

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made and entered into this ____ day of _____, 2022, by and between the City of Joliet, an Illinois home rule municipal corporation ("City") and BMO Harris Bank Trust Number 1078 ("Owner").

RECITALS

WHEREAS, the Owner is the owner of record of 1 lot totaling approximately 5 acres located in Section 6 of New Lenox Township, Will County, Illinois, which property is referred to herein as the "Parcel" and is described in Exhibit "A"; and

WHEREAS, the Parcel is not within the corporate limits of any municipality but is or shall be contiguous to the City prior to its annexation by the City in accordance with the applicable provisions of the *Illinois Municipal Code*; and

WHEREAS, the City and the Owner desire that the City annex the Parcel and approve the development of the Parcel in accordance with this Agreement and the ordinances and regulations of the City; and

WHEREAS, a public hearing has been held in the manner provided by law regarding the annexation and zoning classification of the Parcel and the adoption and approval of this Agreement; and

WHEREAS, by a favorable vote of at least two-thirds of its corporate authorities then holding office, the City has passed a resolution approving this Agreement and authorizing its execution by the Mayor and City Clerk.

NOW, THEREFORE, in consideration of the covenants and conditions contained in this Agreement, the City and the Owner agree as follows:

1. **INCORPORATION OF RECITALS**

The foregoing recitals are hereby incorporated into the body of this Agreement. Similarly, any exhibit referred to in this Agreement is hereby incorporated by reference as if fully set forth and repeated.

2. **ANNEXATION OF THE PARCEL**

Concurrently with the approval of this Agreement, the City shall, by ordinance, annex the Parcel in accordance with applicable law.

3. **ZONING OF THE PARCEL**

Concurrently with the passage of an ordinance annexing the Parcel by the City, the City shall enact an ordinance classifying the Parcel as R-1 (single family residential) zoning. The Zoning Ordinance of the City of Joliet (Ordinance No. 5285, as re-adopted pursuant to home rule authority by Ordinance No. 8730, as amended from time to time) ("Zoning Ordinance"), shall apply in all respects to the Parcel, except as may be expressly and specifically provided for herein. The City shall be permitted to amend the Zoning Ordinance or reclassify the Parcel during the effective term of this Agreement and thereafter in the manner set forth in the Zoning Ordinance or under law. Any ambiguity or omission shall be resolved in favor of the applicability of the Zoning Ordinance.

In addition to the prohibitions and requirements of the Zoning Ordinance, the following uses shall be prohibited on the Parcel:

- Outdoor Advertising, Except For Real Estate Sales And Marketing Signs Announcing Availability Of Property Within The Parcel;
- Mobile Homes or Recreational Vehicle Park;
- Sexually Oriented Businesses
- Salvage yards or storage of inoperable motor vehicles
- Any use in violation of the applicable zoning ordinance

The enumeration of certain prohibited uses in this Agreement shall not be construed as permitting other uses.

4. **SUBDIVISION OF THE PARCELS**

The Subdivision Regulations of the City of Joliet (Ordinance No. 7208, as amended), shall apply in all respects to the Parcel. Any ambiguity or omission shall be resolved in favor of the applicability of the Subdivision Regulations.

5. **MUNICIPAL AND PUBLIC UTILITIES**

Article 31 of the Code of Ordinances, as amended, re-codified or succeeded from time to time, including, but not limited to the payment of water and sewer connection charges, shall apply in all respects to the Parcels and to the provision of water and sanitary sewer collection and treatment services to the Owner by the City, except as may be expressly and specifically provided for herein. Any ambiguity or omission shall be resolved in favor of the applicability of Article 31, as amended.

(a) **Water Supply**

Upon annexation of the Parcel to the City, and the issuance of required permits and approvals by the City, and any other agency having jurisdiction thereof, the Owner shall be permitted to connect the existing dwelling to the City public water utility system. The Owner shall be responsible for extending the water lines to the Parcel.

(b) **Sanitary Sewer Service**

Upon annexation of the Parcel to the City and the issuance of required permits and approvals by the City and any other agency having jurisdiction thereof, the Owner shall not be required, to connect the Parcel to the City sanitary sewer utility system. In the event that any of the following shall occur, Owner shall be required to connect to the City sanitary sewer system: (i) the existing septic system requires replacement; (ii) the construction of a new dwelling on the Parcel; (iii) the subdivision of the Parcel for

residential development; or (iv) an expansion of the existing dwelling such that the existing septic system is insufficient to meet the needs of the dwelling. The aforementioned notwithstanding, the Owner shall retain the right to connect to the system at their choosing. In any event, the Owner shall be responsible for extending the sewer lines to the Parcel.

6. **DEVELOPMENT FEES**

(a) General

In consideration of the approval of this Agreement by the City and the provision of municipal services to the Parcel, the Owner hereby agrees, for itself and its Successors, to timely pay in full the following items ("Development Fees") in accordance with the applicable ordinances, as such ordinances may be presently constituted or as may hereafter be amended.

- (1) Water Connection Charge, Section 31-54 of the Code of Ordinances;
- (2) Sanitary Sewer Connection Charge, Section 31-54 of the Code of Ordinances;
- (3) Fire Protection District Disconnection Fee, Section 23-43 of the Code of Ordinances;
- (4) Development Impact Fee, Section 23-60 of the Code of Ordinances; and
- (5) Payment of Engineering Review Fees, Section 8-60 of the Code of Ordinances; and
- (6) Payment of Engineering Inspection Fee for Public Improvements completed or connection to public infrastructure requiring inspection, Section IV.4.2 of the Subdivision Regulations; and
- (7) Cash as Escrow for Public Improvements to be provided at the time of subdivision in according with, Section IV of the Subdivision Regulations, including, but not limited to, sub-section 4.5(B) thereof.

(b) Waiver of Right to Contest Public Improvement Requirements or Development Fees

The Owner, for itself and its Successors, hereby waives and disclaims any and all right or claim it may have or hereafter acquire under which Owner or its Successors may seek to avoid, reduce, condition or delay the payment of Development Fees or seek a refund or rebate thereof, or that would have the effect of invalidating such fees or impairing the collection thereof. In addition, the Owner, for itself and its Successors, hereby waives and disclaims any and all right or claim it may have or hereafter acquire under which Owner or its Successors may seek to avoid, reduce, condition or delay the provision of the roadway improvements and other public improvements required by this Agreement or the Subdivision Regulations at the Owner's sole cost and expense and without the right of recapture.

(c) Covenant Not to Sue

In addition to the foregoing, Owner warrants and covenants with the City that it shall not bring suit, nor shall it join or become included in any proceeding, including, but not limited to, a class action proceeding, that:

(1) seeks to enjoin, restrain, condition or impair the enforcement of ordinances imposing, implementing or amending Development Fees or the provision of public improvements;

(2) seeks a declaration regarding the validity, constitutionality or enforceability of such ordinances;

(3) seeks the mandatory approval or execution of subdivision plats or construction permits without the full and prompt payment of Development Fees or the provision of public improvements by a writ of mandamus or injunction; or

(4) seeks to enjoin, restrain, condition or impair the payment or collection of money or the transfer or improvement of property pursuant to ordinances

imposing, implementing or amending Development Fees or requiring the provision of public improvements at the expense of the Owner;

(5) claims that the enforcement of ordinances imposing Development Fees or requiring the provision of public improvements at the expense of the Owner constitute a taking;

(6) claims the ordinances establishing, implementing or amending the Development Fees, the Zoning Ordinance or the Subdivision Regulations were not validly enacted.

(d) Reliance by City

The parties acknowledge that the City has agreed to annex the Parcel and provide municipal services in strict reliance upon the Owner's agreement to pay Development Fees and to provide public improvements as set forth in this Agreement and the Subdivision Regulations.

(e) Other Taxes and Fees

The payment of Development Fees and the provision of public improvements shall be in addition to any other tax, fee, charge, assessment or requirement levied or imposed by the City.

7. **APPLICABILITY OF CITY CODES AND ORDINANCES**

Unless otherwise specifically and expressly exempted by this Agreement, the Parcel and any use made of the Parcel shall be subject to, and shall comply with, all City Codes and Ordinances including, but not limited to, the Code of Ordinances, the Zoning Ordinance and the Subdivision Regulations. In addition, the reference herein to any City code, ordinance or regulation shall not be construed to waive, modify, limit or otherwise affect the applicability of any other City code, ordinance.

8. **NOTICES**

All notices required by this Agreement shall be in writing. The mailing of a notice by registered or certified mail, return receipt required, shall be sufficient service. Such notice shall be deemed served on the fourth day (excluding Sundays and legal holidays) after its deposit with the postal authorities.

Notice to City shall be addressed as follows:

City Manager
City of Joliet
150 West Jefferson Street
Joliet, Illinois 60432

with a copy to:

Corporation Counsel
City of Joliet
150 West Jefferson Street
Joliet, Illinois 60432

Notice to Owner shall be addressed as follows:

BMO Harris Bank Trust No. 1078
2749 Golf Road
Joliet, IL 60432

with a copy to:

Nathaniel P. Washburn
KGG LLC
111 N. Ottawa Street
Joliet, Illinois 60432

The parties may hereafter agree in writing to accept service of notice in any other manner.

9. **AMENDMENTS**

This Agreement, including the attached exhibits, may be amended only with the mutual consent of the parties by a duly executed written Agreement.

Notwithstanding the foregoing, all or any portion of the Parcel may be rezoned upon the mutual Agreement of the City and the owner of record of the affected territory without such reclassification constituting an amendment to this Agreement. In such event, notice and hearing shall be provided as may be required by ordinance with

respect to zoning reclassifications. Notice and hearing that may be required by law for amendments to annexation Agreements shall not be required. Furthermore, approval of the zoning reclassification shall not require a supermajority as may be required by law for the amendment of an annexation Agreement.

Neither the City nor the Owner shall be obligated to amend this Agreement during its term and no action shall lie to compel such action or to compensate a party for an election not to amend this Agreement. Similarly, the City may elect not to rezone the Parcels during the term of this Agreement and such election shall not be justiciable.

10. **FINAL AGREEMENT AND CONSTRUCTION**

This Agreement supersedes all prior Agreements, negotiations and exhibits and is a full and complete integration of the matters of assent existing between the parties. The express reference in this Agreement to a specific ordinance, resolution or other requirement of the City shall not be construed so as to waive any other such ordinance, resolution or requirement. It is the understanding of the parties that all ordinances and regulations of the City shall apply to the Parcel in all respects unless otherwise expressly and specifically provided for herein. For purposes of construction, both the City and the Owner shall be deemed the authors of this Agreement.

11. **ENFORCEMENT**

This Agreement shall be enforceable by actions in law and at equity, including actions for specific performance and injunctive relief, provided however, that an action for money damages shall not lie against the City or its officials. The laws of the State of Illinois shall control the construction and enforcement of this Agreement. The parties agree that all actions instituted on this Agreement shall be commenced and heard in the Circuit Court of Will County, Illinois, and not in any other county, and hereby waive venue in any other court of competent jurisdiction.

Before any failure of any party to perform any obligation arising from this Agreement shall be deemed to constitute a breach, the party claiming the breach shall notify the defaulting party and demand performance. No breach of this Agreement shall have been found to have occurred if performance is commenced to the satisfaction of the complaining party within thirty business days of the receipt of such notice.

12. **SUCCESSORS**

This Agreement shall bind and inure to the benefit of each party and their successors in interest, including, but not limited to, their respective corporate authorities, heirs, successors, assigns, lessees, transferees, and licensees ("Successors"). The Owner may assign this Annexation Agreement to any of its related entities at any time without objection or approval of the City of Joliet and shall then be relieved of any duties or responsibilities under the Annexation Agreement.

13. **AGREEMENT AS COVENANT**

The terms and conditions of this Agreement shall constitute restrictive covenants or equitable servitudes running with the land. The City shall record this Agreement with the Recorder of Deeds.

14. **SEVERABILITY**

If any provision, covenant, Agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provision, covenant, Agreement or portion of this Agreement, and to that end, every provisions, covenants, Agreements or portions of this Agreement is declared to be severable.

15. **DURATION**

This Agreement shall take effect on the date hereinabove written and shall remain in effect for a term of 20 years. **IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed on the date hereinabove first written.

CITY OF JOLIET

By: Mayor, City of Joliet

Attest: City Clerk

OWNER

Chicago Title Land Trust Company,
Successor to BMO Harris Bank, as
Successor to New Lenox State Bank,
Trustee under Trust Agreement dated
9/4/87 known as Trust Number 1078

By: _____

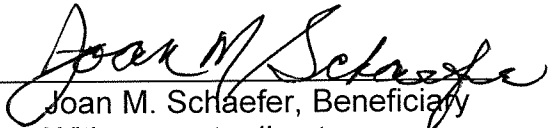

Joan M. Schaefer, Beneficiary
With power to direct

Exhibit A

LOT 8 IN ARTHUR T. MCINTOSH AND COMPANY'S PILCHER PARK FARMS, A SUBDIVISION OF THE SOUTH ½ OF SECTION 6, TOWNSHIP 35 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 9, 1942 AS DOCUMENT 552354, IN WILL COUNTY, ILLINOIS

PIN # 15-08-06-400-009-0000

COMMONLY KNOWN AS: 2749 Golf Road, Joliet, Illinois 60432