cost of educating any child or children so enrolled by the Student Generator from the Community in an amount determined in accordance with Section 10-20.12a of the Illinois School Code (105 ILCS 5/10-20.12a) as amended from time to time; and (ii) a penalty in the amount of three times the School District's cost to educate any child or children enrolled in the School District as provided in (i) above, or \$50,000, whichever is greater.

If the School District or the City determine that the Developer was aware of an individual under the age of 22 living within the Community and attending the School District, or failed to become aware of such individual due to a failure to maintain accurate and current Covenant Records, the Developer shall be jointly and severally liable with the Student Generator for the School Penalty and it is agreed that, in addition to any other remedy sought by the School District and/or the City, a lien in the full amount of the School Penalty may be filed against the Subject Property with interest thereon accruing at a rate of six percent (6%) per annum.

- (c) **CITY PENALTY.** This Covenant is integral to the zoning relief ("Zoning Relief") granted to the Developer and as described in the Annexation Agreement and under separate ordinance, by which a conditional use and certain zoning variances were tied to this Covenant.

If there is a violation of the terms of this Covenant which is not cured by the Developer within thirty (30) days of the Developer's becoming aware of such violation, which thirty day period shall be deemed the cure period the Developer shall be solely responsible to pay the City \$500 per day during the timeframe it is established that such violation occurred and during any timeframe it continues to occur ("City Penalty"). In the event that the City Penalty is enforced, the City Penalty shall be in lieu of any other financial penalty to the City for a violation of the Zoning Relief as to the timeframe for which the Penalty was imposed. The City Penalty is in addition to the School Penalty described above. The City may pursue a City Penalty by itself or in conjunction with the School Penalty, at its sole discretion. If the City files an action seeking only a City Penalty, the Developer shall reimburse the City within thirty (30) days of receipt of a bill for all attorneys' fees and costs, whether in-house or outside counsel, associated with the enforcement of the provisions set forth in this Section II(c). If the Developer fails to reimburse said fees and costs in addition to payment of the City Penalty, the City shall be permitted to record a lien against the Subject Property with interest thereon accruing at a rate of six percent (6%) per annum. In the event of any violation of this Covenant, nothing herein prevents the City from pursuing any action at law or in equity as it deems appropriate in addition to seeking the City Penalty provided for above.

IV. COVENANT RUNS WITH THE LAND.

The terms and conditions set forth in this Covenant shall be covenants running with the land and shall be binding upon and inure to the benefit of the Developer and Developer's successors, assignees, and assigns, and shall be binding upon and inure to the benefit of the City and Community School District 203 and their respective successors and assigns.

V. REQUIREMENTS FOR ANY MODIFICATION OF THIS COVENANT.

The provisions of this Covenant shall survive the expiration of the Annexation Agreement for Avenida Senior Living and may only be modified by the written agreement of the Developer, the City, and the School District. Approval of an amendment to this Covenant shall require a two-thirds (2/3) majority vote of the corporate authorities then holding office with the City Council of the City of Naperville and a two-thirds (2/3) majority vote of the School Board of Community Unit School District 203, or their respective successors or assigns.

The approval of any modification or release of this Covenant shall be conditioned upon the payment of a full school donation fee for the Community in an amount which complies with the applicable Naperville Municipal Code provisions in effect at that time unless the School Board approves a Resolution that accepts less than a full fee.

VI. GENERAL PROVISIONS.

- (a) **GOVERNING LAW AND VENUE.** This Covenant will be governed by and construed in accordance with the laws of the State of Illinois without regard to conflict of law provisions. Except as provided below, venue for all disputes involving this Covenant shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois. The City and/or School District 203 reserve the right to bring an action for a violation of this Covenant against any individual or entity in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois or in any other jurisdiction in which such individual or entity resides or may be found.
- (b) **SEVERABILITY.** If any provision of this Covenant is held by a court of competent jurisdiction to be invalid or unenforceable, such provision will be enforced to the fullest extent that it is valid and enforceable under law. All other provisions of this Covenant shall remain in full force and effect.
- (c) **CONDO CONVERSION.** Nothing herein is intended to prevent the conversion of the Community from a rental structure to an ownership structure. In the event that Developer seeks to convert the Community to condominium style ownership at any point in the future, the parties hereby agree to negotiate, in good faith, such amendments to this Covenant as are necessary and appropriate to bind individual unit owners and any condominium association consistent with the terms and provisions of this Covenant.
- (d) **LESSEE LIABILITY.** Nothing in this Covenant is intended to or shall prevent Developer from recovering any costs and expenses incurred by Developer under this Covenant from a lessee.

(SIGNATURE PAGES TO FOLLOW)

IN WITNESS WHEREOF, _____

By: _____

Name: _____

Title: _____

State of Illinois)

)

County of _____)

The foregoing instrument was acknowledged before me by _____,
_____, as _____, this _____
day of _____, 2017.

Notary Public

LEGAL DESCRIPTION

THAT PART OF NAPER VILLA MANOR, BEING A SUBDIVISION IN THE SOUTH HALF OF SECTION 1 AND IN THE NORTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 21, 1926 AS DOCUMENT 213969, DESCRIBED AS FOLLOWS:

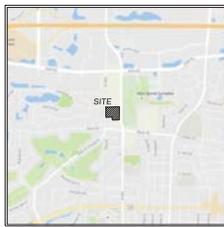
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PINs: 07-12-205-001; 07-12-205-002; 07-12-205-003; 07-12-205-004; 07-12-205-005; 07-12-205-006; 07-12-205-007; 07-12-205-008; 07-12-205-009; 07-12-205-010; 07-12-

205-011; 07-12-205-012; 07-12-205-041; 07-12-205-044; 07-12-206-009; 07-12-206-010; 07-12-206-011; 07-12-206-012; 07-12-206-013; 07-12-206-014; 07-12-206-015; 07-12-206-016; 07-12-206-021; 07-12-206-022.

Common Address: 504 Commons Road Naperville, IL 60563

- PARCEL INDEX NUMBERS
- 07-12-205-001
 - 07-12-205-002
 - 07-12-205-003
 - 07-12-205-004
 - 07-12-205-005
 - 07-12-205-006
 - 07-12-205-007
 - 07-12-205-008
 - 07-12-205-009
 - 07-12-205-010
 - 07-12-205-011
 - 07-12-205-012
 - 07-12-205-013
 - 07-12-205-014
 - 07-12-205-015
 - 07-12-206-016
 - 07-12-206-021
 - 07-12-206-022



LOCATION MAP
NOT TO SCALE

PLAT OF ANNEXATION TO THE CITY OF NAPERVILLE

PART OF THE NORTH 12 OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

AREA

287,165 S.F. 6.5924 ACS. HEREBY ANNEXED

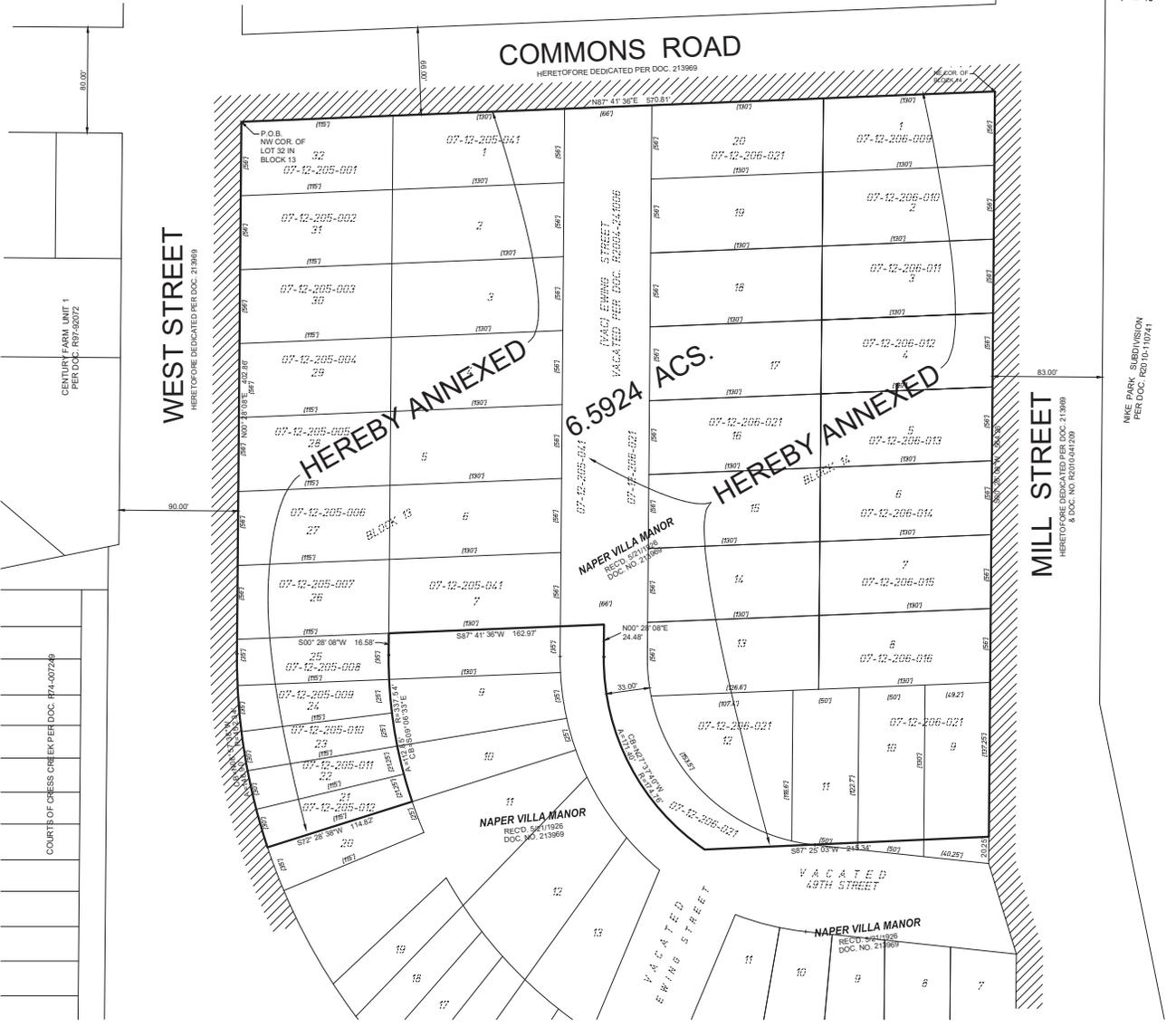
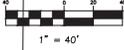
HARBORCHASE OF NAPERVILLE
PER DOC. R2014-088045

BASIS OF BEARINGS

THE BASIS OF BEARINGS IS THE STATE PLANE COORDINATE SYSTEM (SPCS) NAD 83 (2007) ZONE 1201 (ILLINOIS) WITH PROJECT ORIGIN AT:
LATITUDE: 41-47-48.45274 N
LONGITUDE: 88-09-17.63962 W
ELLIPSOID HEIGHT: 617.881
GROUND SCALE FACTOR: 1.0000517842
ALL MEASUREMENTS ARE ON THE GROUND.

THIS PLAT HAS BEEN SUBMITTED FOR RECORDING BY AND RETURN TO:
NAME: NAPERVILLE CITY CLERK
ADDRESS: P.O. BOX 3020
400 S. EAGLE STREET
NAPERVILLE, IL
60566-7020

GRAPHIC SCALE



LEGEND

- ANNEXATION BOUNDARY LINE
- EXISTING RIGHT-OF-WAY LINE
- LOT LINE
- CENTERLINE
- EXISTING CORPORATE LIMITS OF THE CITY OF NAPERVILLE

ABBREVIATIONS

- PC POINT OF CURVATURE
- PT POINT OF TANGENCY
- 0.00' RECORD DATUM
- 0.00' CALCULATED DATUM
- 0.00' INFORMATION TAKEN FROM DEED
- N NORTH
- S SOUTH
- E EAST
- W WEST
- A ARC LENGTH
- R RADIUS
- CB CHORD BEARING
- CHD-CHORD LENGTH
- P.O.B. PLACE OF BEGINNING
- R.O.W. RIGHT OF WAY

OWNER / DEVELOPER

Avenida Partners, LLC
19700 Fairchild Road, Suite 170
Irvine, California 92612
949-734-7810

NOTES:

- THERE ARE NO ELECTORS RESIDING ON THE PROPERTY HEREBY ANNEXED.
- THERE ARE NO HABITABLE STRUCTURES ON THE PROPERTY HEREBY ANNEXED.

LEGAL DESCRIPTION

THAT PART OF NAPER VILLA MANOR, BEING A SUBDIVISION IN THE SOUTH HALF OF SECTION 1 AND IN THE NORTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 21, 2008 AS DOCUMENT 213969, DESCRIBED AS FOLLOWS:

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SURVEYOR'S CERTIFICATE

I, CHARLES W. BARTOSZ, AN ILLINOIS PROFESSIONAL LAND SURVEYOR DO HEREBY CERTIFY THAT THE ANNEXATION PLAT DRAWN HEREON WAS PREPARED BY ME AND UNDER MY DIRECTION FROM OFFICIAL MAPS AND PLATS. ALL DIMENSIONS SHOWN ARE IN FEET AND DECIMAL PARTS THEREOF.

GIVEN UNDER MY HAND AND SEAL THIS ____ DAY OF _____, A.D., 20__.



CHARLES W. BARTOSZ
ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 35-3188
MY LICENSE EXPIRES ON NOVEMBER 30, 2018
V3 COMPANIES OF ILLINOIS, LTD. PROFESSIONAL DESIGN FIRM NO. 184000902
THIS DESIGN FIRM NUMBER EXPIRES APRIL 30, 2017.
CBARTOSZ@V3CO.COM

CITY OF NAPERVILLE CERTIFICATE
STATE OF ILLINOIS)
COUNTY OF DU PAGE)
APPROVED AND ACCEPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, ILLINOIS, AT A MEETING HELD
THE ____ DAY OF _____, A.D., 20__.
BY: _____ MAYOR ATTEST: _____ CITY CLERK

DUPAGE COUNTY RECORDER CERTIFICATE
STATE OF ILLINOIS)
COUNTY OF DU PAGE)
THIS INSTRUMENT)
IN THE RECORDERS OFFICE OF DU PAGE COUNTY, ILLINOIS,)
ON THE ____ DAY OF _____, A.D., 20__)
AT ____ O'CLOCK ____ M.)
RECORDER OF DEEDS

V Engineers 7325 Janes Avenue, Suite 100
Scientists Woodridge, IL 60517
Surveyors 630.724.9200 voice
630.724.0384 fax
v3co.com

PREPARED FOR:
Avenida Partners, LLC
19700 Fairchild Road, Suite 170
Irvine, California 92612
949-734-7810

REVISIONS	
NO.	DATE
1	12/07/16
2	09/13/17

PLAT OF ANNEXATION
AVENIDA - NAPERVILLE, ILLINOIS

DRAFTING COMPLETED: 09-06-16 DRAWN BY: CWB PROJECT MANAGER: BR
FIELD WORK COMPLETED: N/A CHECKED BY: CWB SCALE: 1" = 40'

City Project Number: 16-10000136
Project No: 16130
Group No: VP04.1
SHEET NO. 1 of 1

AGE VERIFICATION ADDENDUM

This addendum amends and supplements the agreement entered into on the ____ day of _____, 20____ (hereinafter “Agreement”) between Avenida Senior Living and _____ (Hereinafter “Lessee”) for the leasing of property located at _____ (hereinafter “the Property”). Each capitalized term used but not defined in this Addendum has the meaning given to that term in the Agreement. If there is a conflict between the terms of this Addendum and the Agreement, this Addendum will prevail.

AVENIDA SENIOR LIVING IS INTENDED TO BE OPERATED FOR OCCUPANCY PRIMARILY BY PERSONS SIXTY-TWO (62) YEARS OF AGE OR OLDER, BUT IN NO CASE BY PERSONS UNDER FIFTY-FIVE (55) YEARS OF AGE. A REPRESENTATIVE OF AVENIDA SENIOR LIVING IS OBTAINING THIS AGE VERIFICATION IN ACCORDANCE WITH THE HOUSING FOR OLDER PERSONS ACT (HOPA), THE REQUIREMENTS OF THE AVENIDA SENIOR LIVING AGE RESTRICTION COVENANT, AND LOCAL ZONING RESTRICTIONS.

The Age-Restriction Covenant stipulates additional restrictions with respect to required occupancy by individuals aged 62 years of age or older.

Acknowledgement of Occupancy Requirements: Lessee declares: (i) Lessee meets the minimum age requirements for Avenida Senior Living and it is Lessee’s motive, purpose, and intent in renting/leasing the property referenced above to use and occupy the property; or (ii) Lessee shall cause it to be occupied by persons who meet the minimum age requirements for Avenida Senior Living. Lessee acknowledges receipt of a copy of the Avenida Senior Living Age Restriction Covenant, has reviewed the Covenant, and hereby agrees to abide by said Covenant. A copy of this Addendum may be provided to the City of Naperville or other governmental authority to verify compliance with applicable regulations.

Age Certification: Buyer certifies that: (i) the person(s) age fifty-five (55) or older listed below shall occupy the assigned Dwelling Unit, and (ii) the documentation listed below which is used to verify the age(s) of the occupants of the Home is valid and correct. Lessee acknowledges that upon an assignment of lease or sublease, to the extent that it may be permitted under the Agreement, all occupants in any of the dwelling units must be fifty-five (55) years of age or older and Lessee shall deliver to any subsequent Lessee the Avenida Senior Living Age Restriction Covenant.

Name	Form of Identification	Age

Valid forms of identification include driver's license, birth certificate, passport, immigration card, military identification, or other similar evidence. A copy of the identification document will not be accepted for the purposes of age verification.

Dated this _____ day of _____, 2____

LESSEE(S):

August 9, 2017

Russell G. Whitaker, III
ROSANOVA & WHITAKER, LTD.
30 W. Jefferson Ave., Suite 200
Naperville, IL 60540

VIA U.S. MAIL

Re: Avenida Senior Living, LLC

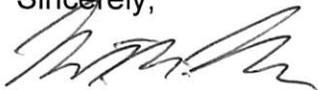
Dear Mr. Whitaker:

This letter is in response to your letter dated August 2, 2017. You stated that Avenida Senior Living is proposing to develop the approximately 6.6 acre parcel at the southwest corner of Mill Street and Commons Avenue in the City of Naperville as a 146 unit senior apartment project. You also stated that it is your intent that the project will be age-restricted pursuant to a covenant that will run to the benefit of both the City of Naperville and District 203. It will have the same restrictions and other language protecting District 203 as contained in the age-restriction covenant that you recently negotiated with the City of Naperville and IPSD #204 regarding the Ashwood Crossings Subdivision, a new age-restricted development in south Naperville.

Based on your representations and commitments as detailed in your and this letter, District 203, in concept, has no objection to the project. Impact fees to District 203 would be waived subject to the terms of a mutually agreeable age-restriction covenant with substantially the same provisions as contained in the "Ashwood Crossings Subdivision Age Restriction Covenant," which you included in your letter to me. Please note that any formal waiver of the impact fees and approval of the Covenant must be approved by the District 203 Board of Education.

If you have any questions, please call me at 630-420-6311.

Sincerely,



Robert G. Ross
Chief Operating Officer

Park Donation Work Sheet

Name of Subdivision Avenida

Park Donation = **Land** 2.3248 **Cash** **\$752,305.28** = Land Donation x \$323,600.00

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

Type of Unit	Pre-School 0 - 4 Yrs	Elementary Grades K-5	Junior High Grades 6-8	High School Grades 9-12	Adults 18-up	Total per Unit						
Detached Single-family												
2-bedroom	0.127	0.000	0.327	0.000	0.102	0.000	0.118	0.000	1.779	0.000	2.453	0.000
3-bedroom	0.244	0.000	0.440	0.000	0.179	0.000	0.177	0.000	1.892	0.000	2.930	0.000
4-bedroom	0.348	0.000	0.522	0.000	0.235	0.000	0.265	0.000	2.116	0.000	3.486	0.000
5-bedroom	0.333	0.000	0.533	0.000	0.262	0.000	0.279	0.000	2.344	0.000	3.750	0.000
Attached Single-Family												
1-Bedroom										0.000		0.000
2-Bedroom	0.072	0.000	0.091	0.000	0.044	0.000	0.080	0.000	1.610	0.000	1.897	0.000
3-Bedroom	0.157	0.000	0.178	0.000	0.060	0.000	0.113	0.000	1.746	0.000	2.253	0.000
4-Bedroom	0.217	0.000	0.358	0.000	0.154	0.000	0.198	0.000	2.127	0.000	3.053	0.000
Apartments												
Efficiency									1.210	0.000	1.210	0.000
56 1-Bedroom	0.015	0.840	0.033	1.848	0.013	0.728	0.013	0.728	1.691	94.696	1.764	98.784
90 2-Bedroom	0.037	3.330	0.063	5.670	0.028	2.520	0.030	2.700	1.748	157.320	1.906	171.540
3-Bedroom	0.037	0.000	0.152	0.000	0.091	0.000	0.083	0.000	2.330	0.000	2.692	0.000
People Produced		4.170		7.518		3.248		3.428		252.016		270.324



320 W. Jackson Ave., Naperville, IL 60540 • 630-848-5000 • Fax 630-848-5001 • napervilleparks.org

August 28, 2017

Mayor Chirico and City Council
City of Naperville
400 S Eagle Street
Naperville, IL 60540

RE: Avenida Senior Living Center

Mr. Mayor and City Council:

The Park District and counsel for the Petitioner met in 2016 to discuss the land donation associated with the Avenida Senior Living Center. The property at issue in the petition is subject to a recorded Development Agreement from 2007 concerning those properties formerly owned by the Book Family. That Agreement stipulates a negotiated cash-in-lieu rate (which was a term negotiated by the Park District with the Book Family when the District purchased the land that is now Nike Sports Complex). Furthermore, similar to previous age restricted developments that offer care services, the Park District is willing to offer a credit to the petitioner for applicable, equitable recreational services delivered on site. Given the age restriction of the development and the proposed amenities offered (pool, walking paths, rec/fitness room), the Park District Board of Commissioners agreed to a 40% reduction in the total donation otherwise due. On August 28, 2017, we received correspondence from counsel for the Petitioner setting forth the calculation of the required donation under the terms outlined above (a copy of that correspondence is attached hereto). The Park District concurs in the calculations presented by Mr. Whitaker resulting in a donation of \$658,648.90.

As always, the Park District is grateful for the continued commitment to the Park Dedication Ordinance in order to provide high levels of park and recreation services to this community.

Sincerely,

Ray McGury

cc: Board of Commissioners
Derke Price, Legal Counsel
Eric Shutes, Director of Planning



EXHIBIT G



August 28, 2017

Derke J. Price
Ancel Glink
1979 N. Mill St., Suite 207
Naperville, IL 60563

Sent Via Email: DPrice@ancelglink.com

**Re: Avenida Park District Cash in Lieu of Land Donation
Subject Property 6.6 +/- Acres at Commons and Mill Street**

Mr. Price:

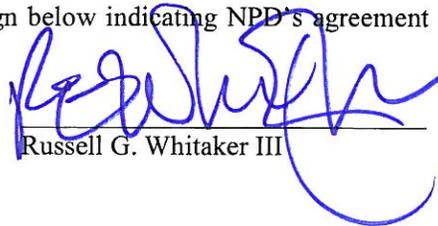
This letter is in reference to Avenida Senior Living, LLC's cash contribution in lieu of land donation pursuant to Chapter Three (3) Section 7-3-5:2.3 of the Naperville Municipal Code (the "Code") to the Naperville Park District ("NPD").

In your email dated July 15, 2016, you indicate NPD's agreement with the application of the price/square foot contemplated in the existing Development Agreement by and between B.C.T., and Naperville Park District, dated July 17, 2007 (the "Development Agreement"). Your email further states that after the application of the price/square foot to the required land donation, NPD agrees to reduce the cash contribution by forty percent (40%).

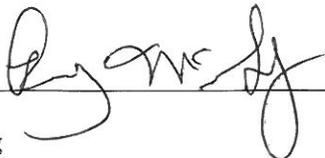
Based upon the foregoing, the attached Park Donation Work Sheet, and the Development Agreement, Avenida Senior Living, LLC shall make a cash contribution of **\$658,648.90** calculated as follows:

- Total required land donation based on people generated per current unit mix (56 1BR / 90 2BR): 2.3248 acres, or 101,268.28 square feet (see Park Donation Work Sheet)
- Year 2017 Price Per Square Foot (see Development Agreement): \$10.84
- Subtotal Cash Contribution: 101,268.28 sf x \$10.84 per sf = \$1,097,748.10
- 40% reduction amount of Cash Contribution (per your 7/15/2016 email): \$439,099.24
- **Total Required Cash Contribution in Lieu of Land Donation: \$658,648.90**

If you are in agreement with the foregoing, kindly sign below indicating NPD's agreement and acceptance.


Russell G. Whitaker III

READ, ACKNOWLEDGED, AND AGREED:

BY: 

/mgg

DATE: 08/30/17

Attachment

cc: Matt Goodman
Matt May
Robert May