

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made and entered into this ____ day of April, 2023, by and between the City of Joliet, an Illinois home rule municipal corporation (“City”) and One Industry Holdings, LLC (“Owner”).

RECITALS

WHEREAS, the Owner is the owner of record of approximately 28.97 acres of land located at 1 Industry Ave, 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, zoning and special use 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.

WHEREAS, the establishment of the zoning and special use as set forth herein, will not be detrimental to or endanger the public health, safety, morals comfort or general welfare, and

WHEREAS, the zoning and special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood, and

WHEREAS, adequate utilities access roads, drainage and/or other necessary facilities have been or will be provided and that adequate measures have been taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets and the special use shall conform in all other respects to the applicable land use regulations of the district in which it is located and shall not be in violation of any other applicable law, ordinance or regulation

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 PARCELS**

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

3. **ZONING OF THE PARCELS**

Concurrently with the passage of an ordinance annexing the Parcel by the City, the City shall enact an ordinance classifying the Parcels as I-2 General Industrial District with a special use permit to allow a salvage yard with the purpose of shredding recyclable materials including but not limited to automobiles. 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 as provided herein;
- Mobile Homes or Recreational Vehicle Park;
- Sexually Oriented Businesses
- Residential dwelling units
- 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.

Section 3.1. Representations and Warranties of the City. In order to induce the Owner to enter into this Agreement, the City hereby makes certain representations and warranties to the Owner, as follows:

- (a) **Organization and Standing.** The City is a home rule municipality duly organized validly existing and in good standing under the Constitution and laws of the State of Illinois.
- (b) **Power and Authority.** The City has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

- (c) **Authorization and Enforceability.** The execution, delivery and performance of this Agreement has been duly and validly authorized by all necessary action on the part of the City's Corporate Authorities. This Agreement is a legal, valid and binding obligation and undertaking of the City, enforceable against the City in accordance with its terms, except to the extent that such enforceability may be further limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditor's rights, and by equitable principles.
- (d) **No Violation.** The execution and delivery of this Agreement, the compliance with the terms, conditions and provisions hereof and thereof, and the performance of the City's agreements, obligations and undertakings hereunder will not conflict with, violate or result in a breach of any of the terms, conditions, or provisions of any agreement, rule, regulation, statute, ordinance, judgment, decree, or other law by which the City may be bound.
- (e) **Government Consent and Approvals.** No consent or approval by any governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations under this Agreement.
- (f) **No Proceedings or Judgments.** There is no claim, action or proceeding now pending, or to the best of its knowledge, threatened, before any court, administrative or regulatory body, or governmental agency (1) to which the City is a party and (2) which will, or could, prevent the City's performance of its obligations under this Agreement.

3.2. Representations and Warranties of the Owner. In order to induce the City to enter into this Agreement, the Owner makes the following representations and warranties to the City:

- (a) **Power and Authority.** Owner is properly organized and remains in existence as a valid legal entity. The Owner has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.
- (b) **Authorization and Enforceability.** The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the Owner. This Agreement is a legal, valid and binding obligation and undertaking of the Owner, enforceable against the Owner in accordance with its terms, except to the extent that such enforceability may be limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.
- (c) **No Violation.** The execution and delivery of this Agreement, the compliance with the terms, conditions and provisions hereof and thereof, and the performance of the Owner's agreements, obligations and undertakings hereunder do not and will not conflict with, violate or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease, license or instrument or any rule, regulation, statute, ordinance,

judicial decision, judgment, decree or other law to which the Owner is a party or by which the Owner or any of its assets may be bound.

(d) **Governmental Consents and Approvals.** No consent or approval by any governmental authority or other person is required in connection with the execution and delivery by the Owner of this Agreement or the performance thereof by the Owner.

(e) **No Proceedings or Judgments.** There is no claim, action or proceeding now pending, or to the best of its knowledge, threatened, before any court, administrative or regulatory body, or governmental agency (1) to which the Owner is a party and (2) which will, or could, prevent the Owner's performance of its obligations under this Agreement.

4. **DEVELOPMENT OF THE PARCEL**

(a) General

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. City and Owner agree that City agrees to issue any and all required operating and building permits necessary for Owner to operate the business use as set forth in the Special Use Permit which was filed in connection with the annexation and rezoning of this parcel.

(b) Building Design Standards

All buildings, structures or alterations hereafter constructed or made on the Parcel shall conform to the non-residential design standards then established by the

City, currently codified at Section 47-15H of the Zoning Ordinance. All current buildings shall be allowed to remain as-is.

(c) Landscaping

The Owner shall comply with the landscape requirements established by the City at the time any Building Permits are requested on the subject property, such requirements being currently set forth in Section 47-15E of the Zoning Ordinance. A future landscape plan would be required as part of a future building permit.

(d) Pavement of Yard Areas

All outdoor areas of the Parcel excepting used for vehicular access or parking, shall be allowed to remain as currently existing excepting those which are part of any improvements which shall be paved in accordance with City requirements for commercial driveways and parking lots or as the Owner and the City may otherwise agree.

5. **MUNICIPAL AND PUBLIC UTILITIES**

. When the City project is complete on Industry Drive and the parcel receives municipal and public utilities, Article 31 of the Code of Ordinances, as amended, re-codified or succeeded from time to time, shall apply in all respects to the Parcels and to the provision of water to the Owner by the City. Notwithstanding anything contained herein to the contrary, the parties acknowledge that the site is already connected to the City Sanitary Sewer system and there shall be no further requirements relative to same. Any ambiguity or omission shall be resolved in favor of the applicability of Article 31, as amended.

(a) Water Supply

(i) Right to Connect

Upon annexation of the Parcel to the City, and the issuance of required permits and approvals by the City and the Illinois Environmental Protection Agency (IEPA), and any other agency having jurisdiction thereof and upon completion of the City Project in Industry Avenue, the Owner shall connect the existing office buildings to the City public water utility system within 180 days of completion of the City's water main reconstruction project. Future buildings constructed on the Parcel and the existing buildings substantially improved would also be require connection to the City;s water system and and extension of public mains and fire hydrants at the time of development as required by Municipal and State Plumbing Code. The Owner, at its expense and without reimbursement by the City, shall be responsible for the acquisition of all necessary permits and approvals, the design, construction, installation and testing of the water mains, laterals, valves, meters, hydrants, manholes and other appurtenances necessary to connect the Parcels to City water facilities.

(ii) Engineering Plan

The specifications, depth, location and connection points of the water supply system shall be depicted by the Owner in a municipal utilities engineering plan prepared by a professional engineer and submitted to the City for its approval as part of the subdivision platting process. Subject to compliance with said municipal utilities engineering plan, as approved by the City, the City shall approve such permits and shall consent to such permits to be issued by third party agencies having jurisdiction over the right-of-way, as may be necessary to construct and install the aforesaid water supply system improvements in the right-of-way.

(iii) Design, Permitting, and Construction of Facilities

The owner, at its expense and without reimbursement to the City, shall be responsible for the acquisition of all necessary rights of way, permits, and approvals,

the design, construction, installation, and testing of the water mains, laterals, valves, meters, hydrants, manholes, and other appurtenances necessary to connect the Parcels to City water facilities.

(b) Easement Requirements

If necessary, the Owner shall dedicate municipal and public utility easements to the City in, over, through and upon the Parcel in each instance where, according to the preliminary municipal utilities engineering plan, municipal or public utilities or drainage facilities are planned or constructed outside of dedicated roadways. These easements shall be conveyed to the City as part of the plat approval process set forth in the Subdivision Regulations, as amended, or as the City may otherwise direct.

All easements shall be permanent, unless otherwise required by the City and shall be a width no less than twenty (20) feet or in such lesser amount depicted in a plat of subdivision. All easements required by this Agreement shall be in writing and shall also be depicted in a Plat of Subdivision or Plat of Easement in recordable form prepared by a professional land surveyor retained by the Owner at its expense. All such easements shall grant and convey the property rights customarily conveyed in a public utility easement including, but not limited to, the right of access thereto for personnel and equipment as may be necessary to install, operate, repair, maintain and replace such facilities.

In addition, at any time during the effective term of this Agreement the City may require the Owner to grant one or more easements to the City for access, public roadway, water, sanitary sewer, drainage, storm sewer, public utility and any other public purpose within twenty feet of any boundary of the Parcel. The Owner shall deliver to the City a duly executed recordable instrument granting the easement requested by the City within sixty (60) days of the City's request.

(c) Ownership of Municipal Utilities

At the direction of the City, the Owner shall deliver to the City duly executed written instruments conveying to the City all right, title and interest the Owner may have in and to the water and sanitary sewer mains, lines and associated appurtenances constructed in and on the Parcels (but not the service lines on private property connected to individual buildings). The Owner shall first remove all liens, encumbrances or other adverse claims of right prior to making these conveyances. Further, submittal of a maintenance bond or similar security to the City for said improvements shall estop the Owner from thereafter asserting any right, claim or title to such improvements.

6. **STORM WATER DETENTION**

The owner shall be required to provide storm water detention in accordance with City of Joliet Ordinances 31-205-207. At this time the parties agree no such detention is required.

7. **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 City and Owner hereby agree, for itself and its Successors, that the following items shall be required by the City ("Development Fees") in accordance with the applicable ordinances, as such ordinances may be presently constituted or as may hereafter be amended.

- (1) Fire Protection District Disconnection Fee, Section 23-43 of the Code of Ordinances, if not already paid;
- (2) Water Connection Charge, Section 31-54 of the Code of Ordinances, if applicable;

- (3) Development Impact Fee, Section 23-60 of the Code of Ordinances; and
- (4) Assurances for Public Improvements, Section IV of the Subdivision Regulations, including, but not limited to, sub-section 4.5(B) thereof.

(b) Stipulation Concerning Public Improvements and Development Fees

The City and the Owner hereby irrevocably stipulate and acknowledge that the making of roadway improvements and other public improvements and the payment of the Development Fees required by this Agreement or the Subdivision Regulations are valid development requirements that are necessary to accommodate the increased population densities, increased vehicular and pedestrian traffic and increased need for additional public services and facilities and is specifically and uniquely attributable to the development of the Parcel.

Similarly, the City and the Owner irrevocably stipulate and acknowledge that the requirement to provide the roadway improvements as set forth in this Agreement or the Subdivision Regulations are not subject to and do not violate the *Road Improvement Impact Fee Law* (605 ILCS 5/5-901 et seq.) or any other law of the State of Illinois.

CITY and OWNER hereby agree that Owner shall not be required to improve Industry Ave nor install any curb and gutter adjacent to the subject parcel.

(e) 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 excepting that provided for herein. 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.

(f) Covenant Not to Sue

In addition to the foregoing, Owner warrants and covenants with the City that it shall not bring suit, not shall it join or become included in any proceeding, including, but not limited to, a class action proceeding, that:

(1) 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

(2) 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;

(3) 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;

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

(g) 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.

(h) 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.

(i) Responsibility for Improvements

The Owner shall design and install, at no expense to the City, the roadway and other public improvements in accordance with this Agreement. The improvements shall be engineered, reviewed, approved, and installed in accordance with the procedures and conditions set forth in the Subdivision Regulations of the City.

8. **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.

9. **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:

One Industry Holdings, LLC
6470 Canal Bank Road
Forest View, IL 60402

with a copy to:

Castle Law
Gary K Davidson
2 North 129th Infantry Drive
Joliet, IL 60435

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

10. **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 Parcel during the term of this Agreement and such election shall not be justiciable.

11. **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

12. **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.

13. **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.

14. **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.

15. **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.

16. **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

ONE INDUSTRY HOLDINGS, LLC

By: Mayor, City of Joliet

By: LOU PLUCINSKI

Attest: City Clerk

Exhibit A

LEGAL DESCRIPTION

LOTS 1 AND 2 (EXCEPT THE SOUTH 33 FEET THEREOF TAKEN FOR STREET PURPOSES) IN THE COUNTY CLERKS SUBDIVISION OF PART OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 3, AND PART OF THE NORTHEAST $\frac{1}{4}$ OF SETION 4, TOWNSHIP 35 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 1, 1903 AS DOCUMENT NO. 222243, IN PLAT BOOK 14, PAGE 1, IN WILL COUNTY, ILLINOIS

PIN 30-07-04-214-015-0000