

**COST SHARING AGREEMENT BETWEEN THE CITY OF NAPERVILLE
AND WILLIAM K. AND BETH A. KNICKER AS CO-TRUSTEES OF THE
WILLIAM K. KNICKER TRUST 2006 DATED 9/20/2006
FOR 536 PLAINFIELD NAPERVILLE ROAD**

This Cost Sharing Agreement (also referenced herein as “**AGREEMENT**”) is entered into by and between the City of Naperville, an Illinois municipal corporation and home rule unit of local government under the statutes and Constitution of the State of Illinois, with offices at 400 South Eagle Street, Naperville, Illinois 60540 (hereinafter referred to as the “**CITY**”), and William K. and Beth A. Knicker as co-trustees of the William K. Knicker Trust 2006 dated 9/20/2006 (“**OWNER AND DEVELOPER**”) with an address of 4527 Corktree Rd, Naperville, Illinois, 60564. The CITY and the OWNER AND DEVELOPER, as defined herein, are together hereinafter referred to as the “**parties**” and sometimes individually as “**party**”.

1. WHEREAS, OWNER AND DEVELOPER is the owner and developer of the property located at 536 Plainfield-Naperville Road, Naperville, Illinois, 60540 which is legally described on Exhibit A and depicted on Exhibit B and is hereinafter referred to as the “**SUBJECT PROPERTY**”.

2. WHEREAS, the OWNER AND DEVELOPER proposes to develop the SUBJECT PROPERTY with a single-family residence.

3. WHEREAS, in order to obtain CITY water service for the SUBJECT PROPERTY, it will be necessary for water main to be constructed on the SUBJECT PROPERTY (“**ONSITE WATERMAIN**”) and adjacent to the SUBJECT PROPERTY (“**OFFSITE WATERMAIN**”); AND

4. WHEREAS, the OWNER AND DEVELOPER will design and construct the ONSITE WATERMAIN at OWNER AND DEVELOPER’S sole cost and expense and has agreed, at the CITY’S request, to design and construct the OFFSITE WATERMAIN subject to reimbursement therefor by the CITY as provided herein.

NOW THEREFORE, this AGREEMENT is entered into by and between the CITY and the OWNER AND DEVELOPER as follows:

1. **RECITALS INCORPORATED.** The above-stated recitals are a material part of this AGREEMENT and are hereby incorporated in this Paragraph 1 by reference.
2. **WATERMAIN IMPROVEMENTS.** Subject to the reimbursement provisions for OFFSITE WATERMAIN as provided herein, it shall be the OWNER AND DEVELOPER’S sole responsibility to design and construct the OFFSITE WATERMAIN AND THE ONSITE WATERMAIN in accordance with the approved Final Engineering Plans for 536 Plainfield-Naperville Road, prepared by Engineering Resource Associates., dated September 19, 2023, last revised October 24, 2023, as those plans may be modified with the written consent of the City Engineer and the Director of the Department of Public Utilities-Water/Wastewater (“**Final Engineering Plans**”).
 - a. OFFSITE WATERMAIN. OWNER AND DEVELOPER shall construct approximately four hundred and seventy-two feet (472') of eight-inch (8”) of

OFFSITE WATERMAIN in accordance with the Final Engineering Plans. Only the OFFSITE WATERMAIN is subject to reimbursement from the CITY.

- b. ONSITE WATERMAIN. OWNER AND DEVELOPER shall construct approximately seventy-one feet (71') of eight-inch (8") ONSITE WATERMAIN along the frontage of the SUBJECT PROPERTY from the north property line to the south property line of the SUBJECT PROPERTY in accordance with the Final Engineering Plans.
- c. Both the OFFSITE WATERMAIN AND ONSITE WATERMAIN shall be completed by the OWNER AND DEVELOPER and approved by the Director of DPU-W/WW prior to issuance of any temporary or final occupancy permit for the SUBJECT PROPERTY.

3. CITY SHARE OF OFFSITE WATERMAIN.

- 3.1 Subject to the provisions set forth herein, the City shall reimburse the OWNER AND DEVELOPER for the actual costs of construction of the OFFSITE WATERMAIN constructed pursuant to the approved final engineering plans (“**Final Engineering Plans**”) set forth in **Exhibit C**.
- 3.2 The Engineer’s Opinion of Public Improvements prepared by Engineering Resources Associates, dated February 14, 2024, last revised March 18, 2024 attached hereto as **Exhibit D**, reflects the estimated cost to be paid by the CITY for OFFSITE WATERMAIN and by the OWNER AND DEVELOPER for ONSITE WATERMAIN on a shared cost basis by line item.
- 3.1 OWNER AND DEVELOPER responsibilities for cost sharing shall be as set forth herein and in Section 7-3-6.2 of the Naperville Municipal Code (Subdivision Regulations: Required Improvements; Contract Participation Over Fifty Thousand Dollars).
- 3.2 CITY Responsibilities for cost sharing.
 - 3.2.1 The CITY shall review the project specifications as submitted by the OWNER AND DEVELOPER within thirty (30) days of receipt;
 - 3.2.2 The CITY shall notify OWNER AND DEVELOPER within thirty (30) days of the CITY’S review of the project specifications with its recommended approval, denial, or modifications of the project specifications;
 - 3.2.3 The CITY shall review the contract unit prices as submitted by the OWNER AND DEVELOPER within thirty (30) days of submittal by the OWNER AND DEVELOPER;
 - 3.2.4 The City shall notify the OWNER AND DEVELOPER within thirty (30) days of the CITY’S review of the contract unit prices as submitted by the OWNER AND DEVELOPER with its recommended approval or denial of the contract unit prices.

3.2.5 The CITY shall pay amounts due and owing the OWNER AND DEVELOPER as set forth herein and provided in Section 7-3-6 of the Naperville Municipal Code.

3.3 Upon completed construction of the OFFSITE WATERMAIN, and approval thereof by the Director of the Department of Public Utilities-Water/Wastewater (**DPU-W/WW**), the OWNER AND DEVELOPER shall submit one (1) or more invoices to the Director of DPU-W/WW, along with documentation to the satisfaction of the Director of DPU-W/WW, reflecting the actual costs for construction and installation of the OFFSITE WATERMAIN in conformance with the Final Engineering Plans or any subsequent field changes approved by the Director of DPU-W/WW. The OWNER AND DEVELOPER shall also provide an affidavit, sworn statements and lien waivers from all contractors and material suppliers in a form acceptable to the Director of DPU-W/WW. Communications to the Director of DPU-W/WW shall be sent to the address set forth in Paragraph 8 below.

3.4 Within thirty (30) days of receipt of the documentation described in Section 3.3. above, the City shall reimburse the OWNER AND DEVELOPER for the CITY'S share of the actual as-built costs of the OFFSITE WATERMAIN, including the engineering costs. It is anticipated that the CITY'S share ("**CITY SHARE**") for said OFFSITE WATERMAIN costs will not exceed one hundred and thirty-four thousand nine hundred and eighty dollars (**\$134,980.00**). The CITY SHARE includes an amount not to exceed twenty-two thousand (\$22,000.00) for the engineering costs of the OFF-SITE watermain. If OWNER AND DEVELOPER determines that the costs of OFFSITE WATERMAIN will exceed that amount, OWNER AND DEVELOPER shall promptly give written notification to the Director of the Department of Utilities – Water/Wastewater of any amount in excess of the anticipated CITY SHARE and the reasons therefor which increase shall be subject to approval of the Director of DPU-W/WW.

4. **ACCEPTANCE OF WATERMAIN.** The CITY hereby agrees to accept the ONSITE WATERMAIN improvements and the OFFSITE WATERMAIN improvements: (i) after the work associated with each has been completed and approved (including but not limited passing all testing requirements) by the City Engineer and the Director of the Department of Utilities – Water/Wastewater; and (ii) upon issuance of a Bill of Sale to the City by the OWNER AND DEVELOPER for the ONSITE WATERMAIN improvements and the OFFSITE WATERMAIN improvements in a form approved by the CITY. Upon acceptance of said improvements, the City shall be the owner thereof and shall thereafter be responsible for their maintenance, repair and replacement.
5. **COMPLIANCE WITH THE PREVAILING WAGE ACT.** The installation of watermain for the SUBJECT PROPERTY constitutes a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the Act") and the OWNER AND DEVELOPER shall require all contractors and subcontractors performing such work to comply with the Act. The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. For information regarding current prevailing wage rates, as to

determine if rates have been revised from time to time, contractors and subcontractors shall refer to the Illinois Department of Labor's website at: <http://www.state.il.us/agency/idol/rates/rates HTM> (or such other section of the IDOL website where that information may be located or referenced).

6. **WARRANTY.** The OWNER AND DEVELOPER shall correct any defect in material and/or workmanship with respect to the OFFSITE WATERMAIN within thirty (30) days of receipt of notice from the CITY, or such longer timeframe as may be agreed to by the Director of DPU-W/WW so long as such notice is issued within one (1) year from the date the OFFSITE WATERMAIN is approved by the Director of DPU-W/WW
7. **DEFENSE, INDEMNIFICATION, AND HOLD HARMLESS.** OWNER AND DEVELOPER shall defend (with legal counsel approved by the CITY, which approval shall not be unreasonably withheld), indemnify, and hold harmless the City of Naperville, and its officers, agents, employees, and representatives from and against any cost, liability, judgment, expenses, attorneys' fees, claims, actions or damages of any kind, including but not limited to personal injury, death, property damage, and any mechanics or other lien or encumbrance of any kind, arising out of any act or omission of OWNER AND DEVELOPER and OWNER AND DEVELOPER'S contractor(s) and subcontractor(s) related to OWNER AND DEVELOPER'S responsibilities under this AGREEMENT. Nothing contained herein shall be construed as a limitation or waiver of defenses available to the CITY or its officers, agents, and employees, including, but not limited to the Illinois Local Government and Local Governmental Employees Tort Immunity Act.
8. **NOTICE.**

8.1 All documentation required herein and invoices for performance of OFFSITE WATERMAIN shall be sent by OWNER AND DEVELOPER to:

City of Naperville - Director of DPU-W/WW
1200 W. Ogden Avenue
Naperville, IL 60540

8.2 All communications to the OWNER AND DEVELOPER by the City of Naperville - Director of the Department of Utilities – Water/Wastewater, or their designee, shall be sent to:

William K. and Beth A. Knicker
4527 Corktree Rd
Naperville, Illinois, 60564.

9. **GENERAL PROVISIONS.**

9.1 **Binding Effect.** This AGREEMENT shall be binding upon the parties hereto, and their successors, assigns, and transferees.

- 9.2 Ambiguities. If any term of this AGREEMENT is ambiguous, it shall not be construed for or against either party hereto on the basis that the party did or did not write it.
- 9.3 Choice of Law/Venue. This AGREEMENT shall in all respects be subject to and construed in accordance with and governed by the laws of the State of Illinois. Venue for any action arising out of the terms or conditions of this AGREEMENT shall be proper only in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.
- 9.4 Complete Agreement. This AGREEMENT sets forth all the covenants, conditions and promises between the parties with regard to the subject matter set forth herein. There are no covenants, promises, agreements, conditions or understandings between the parties, either oral or written, other than those contained in this AGREEMENT.
- 9.5 Exhibits. All exhibits attached hereto or referenced herein are incorporated herein by reference and made part hereof.
- 9.6 Authority. The officer or representative of the OWNER AND DEVELOPER who has executed this AGREEMENT warrant that he/she has been lawfully authorized to execute this AGREEMENT on its behalf. The City Manager and City Clerk hereby warrant that they have been lawfully authorized by the City Council to execute this AGREEMENT.
- 9.7 Effective Date. This AGREEMENT shall be effective upon the date last signed by either party hereto.

Exhibits:

- A - Legal Description of SUBJECT PROPERTY
- B - Depiction of SUBJECT PROPERTY
- C - Final Engineering Plans
- D- Cost Estimate

/SIGNATURES ON FOLLOWING PAGES/

OWNER AND DEVELOPER:

Beth A. Knicker as co-trustee of the William K. Knicker Trust 2006 dated 9/20/2006
4527 Corktree Rd, Naperville, Illinois, 60564

Beth A. Knicker

Signature

Beth Knicker

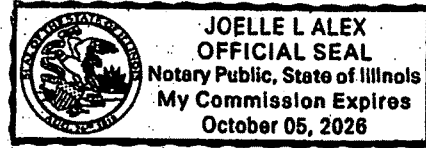
Printed Name

Owner

Title

The foregoing instrument was acknowledged before me by Beth A. Knicker this

30 day of April, 2024.



Notary Public

(SEAL)

Joelle Alex

OWNER AND DEVELOPER:

William K. Knicker as co-trustee of the William K. Knicker Trust 2006 dated 9/20/2006
4527 Corktree Rd, Naperville, Illinois, 60564

William K. Knicker

Signature

William Knicker

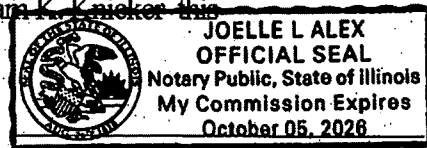
Printed Name

Owner

Title

The foregoing instrument was acknowledged before me by William K. Knicker this

30 day of April, 2024.



(SEAL)

Joelle Alex

CITY OF NAPERVILLE

By: _____
Douglas A. Krieger
City Manager

Attest:

By: _____
Dawn C. Portner
City Clerk

Date: _____